

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2195
(Senators Kilzer, Hogue, J. Lee, Nething)
(Representatives Klemin, Kretschmar)

AN ACT to amend and reenact subsection 3 of section 23-06.6-13 and section 23-06.6-20 of the North Dakota Century Code, relating to revisions and updates to the revised Uniform Anatomical Gift Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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 During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent or the measures are contrary to reasonable medical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

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

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

1. In this section:
 - a. "Advance health care directive" means a health care directive under chapter 23-06.5, a power of attorney for health care, or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.
 - b. "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.
 - c. "Health care decision" means any decision ~~made~~ regarding the health care of the prospective donor.
2. If a prospective donor has a declaration or advance health care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of ~~an organ~~ a part for transplantation or therapy ~~may not be withheld or withdrawn from the prospective donor, unless the declaration or advance health care directive expressly provides to the contrary,~~ the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if none or the agent is not reasonably available, another person authorized by law other than this chapter to make health care decisions on behalf of the prospective donor shall act for the donor to resolve the conflict. If involved in resolving the conflict, the agent or other person authorized by law shall make the decision in accordance with the agent's or person's knowledge of the prospective donor's wishes and religious or

moral beliefs as stated orally or as contained in the declaration or advance health care directive. The conflict must be resolved as expeditiously as possible. If the conflict is not resolved expeditiously, the direction of the declaration or advance directive controls. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 23-06.6-09. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contrary to reasonable medical standards.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2195.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 91 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State