

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 02/04/04, by Jim Sacia

SYNOPSIS AS INTRODUCED:

See Index

Amends the Uniform Anatomical Gift Act. Renames the Act the Illinois Anatomical Gift Act. Defines "close friend", "federally designated organ procurement agency", "not available", "organ", "tissue", and "tissue bank". Adds the guardian of the decedent's person at the time of death, the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act, and a close friend of the decedent to the list of persons who may give consent for organ donation after or before the death of the person. Provides notification and consent requirements for organ or tissue donation for inpatients in a general acute care hospital with more than 100 beds. Includes the provisions of the Illinois Corneal Transplant Act and the Organ Donation Request Act in the Illinois Anatomical Gift Act. Repeals the Illinois Corneal Transplant Act and the Organ Donation Act. Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Includes organs in the definition of "human tissue" in the Section concerning tissue bank registry and provides that "tissue bank" has the same meaning as set forth in the Illinois Anatomical Gift Act. Amends the Illinois Living Will Act and the Health Care Surrogate Act. Provides that, in the event of the patient's death as determined by a physician, and notwithstanding a Do Not Resuscitate Order, all medical care is terminated unless the patient is an organ donor. Provides that if the deceased patient is an organ donor, medical treatment may be applied or continued temporarily. Amends the School Code. Requires the regional superintendent of schools in which a school district that maintains grades 9 and 10 is located to distribute organ transplant information. Amends various statutes to change references to the Illinois Anatomical Gift Act (from the Uniform Anatomical Gift Act). Amends the Illinois Vehicle Code to allow an organ transplant delivery vehicle to use blue oscillating, rotating, or flashing lights on the vehicle when the transplant delivery is declared an emergency by a member of the transplant team or a representative of the organ procurement organization. Makes other changes. Effective immediately.

LRB093 16176 LCB 41809 b

1 AN ACT concerning anatomical gifts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 2310-330 as follows:

7 (20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)

8 Sec. 2310-330. Sperm and tissue bank registry; AIDS test
9 for donors; penalties.

10 (a) The Department shall establish a registry of all sperm
11 banks and tissue banks operating in this State. All sperm banks
12 and tissue banks operating in this State shall register with
13 the Department by May 1 of each year. Any person, hospital,
14 clinic, corporation, partnership, or other legal entity that
15 operates a sperm bank or tissue bank in this State and fails to
16 register with the Department pursuant to this Section commits a
17 business offense and shall be subject to a fine of \$5000.

18 (b) All donors of semen for purposes of artificial
19 insemination, or donors of corneas, bones, organs, or other
20 human tissue for the purpose of injecting, transfusing, or
21 transplanting any of them in the human body, shall be tested
22 for evidence of exposure to human immunodeficiency virus (HIV)
23 and any other identified causative agent of acquired
24 immunodeficiency syndrome (AIDS) at the time of or after the
25 donation but prior to the semen, corneas, bones, organs, or
26 other human tissue being made available for that use. However,
27 when in the opinion of the attending physician the life of a
28 recipient of a bone, organ, or other human tissue donation
29 would be jeopardized by delays caused by testing for evidence
30 of exposure to HIV and any other causative agent of AIDS,
31 testing shall not be required.

32 (c) No person may intentionally, knowingly, recklessly, or

1 negligently use the semen, corneas, bones, organs, or other
2 human tissue of a donor unless the requirements of subsection
3 (b) have been met. No person may intentionally, knowingly,
4 recklessly, or negligently use the semen, corneas, bones,
5 organs, or other human tissue of a donor who has tested
6 positive for exposure to HIV or any other identified causative
7 agent of AIDS. Violation of this subsection (c) shall be a
8 Class 4 felony.

9 (d) For the purposes of this Section, "human tissue" shall
10 not be construed to mean organs or whole blood or its component
11 parts.

12 For the purposes of this Section, "tissue bank" has the
13 same meaning as set forth in the Illinois Anatomical Gift Act.
14 ~~means any facility or program that is involved in procuring,~~
15 ~~furnishing, donating, processing, or distributing corneas,~~
16 ~~bones, organs, or other human tissue for the purpose of~~
17 ~~injecting, transfusing, or transplanting any of them in the~~
18 ~~human body.~~

19 (Source: P.A. 91-239, eff. 1-1-00.)

20 Section 10. The School Code is amended by changing Section
21 27-23.5 as follows:

22 (105 ILCS 5/27-23.5)

23 Sec. 27-23.5. Organ/tissue and blood donor and
24 transplantation programs. Each school district that maintains
25 grades 9 and 10 may include in its curriculum and teach to the
26 students of either such grade one unit of instruction on
27 organ/tissue and blood donor and transplantation programs. No
28 student shall be required to take or participate in instruction
29 on organ/tissue and blood donor and transplantation programs if
30 a parent or guardian files written objection thereto on
31 constitutional grounds, and refusal to take or participate in
32 such instruction on those grounds shall not be reason for
33 suspension or expulsion of a student or result in any academic
34 penalty.

1 The regional superintendent of schools in which a school
2 district that maintains grades 9 and 10 is located shall obtain
3 and distribute to each school that maintains grades 9 and 10 in
4 his or her ~~the~~ district information and data, including
5 instructional materials provided at no cost by America's Blood
6 Centers, the American Red Cross, and Gift of Hope, that may be
7 used by the school in developing a unit of instruction under
8 this Section. However, each school board shall determine the
9 minimum amount of instructional time that shall qualify as a
10 unit of instruction satisfying the requirements of this
11 Section.

12 (Source: P.A. 93-547, eff. 8-19-03.)

13 Section 15. The Hospital Licensing Act is amended by
14 changing Sections 6.16 and 10.4 as follows:

15 (210 ILCS 85/6.16)

16 Sec. 6.16. Agreement with designated organ procurement
17 agency. Each hospital licensed under this Act shall have an
18 agreement with its federally designated organ procurement
19 agency providing for notification of the organ procurement
20 agency when potential organ donors become available, as
21 required in Section 5-25 of the Illinois Anatomical Gift Act ~~2~~
22 ~~of the Organ Donation Request Act.~~

23 (Source: P.A. 89-393, eff. 8-20-95.)

24 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

25 Sec. 10.4. Medical staff privileges.

26 (a) Any hospital licensed under this Act or any hospital
27 organized under the University of Illinois Hospital Act shall,
28 prior to the granting of any medical staff privileges to an
29 applicant, or renewing a current medical staff member's
30 privileges, request of the Director of Professional Regulation
31 information concerning the licensure status and any
32 disciplinary action taken against the applicant's or medical
33 staff member's license, except for medical personnel who enter

1 a hospital to obtain organs and tissues for transplant from a
2 ~~deceased~~ donor in accordance with the Illinois Uniform
3 Anatomical Gift Act. The Director of Professional Regulation
4 shall transmit, in writing and in a timely fashion, such
5 information regarding the license of the applicant or the
6 medical staff member, including the record of imposition of any
7 periods of supervision or monitoring as a result of alcohol or
8 substance abuse, as provided by Section 23 of the Medical
9 Practice Act of 1987, and such information as may have been
10 submitted to the Department indicating that the application or
11 medical staff member has been denied, or has surrendered,
12 medical staff privileges at a hospital licensed under this Act,
13 or any equivalent facility in another state or territory of the
14 United States. The Director of Professional Regulation shall
15 define by rule the period for timely response to such requests.

16 No transmittal of information by the Director of
17 Professional Regulation, under this Section shall be to other
18 than the president, chief operating officer, chief
19 administrative officer, or chief of the medical staff of a
20 hospital licensed under this Act, a hospital organized under
21 the University of Illinois Hospital Act, or a hospital operated
22 by the United States, or any of its instrumentalities. The
23 information so transmitted shall be afforded the same status as
24 is information concerning medical studies by Part 21 of Article
25 VIII of the Code of Civil Procedure, as now or hereafter
26 amended.

27 (b) All hospitals licensed under this Act, except county
28 hospitals as defined in subsection (c) of Section 15-1 of the
29 Illinois Public Aid Code, shall comply with, and the medical
30 staff bylaws of these hospitals shall include rules consistent
31 with, the provisions of this Section in granting, limiting,
32 renewing, or denying medical staff membership and clinical
33 staff privileges. Hospitals that require medical staff members
34 to possess faculty status with a specific institution of higher
35 education are not required to comply with subsection (1) below
36 when the physician does not possess faculty status.

1 (1) Minimum procedures for pre-applicants and
2 applicants for medical staff membership shall include the
3 following:

4 (A) Written procedures relating to the acceptance
5 and processing of pre-applicants or applicants for
6 medical staff membership, which should be contained in
7 medical staff bylaws.

8 (B) Written procedures to be followed in
9 determining a pre-applicant's or an applicant's
10 qualifications for being granted medical staff
11 membership and privileges.

12 (C) Written criteria to be followed in evaluating a
13 pre-applicant's or an applicant's qualifications.

14 (D) An evaluation of a pre-applicant's or an
15 applicant's current health status and current license
16 status in Illinois.

17 (E) A written response to each pre-applicant or
18 applicant that explains the reason or reasons for any
19 adverse decision (including all reasons based in whole
20 or in part on the applicant's medical qualifications or
21 any other basis, including economic factors).

22 (2) Minimum procedures with respect to medical staff
23 and clinical privilege determinations concerning current
24 members of the medical staff shall include the following:

25 (A) A written notice of an adverse decision.

26 (B) An explanation of the reasons for an adverse
27 decision including all reasons based on the quality of
28 medical care or any other basis, including economic
29 factors.

30 (C) A statement of the medical staff member's right
31 to request a fair hearing on the adverse decision
32 before a hearing panel whose membership is mutually
33 agreed upon by the medical staff and the hospital
34 governing board. The hearing panel shall have
35 independent authority to recommend action to the
36 hospital governing board. Upon the request of the

1 medical staff member or the hospital governing board,
2 the hearing panel shall make findings concerning the
3 nature of each basis for any adverse decision
4 recommended to and accepted by the hospital governing
5 board.

6 (i) Nothing in this subparagraph (C) limits a
7 hospital's or medical staff's right to summarily
8 suspend, without a prior hearing, a person's
9 medical staff membership or clinical privileges if
10 the continuation of practice of a medical staff
11 member constitutes an immediate danger to the
12 public, including patients, visitors, and hospital
13 employees and staff. A fair hearing shall be
14 commenced within 15 days after the suspension and
15 completed without delay.

16 (ii) Nothing in this subparagraph (C) limits a
17 medical staff's right to permit, in the medical
18 staff bylaws, summary suspension of membership or
19 clinical privileges in designated administrative
20 circumstances as specifically approved by the
21 medical staff. This bylaw provision must
22 specifically describe both the administrative
23 circumstance that can result in a summary
24 suspension and the length of the summary
25 suspension. The opportunity for a fair hearing is
26 required for any administrative summary
27 suspension. Any requested hearing must be
28 commenced within 15 days after the summary
29 suspension and completed without delay. Adverse
30 decisions other than suspension or other
31 restrictions on the treatment or admission of
32 patients may be imposed summarily and without a
33 hearing under designated administrative
34 circumstances as specifically provided for in the
35 medical staff bylaws as approved by the medical
36 staff.

1 (iii) If a hospital exercises its option to
2 enter into an exclusive contract and that contract
3 results in the total or partial termination or
4 reduction of medical staff membership or clinical
5 privileges of a current medical staff member, the
6 hospital shall provide the affected medical staff
7 member 60 days prior notice of the effect on his or
8 her medical staff membership or privileges. An
9 affected medical staff member desiring a hearing
10 under subparagraph (C) of this paragraph (2) must
11 request the hearing within 14 days after the date
12 he or she is so notified. The requested hearing
13 shall be commenced and completed (with a report and
14 recommendation to the affected medical staff
15 member, hospital governing board, and medical
16 staff) within 30 days after the date of the medical
17 staff member's request. If agreed upon by both the
18 medical staff and the hospital governing board,
19 the medical staff bylaws may provide for longer
20 time periods.

21 (D) A statement of the member's right to inspect
22 all pertinent information in the hospital's possession
23 with respect to the decision.

24 (E) A statement of the member's right to present
25 witnesses and other evidence at the hearing on the
26 decision.

27 (F) A written notice and written explanation of the
28 decision resulting from the hearing.

29 (F-5) A written notice of a final adverse decision
30 by a hospital governing board.

31 (G) Notice given 15 days before implementation of
32 an adverse medical staff membership or clinical
33 privileges decision based substantially on economic
34 factors. This notice shall be given after the medical
35 staff member exhausts all applicable procedures under
36 this Section, including item (iii) of subparagraph (C)

1 of this paragraph (2), and under the medical staff
2 bylaws in order to allow sufficient time for the
3 orderly provision of patient care.

4 (H) Nothing in this paragraph (2) of this
5 subsection (b) limits a medical staff member's right to
6 waive, in writing, the rights provided in
7 subparagraphs (A) through (G) of this paragraph (2) of
8 this subsection (b) upon being granted the written
9 exclusive right to provide particular services at a
10 hospital, either individually or as a member of a
11 group. If an exclusive contract is signed by a
12 representative of a group of physicians, a waiver
13 contained in the contract shall apply to all members of
14 the group unless stated otherwise in the contract.

15 (3) Every adverse medical staff membership and
16 clinical privilege decision based substantially on
17 economic factors shall be reported to the Hospital
18 Licensing Board before the decision takes effect. These
19 reports shall not be disclosed in any form that reveals the
20 identity of any hospital or physician. These reports shall
21 be utilized to study the effects that hospital medical
22 staff membership and clinical privilege decisions based
23 upon economic factors have on access to care and the
24 availability of physician services. The Hospital Licensing
25 Board shall submit an initial study to the Governor and the
26 General Assembly by January 1, 1996, and subsequent reports
27 shall be submitted periodically thereafter.

28 (4) As used in this Section:

29 "Adverse decision" means a decision reducing,
30 restricting, suspending, revoking, denying, or not
31 renewing medical staff membership or clinical privileges.

32 "Economic factor" means any information or reasons for
33 decisions unrelated to quality of care or professional
34 competency.

35 "Pre-applicant" means a physician licensed to practice
36 medicine in all its branches who requests an application

1 for medical staff membership or privileges.

2 "Privilege" means permission to provide medical or
3 other patient care services and permission to use hospital
4 resources, including equipment, facilities and personnel
5 that are necessary to effectively provide medical or other
6 patient care services. This definition shall not be
7 construed to require a hospital to acquire additional
8 equipment, facilities, or personnel to accommodate the
9 granting of privileges.

10 (5) Any amendment to medical staff bylaws required
11 because of this amendatory Act of the 91st General Assembly
12 shall be adopted on or before July 1, 2001.

13 (c) All hospitals shall consult with the medical staff
14 prior to closing membership in the entire or any portion of the
15 medical staff or a department. If the hospital closes
16 membership in the medical staff, any portion of the medical
17 staff, or the department over the objections of the medical
18 staff, then the hospital shall provide a detailed written
19 explanation for the decision to the medical staff 10 days prior
20 to the effective date of any closure. No applications need to
21 be provided when membership in the medical staff or any
22 relevant portion of the medical staff is closed.

23 (Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98; 90-655,
24 eff. 7-30-98; 91-166, eff. 1-1-00.)

25 Section 20. The AIDS Confidentiality Act is amended by
26 changing Section 7 as follows:

27 (410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

28 Sec. 7. (a) Notwithstanding the provisions of Sections 4, 5
29 and 6 of this Act, written informed consent is not required for
30 a health care provider or health facility to perform a test
31 when the health care provider or health facility procures,
32 processes, distributes or uses a human body part donated for a
33 purpose specified under the Illinois ~~Uniform~~ Anatomical Gift
34 Act, or semen provided prior to the effective date of this Act

1 for the purpose of artificial insemination, and such a test is
2 necessary to assure medical acceptability of such gift or semen
3 for the purposes intended.

4 (b) Written informed consent is not required for a health
5 care provider or health facility to perform a test when a
6 health care provider or employee of a health facility, or a
7 firefighter or an EMT-A, EMT-I or EMT-P, is involved in an
8 accidental direct skin or mucous membrane contact with the
9 blood or bodily fluids of an individual which is of a nature
10 that may transmit HIV, as determined by a physician in his
11 medical judgment. Should such test prove to be positive, the
12 patient and the health care provider, health facility employee,
13 firefighter, EMT-A, EMT-I, or EMT-P shall be provided
14 appropriate counseling consistent with this Act.

15 (c) Written informed consent is not required for a health
16 care provider or health facility to perform a test when a law
17 enforcement officer is involved in the line of duty in a direct
18 skin or mucous membrane contact with the blood or bodily fluids
19 of an individual which is of a nature that may transmit HIV, as
20 determined by a physician in his medical judgment. Should such
21 test prove to be positive, the patient shall be provided
22 appropriate counseling consistent with this Act. For purposes
23 of this subsection (c), "law enforcement officer" means any
24 person employed by the State, a county or a municipality as a
25 policeman, peace officer, auxiliary policeman, correctional
26 officer or in some like position involving the enforcement of
27 the law and protection of the public interest at the risk of
28 that person's life.

29 (Source: P.A. 86-887; 86-891; 86-1028; 87-459.)

30 Section 25. The Illinois Vehicle Code is amended by
31 changing Sections 6-110 and 12-215 as follows:

32 (625 ILCS 5/6-110) (from Ch. 95 1/2, par. 6-110)

33 Sec. 6-110. Licenses issued to drivers.

34 (a) The Secretary of State shall issue to every qualifying

1 applicant a driver's license as applied for, which license
2 shall bear a distinguishing number assigned to the licensee,
3 the name, social security number, zip code, date of birth,
4 address, and a brief description of the licensee, and a space
5 where the licensee may write his usual signature.

6 If the licensee is less than 17 years of age, the license
7 shall, as a matter of law, be invalid for the operation of any
8 motor vehicle during any time the licensee is prohibited from
9 being on any street or highway under the provisions of the
10 Child Curfew Act.

11 Licenses issued shall also indicate the classification and
12 the restrictions under Section 6-104 of this Code.

13 In lieu of the social security number, the Secretary may in
14 his discretion substitute a federal tax number or other
15 distinctive number.

16 A driver's license issued may, in the discretion of the
17 Secretary, include a suitable photograph of a type prescribed
18 by the Secretary.

19 (b) The Secretary of State shall provide a format on the
20 reverse of each driver's license issued which the licensee may
21 use to execute a document of gift conforming to the provisions
22 of the Illinois Uniform Anatomical Gift Act. The format shall
23 allow the licensee to indicate the gift intended, whether
24 specific organs, any organ, or the entire body, and shall
25 accommodate the signatures of the donor and 2 witnesses. The
26 Secretary shall also inform each applicant or licensee of this
27 format, describe the procedure for its execution, and may offer
28 the necessary witnesses; provided that in so doing, the
29 Secretary shall advise the applicant or licensee that he or she
30 is under no compulsion to execute a document of gift. A
31 brochure explaining this method of executing an anatomical gift
32 document shall be given to each applicant or licensee. The
33 brochure shall advise the applicant or licensee that he or she
34 is under no compulsion to execute a document of gift, and that
35 he or she may wish to consult with family, friends or clergy
36 before doing so. The Secretary of State may undertake

1 additional efforts, including education and awareness
2 activities, to promote organ and tissue donation.

3 (c) The Secretary of State shall designate on each driver's
4 license issued a space where the licensee may place a sticker
5 or decal of the uniform size as the Secretary may specify,
6 which sticker or decal may indicate in appropriate language
7 that the owner of the license carries an Emergency Medical
8 Information Card.

9 The sticker may be provided by any person, hospital,
10 school, medical group, or association interested in assisting
11 in implementing the Emergency Medical Information Card, but
12 shall meet the specifications as the Secretary may by rule or
13 regulation require.

14 (d) The Secretary of State shall designate on each driver's
15 license issued a space where the licensee may indicate his
16 blood type and RH factor.

17 (e) The Secretary of State shall provide that each original
18 or renewal driver's license issued to a licensee under 21 years
19 of age shall be of a distinct nature from those driver's
20 licenses issued to individuals 21 years of age and older. The
21 color designated for driver's licenses for licensees under 21
22 years of age shall be at the discretion of the Secretary of
23 State.

24 (e-1) The Secretary shall provide that each driver's
25 license issued to a person under the age of 21 displays the
26 date upon which the person becomes 18 years of age and the date
27 upon which the person becomes 21 years of age.

28 (f) The Secretary of State shall inform all Illinois
29 licensed commercial motor vehicle operators of the
30 requirements of the Uniform Commercial Driver License Act,
31 Article V of this Chapter, and shall make provisions to insure
32 that all drivers, seeking to obtain a commercial driver's
33 license, be afforded an opportunity prior to April 1, 1992, to
34 obtain the license. The Secretary is authorized to extend
35 driver's license expiration dates, and assign specific times,
36 dates and locations where these commercial driver's tests shall

1 be conducted. Any applicant, regardless of the current
2 expiration date of the applicant's driver's license, may be
3 subject to any assignment by the Secretary. Failure to comply
4 with the Secretary's assignment may result in the applicant's
5 forfeiture of an opportunity to receive a commercial driver's
6 license prior to April 1, 1992.

7 (g) The Secretary of State shall designate on a driver's
8 license issued, a space where the licensee may indicate that he
9 or she has drafted a living will in accordance with the
10 Illinois Living Will Act or a durable power of attorney for
11 health care in accordance with the Illinois Power of Attorney
12 Act.

13 (g-1) The Secretary of State, in his or her discretion, may
14 designate on each driver's license issued a space where the
15 licensee may place a sticker or decal, issued by the Secretary
16 of State, of uniform size as the Secretary may specify, that
17 shall indicate in appropriate language that the owner of the
18 license has renewed his or her driver's license.

19 (h) A person who acts in good faith in accordance with the
20 terms of this Section is not liable for damages in any civil
21 action or subject to prosecution in any criminal proceeding for
22 his or her act.

23 (Source: P.A. 91-357, eff. 7-29-99; 92-689, eff. 1-1-03.)

24 (625 ILCS 5/12-215) (from Ch. 95 1/2, par. 12-215)

25 Sec. 12-215. Oscillating, rotating or flashing lights on
26 motor vehicles. Except as otherwise provided in this Code:

27 (a) The use of red or white oscillating, rotating or
28 flashing lights, whether lighted or unlighted, is prohibited
29 except on:

30 1. Law enforcement vehicles of State, Federal or local
31 authorities;

32 2. A vehicle operated by a police officer or county
33 coroner and designated or authorized by local authorities,
34 in writing, as a law enforcement vehicle; however, such
35 designation or authorization must be carried in the

1 vehicle;

2 3. Vehicles of local fire departments and State or
3 federal firefighting vehicles;

4 4. Vehicles which are designed and used exclusively as
5 ambulances or rescue vehicles; furthermore, such lights
6 shall not be lighted except when responding to an emergency
7 call for and while actually conveying the sick or injured;

8 5. Tow trucks licensed in a state that requires such
9 lights; furthermore, such lights shall not be lighted on
10 any such tow truck while the tow truck is operating in the
11 State of Illinois;

12 6. Vehicles of the Illinois Emergency Management
13 Agency, and vehicles of the Department of Nuclear Safety;

14 7. Vehicles operated by a local or county emergency
15 management services agency as defined in the Illinois
16 Emergency Management Agency Act; ~~and~~

17 8. School buses operating alternately flashing head
18 lamps as permitted under Section 12-805 of this Code; ~~and~~.

19 9. Vehicles that are equipped and used exclusively as
20 organ transplant vehicles when used in combination with
21 blue oscillating, rotating, or flashing lights;
22 furthermore, these lights shall be lighted only when the
23 transportation is declared an emergency by a member of the
24 transplant team or a representative of the organ
25 procurement organization.

26 (b) The use of amber oscillating, rotating or flashing
27 lights, whether lighted or unlighted, is prohibited except on:

28 1. Second division vehicles designed and used for
29 towing or hoisting vehicles; furthermore, such lights
30 shall not be lighted except as required in this paragraph
31 1; such lights shall be lighted when such vehicles are
32 actually being used at the scene of an accident or
33 disablement; if the towing vehicle is equipped with a flat
34 bed that supports all wheels of the vehicle being
35 transported, the lights shall not be lighted while the
36 vehicle is engaged in towing on a highway; if the towing

1 vehicle is not equipped with a flat bed that supports all
2 wheels of a vehicle being transported, the lights shall be
3 lighted while the towing vehicle is engaged in towing on a
4 highway during all times when the use of headlights is
5 required under Section 12-201 of this Code;

6 2. Motor vehicles or equipment of the State of
7 Illinois, local authorities and contractors; furthermore,
8 such lights shall not be lighted except while such vehicles
9 are engaged in maintenance or construction operations
10 within the limits of construction projects;

11 3. Vehicles or equipment used by engineering or survey
12 crews; furthermore, such lights shall not be lighted except
13 while such vehicles are actually engaged in work on a
14 highway;

15 4. Vehicles of public utilities, municipalities, or
16 other construction, maintenance or automotive service
17 vehicles except that such lights shall be lighted only as a
18 means for indicating the presence of a vehicular traffic
19 hazard requiring unusual care in approaching, overtaking
20 or passing while such vehicles are engaged in maintenance,
21 service or construction on a highway;

22 5. Oversized vehicle or load; however, such lights
23 shall only be lighted when moving under permit issued by
24 the Department under Section 15-301 of this Code;

25 6. The front and rear of motorized equipment owned and
26 operated by the State of Illinois or any political
27 subdivision thereof, which is designed and used for removal
28 of snow and ice from highways;

29 7. Fleet safety vehicles registered in another state,
30 furthermore, such lights shall not be lighted except as
31 provided for in Section 12-212 of this Code;

32 8. Such other vehicles as may be authorized by local
33 authorities;

34 9. Law enforcement vehicles of State or local
35 authorities when used in combination with red oscillating,
36 rotating or flashing lights;

1 9.5. Propane delivery trucks;

2 10. Vehicles used for collecting or delivering mail for
3 the United States Postal Service provided that such lights
4 shall not be lighted except when such vehicles are actually
5 being used for such purposes;

6 11. Any vehicle displaying a slow-moving vehicle
7 emblem as provided in Section 12-205.1;

8 12. All trucks equipped with self-compactors or
9 roll-off hoists and roll-on containers for garbage or
10 refuse hauling. Such lights shall not be lighted except
11 when such vehicles are actually being used for such
12 purposes;

13 13. Vehicles used by a security company, alarm
14 responder, or control agency;

15 14. Security vehicles of the Department of Human
16 Services; however, the lights shall not be lighted except
17 when being used for security related purposes under the
18 direction of the superintendent of the facility where the
19 vehicle is located; and

20 15. Vehicles of union representatives, except that the
21 lights shall be lighted only while the vehicle is within
22 the limits of a construction project.

23 (c) The use of blue oscillating, rotating or flashing
24 lights, whether lighted or unlighted, is prohibited except on:

25 1. Rescue squad vehicles not owned by a fire department
26 and vehicles owned or fully operated by a:

27 voluntary firefighter;

28 paid firefighter;

29 part-paid firefighter;

30 call firefighter;

31 member of the board of trustees of a fire
32 protection district;

33 paid or unpaid member of a rescue squad;

34 paid or unpaid member of a voluntary ambulance
35 unit; or

36 paid or unpaid members of a local or county

1 emergency management services agency as defined in the
2 Illinois Emergency Management Agency Act, designated
3 or authorized by local authorities, in writing, and
4 carrying that designation or authorization in the
5 vehicle.

6 However, such lights are not to be lighted except when
7 responding to a bona fide emergency.

8 2. Police department vehicles in cities having a
9 population of 500,000 or more inhabitants.

10 3. Law enforcement vehicles of State or local
11 authorities when used in combination with red oscillating,
12 rotating or flashing lights.

13 4. Vehicles of local fire departments and State or
14 federal firefighting vehicles when used in combination
15 with red oscillating, rotating or flashing lights.

16 5. Vehicles which are designed and used exclusively as
17 ambulances or rescue vehicles when used in combination with
18 red oscillating, rotating or flashing lights; furthermore,
19 such lights shall not be lighted except when responding to
20 an emergency call.

21 6. Vehicles that are equipped and used exclusively as
22 organ transport vehicles when used in combination with red
23 oscillating, rotating, or flashing lights; furthermore,
24 these lights shall only be lighted when the transportation
25 is declared an emergency by a member of the transplant team
26 or a representative of the organ procurement organization.

27 7. Vehicles of the Illinois Emergency Management
28 Agency and vehicles of the Department of Nuclear Safety,
29 when used in combination with red oscillating, rotating, or
30 flashing lights.

31 8. Vehicles operated by a local or county emergency
32 management services agency as defined in the Illinois
33 Emergency Management Agency Act, when used in combination
34 with red oscillating, rotating, or flashing lights.

35 (c-1) In addition to the blue oscillating, rotating, or
36 flashing lights permitted under subsection (c), and

1 notwithstanding subsection (a), a vehicle operated by a
2 voluntary firefighter, a voluntary member of a rescue squad, or
3 a member of a voluntary ambulance unit may be equipped with
4 flashing white headlights and blue grill lights, which may be
5 used only in responding to an emergency call.

6 (c-2) In addition to the blue oscillating, rotating, or
7 flashing lights permitted under subsection (c), and
8 notwithstanding subsection (a), a vehicle operated by a paid or
9 unpaid member of a local or county emergency management
10 services agency as defined in the Illinois Emergency Management
11 Agency Act, may be equipped with white oscillating, rotating,
12 or flashing lights to be used in combination with blue
13 oscillating, rotating, or flashing lights, if authorization by
14 local authorities is in writing and carried in the vehicle.

15 (d) The use of a combination of amber and white
16 oscillating, rotating or flashing lights, whether lighted or
17 unlighted, is prohibited except motor vehicles or equipment of
18 the State of Illinois, local authorities, contractors, and
19 union representatives may be so equipped; furthermore, such
20 lights shall not be lighted on vehicles of the State of
21 Illinois, local authorities, and contractors except while such
22 vehicles are engaged in highway maintenance or construction
23 operations within the limits of highway construction projects,
24 and shall not be lighted on the vehicles of union
25 representatives except when those vehicles are within the
26 limits of a construction project.

27 (e) All oscillating, rotating or flashing lights referred
28 to in this Section shall be of sufficient intensity, when
29 illuminated, to be visible at 500 feet in normal sunlight.

30 (f) Nothing in this Section shall prohibit a manufacturer
31 of oscillating, rotating or flashing lights or his
32 representative from temporarily mounting such lights on a
33 vehicle for demonstration purposes only.

34 (g) Any person violating the provisions of subsections (a),
35 (b), (c) or (d) of this Section who without lawful authority
36 stops or detains or attempts to stop or detain another person

1 shall be guilty of a Class 4 felony.

2 (h) Except as provided in subsection (g) above, any person
3 violating the provisions of subsections (a) or (c) of this
4 Section shall be guilty of a Class A misdemeanor.

5 (Source: P.A. 92-138, eff. 7-24-01; 92-407, eff. 8-17-01;
6 92-651, eff. 7-11-02; 92-782, eff. 8-6-02; 92-820, eff.
7 8-21-02; 92-872, eff. 6-1-03; 93-181, eff. 1-1-04.)

8 Section 30. The Criminal Code of 1961 is amended by
9 changing Section 12-20 as follows:

10 (720 ILCS 5/12-20) (from Ch. 38, par. 12-20)

11 Sec. 12-20. Sale of body parts. (a) Except as provided in
12 subsection (b), any person who knowingly buys or sells, or
13 offers to buy or sell, a human body or any part of a human body,
14 is guilty of a Class A misdemeanor for the first conviction and
15 a Class 4 felony for subsequent convictions.

16 (b) This Section does not prohibit:

17 (1) An anatomical gift made in accordance with the Illinois
18 ~~Uniform~~ Anatomical Gift Act.

19 (2) The removal and use of a human cornea in accordance
20 with the Illinois Anatomical Gift ~~Corneal Transplant~~ Act.

21 (3) Reimbursement of actual expenses incurred by a living
22 person in donating an organ, tissue or other body part or fluid
23 for transplantation, implantation, infusion, injection, or
24 other medical or scientific purpose, including medical costs,
25 loss of income, and travel expenses.

26 (4) Payments provided under a plan of insurance or other
27 health care coverage.

28 (5) Reimbursement of reasonable costs associated with the
29 removal, storage or transportation of a human body or part
30 thereof donated for medical or scientific purposes.

31 (6) Purchase or sale of blood, plasma, blood products or
32 derivatives, other body fluids, or human hair.

33 (7) Purchase or sale of drugs, reagents or other substances
34 made from human bodies or body parts, for use in medical or

1 scientific research, treatment or diagnosis.

2 (Source: P.A. 85-191.)

3 Section 35. The Illinois Living Will Act is amended by
4 changing Section 6 as follows:

5 (755 ILCS 35/6) (from Ch. 110 1/2, par. 706)

6 Sec. 6. Physician Responsibilities. An attending
7 physician who has been notified of the existence of a
8 declaration executed under this Act, without delay after the
9 diagnosis of a terminal condition of the patient, shall take
10 the necessary steps to provide for written recording of the
11 patient's terminal condition, so that the patient may be deemed
12 to be a qualified patient under this Act, or shall notify the
13 patient or, if the patient is unable to initiate a transfer,
14 the person or persons described in subsection (d) of Section 3
15 in the order of priority stated therein that the physician is
16 unwilling to comply with the provisions of the patient's
17 declaration. In the event of the patient's death as determined
18 by a physician, all medical care is to be terminated unless the
19 patient is an organ donor, in which case appropriate organ
20 donation treatment may be applied or continued temporarily.

21 (Source: P.A. 85-860.)

22 Section 40. The Health Care Surrogate Act is amended by
23 changing Sections 20 and 65 as follows:

24 (755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

25 Sec. 20. Private decision making process.

26 (a) Decisions whether to forgo life-sustaining or any other
27 form of medical treatment involving an adult patient with
28 decisional capacity may be made by that adult patient.

29 (b) Decisions whether to forgo life-sustaining treatment
30 on behalf of a patient without decisional capacity are lawful,
31 without resort to the courts or legal process, if the patient
32 has a qualifying condition and if the decisions are made in

1 accordance with one of the following paragraphs in this
2 subsection and otherwise meet the requirements of this Act:

3 (1) Decisions whether to forgo life-sustaining
4 treatment on behalf of a minor or an adult patient who
5 lacks decisional capacity may be made by a surrogate
6 decision maker or makers in consultation with the attending
7 physician, in the order or priority provided in Section 25.
8 A surrogate decision maker shall make decisions for the
9 adult patient conforming as closely as possible to what the
10 patient would have done or intended under the
11 circumstances, taking into account evidence that includes,
12 but is not limited to, the patient's personal,
13 philosophical, religious and moral beliefs and ethical
14 values relative to the purpose of life, sickness, medical
15 procedures, suffering, and death. Where possible, the
16 surrogate shall determine how the patient would have
17 weighed the burdens and benefits of initiating or
18 continuing life-sustaining treatment against the burdens
19 and benefits of that treatment. In the event an unrevoked
20 advance directive, such as a living will, a declaration for
21 mental health treatment, or a power of attorney for health
22 care, is no longer valid due to a technical deficiency or
23 is not applicable to the patient's condition, that document
24 may be used as evidence of a patient's wishes. The absence
25 of a living will, declaration for mental health treatment,
26 or power of attorney for health care shall not give rise to
27 any presumption as to the patient's preferences regarding
28 the initiation or continuation of life-sustaining
29 procedures. If the adult patient's wishes are unknown and
30 remain unknown after reasonable efforts to discern them or
31 if the patient is a minor, the decision shall be made on
32 the basis of the patient's best interests as determined by
33 the surrogate decision maker. In determining the patient's
34 best interests, the surrogate shall weigh the burdens on
35 and benefits to the patient of initiating or continuing
36 life-sustaining treatment against the burdens and benefits

1 of that treatment and shall take into account any other
2 information, including the views of family and friends,
3 that the surrogate decision maker believes the patient
4 would have considered if able to act for herself or
5 himself.

6 (2) Decisions whether to forgo life-sustaining
7 treatment on behalf of a minor or an adult patient who
8 lacks decisional capacity, but without any surrogate
9 decision maker or guardian being available determined
10 after reasonable inquiry by the health care provider, may
11 be made by a court appointed guardian. A court appointed
12 guardian shall be treated as a surrogate for the purposes
13 of this Act.

14 (b-5) Decisions concerning medical treatment on behalf of a
15 patient without decisional capacity are lawful, without resort
16 to the courts or legal process, if the patient does not have a
17 qualifying condition and if decisions are made in accordance
18 with one of the following paragraphs in this subsection and
19 otherwise meet the requirements of this Act:

20 (1) Decisions concerning medical treatment on behalf
21 of a minor or adult patient who lacks decisional capacity
22 may be made by a surrogate decision maker or makers in
23 consultation with the attending physician, in the order of
24 priority provided in Section 25 with the exception that
25 decisions to forgo life-sustaining treatment may be made
26 only when a patient has a qualifying condition. A surrogate
27 decision maker shall make decisions for the patient
28 conforming as closely as possible to what the patient would
29 have done or intended under the circumstances, taking into
30 account evidence that includes, but is not limited to, the
31 patient's personal, philosophical, religious, and moral
32 beliefs and ethical values relative to the purpose of life,
33 sickness, medical procedures, suffering, and death. In the
34 event an unrevoked advance directive, such as a living
35 will, a declaration for mental health treatment, or a power
36 of attorney for health care, is no longer valid due to a

1 technical deficiency or is not applicable to the patient's
2 condition, that document may be used as evidence of a
3 patient's wishes. The absence of a living will, declaration
4 for mental health treatment, or power of attorney for
5 health care shall not give rise to any presumption as to
6 the patient's preferences regarding any process. If the
7 adult patient's wishes are unknown and remain unknown after
8 reasonable efforts to discern them or if the patient is a
9 minor, the decision shall be made on the basis of the
10 patient's best interests as determined by the surrogate
11 decision maker. In determining the patient's best
12 interests, the surrogate shall weigh the burdens on and
13 benefits to the patient of the treatment against the
14 burdens and benefits of that treatment and shall take into
15 account any other information, including the views of
16 family and friends, that the surrogate decision maker
17 believes the patient would have considered if able to act
18 for herself or himself.

19 (2) Decisions concerning medical treatment on behalf
20 of a minor or adult patient who lacks decisional capacity,
21 but without any surrogate decision maker or guardian being
22 available as determined after reasonable inquiry by the
23 health care provider, may be made by a court appointed
24 guardian. A court appointed guardian shall be treated as a
25 surrogate for the purposes of this Act.

26 (c) For the purposes of this Act, a patient or surrogate
27 decision maker is presumed to have decisional capacity in the
28 absence of actual notice to the contrary without regard to
29 advanced age. With respect to a patient, a diagnosis of mental
30 illness or mental retardation, of itself, is not a bar to a
31 determination of decisional capacity. A determination that an
32 adult patient lacks decisional capacity shall be made by the
33 attending physician to a reasonable degree of medical
34 certainty. The determination shall be in writing in the
35 patient's medical record and shall set forth the attending
36 physician's opinion regarding the cause, nature, and duration

1 of the patient's lack of decisional capacity. Before
2 implementation of a decision by a surrogate decision maker to
3 forgo life-sustaining treatment, at least one other qualified
4 physician must concur in the determination that an adult
5 patient lacks decisional capacity. The concurring
6 determination shall be made in writing in the patient's medical
7 record after personal examination of the patient. The attending
8 physician shall inform the patient that it has been determined
9 that the patient lacks decisional capacity and that a surrogate
10 decision maker will be making life-sustaining treatment
11 decisions on behalf of the patient. Moreover, the patient shall
12 be informed of the identity of the surrogate decision maker and
13 any decisions made by that surrogate. If the person identified
14 as the surrogate decision maker is not a court appointed
15 guardian and the patient objects to the statutory surrogate
16 decision maker or any decision made by that surrogate decision
17 maker, then the provisions of this Act shall not apply.

18 (d) A surrogate decision maker acting on behalf of the
19 patient shall express decisions to forgo life-sustaining
20 treatment to the attending physician and one adult witness who
21 is at least 18 years of age. This decision and the substance of
22 any known discussion before making the decision shall be
23 documented by the attending physician in the patient's medical
24 record and signed by the witness.

25 (e) The existence of a qualifying condition shall be
26 documented in writing in the patient's medical record by the
27 attending physician and shall include its cause and nature, if
28 known. The written concurrence of another qualified physician
29 is also required.

30 (f) Once the provisions of this Act are complied with, the
31 attending physician shall thereafter promptly implement the
32 decision to forgo life-sustaining treatment on behalf of the
33 patient unless he or she believes that the surrogate decision
34 maker is not acting in accordance with his or her
35 responsibilities under this Act, or is unable to do so for
36 reasons of conscience or other personal views or beliefs.

1 (g) In the event of a patient's death as determined by a
2 physician, all life-sustaining treatment and other medical
3 care is to be terminated, unless the patient is an organ donor,
4 in which case appropriate organ donation treatment may be
5 applied or continued temporarily.

6 (Source: P.A. 90-246, eff. 1-1-98.)

7 (755 ILCS 40/65)

8 Sec. 65. Do-not-resuscitate orders.

9 (a) An individual of sound mind and having reached the age
10 of majority or having obtained the status of an emancipated
11 person pursuant to the Emancipation of ~~Mature~~ Minors Act may
12 execute a document (consistent with the Department of Public
13 Health Uniform DNR Order Form) directing that resuscitating
14 efforts shall not be implemented. Such an order may also be
15 executed by an attending physician. Notwithstanding the
16 existence of a DNR order, appropriate organ donation treatment
17 may be applied or continued temporarily in the event of the
18 patient's death, in accordance with subsection (g) of Section
19 20 of this Act, if the patient is an organ donor.

20 (b) Consent to a DNR order may be obtained from the
21 individual, or from another person at the individual's
22 direction, or from the individual's legal guardian, agent under
23 a power of attorney for health care, or surrogate decision
24 maker, and witnessed by 2 individuals 18 years of age or older.

25 (c) The DNR order may, but need not, be in the form adopted
26 by the Department of Public Health pursuant to Section 2310-600
27 of the Department of Public Health Powers and Duties Law (20
28 ILCS 2310/2310-600).

29 (d) A health care professional or health care provider may
30 presume, in the absence of knowledge to the contrary, that a
31 completed Department of Public Health Uniform DNR Order form or
32 a copy of that form is a valid DNR order. A health care
33 professional or health care provider, or an employee of a
34 health care professional or health care provider, who in good
35 faith complies with a do-not-resuscitate order made in

1 accordance with this Act is not, as a result of that
2 compliance, subject to any criminal or civil liability, except
3 for willful and wanton misconduct, and may not be found to have
4 committed an act of unprofessional conduct.

5 (Source: P.A. 92-356, eff. 10-1-01; revised 10-9-03.)

6 Section 45. The Illinois Power of Attorney Act is amended
7 by changing Sections 4-7 and 4-10 as follows:

8 (755 ILCS 45/4-7) (from Ch. 110 1/2, par. 804-7)

9 Sec. 4-7. Duties of health care providers and others in
10 relation to health care agencies. Each health care provider and
11 each other person with whom an agent deals under a health care
12 agency shall be subject to the following duties and
13 responsibilities:

14 (a) It is the responsibility of the agent or patient to
15 notify the health care provider of the existence of the health
16 care agency and any amendment or revocation thereof. A health
17 care provider furnished with a copy of a health care agency
18 shall make it a part of the patient's medical records and shall
19 enter in the records any change in or termination of the health
20 care agency by the principal that becomes known to the
21 provider. Whenever a provider believes a patient may lack
22 capacity to give informed consent to health care which the
23 provider deems necessary, the provider shall consult with any
24 available health care agent known to the provider who then has
25 power to act for the patient under a health care agency.

26 (b) A health care decision made by an agent in accordance
27 with the terms of a health care agency shall be complied with
28 by every health care provider to whom the decision is
29 communicated, subject to the provider's right to administer
30 treatment for the patient's comfort care or alleviation of
31 pain; but if the provider is unwilling to comply with the
32 agent's decision, the provider shall promptly inform the agent
33 who shall then be responsible to make the necessary
34 arrangements for the transfer of the patient to another

1 provider. It is understood that a provider who is unwilling to
2 comply with the agent's decision will continue to afford
3 reasonably necessary consultation and care in connection with
4 the transfer.

5 (c) At the patient's expense and subject to reasonable
6 rules of the health care provider to prevent disruption of the
7 patient's health care, each health care provider shall give an
8 agent authorized to receive such information under a health
9 care agency the same right the principal has to examine and
10 copy any part or all of the patient's medical records that the
11 agent deems relevant to the exercise of the agent's powers,
12 whether the records relate to mental health or any other
13 medical condition and whether they are in the possession of or
14 maintained by any physician, psychiatrist, psychologist,
15 therapist, hospital, nursing home or other health care
16 provider.

17 (d) If and to the extent a health care agency empowers the
18 agent to (1) make an anatomical gift on behalf of the principal
19 under the Illinois ~~Uniform~~ Anatomical Gift Act, as now or
20 hereafter amended, or (2) authorize an autopsy of the
21 principal's body pursuant to Section 2 of "An Act in relation
22 to autopsy of dead bodies", approved August 13, 1965, as now or
23 hereafter amended, or (3) direct the disposition of the
24 principal's remains, the decision by an authorized agent as to
25 anatomical gift, autopsy approval or remains disposition shall
26 be deemed the act of the principal and shall control over the
27 decision of other persons who might otherwise have priority;
28 and each person to whom a direction by the agent in accordance
29 with the terms of the agency is communicated shall comply with
30 such direction.

31 (Source: P.A. 86-736.)

32 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

33 Sec. 4-10. Statutory short form power of attorney for
34 health care.

35 (a) The following form (sometimes also referred to in this

1 Act as the "statutory health care power") may be used to grant
2 an agent powers with respect to the principal's own health
3 care; but the statutory health care power is not intended to be
4 exclusive nor to cover delegation of a parent's power to
5 control the health care of a minor child, and no provision of
6 this Article shall be construed to invalidate or bar use by the
7 principal of any other or different form of power of attorney
8 for health care. Nonstatutory health care powers must be
9 executed by the principal, designate the agent and the agent's
10 powers, and comply with Section 4-5 of this Article, but they
11 need not be witnessed or conform in any other respect to the
12 statutory health care power. When a power of attorney in
13 substantially the following form is used, including the
14 "notice" paragraph at the beginning in capital letters, it
15 shall have the meaning and effect prescribed in this Act. The
16 statutory health care power may be included in or combined with
17 any other form of power of attorney governing property or other
18 matters.

19 "ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR HEALTH
20 CARE

21 (NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE
22 THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO MAKE
23 HEALTH CARE DECISIONS FOR YOU, INCLUDING POWER TO REQUIRE,
24 CONSENT TO OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL
25 TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT YOU
26 TO OR DISCHARGE YOU FROM ANY HOSPITAL, HOME OR OTHER
27 INSTITUTION. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR AGENT TO
28 EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE EXERCISED, YOUR
29 AGENT WILL HAVE TO USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN
30 ACCORDANCE WITH THIS FORM AND KEEP A RECORD OF RECEIPTS,
31 DISBURSEMENTS AND SIGNIFICANT ACTIONS TAKEN AS AGENT. A COURT
32 CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS THE AGENT IS
33 NOT ACTING PROPERLY. YOU MAY NAME SUCCESSOR AGENTS UNDER THIS
34 FORM BUT NOT CO-AGENTS, AND NO HEALTH CARE PROVIDER MAY BE
35 NAMED. UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN
36 THE MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A

1 COURT ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY
 2 EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN
 3 AFTER YOU BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT, YOUR
 4 RIGHT TO REVOKE THOSE POWERS AND THE PENALTIES FOR VIOLATING
 5 THE LAW ARE EXPLAINED MORE FULLY IN SECTIONS 4-5, 4-6, 4-9 AND
 6 4-10(b) OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE
 7 LAW" OF WHICH THIS FORM IS A PART (SEE THE BACK OF THIS FORM).
 8 THAT LAW EXPRESSLY PERMITS THE USE OF ANY DIFFERENT FORM OF
 9 POWER OF ATTORNEY YOU MAY DESIRE. IF THERE IS ANYTHING ABOUT
 10 THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER
 11 TO EXPLAIN IT TO YOU.)

12 POWER OF ATTORNEY made thisday of
 13
 14 (month) (year)

15 1. I,,
 16 (insert name and address of principal)

17 hereby appoint:
 18
 19 (insert name and address of agent)

20 as my attorney-in-fact (my "agent") to act for me and in my
 21 name (in any way I could act in person) to make any and all
 22 decisions for me concerning my personal care, medical
 23 treatment, hospitalization and health care and to require,
 24 withhold or withdraw any type of medical treatment or
 25 procedure, even though my death may ensue. My agent shall have
 26 the same access to my medical records that I have, including
 27 the right to disclose the contents to others. My agent shall
 28 also have full power to authorize an autopsy and direct the
 29 disposition of my remains. Effective upon my death, my agent
 30 has the full power to make an anatomical gift of the following
 31 (initial one):

32Any organs, tissues, or eyes suitable for
 33 transplantation or used for research or education ~~organ~~.

34Specific organs:

35 (THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS
 36 POSSIBLE SO THAT YOUR AGENT WILL HAVE AUTHORITY TO MAKE ANY

1 DECISION YOU COULD MAKE TO OBTAIN OR TERMINATE ANY TYPE OF
 2 HEALTH CARE, INCLUDING WITHDRAWAL OF FOOD AND WATER AND OTHER
 3 LIFE-SUSTAINING MEASURES, IF YOUR AGENT BELIEVES SUCH ACTION
 4 WOULD BE CONSISTENT WITH YOUR INTENT AND DESIRES. IF YOU WISH
 5 TO LIMIT THE SCOPE OF YOUR AGENT'S POWERS OR PRESCRIBE SPECIAL
 6 RULES OR LIMIT THE POWER TO MAKE AN ANATOMICAL GIFT, AUTHORIZE
 7 AUTOPSY OR DISPOSE OF REMAINS, YOU MAY DO SO IN THE FOLLOWING
 8 PARAGRAPHS.)

9 2. The powers granted above shall not include the following
 10 powers or shall be subject to the following rules or
 11 limitations (here you may include any specific limitations you
 12 deem appropriate, such as: your own definition of when
 13 life-sustaining measures should be withheld; a direction to
 14 continue food and fluids or life-sustaining treatment in all
 15 events; or instructions to refuse any specific types of
 16 treatment that are inconsistent with your religious beliefs or
 17 unacceptable to you for any other reason, such as blood
 18 transfusion, electro-convulsive therapy, amputation,
 19 psychosurgery, voluntary admission to a mental institution,
 20 etc.):

- 21
- 22
- 23
- 24
- 25

26 (THE SUBJECT OF LIFE-SUSTAINING TREATMENT IS OF PARTICULAR
 27 IMPORTANCE. FOR YOUR CONVENIENCE IN DEALING WITH THAT SUBJECT,
 28 SOME GENERAL STATEMENTS CONCERNING THE WITHHOLDING OR REMOVAL
 29 OF LIFE-SUSTAINING TREATMENT ARE SET FORTH BELOW. IF YOU AGREE
 30 WITH ONE OF THESE STATEMENTS, YOU MAY INITIAL THAT STATEMENT;
 31 BUT DO NOT INITIAL MORE THAN ONE):

32 I do not want my life to be prolonged nor do I want
 33 life-sustaining treatment to be provided or continued if my
 34 agent believes the burdens of the treatment outweigh the
 35 expected benefits. I want my agent to consider the relief of
 36 suffering, the expense involved and the quality as well as the

1 ADDRESSES OF SUCH SUCCESSORS IN THE FOLLOWING PARAGRAPH.)

2 5. If any agent named by me shall die, become incompetent,
3 resign, refuse to accept the office of agent or be unavailable,
4 I name the following (each to act alone and successively, in
5 the order named) as successors to such agent:

6
7

8 For purposes of this paragraph 5, a person shall be considered
9 to be incompetent if and while the person is a minor or an
10 adjudicated incompetent or disabled person or the person is
11 unable to give prompt and intelligent consideration to health
12 care matters, as certified by a licensed physician. (IF YOU
13 WISH TO NAME YOUR AGENT AS GUARDIAN OF YOUR PERSON, IN THE
14 EVENT A COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY,
15 BUT ARE NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING
16 PARAGRAPH. THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS
17 THAT SUCH APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND
18 WELFARE. STRIKE OUT PARAGRAPH 6 IF YOU DO NOT WANT YOUR AGENT
19 TO ACT AS GUARDIAN.)

20 6. If a guardian of my person is to be appointed, I
21 nominate the agent acting under this power of attorney as such
22 guardian, to serve without bond or security.

23 7. I am fully informed as to all the contents of this form
24 and understand the full import of this grant of powers to my
25 agent.

26 Signed.....
27 (principal)

28 The principal has had an opportunity to read the above form
29 and has signed the form or acknowledged his or her signature or
30 mark on the form in my presence.

31 Residing at.....
32 (witness)

33 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND
34 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU
35 INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST
36 COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE

1 AGENTS.)

2 Specimen signatures of I certify that the signatures of my
3 agent (and successors). agent (and successors) are correct.

4

5 (agent) (principal)

6

7 (successor agent) (principal)

8

9 (successor agent) (principal)"

10 (b) The statutory short form power of attorney for health
11 care (the "statutory health care power") authorizes the agent
12 to make any and all health care decisions on behalf of the
13 principal which the principal could make if present and under
14 no disability, subject to any limitations on the granted powers
15 that appear on the face of the form, to be exercised in such
16 manner as the agent deems consistent with the intent and
17 desires of the principal. The agent will be under no duty to
18 exercise granted powers or to assume control of or
19 responsibility for the principal's health care; but when
20 granted powers are exercised, the agent will be required to use
21 due care to act for the benefit of the principal in accordance
22 with the terms of the statutory health care power and will be
23 liable for negligent exercise. The agent may act in person or
24 through others reasonably employed by the agent for that
25 purpose but may not delegate authority to make health care
26 decisions. The agent may sign and deliver all instruments,
27 negotiate and enter into all agreements and do all other acts
28 reasonably necessary to implement the exercise of the powers
29 granted to the agent. Without limiting the generality of the
30 foregoing, the statutory health care power shall include the
31 following powers, subject to any limitations appearing on the
32 face of the form:

33 (1) The agent is authorized to give consent to and
34 authorize or refuse, or to withhold or withdraw consent to, any
35 and all types of medical care, treatment or procedures relating
36 to the physical or mental health of the principal, including

1 any medication program, surgical procedures, life-sustaining
2 treatment or provision of food and fluids for the principal.

3 (2) The agent is authorized to admit the principal to or
4 discharge the principal from any and all types of hospitals,
5 institutions, homes, residential or nursing facilities,
6 treatment centers and other health care institutions providing
7 personal care or treatment for any type of physical or mental
8 condition. The agent shall have the same right to visit the
9 principal in the hospital or other institution as is granted to
10 a spouse or adult child of the principal, any rule of the
11 institution to the contrary notwithstanding.

12 (3) The agent is authorized to contract for any and all
13 types of health care services and facilities in the name of and
14 on behalf of the principal and to bind the principal to pay for
15 all such services and facilities, and to have and exercise
16 those powers over the principal's property as are authorized
17 under the statutory property power, to the extent the agent
18 deems necessary to pay health care costs; and the agent shall
19 not be personally liable for any services or care contracted
20 for on behalf of the principal.

21 (4) At the principal's expense and subject to reasonable
22 rules of the health care provider to prevent disruption of the
23 principal's health care, the agent shall have the same right
24 the principal has to examine and copy and consent to disclosure
25 of all the principal's medical records that the agent deems
26 relevant to the exercise of the agent's powers, whether the
27 records relate to mental health or any other medical condition
28 and whether they are in the possession of or maintained by any
29 physician, psychiatrist, psychologist, therapist, hospital,
30 nursing home or other health care provider.

31 (5) The agent is authorized: to direct that an autopsy be
32 made pursuant to Section 2 of "An Act in relation to autopsy of
33 dead bodies", approved August 13, 1965, including all
34 amendments; to make a disposition of any part or all of the
35 principal's body pursuant to the Illinois ~~Uniform~~ Anatomical
36 Gift Act, as now or hereafter amended; and to direct the

1 disposition of the principal's remains.

2 (Source: P.A. 91-240, eff. 1-1-00.)

3 Section 50. The Uniform Anatomical Gift Act is amended by
4 changing and renumbering Sections 1, 2, 3, 4, 4.5, 5, 6, 7, 8,
5 and 8.1 and by adding Article headings for Articles 1 and 5 and
6 adding Sections 1-5, 5-25, and 5-30 as follows:

7 (755 ILCS 50/Art. 1 heading new)

8 ARTICLE 1.

9 Title and General Provisions.

10 (755 ILCS 50/1-1 new) (was 755 ILCS 50/1)

11 Sec. 1-1 ~~1~~. Short Title.

12 This Act may be cited as the Illinois ~~Uniform~~ Anatomical
13 Gift Act.

14 (Source: P.A. 76-1209.)

15 (755 ILCS 50/1-5 new)

16 Sec. 1-5. Purpose. Illinois recognizes that there is a
17 critical shortage of human organs and tissues available to
18 citizens in need of organ and tissue transplants. This shortage
19 leads to the untimely death of many adults and children in
20 Illinois and across the nation each year. This Act is intended
21 to implement the public policy of encouraging timely donation
22 of human organs and tissue in Illinois and facilitating
23 transplants of those organs and tissue into patients in need of
24 them. Through this Act, laws relating to organ and tissue
25 donation and transplantation are consolidated and modified for
26 the purpose of furthering this public policy.

27 (755 ILCS 50/1-10) (was 755 ILCS 50/2)

28 Sec. 1-10 ~~2~~. Definitions.) ~~(a)~~

29 "Bank or storage facility" means a facility licensed,
30 accredited or approved under the laws of any state for storage
31 of human bodies or parts thereof.

1 "Close friend" means any person 18 years of age or older
2 who has exhibited special care and concern for the decedent and
3 who presents an affidavit to the decedent's attending
4 physician, or the hospital administrator or his or her
5 designated representative, stating that he or she (i) was a
6 close friend of the decedent, (ii) is willing and able to
7 consent to the donation, and (iii) maintained such regular
8 contact with the decedent as to be familiar with the decedent's
9 health and social history, and religious and moral beliefs. The
10 affidavit must also state facts and circumstances that
11 demonstrate that familiarity.

12 ~~(b)~~ "Death" means for the purposes of the Act, the
13 irreversible cessation of total brain function, according to
14 usual and customary standards of medical practice.

15 ~~(c)~~ "Decedent" means a deceased individual and includes a
16 stillborn infant or fetus.

17 ~~(d)~~ "Donor" means an individual who makes a gift of all or
18 parts of his body.

19 "Federally designated organ procurement agency" means the
20 organ procurement agency designated by the Secretary of the
21 U.S. Department of Health and Human Services for the service
22 area in which a hospital is located, or the organ procurement
23 agency for which the U.S. Secretary of Health and Human
24 Services has granted the hospital a waiver pursuant to 42
25 U.S.C. 1320b-8(a).

26 ~~(e)~~ "Hospital" means a hospital licensed, accredited or
27 approved under the laws of any state; and includes a hospital
28 operated by the United States government, a state, or a
29 subdivision thereof, although not required to be licensed under
30 state laws.

31 "Not available" for the giving of consent or refusal means:
32 (1) the existence of the person is unknown to the hospital
33 administrator or designee, organ procurement agency, or tissue
34 bank and is not readily ascertainable through the examination
35 of the decedent's hospital records and the questioning of any
36 persons who are available for giving consent;

1 (2) the administrator or designee, organ procurement
2 agency, or tissue bank has unsuccessfully attempted to contact
3 the person by telephone or in any other reasonable manner; or

4 (3) the person is unable or unwilling to respond in a
5 manner that indicates the person's refusal or consent.

6 "Organ" means a human kidney, liver, heart, lung, pancreas,
7 small bowel, or other transplantable vascular body part as
8 determined by the Organ Procurement and Transplantation
9 Network, as periodically selected by the U.S. Department of
10 Health and Human Services.

11 "Tissue" means eyes, bones, heart valves, veins, skin, and
12 any other portions of a human body excluding blood, blood
13 products or organs.

14 ~~(f)~~ "Part" means organs, tissues, eyes, bones, arteries,
15 blood, other fluids and any other portions of a human body.

16 ~~(g)~~ "Person" means an individual, corporation, government
17 or governmental subdivision or agency, business trust, estate,
18 trust, partnership or association or any other legal entity.

19 ~~(h)~~ "Physician" or "surgeon" means a physician or surgeon
20 licensed or authorized to practice medicine in all of its
21 branches under the laws of any state.

22 ~~(i)~~ "State" includes any state, district, commonwealth,
23 territory, insular possession, and any other area subject to
24 the legislative authority of the United States of America.

25 ~~(j)~~ "Technician" means an individual trained and certified
26 to remove tissue, by a recognized medical training institution
27 in the State of Illinois.

28 "Tissue bank" means any facility or program operating in
29 Illinois that is certified by the American Association of
30 Tissue Banks, the Eye Bank Association of America, or the
31 Association of Organ Procurement Organizations and is involved
32 in procuring, furnishing, donating, or distributing corneas,
33 bones, or other human tissue for the purpose of injecting,
34 transfusing, or transplanting any of them into the human body.

35 "Tissue bank" does not include a licensed blood bank. For the
36 purposes of this Act, "tissue" does not include organs or blood

1 or blood products.

2 (Source: P.A. 79-952.)

3 (755 ILCS 50/Art. 5 heading new)

4 ARTICLE 5.

5 Organ Donation.

6 (755 ILCS 50/5-5 new) (was 755 ILCS 50/3)

7 Sec. 5-5 ~~3~~. Persons who may execute an anatomical gift.

8 (a) Any individual of sound mind who has attained the age
9 of 18 may give all or any part of his or her body for any
10 purpose specified in Section 5-10 ~~4~~. Such a gift may be
11 executed in any of the ways set out in Section 5-20 ~~5~~, and
12 shall take effect upon the individual's death without the need
13 to obtain the consent of any survivor. An anatomical gift made
14 by an agent of an individual, as authorized by the individual
15 under the Powers of Attorney for Health Care Law, as now or
16 hereafter amended, is deemed to be a gift by that individual
17 and takes effect without the need to obtain the consent of any
18 other person.

19 (b) If no gift has been executed under subsection (a), any
20 of the following persons, in the order of priority stated in
21 items (1) through (11) ~~(9)~~ below, when persons in prior classes
22 are not available for the giving of consent or refusal and in
23 the absence of (i) actual notice of contrary intentions by the
24 decedent and (ii) actual notice of opposition by any member
25 within the same priority class, may consent to give all or any
26 part of the decedent's body after or immediately before death
27 to a person who may become a donee for any purpose specified in
28 Section 5-10 ~~4~~:

29 (1) the guardian of the decedent's person at the time
30 of death,

31 (2) ~~(1)~~ an individual acting as the decedent's agent
32 under a power of attorney for health care ~~which provides~~
33 ~~specific direction regarding organ donation,~~

34 (3) the decedent's surrogate decision maker identified

1 by the attending physician in accordance with the Health
2 Care Surrogate Act,

3 (4) ~~(2)~~ the decedent's spouse,

4 (5) ~~(3)~~ any of the decedent's adult sons or daughters,

5 (6) ~~(4)~~ either of the decedent's parents,

6 (7) ~~(5)~~ any of the decedent's adult brothers or
7 sisters,

8 (8) ~~(6)~~ any adult grandchild of the decedent,

9 (9) a close friend of the decedent,

10 (10) ~~(7)~~ the guardian of the decedent's estate,

11 ~~(8) the decedent's surrogate decision maker under the~~
12 ~~Health Care Surrogate Act,~~

13 (11) ~~(9)~~ any other person authorized or under legal
14 obligation to dispose of the body.

15 If the donee has actual notice of opposition to the gift by
16 the decedent or any person in the highest priority class in
17 which an available person can be found, then no gift of all or
18 any part of the decedent's body shall be accepted.

19 ~~(c) For the purposes of this Act, a person will not be~~
20 ~~considered "available" for the giving of consent or refusal if:~~

21 ~~(1) the existence of the person is unknown to the donee~~
22 ~~and is not readily ascertainable through the examination of~~
23 ~~the decedent's hospital records and the questioning of any~~
24 ~~persons who are available for giving consent;~~

25 ~~(2) the donee has unsuccessfully attempted to contact~~
26 ~~the person by telephone or in any other reasonable manner;~~

27 ~~(3) the person is unable or unwilling to respond in a~~
28 ~~manner which indicates the person's refusal or consent.~~

29 (c) ~~(d)~~ A gift of all or part of a body authorizes any
30 examination necessary to assure medical acceptability of the
31 gift for the purposes intended.

32 (d) ~~(e)~~ The rights of the donee created by the gift are
33 paramount to the rights of others except as provided by Section
34 5-45 ~~(d)~~.

35 (e) ~~(f)~~ If no gift has been executed under this Act
36 Section, then no part of the decedent's body may be used for

1 any purpose specified in ~~Section 4~~ of this Act, ~~except in~~
2 ~~accordance with the Organ Donation Request Act or the Corneal~~
3 ~~Transplant Act.~~

4 (Source: P.A. 92-349, eff. 1-1-02.)

5 (755 ILCS 50/5-10 new) (was 755 ILCS 50/4)

6 Sec. 5-10 ~~4~~. Persons Who May Become Donees; Purposes for
7 Which Anatomical Gifts May be Made.

8 The following persons may become donees of gifts of bodies
9 or parts thereof for the purposes stated:

10 (1) any hospital, surgeon, or physician, for medical or
11 dental education, research, advancement of medical or dental
12 science, therapy, or transplantation; or

13 (2) any accredited medical, chiropractic, mortuary or
14 dental school, college or university for education, research,
15 advancement of medical or dental science, or therapy; or

16 (3) any bank or storage facility, for medical or dental
17 education, research, advancement of medical or dental science,
18 therapy, or transplantation; or

19 (4) any federally designated organ procurement agency or
20 tissue bank, for medical or dental education, research,
21 advancement of medical or dental science, therapy, or
22 transplantation; or

23 (5) ~~(4)~~ any specified individual for therapy or
24 transplantation needed by him or her, or for any other purpose.

25 (Source: P.A. 76-1209.)

26 (755 ILCS 50/5-15 new) (was 755 ILCS 50/4.5)

27 Sec. 5-15 ~~4.5~~. Disability of recipient.

28 (a) No hospital, physician and surgeon, bank or storage
29 facility, or other person shall determine the ultimate
30 recipient of an anatomical gift based upon a potential
31 recipient's physical or mental disability, except to the extent
32 that the physical or mental disability has been found by a
33 physician and surgeon, following a case-by-case evaluation of
34 the potential recipient, to be medically significant to the

1 provision of the anatomical gift.

2 (b) Subsection (a) shall apply to each part of the organ
3 transplant process.

4 (c) The court shall accord priority on its calendar and
5 handle expeditiously any action brought to seek any remedy
6 authorized by law for purposes of enforcing compliance with
7 this Section.

8 (d) This Section shall not be deemed to require referrals
9 or recommendations for or the performance of medically
10 inappropriate organ transplants.

11 (e) As used in this Section "disability" has the same
12 meaning as in the federal Americans with Disabilities Act of
13 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be
14 amended from time to time.

15 (Source: P.A. 91-345, eff. 1-1-00.)

16 (755 ILCS 50/5-20 new) (was 755 ILCS 50/5)

17 Sec. 5-20 ~~5-~~. Manner of Executing Anatomical Gifts. (a) A
18 gift of all or part of the body under Section 5-5 ~~3~~ (a) may be
19 made by will. The gift becomes effective upon the death of the
20 testator without waiting for probate. If the will is not
21 probated, or if it is declared invalid for testamentary
22 purposes, the gift, to the extent that it has been acted upon
23 in good faith, is nevertheless valid and effective.

24 (b) A gift of all or part of the body under Section 5-5 ~~3~~
25 (a) may also be made by a written, signed document other than a
26 will. The gift becomes effective upon the death of the donor.
27 The document, which may be a card or a valid driver's license
28 designed to be carried on the person, must be signed by the
29 donor in the presence of 2 witnesses who must sign the document
30 in his presence and who thereby certify that he was of sound
31 mind and memory and free from any undue influence and knows the
32 objects of his bounty and affection. Such a gift may also be
33 made by properly executing the form provided by the Secretary
34 of State on the reverse side of the donor's driver's license
35 pursuant to subsection (b) of Section 6-110 of The Illinois

1 Vehicle Code. Delivery of the document of gift during the
2 donor's lifetime is not necessary to make the gift valid.

3 (c) The gift may be made to a specified donee or without
4 specifying a donee. If the latter, the gift may be accepted by
5 the attending physician as donee upon or following death. If
6 the gift is made to a specified donee who is not available at
7 the time and place of death, then if made for the purpose of
8 transplantation, it shall be effectuated in accordance with
9 Section 5-25, and if made for any other purpose the attending
10 physician upon or following death, in the absence of any
11 expressed indication that the donor desired otherwise, may
12 accept the gift as donee. ~~The physician who becomes a donee~~
13 ~~under this subsection shall not participate either physically~~
14 ~~or financially in the procedures for removing or transplanting~~
15 ~~a part.~~

16 (d) Notwithstanding Section 5-45 & (b), the donor may
17 designate in his will, card, or other document of gift the
18 surgeon or physician to carry out the appropriate procedures.
19 In the absence of a designation or if the designee is not
20 available, the donee or other person authorized to accept the
21 gift may employ or authorize any surgeon or physician for the
22 purpose.

23 (e) Any gift by a person designated in Section 5-5 & (b)
24 shall be made by a document signed by him or made by his
25 telegraphic, recorded telephonic, or other recorded message.
26 (Source: P.A. 85-192.)

27 (755 ILCS 50/5-25 new)

28 Sec. 5-25. Notification; consent.

29 (a) When, based upon generally accepted medical standards,
30 an inpatient in a general acute care hospital with more than
31 100 beds is a suitable candidate for organ or tissue donation
32 and the patient has not made an anatomical gift of all or any
33 part of his or her body pursuant to Section 5-20 of this Act,
34 the hospital shall proceed in accordance with the requirements
35 of 42 CFR 482.45 or any successor provisions of federal statute

1 or regulation, as may be amended from time to time, and the
2 written agreement between the hospital and the applicable organ
3 procurement agency executed thereunder.

4 (b) In making a request for organ or tissue donation, the
5 hospital or the hospital's federally designated organ
6 procurement agency or tissue bank shall request any of the
7 following persons, in the order of priority stated in items (1)
8 through (11) below, when persons in prior classes are not
9 available and in the absence of (i) actual notice of contrary
10 intentions by the decedent, (ii) actual notice of opposition by
11 any member within the same priority class, and (iii) reason to
12 believe that an anatomical gift is contrary to the decedent's
13 religious beliefs, to consent to the gift of all or any part of
14 the decedent's body for any purpose specified in Section 5-10
15 of this Act:

16 (1) the guardian of the decedent's person;

17 (2) an individual acting as the decedent's agent under
18 a power of attorney for health care;

19 (3) the decedent's surrogate decision maker identified
20 by the attending physician in accordance with the Health
21 Care Surrogate Act;

22 (4) the decedent's spouse;

23 (5) any of the decedent's adult sons or daughters;

24 (6) either of the decedent's parents;

25 (7) any of the decedent's adult brothers or sisters;

26 (8) any adult grandchild of the decedent;

27 (9) a close friend of the decedent;

28 (10) the guardian of the decedent's estate; or

29 (11) any other person authorized or under legal
30 obligation to dispose of the body.

31 (c) If (1) the hospital, the applicable organ procurement
32 agency, or the tissue bank has actual notice of opposition to
33 the gift by the decedent or any person in the highest priority
34 class in which an available person can be found, or (2) there
35 is reason to believe that an anatomical gift is contrary to the
36 decedent's religious beliefs, or (3) the Director of Public

1 Health has adopted a rule signifying his or her determination
2 that the need for organs and tissues for donation has been
3 adequately met, then the gift of all or any part of the
4 decedent's body shall not be requested. If a donation is
5 requested, consent or refusal may be obtained only from the
6 person or persons in the highest priority class available. If
7 the hospital administrator, or his or her designated
8 representative, the designated organ procurement agency, or
9 the tissue bank is unable to obtain consent from any of the
10 persons named in items (1) through (11) of subsection (b) of
11 this Section, the decedent's body shall not be used for an
12 anatomical gift unless a valid anatomical gift document was
13 executed under this Act.

14 (d) When there is a suitable candidate for organ donation,
15 as described in subsection (a), or if consent to remove organs
16 and tissues is granted, the hospital shall notify the
17 applicable federally designated organ procurement agency. The
18 federally designated organ procurement agency shall notify any
19 tissue bank specified by the hospital of the suitable candidate
20 for tissue donation. The organ procurement agency shall
21 collaborate with all tissue banks in Illinois to maximize
22 tissue procurement in a timely manner.

23 (755 ILCS 50/5-30 new)

24 Sec. 5-30. Corneal transplants.

25 (a) Upon request by a physician licensed to practice
26 medicine in all its branches, or by an eye bank certified by
27 the Eye Bank Association of America, and approved by the
28 coroner or county medical examiner, in any case in which a
29 patient is in need of corneal tissue for a transplant, a
30 coroner or county medical examiner who orders the performance
31 of an autopsy may provide corneal tissue of a decedent whenever
32 all of the following conditions are met:

33 (1) The decedent from whom the tissue is taken is under
34 the jurisdiction of the coroner or county medical examiner.

35 (2) There has been a reasonable and good faith effort

1 by the coroner or county medical examiner or any authorized
2 individual acting for the coroner or county medical
3 examiner to contact an appropriate person as set forth in
4 subsection (b) of this Section.

5 (3) No objection by the decedent or, after the
6 decedent's death, by an appropriate person as set forth in
7 subsection (b) of this Section is known to the coroner or
8 county medical examiner or authorized individual acting
9 for the coroner or county medical examiner prior to removal
10 of the corneal tissue.

11 (4) The person designated to remove the tissue is
12 qualified to do so under this Act.

13 (5) Removal of the tissue will not interfere with the
14 subsequent course of an investigation or autopsy.

15 (6) The individual when living did not make known in
16 writing his or her objection on religious grounds to the
17 removal of his or her corneal tissue.

18 (b) Objection to the removal of corneal tissue may be made
19 known to the coroner or county medical examiner or authorized
20 individual acting for the coroner or county medical examiner by
21 the individual during his or her lifetime or by the following
22 persons, in the order of priority stated, after the decedent's
23 death:

24 (1) the guardian of the decedent's person at the time
25 of death;

26 (2) an individual acting as the decedent's agent under
27 a power of attorney for health care;

28 (3) the decedent's surrogate decision maker identified
29 by the attending physician in accordance with the Health
30 Care Surrogate Act;

31 (4) the decedent's spouse;

32 (5) any of the decedent's adult sons or daughters;

33 (6) either of the decedent's parents;

34 (7) any of the decedent's adult brothers or sisters;

35 (8) any adult grandchild of the decedent;

36 (9) a close friend of the decedent;

1 (10) the guardian of the decedent's estate; or

2 (11) any other person authorized or under legal
3 obligation to dispose of the body.

4 (c) If the coroner or county medical examiner or any
5 authorized individual acting for the coroner or county medical
6 examiner has actual notice of any contrary indications by the
7 decedent or actual notice that any member within the same class
8 specified in subsection (b), paragraphs (1) through (11), of
9 this Section, in the same order of priority, objects to the
10 removal, the coroner or county medical examiner shall not
11 approve the removal of corneal tissue.

12 (d) The coroner or county medical examiner or any
13 authorized individual acting for the coroner or county medical
14 examiner authorizing the removal of corneal tissue, or the
15 persons or organizations listed in subsection (a) of this
16 Section, shall not be liable in any civil or criminal action
17 for removing corneal tissue from a decedent and using the same
18 for transplant purposes if there has been compliance with the
19 provisions of this Section.

20 (755 ILCS 50/5-35 new) (was 755 ILCS 50/6)

21 Sec. 5-35 ~~6~~. Delivery of Document of Gift.

22 If the gift is made by the donor to a specified donee, the
23 will, card, or other document, or an executed copy thereof, may
24 be delivered to the donee to expedite the appropriate
25 procedures immediately after death. Delivery is not necessary
26 to the validity of the gift. The will, card, or other document,
27 or an executed copy thereof, may be deposited in any hospital,
28 bank or storage facility, or registry office that accepts it
29 for safekeeping or for facilitation of procedures after death.
30 On request of any interested party upon or after the donor's
31 death, the person in possession shall produce the document for
32 examination.

33 (Source: P.A. 76-1209.)

34 (755 ILCS 50/5-40 new) (was 755 ILCS 50/7)

1 Sec. 5-40 ~~7~~. Amendment or Revocation of the Gift.

2 (a) If the will, card, or other document or executed copy
3 thereof, has been delivered to a specified donee, the donor may
4 amend or revoke the gift by:

5 (1) the execution and delivery to the donee of a signed
6 statement witnessed and certified as provided in Section
7 5-20 ~~5~~ (b); or

8 (2) a signed card or document found on his person, or
9 in his effects, executed at a date subsequent to the date
10 the original gift was made and witnessed and certified as
11 provided in Section 5-20 ~~5~~ (b).

12 (b) Any document of gift which has not been delivered to
13 the donee may be revoked by the donor in the manner set out in
14 subsection (a).

15 (c) Any gift made by a will may also be amended or revoked
16 in the manner provided for amendment or revocation of wills or
17 as provided in subsection (a).

18 (Source: P.A. 87-895.)

19 (755 ILCS 50/5-45 new) (was 755 ILCS 50/8)

20 Sec. 5-45 ~~8~~. Rights and Duties at Death. (a) The donee
21 may accept or reject the gift. If the donee accepts a gift of
22 the entire body, he may, subject to the terms of the gift,
23 authorize embalming and the use of the body in funeral
24 services, unless a person named in subsection (b) of Section
25 5-5 ~~3~~ has requested, prior to the final disposition by the
26 donee, that the remains of said body be returned to his or her
27 custody for the purpose of final disposition. Such request
28 shall be honored by the donee if the terms of the gift are
29 silent on how final disposition is to take place. If the gift
30 is of a part of the body, the donee or technician designated by
31 him upon the death of the donor and prior to embalming, shall
32 cause the part to be removed without unnecessary mutilation and
33 without undue delay in the release of the body for the purposes
34 of final disposition. After removal of the part, custody of the
35 remainder of the body vests in the surviving spouse, next of

1 kin, or other persons under obligation to dispose of the body,
2 in the order or priority listed in subsection (b) of Section
3 5-5 ~~3~~ of this Act.

4 (b) The time of death shall be determined by a physician
5 who attends the donor at his death, or, if none, the physician
6 who certifies the death. The physician shall not participate in
7 the procedures for removing or transplanting a part.

8 (c) A person who acts in good faith in accord with the
9 terms of this Act and the AIDS Confidentiality Act, or the
10 anatomical gift laws of another state or a foreign country, is
11 not liable for damages in any civil action or subject to
12 prosecution in any criminal proceeding for his act. Any person
13 that participates in good faith and according to the usual and
14 customary standards of medical practice in the removal or
15 transplantation of any part of a decedent's body pursuant to an
16 anatomical gift made by the decedent under Section 5-20 ~~5~~ of
17 this Act or pursuant to an anatomical gift made by an
18 individual as authorized by subsection (b) of Section 5-5 ~~3~~ of
19 this Act shall have immunity from liability, civil, criminal,
20 or otherwise, that might result by reason of such actions. For
21 the purpose of any proceedings, civil or criminal, the validity
22 of an anatomical gift executed pursuant to Section 5-20 ~~5~~ of
23 this Act shall be presumed and the good faith of any person
24 participating in the removal or transplantation of any part of
25 a decedent's body pursuant to an anatomical gift made by the
26 decedent or by another individual authorized by the Act shall
27 be presumed.

28 (d) This Act is subject to the provisions of "An Act to
29 revise the law in relation to coroners", approved February 6,
30 1874, as now or hereafter amended, to the laws of this State
31 prescribing powers and duties with respect to autopsies, and to
32 the statutes, rules, and regulations of this State with respect
33 to the transportation and disposition of deceased human bodies.

34 (e) If the donee is provided information, or determines
35 through independent examination, that there is evidence that
36 the gift was exposed to the human immunodeficiency virus (HIV)

1 or any other identified causative agent of acquired
2 immunodeficiency syndrome (AIDS), the donee may reject the gift
3 and shall treat the information and examination results as a
4 confidential medical record; the donee may disclose only the
5 results confirming HIV exposure, and only to the physician of
6 the deceased donor. The donor's physician shall determine
7 whether the person who executed the gift should be notified of
8 the confirmed positive test result.

9 (Source: P.A. 85-1209.)

10 (755 ILCS 50/5-50 new) (was 755 ILCS 50/8.1)

11 Sec. 5-50 ~~8.1~~. Payment for gift. (a) Except as provided
12 in subsection (b), any person who knowingly pays or offers to
13 pay any financial consideration to a donor or to any of the
14 persons listed in subsection (b) of Section 5-5 ~~3~~ for making or
15 consenting to an anatomical gift shall be guilty of a Class A
16 misdemeanor for the first conviction and a Class 4 felony for
17 subsequent convictions.

18 (b) This Section does not prohibit reimbursement for
19 reasonable costs associated with the removal, storage or
20 transportation of a human body or part thereof pursuant to an
21 anatomical gift executed pursuant to this Act.

22 (Source: P.A. 85-191.)

23 (755 ILCS 50/9 rep.)

24 (755 ILCS 50/11 rep.)

25 Section 55. The Uniform Anatomical Gift Act is amended by
26 repealing Sections 9 and 11.

27 (755 ILCS 55/Act rep.)

28 Section 60. The Illinois Corneal Transplant Act is
29 repealed.

30 (755 ILCS 60/Act rep.)

31 Section 65. The Organ Donation Request Act is repealed.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.

1

INDEX

2

Statutes amended in order of appearance

3 20 ILCS 2310/2310-330 was 20 ILCS 2310/55.46
4 105 ILCS 5/27-23.5
5 210 ILCS 85/6.16
6 210 ILCS 85/10.4 from Ch. 111 1/2, par. 151.4
7 410 ILCS 305/7 from Ch. 111 1/2, par. 7307
8 625 ILCS 5/6-110 from Ch. 95 1/2, par. 6-110
9 625 ILCS 5/12-215 from Ch. 95 1/2, par. 12-215
10 720 ILCS 5/12-20 from Ch. 38, par. 12-20
11 755 ILCS 35/6 from Ch. 110 1/2, par. 706
12 755 ILCS 40/20 from Ch. 110 1/2, par. 851-20
13 755 ILCS 40/65
14 755 ILCS 45/4-7 from Ch. 110 1/2, par. 804-7
15 755 ILCS 45/4-10 from Ch. 110 1/2, par. 804-10
16 755 ILCS 50/Art. 1 heading
17 new
18 755 ILCS 50/1-1 new was 755 ILCS 50/1
19 755 ILCS 50/1-5 new
20 755 ILCS 50/1-10 was 755 ILCS 50/2
21 755 ILCS 50/Art. 5 heading
22 new
23 755 ILCS 50/5-5 new was 755 ILCS 50/3
24 755 ILCS 50/5-10 new was 755 ILCS 50/4
25 755 ILCS 50/5-15 new was 755 ILCS 50/4.5
26 755 ILCS 50/5-20 new was 755 ILCS 50/5
27 755 ILCS 50/5-25 new
28 755 ILCS 50/5-30 new
29 755 ILCS 50/5-35 new was 755 ILCS 50/6
30 755 ILCS 50/5-40 new was 755 ILCS 50/7
31 755 ILCS 50/5-45 new was 755 ILCS 50/8
32 755 ILCS 50/5-50 new was 755 ILCS 50/8.1
33 755 ILCS 50/9 rep.
34 755 ILCS 50/11 rep.
35 755 ILCS 55/Act rep.

1 755 ILCS 60/Act rep.