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HOUSE BILL NO. 1741

Offered January 9, 2013

Prefiled January 8, 2013

A BILL to amend and reenact §§ 32.1-291.14 and 32.1-297.1 of the Code of Virginia, relating to Revised Uniform Anatomical Gift Act; organ removal and the Virginia Transplant Council.

Patron—Tata

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-291.14 and 32.1-297.1 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-291.14. Rights and duties of procurement organization and others.

A. When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization shall make a reasonable search of the records of the Virginia Department of Motor Vehicles and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

B. A procurement organization shall be allowed reasonable access to information in the records of the Virginia Department of Motor Vehicles to ascertain whether an individual who is dead or whose death is imminent is a donor.

C. When a hospital refers an individual who is dead or whose death is imminent 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 During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

D. Unless prohibited by law other than this Act, at any time after a donor's death, the person to which a part passes under § 32.1-291.11 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

E. Unless prohibited by law other than this Act, an examination under subsection C or D may include an examination of all medical and dental records of the donor or prospective donor.

F. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

G. Upon referral by a hospital under subsection A, a procurement organization shall make a reasonable search for any person listed in § 32.1-291.9 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

H. Subject to subsection I of § 32.1-291.11 and § 32.1-291.23, the rights of the person to which a part passes under § 32.1-291.11 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this Act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under § 32.1-291.11, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

I. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

J. A donated part from the body of a donor may be removed only by a physician or technician. The physician or technician performing the removal shall be qualified to remove the donated part from the body. For the purposes of this section, "qualified" means:

1. If the part is an organ, a physician or technician who is authorized by the appropriate organ procurement organization;

2. If the part is an eye, a physician or technician who is approved by an eye bank as qualified to perform the act of eye recovery; or

3. If the part is tissue, any physician or technician who is approved by LifeNet or a tissue bank as

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59 qualified to perform the act of tissue recovery.

60 An organ procurement organization may screen, test, and recover eyes and tissue on behalf of an eye
61 bank or tissue bank. Any person authorized by this subsection to recover organs, tissues or eyes may
62 draw blood from the donor and order such tests as may be appropriate to protect his health and the
63 health of the recipients of the organs, tissues or eyes.

64 **§ 32.1-297.1. The Virginia Transplant Council.**

65 A. The Virginia Transplant Council (~~hereinafter referred to as the Council~~) is hereby established to
66 fulfill the following duties:

67 1. To create, compile, maintain, and modify as necessary the Virginia Donor Registry established in
68 § 32.1-292.2 in accordance with the regulations of the Board of Health and the administration of the
69 Department of Health;

70 2. To conduct public education and information services relating to organ, tissue, and eye donation in
71 the Commonwealth;

72 3. To coordinate organ, tissue, and eye donation activities in the Commonwealth;

73 4. To provide a forum for discussion among its members of any issues of which it may be apprised
74 that could impact the effectiveness of its activities and the relationship between the public and its
75 members; and

76 5. To advise the Board and Department of Health concerning organ, tissue, and eye donation
77 activities, procurement, and transplantation efforts in Virginia.

78 The Council shall establish such bylaws as may be necessary for its operation, consistent with state
79 and federal law.

80 B. The membership of the Council shall consist of the following organizations, each of whom shall
81 have one vote: INOVA Fairfax Hospital, Henrico Doctors' Hospital, LifeNet Health, Lion's Medical Eye
82 Bank and Research Center of Eastern Virginia, Mountain Regional Donor Services, Old Dominion Eye
83 Foundation, Inc., Sentara Norfolk General Hospital, University of Virginia Health System, Virginia
84 Commonwealth University Health System, Washington Regional Transplant Community, and any
85 ~~successor~~ organization ~~thereof which~~ *accredited by the Association of Organ Procurement*
86 *Organizations, the American Association of Tissue Banks, or the Eye Bank Association of America that*
87 *is remains* directly involved in activities related to organ, tissue, or eye donation, procurement, or
88 transplantation in Virginia, and one representative of donor families and one representative of transplant
89 recipients. The Council shall elect, from among its membership, such officers as its bylaws require to
90 serve for the terms established in such bylaws.

91 The Council shall also elect the representatives of donor families and transplant recipients who shall
92 serve for terms established in the bylaws.

93 C. In order to provide flexibility and coordination and to prevent duplication of efforts, the Council
94 may agree to extend nonvoting, associate membership on the Council to representatives of other
95 organizations, agencies, or experts, public or private, who (i) are directly involved in or (ii) provide
96 education or information on organ, tissue, or eye donation, procurement, or transplantation. Such
97 membership (a) shall be extended to the Virginia Departments of Education, Health, Health Professions,
98 and Motor Vehicles, and the Virginia Hospital and Healthcare Association; (b) may include at least one
99 representative of the faith community and one representative of local public schools; and (c) may be
100 extended to other organizations, agencies, or experts as the Council deems appropriate.

101 D. In addition to the duties assigned in subsection A, the Council (i) shall inform the Board
102 regarding the Council's activities; (ii) shall conduct and coordinate professional education and
103 informational activities as they relate to organ, tissue, and eye donation, procurement, and transplantation
104 efforts; and (iii) as appropriate, may conduct its activities in coordination with other organizations whose
105 goals are related to organ, tissue, or eye donation, procurement, or transplantation. To achieve its
106 purposes efficiently and effectively, the Council may conduct its activities in partnership with its
107 member organizations or may contract for services with appropriate parties.

108 E. The Council, or the Board on behalf of the Council, may apply for, accept, and expend gifts,
109 grants, or donations from public or private sources to enable the Council to further its purposes and
110 carry out its duties, and the Council may comply with such conditions and requirements as may be
111 imposed on it in connection therewith.

112 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
113 Donor Registry and Public Awareness Fund (the Fund). The Fund shall be established on the books of
114 the Comptroller as a revolving fund and shall consist of such gifts, grants, or donations as may be
115 received pursuant to this subsection and any moneys appropriated by the General Assembly to support
116 the Council's education and information programs. Moneys remaining in the Fund at the end of each
117 fiscal year shall not revert to the general fund but shall remain in the Fund. Interest earned on such
118 funds shall remain in the Fund and be credited to it. The Council shall administer funds made available
119 to it from the Fund and shall disburse such funds in accordance with the purposes of this article.

120 F. The Council may employ such employees, permanent and temporary, as it may deem necessary

121 for the proper performance of its duties and shall determine their qualifications and duties. Employees of
122 the Council shall be compensated in the manner provided by the Council and shall not be subject to the
123 provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.). Actual expenses incurred by the members
124 of the Council in the performance of their duties and actual costs of hiring and compensating employees
125 of the Council shall be paid from the Virginia Donor Registry and Public Awareness Fund.

126 G. In addition to such other reports as may be required by the Commissioner or the Board, on or
127 before September 30 of each year, the Council shall submit a report on its activities, programs, and
128 funding in the previous fiscal year to the Board.