

SENATE BILL NO. 427 (Substitute of Senate Bill No. 311 by Senator Pressly)

BY SENATOR PRESSLY

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AN ACT

To amend and reenact R.S. 17:2351, 2352, 2354, 2354.1, 2354.2, 2354.7, 2354.8, and 2357(A) and (F) and to enact R.S. 17:2351.1 and 2354.10 through 2354.14, relative to anatomical gifts; to provide requirements and methods for executing an anatomical gift; to provide for definitions; to provide for authority to execute or revoke an anatomical gift; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:2351, 2352, 2354, 2354.1, 2354.2, 2354.7, 2354.8, and 2357(A) and (F) are hereby amended and reenacted and R.S. 17:2351.1 and 2354.10 through 2354.14 are hereby enacted to read as follows:

§2351. Definitions

As used in this Part, the following terms have the following meanings:

(1) "Adult" means a person who has attained eighteen years of age.

(2) "Agent" means a person **who is any of the following:**

(a) Authorized to make health care decisions on behalf of the principal by a power of attorney for health care; ~~or~~ .

(b) Expressly authorized to make an anatomical gift on behalf of the principal by any other record signed by the principal.

(3) "Anatomical gift" or "gift" means a donation of all or part of a human body to take effect after the death of the donor for the purpose of transplantation, therapy, research, or education.

(4) "Authorization" means a legally effective expression of intent governing acts to be undertaken after the death of the individual, including the recovery of organs or tissue pursuant to an anatomical gift.

1 **(5) "Consent" means a legally effective permission governing acts to be**
 2 **undertaken prior to the death of the individual, including pre-mortem**
 3 **interventions, tests, procedures, or medications.**

4 ~~(4)~~**(6)** "Decedent" means a deceased person whose body or part is or may be
 5 the source of an anatomical gift. The term does not include a stillborn infant and,
 6 subject to restrictions imposed by law, a fetus.

7 ~~(5)~~**(7)** "Disinterested witness" means a witness other than the spouse, child,
 8 parent, sibling, grandchild, grandparent, or guardian of the person who makes,
 9 amends, revokes, or refuses to make an anatomical gift, or an adult who exhibited
 10 special care and concern for the person. The term does not include a recipient of an
 11 anatomical gift in accordance with the provisions of R.S. 17:2353.

12 ~~(6)~~**(8)** "Document of gift" means a donor card or other record used to make
 13 an anatomical gift. The term includes a statement or symbol on a driver's license,
 14 identification card, fishing license, hunting license, or ~~donor~~ registry.

15 **(9) "Donation after brain death" or "DBD" means the recovery of**
 16 **organs or tissue for transplantation following the determination of death based**
 17 **on irreversible total cessation of brain function in accordance with R.S. 9:111.**

18 **(10) "Donation after circulatory death" or "DCD" means the recovery**
 19 **of organs or tissue for transplantation following the determination of death**
 20 **based on irreversible cessation of spontaneous circulatory and respiratory**
 21 **functions in accordance with R.S. 9:111.**

22 ~~(7)~~**(11)** "Donor" means a person whose body or part is the subject of an
 23 anatomical gift.

24 ~~(8) "Donor registry" means a database that contains records of anatomical~~
 25 ~~gifts and amendments to or revocations thereof.~~

26 ~~(9)~~**(12)** "Driver's license" means a license or permit issued by the Louisiana
 27 Department of Public Safety and Corrections, office of motor vehicles, to operate a
 28 vehicle, whether or not conditions are attached to the license or permit.

29 ~~(10)~~**(13)** "Eye bank" means a person that is licensed, accredited, or regulated
 30 under federal or state law to engage in the recovery, screening, testing, processing,

1 storage, or distribution of human eyes or portions of human eyes.

2 ~~(11)~~**(14)** "Fishing license" means a license or permit issued by the Louisiana
3 Department of Wildlife and Fisheries to fish as defined in R.S. 56:8, for a
4 recreational purpose as defined in R.S. 56:8.

5 ~~(12)~~**(15)** "Guardian" means a person appointed by a court to make decisions
6 regarding the support, care, education, health, or welfare of a person. The term does
7 not include a guardian ad litem.

8 ~~(13)~~**(16)** "Hospital" means a facility licensed as a hospital under the laws of
9 any state or a facility operated as a hospital by the United States, a state, or a
10 subdivision of a state.

11 ~~(14)~~**(17)** "Hunting license" means a license or permit issued by the Louisiana
12 Department of Wildlife and Fisheries to hunt as defined in R.S. 56:8 for a
13 recreational purpose as defined in R.S. 56:8.

14 ~~(15)~~**(18)** "Identification card" means a card issued by the Louisiana
15 Department of Public Safety and Corrections, office of motor vehicles.

16 ~~(16)~~**(19)** "Know" means to have actual knowledge.

17 **(20) "Legally effective" means having binding force under this Part and**
18 **not subject to override except as expressly provided by law.**

19 ~~(17)~~**(21)** "Minor" means a person who has not yet attained eighteen years of
20 age.

21 ~~(18)~~**(22)** "Organ procurement organization" means a person designated by the
22 secretary of the United States Department of Health and Human Services as an eye
23 bank, organ procurement organization, or tissue bank.

24 ~~(19)~~**(23)** "Parent" means a person whose parental rights have not been
25 terminated.

26 ~~(20)~~**(24)** "Part" means an organ, an eye, or tissue of a human being. The term
27 does not include the whole body.

28 ~~(21)~~**(25)** "Person" means an individual, corporation, business trust, estate,
29 trust, partnership, limited liability company, association, joint venture, public
30 corporation, government or governmental subdivision, agency, or instrumentality,

1 or any other legal or commercial entity.

2 ~~(22)~~**(26)** "Physician" means a person authorized and licensed to practice
3 medicine or osteopathy under the laws of any state.

4 ~~(23)~~**(27)** "Prospective donor" means a person who is dead or near death and
5 has been determined by a procurement organization to have a part that may be
6 medically suitable for transplantation, therapy, research, or education. The term does
7 not include a person who has made a refusal.

8 ~~(24)~~**(28)** "Reasonably available" means able to be contacted by ~~a~~ **an organ**
9 procurement organization without undue effort and willing and able to act in a timely
10 manner consistent with existing medical criteria necessary for the making of an
11 anatomical gift.

12 ~~(25)~~**(29)** "Recipient" means a person into whose body a part of a decedent has
13 been or is intended to be transplanted.

14 ~~(26)~~**(30)** "Record" means information that is inscribed on a tangible medium
15 or that is stored in an electronic or other medium and is retrievable in perceivable
16 form.

17 ~~(27)~~**(31)** "Refusal" means a ~~record created pursuant to the provisions of R.S.~~
18 ~~17:2354.1~~ **legally effective expression of intent not to make an anatomical gift**
19 **under this Part,** that expressly states an intent to bar **or has the legal effect of**
20 **barring** other persons from making an anatomical gift of a body or part of a person.

21 **(32) "Registry" means a record or database maintained or recognized**
22 **by the state that contains records of legally effective anatomical gift decisions,**
23 **including authorizations, refusals, amendments, revocations, affirmations of**
24 **prior decisions, and indications that no anatomical gift decision should be**
25 **recorded.**

26 ~~(28)~~**(33)** "Sign" means, with the present intent to authenticate or adopt a
27 record, either **of the following**:

28 (a) To execute or adopt a tangible symbol.

29 (b) To attach to or logically associate with the record an electronic symbol,
30 sound, or process.

1 ~~(29)~~**(34)** "State" means a state of the United States, the District of Columbia,
 2 Puerto Rico, the United States Virgin Islands, or any territory or insular possession
 3 subject to the jurisdiction of the United States.

4 ~~(30)~~**(35)** "Technician" means any individual determined to be qualified to
 5 remove or process parts by an appropriate organization that is licensed, accredited,
 6 or regulated under federal or state law. The term includes an enucleator.

7 ~~(31)~~**(36)** "Tissue" means a portion of the human body other than an organ or
 8 an eye. The term does not include blood unless the blood is donated for the purpose
 9 of research or education.

10 ~~(32)~~**(37)** "Tissue bank" means a person that is licensed, accredited, or
 11 regulated under federal or state law to engage in the recovery, screening, testing,
 12 processing, storage, or distribution of tissue.

13 ~~(33)~~**(38)** "Transplant hospital" means a hospital that furnishes organ
 14 transplants and other medical and surgical specialty services required for the care of
 15 transplant patients.

16 **§2351.1. Rule of construction**

17 **A. Nothing in this Part shall be construed to permit the recovery of an**
 18 **unpaired vital organ in a manner that causes or hastens the death of the donor,**
 19 **or prior to death being determined in accordance with R.S. 9:111.**

20 **B. Nothing in this Part shall be construed to prohibit living organ or**
 21 **tissue donation that does not result in the death of the donor and is otherwise**
 22 **authorized by law.**

23 **C. Unless expressly provided by law, authorization to make an**
 24 **anatomical gift after death shall not be construed as consent to any act**
 25 **undertaken prior to death.**

26 §2352. Applicability; persons who may make an anatomical gift **or refusal** prior to
 27 the death of the donor

28 A. The provisions of this Part shall apply to an anatomical gift or amendment,
 29 revocation, or refusal to make an anatomical gift.

30 B. Subject to the provisions of R.S. 17:2354.2, an anatomical gift **or refusal**

1 of a body or part of the donor may be made during his life for the purpose of
 2 transplantation, therapy, research, or education as provided in R.S. 17:2354 by any
 3 of the following:

4 (1) An adult donor.

5 (2) A minor donor, ~~if he who has been emancipated or authorized under state~~
 6 ~~law to apply for a driver's license~~ **who is emancipated pursuant to law or who is**
 7 **legally married.**

8 (3) An agent of the donor, **as defined in R.S. 17:2351,** unless the power of
 9 attorney for health care or other record prohibits it.

10 (4) A parent of the donor, if he is an unemancipated minor.

11 (5) The guardian of the donor.

12 * * *

13 §2354. Manner of executing anatomical gift **or refusal** prior to death of donor

14 A. ~~A donor may make an anatomical gift~~ **An anatomical gift may be made**
 15 **by persons as provided by and in accordance with R.S. 17:2352** by any of the
 16 following **methods:**

17 (1) ~~Authorizing~~ **By a document of gift signed by the donor, including**
 18 **authorization of** a statement or symbol ~~indicating that the donor has made an~~
 19 ~~anatomical gift to be imprinted on his~~ **on a** driver's license, identification card,
 20 fishing license, ~~or~~ hunting license, **or registry, as provided by law.**

21 (2) Executing a will.

22 (3) ~~Any form of communication addressed to at least two adults, at least one~~
 23 ~~of whom is a disinterested witness, during a terminal illness or injury.~~ **By a**
 24 **document of gift signed by another individual acting at the direction of the**
 25 **donor if the donor is physically unable to sign, provided the document is**
 26 **witnessed by two adults, at least one of whom is a disinterested witness, and**
 27 **states that it was signed and witnessed as provided in this Paragraph.**

28 (4) **Any form of communication made during a terminal illness or injury**
 29 **and addressed to a physician or made in the presence of at least one**
 30 **disinterested adult witness, provided that either of the following occurs:**

1 (a) If communicated to a physician, the communication is promptly
 2 documented in the medical record, including the date, time, and identity of the
 3 person receiving the communication.

4 (b) If made in the presence of a disinterested adult witness, the witness
 5 attests to the communication in writing.

6 ~~B. A donor or other person authorized to make an anatomical gift pursuant~~
 7 ~~to R.S. 17:2352 may make a gift by a donor card or other record signed by the person~~
 8 ~~making the gift or by authorizing that a statement or symbol indicating that a gift has~~
 9 ~~been made be included on a donor registry. If the donor or other person is physically~~
 10 ~~unable to sign a record, the record may be signed by another person at the direction~~
 11 ~~of the person making the gift and the record shall:~~

12 ~~(1) Be witnessed by two adults, one of whom is a disinterested witness, who~~
 13 ~~have signed at the request of the person making the gift; and~~

14 ~~(2) State that it has been signed and witnessed as provided in Paragraph (1)~~
 15 ~~of this Subsection.~~

16 A refusal to make an anatomical gift may be executed in the same
 17 manner and with the same legal effect as an anatomical gift under Subsection
 18 A of this Section.

19 C. An anatomical gift or refusal executed in accordance with this Section
 20 constitutes a legally effective expression of the donor's intent and shall be given
 21 effect in accordance with this Part. A gift or refusal shall not be revoked,
 22 amended, or overridden except as expressly provided by law. A revocation
 23 under this Part withdraws a prior authorization or refusal and does not itself
 24 constitute an authorization or refusal.

25 ~~C-D.~~ Revocation, suspension, expiration, or cancellation of a driver's license,
 26 identification card, fishing license, or hunting license upon which an anatomical gift
 27 is indicated does not invalidate the gift.

28 ~~D-E.~~ An anatomical gift executed in a will takes effect upon the death of the
 29 donor whether or not the will is probated. Invalidation of the will after the death of
 30 the donor does not invalidate the gift.

1 §2354.1. Refusal to make anatomical gift; effect

2 A. ~~A person~~ **An individual** may refuse to make an anatomical gift of his ~~the~~
 3 **individual's** body or part by executing ~~any of the following:~~ **a refusal in any**
 4 **manner authorized for the execution of an anatomical gift under R.S. 17:2354.**

5 ~~(1) A signed record in accordance with Subsection B of this Section or if he~~
 6 ~~is physically unable to sign, another person acting at the direction of the person shall~~
 7 ~~sign.~~

8 ~~(2) A will and testament, whether or not the will is admitted to probate or~~
 9 ~~invalidated after his death.~~

10 ~~(3) Any form of communication made by the person during a terminal illness~~
 11 ~~or injury addressed to at least two adults, one of whom is a disinterested witness.~~

12 ~~B. A signed record, shall be witnessed by at least two adults, one of whom~~
 13 ~~is a disinterested witness, and shall state that it has been signed and witnessed as~~
 14 ~~provided in Subsection A of this Section.~~

15 **B. A refusal executed pursuant to this Section shall be subject to the**
 16 **same requirements regarding form, signature, witnesses, authentication, and**
 17 **recording as applied to the execution of an anatomical gift under R.S. 17:2354.**

18 ~~C. A person who has made a refusal to make an anatomical gift, may amend~~
 19 ~~or revoke the refusal in any of the following ways:~~

20 ~~(1) In the manner provided in Subsection A of this Section for making a~~
 21 ~~refusal:~~

22 ~~(2) By subsequently making an anatomical gift in accordance with R.S.~~
 23 ~~17:2354 that is inconsistent with the refusal.~~

24 ~~(3) By destroying or canceling the record or a portion thereof evidencing the~~
 25 ~~refusal, with the intent of revocation.~~

26 **C. A refusal executed in accordance with this Section constitutes a legally**
 27 **effective expression of the individual's intent and shall be given full force and**
 28 **effect under this Part.**

29 D. Except as otherwise provided in R.S. 17:2354.2, in the absence of an
 30 express contrary indication set forth in the refusal, an unrevoked refusal bars all

1 other persons from making an anatomical gift of the body or part of the person
2 **individual.**

3 **E. A refusal may be amended or revoked only in the manner provided**
4 **in this Part.**

5 **F. A refusal may include limitations or special instructions, which shall**
6 **be honored to the extent permitted by law.**

7 **G. A revocation of a refusal is a neutral act that withdraws the prior**
8 **refusal, does not constitute an anatomical gift, and results in no anatomical gift**
9 **decision being in effect unless and until a new authorization or refusal is made**
10 **in accordance with this Part.**

11 §2354.2. Preclusive effect of anatomical gift; amendment; revocation

12 A. ~~Except as otherwise provided in Subsection G of this Section and subject~~
13 **Subject** to Subsection F of this Section, in the absence of an express, contrary
14 indication by the donor, a person other than the donor is barred from making,
15 amending, or revoking an anatomical gift of the body or part of the donor if the gift
16 ~~complies with R.S. 17:2354 or 2356~~ **was executed in accordance with R.S. 17:2354**
17 **and has not been amended or revoked in accordance with R.S. 17:2356.**

18 B. A revocation of a **an anatomical** gift in accordance with R.S. 17:2356 is
19 ~~not a refusal and does not bar another person from making an anatomical gift of the~~
20 ~~body or part of the donor~~ **a neutral act that withdraws the prior anatomical gift,**
21 **does not constitute a refusal for purposes of this Part, and results in no**
22 **anatomical gift decision being in effect unless and until a new authorization or**
23 **refusal is made** in accordance with this Part.

24 C. If a person other than the donor makes an ~~unrevoked~~ anatomical gift of the
25 body or part ~~or of~~ **of** the donor in accordance with R.S. 17:2354 or amends a gift of the
26 body or part of the donor in accordance with R.S. 17:2356, another person may not
27 ~~make, amend, or revoke the gift,~~ in accordance with R.S. 17:2356.

28 D. A revocation of an anatomical gift of the body or part of a donor in
29 accordance with R.S. 17:2356 by a person other than the donor ~~does not bar another~~
30 ~~person from making an anatomical gift of the body or part in accordance with R.S.~~

1 ~~17:2354 or 2356~~ **withdraws the prior gift but does not constitute a refusal and**
 2 **does not bar another person from making an anatomical gift of the body or part**
 3 **in accordance with this Part.**

4 E. In the absence of an express, contrary indication by the donor or other
 5 person authorized to make an anatomical gift, an anatomical gift of a part is neither
 6 a refusal to give another part nor a limitation on the making of a gift of another part
 7 at a later time by the donor or another person.

8 F. In the absence of an express, contrary indication by the donor or other
 9 person authorized to make an anatomical gift, an anatomical gift of a part for one or
 10 more of the purposes in R.S. 17:2352 is not a limitation on the making of an
 11 anatomical gift of the part for any other purpose in accordance with R.S. 17:2354 ~~or~~
 12 ~~2356.~~

13 ~~G. If an unemancipated minor donor dies, his reasonably available parent~~
 14 ~~may revoke or amend the anatomical gift.~~

15 * * *

16 §2354.7. Law governing validity; choice of law; presumption

17 A. ~~A valid document of gift shall be executed~~ **An anatomical gift decision,**
 18 **including an authorization or refusal, is valid if it is made** in accordance with the
 19 provisions of this Part, the laws of the state or country where it was ~~executed~~ **made,**
 20 or the laws of the state or country where the person making the anatomical gift was
 21 domiciled, ~~has a place of residence~~ **resided,** or was a national at the time the
 22 ~~document of gift was executed~~ **anatomical gift decision was made.**

23 B. ~~If a document of gift~~ **an anatomical gift decision** is valid in accordance
 24 with this Part, the law of this state governs the interpretation ~~of the document of gift~~
 25 **and effect of the anatomical gift decision.**

26 C. A person may presume ~~that a document of gift or amendment thereto~~ **an**
 27 **anatomical gift decision or amendment thereto** is valid unless that person knows
 28 that it is not validly ~~executed~~ **made** or it was revoked.

29 **D. If multiple anatomical gift decisions exist, including decisions made**
 30 **in another state or country, the most recent legally effective authorization or**

1 refusal shall control.

2 E. If the laws of another state or country conflict with the provisions of
 3 this Part, the provisions of this Part shall govern the determination of the effect
 4 of the anatomical gift decision.

5 F. An anatomical gift decision made by a minor, except as provided by
 6 R.S. 17:2352(B)(2) or R.S. 17:2354(A), shall not constitute a legally effective
 7 authorization or refusal in this state.

8 §2354.8. ~~Donor registry~~ Registry

9 A. The secretary of the Louisiana Department of Health may establish or
 10 contract for the establishment of a ~~donor~~ registry.

11 B. The ~~Louisiana~~ Department of Public Safety and Corrections, office of
 12 motor vehicles, and the ~~Louisiana~~ Department of Wildlife and Fisheries shall
 13 cooperate with any person administering any ~~donor~~ registry that this state
 14 establishes, contracts for, or recognizes for the purpose of transferring to the ~~donor~~
 15 registry all relevant information regarding the making, amendment to, or revocation
 16 of an anatomical gift an individual's anatomical gift decision, including
 17 authorization, refusal, amendment, revocation of a prior authorization or
 18 refusal, affirmation of a previously recorded decision, indication that no
 19 anatomical gift decision should be recorded, or informational indication in the
 20 case of a minor.

21 C. A ~~donor~~ registry shall be accessible seven days a week, twenty-four hours
 22 a day and allow each of the following:

23 (1) ~~A donor~~ An individual or other person authorized in accordance with
 24 R.S. 17:2352 to include on the ~~donor~~ registry a statement or symbol that the ~~donor~~
 25 individual has made, amended, or revoked an anatomical gift or amended an
 26 anatomical gift decision, revoked a prior authorization or refusal, affirmed a
 27 previously recorded authorization or refusal, or has indicated that no
 28 anatomical gift decision should be recorded.

29 (2) A procurement organization to obtain relevant information from the
 30 registry to determine, at or near death of the ~~donor~~ or a prospective donor, whether

1 the donor or prospective donor has made, amended, or revoked an anatomical gift
 2 **individual, whether the individual has made or amended an anatomical gift**
 3 **decision, revoked a prior authorization or refusal, affirmed a previously**
 4 **recorded authorization or refusal, or whether no anatomical gift decision is**
 5 **recorded.**

6 D. Personally identifiable information on a ~~donor~~ registry may not be used
 7 or disclosed without the express consent of the ~~donor~~ **individual**, prospective donor,
 8 or person that made the anatomical gift, for any purpose except to determine, at or
 9 near the death of the ~~donor~~ **individual**, whether ~~he~~ **the individual** has made;
 10 ~~amended, or revoked an anatomical gift~~ **or amended an anatomical gift decision,**
 11 **revoked a prior authorization or refusal, affirmed a previously recorded**
 12 **authorization or refusal, or whether no anatomical gift decision is recorded.**

13 E. This Section does not prohibit any person from creating or maintaining a
 14 ~~donor~~ registry that is not established by or contracted with the state. Any such
 15 registry shall comply with Subsections C and D of this Section **and shall not**
 16 **supersede the registry recognized by the state under this Section unless the**
 17 **record is in accordance with R.S. 17:2354.7. A revocation recorded in the**
 18 **registry withdraws a prior authorization or refusal and results in no anatomical**
 19 **gift decision being recorded unless and until a new authorization or refusal is**
 20 **made.**

21 * * *

22 **§2354.10. Anatomical gifts by minors**

23 **A. No state agency, political subdivision, department, office, or**
 24 **contractor thereof, including the office responsible for the issuance of driver's**
 25 **licenses or identification cards, shall solicit, query, or request from a minor any**
 26 **authorization for or refusal to make an anatomical gift in the absence of a**
 27 **parent or legal guardian.**

28 **B. No representation by a minor concerning anatomical gift**
 29 **authorization or refusal shall be recorded, relied upon, or given legal effect**
 30 **unless made in the presence of a parent or legal guardian who affirmatively and**

1 expressly concurs in writing in the decision of the minor.

2 C. Any representation made by a minor concerning an anatomical gift
3 authorization or refusal, when made in the presence of and with the affirmative
4 and express written concurrence of a parent or legal guardian, may be recorded
5 solely for informational purposes and shall not be legally operative prior to the
6 minor attaining the age of majority.

7 D. Upon attainment of the age of majority, any informational record of
8 anatomical gift authorization or refusal made by the individual as a minor in
9 accordance with this Section shall become legally operative unless the individual
10 affirmatively amends or revokes the record in accordance with law.

11 E. Notwithstanding any provision of this Part, this Section shall not
12 apply to a minor who is emancipated pursuant to law or who is legally married,
13 and the individual shall be treated as an adult for purposes of this Part.

14 F. Nothing in this Section shall be construed to limit the authority of a
15 parent or legal guardian to make or refuse an anatomical gift on behalf of a
16 minor as otherwise provided by law.

17 §2354.11. Premortem interventions; definitions; prohibitions

18 A. For purposes of this Section, "premortem intervention" means any
19 medical procedure, test, medication, cannulation, or other intervention
20 undertaken prior to the determination of death for the purpose of facilitating
21 organ or tissue recovery.

22 B. No pre-mortem intervention shall be performed unless it is medically
23 indicated for the direct benefit of the patient or is performed pursuant to a
24 legally effective consent applicable to pre-mortem interventions, as provided in
25 this Section.

26 C. Regardless of consent, no person shall perform or direct any
27 pre-mortem intervention that has a material likelihood of any of the following:

28 (1) Hastening death.

29 (2) Manufacturing, accelerating, or securing irreversibility of
30 circulatory, respiratory, or neurologic cessation.

1 (3) Preventing or materially interfering with the restoration or
2 resumption of circulatory, respiratory, or neurologic function.

3 D. Any physician or individual who performs or directs a premortem
4 intervention shall be independent of, and shall not participate in, the recovery
5 or transplantation of any organ or tissue from the individual, and shall not be
6 a member of the transplant team.

7 E. Authorization to make an anatomical gift after death does not
8 constitute consent to any premortem intervention, test, procedure, or
9 medication. Consent for any premortem intervention shall be separately and
10 expressly obtained and shall be legally effective only if the following occur:

11 (1) The consent is given by the patient, or by another person legally
12 authorized under Louisiana law to consent to medical treatment on behalf of the
13 patient.

14 (2) The consent is voluntary and informed.

15 (3) The nature and purpose of the premortem intervention are
16 specifically described.

17 (4) The patient or other person authorized to consent is informed that
18 the intervention is performed for the purpose of facilitating organ or tissue
19 recovery and is not medically indicated for the care or treatment of the patient.

20 (5) The consent does not authorize any premortem intervention that
21 poses a material risk of causing or hastening the death of the patient, or a
22 material risk of interfering with the determination of death in accordance with
23 R.S. 9:111.

24 F. Nothing in this Section shall be construed to alter the standards for
25 determination of death under R.S. 9:111 or to authorize any practice
26 inconsistent with that Section.

27 G. Nothing in this Section shall be construed to prohibit the provision of
28 comfort care, palliative treatment, or the withdrawal or withholding of
29 life-sustaining treatment in accordance with applicable law and accepted
30 medical standards.

1 **§2354.12. Post-determination handling and transport of the decedent**

2 **A. This Section applies following the determination and pronouncement**
3 **of death under R.S. 9:111 and the recovery of any organ or tissue pursuant to**
4 **an anatomical gift.**

5 **B. Prior to the recovery of organs or tissue, the individual authorized to**
6 **make an anatomical gift, or the individual's authorized representative where**
7 **applicable, shall be informed in writing of any plan to do any of the following:**

8 **(1) Transport the decedent from the hospital or facility where death was**
9 **determined to another facility for further organ or tissue recovery, processing,**
10 **or handling.**

11 **(2) Continue mechanical ventilation, perfusion, or other artificial**
12 **support of bodily functions following the determination of death for purposes**
13 **related to organ or tissue recovery.**

14 **C. No transport or continuation of mechanical support described in**
15 **Subsection B of this Section shall occur unless expressly authorized as part of**
16 **a legally effective authorization applicable to post-determination handling and**
17 **transport.**

18 **D. Authorization to make an anatomical gift after death shall not, by**
19 **itself, constitute authorization for transport of the decedent to a nonhospital**
20 **facility or for continuation of mechanical support following death**
21 **determination.**

22 **E. Any handling or transport of the decedent following death**
23 **determination and organ or tissue recovery shall be conducted in a manner**
24 **consistent with the dignity of the decedent and with the reasonable expectations**
25 **of the family, as informed by the disclosures made under this Section.**

26 **F. Nothing in this Section shall be construed to limit the recovery of**
27 **organs or tissue otherwise authorized by law, to alter the standards for**
28 **determination of death under R.S. 9:111, or, except to the extent necessary to**
29 **carry out a valid anatomical gift, to alter or transfer the custodial authority of**
30 **the person or persons authorized by law to control disposition of the body.**

1 **§2354.13. Effect of anatomical gift decisions**

2 **A. An authorization recorded in the registry constitutes a legally**
3 **effective expression of intent and supersedes any prior refusal.**

4 **B. A refusal recorded in the registry constitutes a legally effective**
5 **expression of intent and supersedes any prior authorization.**

6 **C. The most recent authorization or refusal recorded in the registry shall**
7 **control.**

8 **D. The absence of a recorded authorization or refusal indicates that no**
9 **anatomical gift decision has been recorded in the registry and shall not**
10 **constitute authorization or refusal.**

11 **E. A response to a query by the office of motor vehicles or other state**
12 **agency indicating that no anatomical gift decision should be recorded shall not**
13 **constitute an authorization or refusal and shall have no legal effect.**

14 **F. An informational indication made by a minor shall not constitute a**
15 **legally effective authorization or refusal.**

16 **§2354.14. Out-of-state anatomical gift decisions; effect**

17 **A. An anatomical gift decision, including an authorization or refusal,**
18 **made in another state that is valid under the laws of that state or of this state**
19 **shall be recognized as a legally effective anatomical gift decision in this state.**

20 **B. The effect of an anatomical gift decision recognized under this Section**
21 **shall be determined in accordance with the laws of this state.**

22 **C. If multiple anatomical gift decisions exist, including decisions made**
23 **in another state, the most recent legally effective authorization or refusal shall**
24 **control.**

25 **D. If the laws of another state conflict with the provisions of this Part, the**
26 **provisions of this Part shall govern the determination of the effect of the**
27 **anatomical gift decision.**

28 **E. Notwithstanding any provision of another state's law, an anatomical**
29 **gift decision made by a minor shall not constitute a legally effective**
30 **authorization or refusal in this state.**

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§2357. Rights and duties of procurement organizations; others

A. When a hospital refers a person at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the office of motor vehicles and ~~any known donor~~ **the registry recognized under R.S. 17:2354.8** to ascertain whether the person has made ~~an anatomical gift or amended an anatomical gift decision, revoked a prior authorization or refusal, affirmed a previously recorded authorization or refusal, or whether no anatomical gift decision is recorded.~~

* * *

F. Upon the death of a minor who ~~was a donor or had signed a refusal~~ **has made an informational indication regarding anatomical gift status**, unless a procurement organization knows he was **legally married or** emancipated, it shall conduct a reasonable search for his parents and provide them with an opportunity to ~~revoke or amend the anatomical gift or the refusal.~~ **make an anatomical gift decision in accordance with this Part. Any informational indication recorded in the registry with respect to a minor shall not constitute a legally effective authorization or refusal but may be considered by the persons authorized to make an anatomical gift on behalf of the minor.**

* * *

Section 2. This Act shall become effective on January 1, 2027.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____