

Introduced by

Senators Kilzer, Hogue, J. Lee, Nething

Representatives Klemin, Kretschmar

- 1 A BILL for an Act to amend and reenact subsection 3 of section 23-06.6-13 and section
2 23-06.6-20 of the North Dakota Century Code, relating to revisions and updates to the revised
3 Uniform Anatomical Gift Act.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 23-06.6-13 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 3. When a hospital refers an individual at or near death to a procurement
8 organization, the organization may conduct any reasonable examination necessary
9 to ensure the medical suitability of a part that is or could be the subject of an
10 anatomical gift for transplantation, therapy, research, or education from a donor or
11 a prospective donor. During the examination period, measures necessary to
12 ensure the medical suitability of the part may not be withdrawn unless the hospital
13 or procurement organization knows that the individual expressed a contrary intent
14 or the measures are contrary to reasonable medical standards.

15 **SECTION 2. AMENDMENT.** Section 23-06.6-20 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **23-06.6-20. Effect of anatomical gift on advance health care directive.**

- 18 1. In this section:
19 a. "Advance health care directive" means a health care directive under chapter
20 23-06.5, a power of attorney for health care, or a record signed or authorized
21 by a prospective donor containing the prospective donor's direction
22 concerning a health care decision for the prospective donor.

- 1 b. "Declaration" means a record signed by a prospective donor specifying the
2 circumstances under which a life support system may be withheld or
3 withdrawn from the prospective donor.
4 c. "Health care decision" means any decision ~~made~~ regarding the health care of
5 the prospective donor.

- 6 2. If a prospective donor has a declaration or advance health care directive; and the
7 terms of the declaration or directive and the express or implied terms of a potential
8 anatomical gift are in conflict with regard to the administration of measures
9 necessary to ensure the medical suitability of an organ a part for transplantation or
10 therapy ~~may not be withheld or withdrawn from the prospective donor, unless the~~
11 ~~declaration or advance health care directive expressly provides to the contrary, the~~
12 prospective donor's attending physician and prospective donor shall confer to
13 resolve the conflict. If the prospective donor is incapable of resolving the conflict,
14 an agent acting under the prospective donor's declaration or directive or, if none or
15 the agent is not reasonably available, another person authorized by law other than
16 this chapter to make health care decisions on behalf of the prospective donor shall
17 act for the donor to resolve the conflict. If involved in resolving the conflict, the
18 agent or other person authorized by law shall make the decision in accordance
19 with the agent's or person's knowledge of the prospective donor's wishes and
20 religious or moral beliefs as stated orally or as contained in the declaration or
21 advance health care directive. The conflict must be resolved as expeditiously as
22 possible. If the conflict is not resolved expeditiously, the direction of the
23 declaration or advance directive controls. Information relevant to the resolution of
24 the conflict may be obtained from the appropriate procurement organization and
25 any other person authorized to make an anatomical gift for the prospective donor
26 under section 23-06.6-09. Before resolution of the conflict, measures necessary to
27 ensure the medical suitability of the part may not be withheld or withdrawn from the
28 prospective donor if withholding or withdrawing the measures is not contrary to
29 reasonable medical standards.