

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 32.1-292.2, 46.2-342, 54.1-2982, 54.1-2984, and 57-48 of the Code of*  
 3 *Virginia, to amend the Code of Virginia by adding sections numbered 32.1-291.1 through*  
 4 *32.1-291.25, and to repeal §§ 32.1-287, 32.1-289, 32.1-290, 32.1-291, 32.1-292.1, 32.1-293, and*  
 5 *32.1-295 of the Code of Virginia, relating to the Revised Uniform Anatomical Gift Act; penalties.*

[S 918]

6 Approved

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 32.1-292.2, 46.2-342, 54.1-2982, 54.1-2984, and 57-48 of the Code of Virginia are**  
 10 **amended and reenacted, and that the Code of Virginia is amended by adding sections numbered**  
 11 **32.1-291.1 through 32.1-291.25 as follows:**

12 *§ 32.1-291.1. Revised Uniform Anatomical Gift Act; short title.*

13 *This Act consists of §§ 32.1-291.1 through 32.1-291.25 and may be cited as the Revised Uniform*  
 14 *Anatomical Gift Act.*

15 *§ 32.1-291.2. Definitions.*

16 *As used in this Act, unless the context requires otherwise:*

17 *"Adult" means an individual who is at least 18 years of age.*

18 *"Agent" means an individual:*

19 *1. Authorized to make health-care decisions on the principal's behalf by a power of attorney for*  
 20 *health care; or*

21 *2. Expressly authorized to make an anatomical gift on the principal's behalf by any other record*  
 22 *signed by the principal.*

23 *"Anatomical gift" means a donation of all or part of a human body to take effect after the donor's*  
 24 *death for the purpose of transplantation, therapy, research, or education.*

25 *"Decedent" means a deceased individual whose body or part is or may be the source of an*  
 26 *anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other*  
 27 *than this Act, a fetus.*

28 *"Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild,*  
 29 *grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an*  
 30 *anatomical gift, or another adult who exhibited special care and concern for the individual. The term*  
 31 *does not include a person to whom an anatomical gift could pass under § 32.1-291.11.*

32 *"Document of gift" means a donor card or other record used to make an anatomical gift. The term*  
 33 *includes a statement or symbol on a driver's license, identification card, or donor registry.*

34 *"Donor" means an individual whose body or part is the subject of an anatomical gift.*

35 *"Donor registry" means a database that contains records of anatomical gifts.*

36 *"Driver's license" means a license or permit issued by the Virginia Department of Motor Vehicles to*  
 37 *operate a vehicle, whether or not conditions are attached to the license or permit.*

38 *"Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to*  
 39 *engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions*  
 40 *of human eyes and that is a member of the Virginia Transplant Council, accredited by the Eye Bank*  
 41 *Association of America or the American Association of Tissue Banks and operating in the*  
 42 *Commonwealth of Virginia.*

43 *"Guardian" means a person appointed by a court to make decisions regarding the support, care,*  
 44 *education, health, or welfare of an individual. The term does not include a guardian ad litem, except*  
 45 *when the guardian ad litem is authorized by a court to consent to donation.*

46 *"Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as*  
 47 *a hospital by the United States, a state, or a subdivision of a state.*

48 *"Identification card" means an identification card issued by the Virginia Department of Motor*  
 49 *Vehicles.*

50 *"Know" means to have actual knowledge.*

51 *"Minor" means an individual who is under 18 years of age.*

52 *"Organ procurement organization" means a person designated by the Secretary of the United States*  
 53 *Department of Health and Human Services as an organ procurement organization that is also a member*  
 54 *of the Virginia Transplant Council.*

55 *"Parent" means a parent whose parental rights have not been terminated.*

56 *"Part" means an organ, an eye, or tissue of a human being. The term does not include the whole*

57 body.

58 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability  
59 company, association, joint venture, public corporation, government or governmental subdivision,  
60 agency, or instrumentality, or any other legal or commercial entity.

61 "Physician" means an individual authorized to practice medicine or osteopathy under the law of any  
62 state.

63 "Procurement organization" means an eye bank, organ procurement organization, or tissue bank that  
64 is a member of the Virginia Transplant Council.

65 "Prospective donor" means an individual who is dead or whose death is imminent and has been  
66 determined by a procurement organization to have a part that could be medically suitable for  
67 transplantation, therapy, research, or education. The term does not include an individual who has made  
68 a refusal.

69 "Reasonably available" means able to be contacted by a procurement organization without undue  
70 effort and willing and able to act in a timely manner consistent with existing medical criteria necessary  
71 for the making of an anatomical gift.

72 "Recipient" means an individual into whose body a decedent's part has been or is intended to be  
73 transplanted.

74 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic  
75 or other medium and is retrievable in perceivable form.

76 "Refusal" means a record created under § 32.1-291.7 that expressly states an intent to bar other  
77 persons from making an anatomical gift of an individual's body or part.

78 "Sign" means, with the present intent to authenticate or adopt a record:

79 1. To execute or adopt a tangible symbol; or

80 2. To attach to or logically associate with the record an electronic symbol, sound, or process.

81 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States  
82 Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

83 "Technician" means an individual determined to be qualified to remove or process parts by an  
84 appropriate organization that is licensed, accredited, or regulated under federal or state law. The term  
85 includes an enucleator.

86 "Tissue" means a portion of the human body other than an organ or an eye. The term does not  
87 include blood unless the blood is donated for the purpose of research or education.

88 "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to  
89 engage in the recovery, screening, testing, processing, storage, or distribution of tissue and that is a  
90 member of the Virginia Transplant Council, accredited by the American Association of Tissue Banks,  
91 and operating in the Commonwealth of Virginia.

92 "Transplant hospital" means a hospital that furnishes organ transplants and other medical and  
93 surgical specialty services required for the care of transplant patients.

94 § 32.1-291.3. Applicability of Act.

95 This Act applies to an anatomical gift or amendment to, revocation of, or refusal to make an  
96 anatomical gift, whenever made.

97 § 32.1-291.4. Who may make anatomical gift before donor's death.

98 Subject to § 32.1-291.8, an anatomical gift of a donor's body or part may be made during the life of  
99 the donor for the purpose of transplantation, therapy, research, or education in the manner provided in  
100 § 32.1-291.5 by:

101 1. The donor, if the donor is an adult or if the donor is a minor and is:

102 a. Emancipated; or

103 b. Authorized under state law to apply for a driver's license because the donor is at least 15 years  
104 and six months of age;

105 2. An agent of the donor, unless the power of attorney for health care or other record prohibits the  
106 agent from making an anatomical gift;

107 3. A parent of the donor, if the donor is an unemancipated minor; or

108 4. The donor's guardian.

109 § 32.1-291.5. Manner of making anatomical gift before donor's death.

110 A. A donor may make an anatomical gift:

111 1. By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be  
112 imprinted on the donor's driver's license or identification card;

113 2. In a will;

114 3. During a terminal illness or injury of the donor, by any form of communication addressed to at  
115 least two adults; or

116 4. As provided in subsection B.

117 B. A donor or other person authorized to make an anatomical gift under § 32.1-291.4 may make a

118 gift by a donor card or other record signed by the donor or other person making the gift or by  
119 authorizing that a statement or symbol indicating that the donor has made an anatomical gift be  
120 included on a donor registry. If the donor or other person is physically unable to sign a record, the  
121 record may be signed by another individual at the direction of the donor or other person and shall:

122 1. Be witnessed by at least two adults, who have signed at the request of the donor or the other  
123 person; and

124 2. State that it has been signed and witnessed as provided in subdivision 1.

125 C. Revocation, suspension, expiration, or cancellation of a driver's license or identification card  
126 upon which an anatomical gift is indicated does not invalidate the gift.

127 D. An anatomical gift made by will takes effect upon the donor's death whether or not the will is  
128 probated. Invalidation of the will after the donor's death does not invalidate the gift.

129 § 32.1-291.6. Amending or revoking anatomical gift before donor's death.

130 A. Subject to § 32.1-291.8, a donor or other person authorized to make an anatomical gift under  
131 § 32.1-291.4 may amend or revoke an anatomical gift by:

132 1. A record signed by:

133 a. The donor;

134 b. The other person; or

135 c. Subject to subsection B, another individual acting at the direction of the donor or the other person  
136 if the donor or other person is physically unable to sign; or

137 2. Later-executed document of gift that amends or revokes a previous anatomical gift or portion of  
138 an anatomical gift, either expressly or by inconsistency.

139 B. A record signed pursuant to subdivision A 1 c shall:

140 1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have  
141 signed at the request of the donor or the other person; and

142 2. State that it has been signed and witnessed as provided in subdivision 1.

143 C. Subject to § 32.1-291.8, a donor or other person authorized to make an anatomical gift under  
144 § 32.1-291.4 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or  
145 the portion of the document of gift used to make the gift, with the intent to revoke the gift.

146 D. A donor may amend or revoke an anatomical gift that was not made in a will by any form of  
147 communication during a terminal illness or injury addressed to at least two adults, at least one of whom  
148 is a disinterested witness.

149 E. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner  
150 provided for amendment or revocation of wills or as provided in subsection A.

151 § 32.1-291.7. Refusal to make anatomical gift; effect of refusal.

152 A. An individual may refuse to make an anatomical gift of the individual's body or part by:

153 1. A record signed by:

154 a. The individual; or

155 b. Subject to subsection B, another individual acting at the direction of the individual if the  
156 individual is physically unable to sign;

157 2. The individual's will, whether or not the will is admitted to probate or invalidated after the  
158 individual's death; or

159 3. Any form of communication made by the individual during the individual's terminal illness or  
160 injury addressed to at least two adults, at least one of whom is a disinterested witness.

161 B. A record signed pursuant to subdivision A 1 b shall:

162 1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have  
163 signed at the request of the individual; and

164 2. State that it has been signed and witnessed as provided in subdivision 1.

165 C. An individual who has made a refusal may amend or revoke the refusal:

166 1. In the manner provided in subsection A for making a refusal;

167 2. By subsequently making an anatomical gift pursuant to § 32.1-291.5 that is inconsistent with the  
168 refusal; or

169 3. By destroying or canceling the record evidencing the refusal, or the portion of the record used to  
170 make the refusal, with the intent to revoke the refusal.

171 D. Except as otherwise provided in subsection H of § 32.1-291.8, in the absence of an express,  
172 contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make  
173 an anatomical gift of the individual's body or part bars all other persons from making an anatomical  
174 gift of the individual's body or part.

175 § 32.1-291.8. Preclusive effect of anatomical gift, amendment, or revocation.

176 A. Except as otherwise provided in subsection G and subject to subsection F, in the absence of an  
177 express, contrary indication by the donor, a person other than the donor is barred from making,  
178 amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical

179 gift of the donor's body or part under § 32.1-291.5 or an amendment to an anatomical gift of the  
180 donor's body or part under § 32.1-291.6.

181 B. A donor's revocation of an anatomical gift of the donor's body or part under § 32.1-291.6 is not a  
182 refusal and does not bar another person specified in § 32.1-291.4 or 32.1-291.9 from making an  
183 anatomical gift of the donor's body or part under § 32.1-291.5 or 32.1-291.10.

184 C. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part  
185 under § 32.1-291.5 or an amendment to an anatomical gift of the donor's body or part under  
186 § 32.1-291.6, another person may not make, amend, or revoke the gift of the donor's body or part under  
187 § 32.1-291.10.

188 D. A revocation of an anatomical gift of a donor's body or part under § 32.1-291.6 by a person  
189 other than the donor does not bar another person from making an anatomical gift of the body or part  
190 under § 32.1-291.5 or 32.1-291.10.

191 E. In the absence of an express, contrary indication by the donor or other person authorized to make  
192 an anatomical gift under § 32.1-291.4, an anatomical gift of a part is neither a refusal to give another  
193 part nor a limitation on the making of an anatomical gift of another part at a later time by the donor  
194 or another person.

195 F. In the absence of an express, contrary indication by the donor or other person authorized to make  
196 an anatomical gift under § 32.1-291.4, an anatomical gift of a part for one or more of the purposes set  
197 forth in § 32.1-291.4 is not a limitation on the making of an anatomical gift of the part for any of the  
198 other purposes by the donor or any other person under § 32.1-291.5 or 32.1-291.10.

199 G. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably  
200 available may revoke or amend an anatomical gift of the donor's body or part.

201 H. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably  
202 available may revoke the minor's refusal.

203 § 32.1-291.9. Who may make anatomical gift of decedent's body or part.

204 A. Subject to subsections B and C and unless barred by § 32.1-291.7 or 32.1-291.8, an anatomical  
205 gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be  
206 made by any member of the following classes of persons who is reasonably available, in the order of  
207 priority listed:

208 1. An agent of the decedent at the time of death who could have made an anatomical gift under  
209 subdivision 2 of § 32.1-291.4 immediately before the decedent's death;

210 2. The persons who were acting as the guardians of the person of the decedent at the time of death;

211 3. The spouse of the decedent;

212 4. Adult children of the decedent;

213 5. Parents of the decedent;

214 6. Adult siblings of the decedent;

215 7. Adult grandchildren of the decedent;

216 8. Grandparents of the decedent;

217 9. An adult who exhibited special care and concern for the decedent; and

218 10. Any other person having the authority to dispose of the decedent's body.

219 B. If there is more than one member of a class listed in subdivisions A 1, A 2, A 4, A 5, A 6, A 7, or  
220 A 8 entitled to make an anatomical gift, an anatomical gift may be made by a member of the class  
221 unless that member or a person to which the gift may pass under § 32.1-291.11 knows of an objection  
222 by another member of the class. If an objection is known, the gift may be made only by those members  
223 who constitute at least 50% of the class who are reasonably available.

224 C. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a  
225 prior class under subsection A is reasonably available to make or to object to the making of an  
226 anatomical gift.

227 § 32.1-291.10. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

228 A. A person authorized to make an anatomical gift under § 32.1-291.9 may make an anatomical gift  
229 by a document of gift signed by the person making the gift or by that person's oral communication that  
230 is electronically recorded or is contemporaneously reduced to a record and signed by the individual  
231 receiving the oral communication.

232 B. Subject to subsection C, an anatomical gift by a person authorized under § 32.1-291.9 may be  
233 amended or revoked orally or in a record by any member of a prior class who is reasonably available.  
234 If more than one member of the prior class is reasonably available, the gift made by a person  
235 authorized under § 32.1-291.9 may be:

236 1. Amended only if a majority of the reasonably available members agree to the amending of the  
237 gift; or

238 2. Revoked only if a majority of the reasonably available members agree to the revoking of the gift.

239 C. A revocation under subsection B is effective only if, before an incision has been made to remove

240 a part from the donor's body or before invasive procedures have begun to prepare the recipient, the  
241 procurement organization, transplant hospital, or physician or technician knows of the revocation.

242 § 32.1-291.11. Persons that may receive anatomical gift; purpose of anatomical gift.

243 A. An anatomical gift may be made to the following persons named in the document of gift:

244 1. A hospital; accredited medical school, dental school, college, or university; organ procurement  
245 organization; or other appropriate person authorized by the Virginia Transplant Council, for research  
246 or education;

247 2. Subject to subsection B, an individual designated by the person making the anatomical gift if the  
248 individual is the recipient of the part; or

249 3. An eye bank or tissue bank.

250 B. If an anatomical gift to an individual under subdivision A 2 cannot be transplanted into the  
251 individual, the part passes in accordance with subsection G in the absence of an express, contrary  
252 indication by the person making the anatomical gift.

253 C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift  
254 that does not name a person described in subsection A but identifies the purpose for which an  
255 anatomical gift may be used, the following rules apply:

256 1. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to  
257 the appropriate eye bank.

258 2. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to  
259 the appropriate tissue bank.

260 3. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes  
261 to the appropriate organ procurement organization as custodian of the organ.

262 4. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education,  
263 the gift passes to the appropriate procurement organization.

264 D. For the purpose of subsection C, if there is more than one purpose of an anatomical gift set forth  
265 in the document of gift but the purposes are not set forth in any priority, the gift shall be used for  
266 transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift  
267 may be used for research or education.

268 E. If an anatomical gift of one or more specific parts is made in a document of gift that does not  
269 name a person described in subsection A and does not identify the purpose of the gift, the gift may be  
270 used for transplantation, therapy, research and education, and the gift passes in accordance with  
271 subsection G. The gift shall be used first for transplantation or therapy, if suitable. If the gift cannot be  
272 used for transplantation or therapy, the gift may be used for research or education.

273 F. If a document of gift specifies only a general intent to make an anatomical gift by words such as  
274 "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may  
275 be used for transplantation, therapy, research and education and the gift passes in accordance with  
276 subsection G. The gift shall be used first for transplantation or therapy, if suitable. If the gift cannot be  
277 used for transplantation or therapy, the gift may be used for research or education.

278 G. For purposes of subsections B, E, and F the following rules apply:

279 1. If the part is an eye, the gift passes to the appropriate eye bank.

280 2. If the part is tissue, the gift passes to the appropriate tissue bank.

281 3. If the part is an organ, the gift passes to the appropriate organ procurement organization as  
282 custodian of the organ.

283 H. An anatomical gift of an organ for transplantation, therapy, research or education other than an  
284 anatomical gift under subdivision A 2, passes to the organ procurement organization as custodian of the  
285 organ.

286 I. If an anatomical gift does not pass pursuant to subsections A through H or the decedent's body or  
287 part is not used for transplantation, therapy, research, or education, custody of the body or part passes  
288 to the surviving spouse, next of kin or other person under obligation to dispose of the body or part.

289 J. A person may not accept an anatomical gift if the person knows that the gift was not effectively  
290 made under § 32.1-291.5 or 32.1-291.10 or if the person knows that the decedent made a refusal under  
291 § 32.1-291.7 that was not revoked. For purposes of this subsection, if a person knows that an  
292 anatomical gift was made on a document of gift, the person is deemed to know of any amendment or  
293 revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

294 K. Except as otherwise provided in subdivision A 2, nothing in this Act affects the allocation of  
295 organs for transplantation therapy, research or education.

296 § 32.1-291.12. Search and notification.

297 A. The following persons shall make a reasonable search of an individual who the person reasonably  
298 believes is dead or whose death is imminent for a document of gift or other information identifying the  
299 individual as a donor or as an individual who made a refusal:

300 1. A law-enforcement officer, firefighter, paramedic, or other emergency rescuer finding the

301 individual; and

302 2. If no other source of the information is immediately available, a hospital, as soon as practical  
303 after the individual's arrival at the hospital.

304 B. If a document of gift or a refusal to make an anatomical gift is located by the search required by  
305 subdivision A 1 and the individual or deceased individual to whom it relates is taken to a hospital, the  
306 person responsible for conducting the search shall send the document of gift or refusal to the hospital.

307 C. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by  
308 this section but may be subject to administrative sanctions.

309 § 32.1-291.13. Delivery of document of gift not required; right to examine.

310 A. A document of gift need not be delivered during the donor's lifetime to be effective.

311 B. Upon or after an individual's death, a person in possession of a document of gift or a refusal to  
312 make an anatomical gift with respect to the individual shall allow examination and copying of the  
313 document of gift or refusal by a person authorized to make or object to the making of an anatomical  
314 gift with respect to the individual or by a person to which the gift could pass under § 32.1-291.11.

315 § 32.1-291.14. Rights and duties of procurement organization and others.

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

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

323 C. When a hospital refers an individual who is dead or whose death is imminent to a procurement  
324 organization, the organization may conduct any reasonable examination necessary to ensure the medical  
325 suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy,  
326 research, or education from a donor or a prospective donor. During the examination period, measures  
327 necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or  
328 procurement organization knows that the individual expressed a contrary intent.

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

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

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

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

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

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

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

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

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

360 3. If the part is tissue, any physician or technician who is approved by LifeNet as qualified to  
361 perform the act of tissue recovery.

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

366 § 32.1-291.15. Coordination of procurement and use.

367 Each hospital in this state shall enter into agreements or affiliations with procurement organizations  
 368 for coordination of procurement and use of anatomical gifts.

369 § 32.1-291.16. Sale or purchase of parts prohibited; penalty.

370 A. Except as otherwise provided in subsection B, a person that for valuable consideration, knowingly  
 371 purchases or sells a part for transplantation, research, therapy or education if removal of a part from  
 372 an individual is intended to occur after the individual's death is guilty of a Class 4 felony.

373 B. A person may charge a reasonable amount for the removal, processing, preservation, quality  
 374 control, storage, transportation, implantation, or disposal of a part.

375 § 32.1-291.17. Falsification, etc. of document of gift; penalty.

376 A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or  
 377 obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty  
 378 of a Class 4 felony.

379 § 32.1-291.18. Immunity.

380 A. A person that acts in accordance with this Act or with the applicable anatomical gift law of  
 381 another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal  
 382 prosecution, or administrative proceeding.

383 B. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or  
 384 damage that results from the making or use of the gift.

385 C. In determining whether an anatomical gift has been made, amended, or revoked under this Act, a  
 386 person may rely upon representations of an individual listed in subdivisions A 3, A 4, A 5, A 6, A 7, A  
 387 8, or A 9 of § 32.1-291.9 relating to the individual's relationship to the donor or prospective donor  
 388 unless the person knows that the representation is untrue.

389 § 32.1-291.19. Law governing validity; choice of law as to execution of document of gift;  
 390 presumption of validity.

391 A. A document of gift is valid if executed in accordance with:

392 1. This Act;

393 2. The laws of the state or country where it was executed; or

394 3. The laws of the state or country where the person making the anatomical gift was domiciled, has  
 395 a place of residence, or was a national at the time the document of gift was executed.

396 B. If a document of gift is valid under this section, the law of this state governs the interpretation of  
 397 the document of gift.

398 C. A person may presume that a document of gift or amendment of an anatomical gift is valid unless  
 399 that person knows that it was not validly executed or was revoked.

400 § 32.1-291.20. Donor registry.

401 For the purposes of this Act, the donor registry is the Virginia Donor Registry established under  
 402 § 32.1-292.2.

403 § 32.1-291.21. Effect of anatomical gift on advance health-care directive.

404 A. In this section:

405 "Advance health-care directive" means an advance directive executed by a prospective donor as  
 406 provided in the Health Care Decisions Act (§ 54.1-2981 et seq.).

407 B. If a prospective donor has an advance health-care directive, measures necessary to ensure the  
 408 medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from  
 409 the prospective donor, unless the advance health-care directive expressly provides to the contrary.

410 § 32.1-291.22. Cooperation between medical examiner and procurement organization.

411 A. A medical examiner and procurement organizations shall cooperate with each other to maximize  
 412 the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or  
 413 education.

414 B. If a medical examiner receives notice from a procurement organization that an anatomical gift  
 415 might be available or was made with respect to a decedent whose body is under the jurisdiction of the  
 416 medical examiner and a postmortem examination is going to be performed, unless the medical examiner  
 417 denies recovery in accordance with § 32.1-291.23, the medical examiner or designee shall conduct,  
 418 when practicable, a postmortem examination of the body or the part in a manner and within a period  
 419 compatible with its preservation for the purposes of the gift.

420 C. A part may not be removed from the body of a decedent under the jurisdiction of a medical  
 421 examiner for transplantation, therapy, research, or education unless the part is the subject of an  
 422 anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be

423 delivered to a person for research or education unless the body is the subject of an anatomical gift.  
424 This subsection does not preclude a medical examiner from performing the medicolegal autopsy upon  
425 the body or parts of a decedent under the jurisdiction of the medical examiner or from using the body  
426 or parts of a decedent under the jurisdiction of the medical examiner for the purposes of education,  
427 training, and research required by the medical examiner.

428 § 32.1-291.23. Facilitation of anatomical gift from decedent whose body is under jurisdiction of  
429 medical examiner.

430 A. Upon request of a procurement organization, a medical examiner shall release to the procurement  
431 organization the name, contact information, and available medical and social history of a decedent  
432 whose body is under the jurisdiction of the medical examiner. If the decedent's body or part is medically  
433 suitable for transplantation, therapy, research, or education, the medical examiner shall release  
434 postmortem examination results to the procurement organization. The procurement organization may  
435 make a subsequent disclosure of the postmortem examination results or other information received from  
436 the medical examiner only if relevant to transplantation, therapy, research or education.

437 B. The medical examiner may conduct a medicolegal investigation by reviewing all medical records,  
438 laboratory test results, x-rays, other diagnostic results, and other information that any person possesses  
439 about a donor or prospective donor whose body is under the jurisdiction of the medical examiner that  
440 the medical examiner determines may be relevant to the investigation.

441 C. A person that has any information requested by a medical examiner pursuant to subsection B  
442 shall provide that information as expeditiously as possible to allow the medical examiner to conduct the  
443 medicolegal investigation within a period compatible with the preservation of parts for the purpose of  
444 transplantation, therapy, research, or education.

445 D. If an anatomical gift has been or might be made of a part of a decedent whose body is under the  
446 jurisdiction of the medical examiner and a postmortem examination is not required, or the medical  
447 examiner determines that a postmortem examination is required but that the recovery of the part that is  
448 the subject of an anatomical gift will not interfere with the examination, the medical examiner and  
449 procurement organization shall cooperate in the timely removal of the part from the decedent for the  
450 purpose of transplantation, therapy, research, or education.

451 E. The medical examiner and procurement organizations shall enter into an agreement setting forth  
452 protocols and procedures to govern relations between the parties when an anatomical gift of a part  
453 from a decedent under the jurisdiction of the medical examiner has been or might be made, but the  
454 medical examiner believes that the recovery of the part could interfere with the postmortem investigation  
455 into the decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue and  
456 eyes from such a decedent shall be made in accordance with the agreement. In the event that the  
457 medical examiner denies recovery of an anatomical gift, the procurement organization may request the  
458 Chief Medical Examiner to reconsider the denial and to permit the recovery to proceed. The parties  
459 shall evaluate the effectiveness of the protocols and procedures at regular intervals but no less  
460 frequently than every two years.

461 F. If the medical examiner or designee allows recovery of a part under subsection D or E, the  
462 procurement organization, upon request, shall cause the physician or technician who removes the part  
463 to provide the medical examiner with a record describing the condition of the part, a biopsy, a  
464 photograph, and any other information and observations that would assist in the postmortem  
465 examination.

466 G. If a medical examiner or designee is required to be present at a removal procedure under  
467 subsection E, upon request the procurement organization requesting the recovery of the part shall  
468 reimburse the medical examiner or designee for the additional costs incurred in complying with  
469 subsection E.

470 § 32.1-291.24. Uniformity of application and construction.

471 In applying and construing this uniform act, consideration shall be given to the need to promote  
472 uniformity of the law with respect to its subject matter among states that enact it.

473 § 32.1-291.25. Relation to Electronic Signatures in Global and National Commerce Act.

474 This Act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce  
475 Act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede § 101(a) of that act, 15 U.S.C.  
476 § 7001, or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C.  
477 § 7003(b).

478 § 32.1-292.2. The Virginia Donor Registry.

479 A. In order to save lives by reducing the shortage of organs and tissues for transplantation and to  
480 implement cost savings for patients and various state agencies by eliminating needless bureaucracy, there  
481 is hereby established the Virginia Donor Registry (hereinafter referred to as the Registry), which shall be  
482 created, compiled, maintained, and modified as necessary by the Virginia Transplant Council in  
483 accordance with the regulations of the Board of Health and the administration of the Department of



484 Health. Pertinent information on all Virginians who have indicated a willingness to donate organs and  
 485 tissues in accordance with ~~§ 32.1-290~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)*  
 486 shall be compiled, maintained, and modified as necessary in the Registry by the Virginia Transplant  
 487 Council.

488 B. The Registry and all information therein shall be confidential and subject to access only by  
 489 personnel of the Department of Health and designated organ procurement organizations, eye banks, and  
 490 tissue banks, operating in or serving Virginia that are members of the Virginia Transplant Council, for  
 491 the purpose of identifying and determining the suitability of a potential donor according to the  
 492 provisions of subdivision B 4 of § 32.1-127 or subsection F of § 46.2-342.

493 C. The purpose of the Registry shall include, but not be limited to:

494 1. Providing a means of recovering an anatomical gift for transplantation or research as authorized by  
 495 ~~§ 32.1-295~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)* and subsection F of  
 496 § 46.2-342; and

497 2. Collecting data to develop and evaluate the effectiveness of educational initiatives promoting  
 498 organ, eye, and tissue donation that are conducted or coordinated by the Virginia Transplant Council or  
 499 its members.

500 D. The Board, in consultation with the Virginia Transplant Council, shall promulgate regulations  
 501 necessary to create, compile, maintain, modify as necessary, and administer the Virginia Donor Registry.  
 502 The regulations shall include, but not be limited to:

503 1. Recording the data subject's full name, address, sex, birth date, age, driver's license number or  
 504 unique identifying number, and other pertinent identifying personal information;

505 2. Authorizing the Virginia Transplant Council to analyze Registry data under research protocols that  
 506 are designed to identify and assess the effectiveness of mechanisms to promote and increase organ, eye,  
 507 and tissue donation within the Commonwealth; and

508 3. Providing that any Virginian whose name has been placed in the registry may have his name  
 509 deleted by filing an appropriate form with the Virginia Transplant Council or in accordance with  
 510 subsections ~~E and F of § 32.1-290~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)* or  
 511 subsection G of § 46.2-342.

512 § 46.2-342. What license to contain; organ donor information; Uniform Donor Document.

513 A. Every license issued under this chapter shall bear:

514 1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned  
 515 by the Department to the licensee and shall not be the same as the licensee's social security number;

516 2. A color photograph of the licensee;

517 3. The licensee's full name, year, month, and date of birth;

518 4. The licensee's address, subject to the provisions of subsection A1 of this section;

519 5. A brief description of the licensee for the purpose of identification;

520 6. A space for the signature of the licensee; and

521 7. Any other information deemed necessary by the Commissioner for the administration of this title.

522 No abbreviated names or nicknames shall be shown on any license.

523 A1. At the option of the licensee, the address shown on the license may be either the post office  
 524 box, business, or residence address of the licensee, provided such address is located in Virginia.  
 525 However, regardless of which address is shown on the license, the licensee shall supply the Department  
 526 with his residence address, which shall be an address in Virginia. This residence address shall be  
 527 maintained in the Department's records. Whenever the licensee's address shown either on his license or  
 528 in the Department's records changes, he shall notify the Department of such change as required by  
 529 § 46.2-324.

530 B. The license shall be made of a material and in a form to be determined by the Commissioner.

531 C. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable  
 532 from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique  
 533 design elements of the document and descriptors within the photograph area to identify persons who are  
 534 at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year  
 535 when the person will become 21 years old.

536 D. The Department shall establish a method by which an applicant for a driver's license or an  
 537 identification card may designate his willingness to be an organ donor as provided in Article 2  
 538 (~~§ 32.1-289 et seq.~~) (*§ 32.1-289.2 et seq.*) of Chapter 8 of Title 32.1 and shall cooperate with the  
 539 Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a  
 540 minimum of effort on the part of the donor and the Department.

541 E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department  
 542 may make a notation of this designation on his license or card and shall make a notation of this  
 543 designation in his driver record.

544 F. The donor designation authorized in subsection E shall be sufficient legal authority for the

545 removal, following death, of the subject's organs or tissues without additional authority from the donor,  
 546 or his family or estate. No family member, guardian, agent named pursuant to an advance directive or  
 547 person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way,  
 548 seek to avoid honoring the donor designation.

549 G. The donor designation provided pursuant to subsection D may be rescinded by notifying the  
 550 Department.

551 H. With the written consent of his parent or legal guardian, a minor may make a donor designation.

552 I. When requested by the applicant, and upon presentation of a signed statement by a licensed  
 553 physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's  
 554 license that the applicant is (i) an insulin-dependent diabetic, or (ii) hearing or speech impaired.

555 J. In the absence of gross negligence or willful misconduct, the Department and its employees shall  
 556 be immune from any civil or criminal liability in connection with the making of or failure to make a  
 557 notation of donor designation on any license or card or in any person's driver record.

558 K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the  
 559 uniform donor document, as formerly set forth in subsection D above, for organ donation designation  
 560 until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any  
 561 such uniform donor document shall, when properly executed, remain valid and shall continue to be  
 562 subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2  
 563 (~~§ 32.1-289 et seq.~~) (*§ 32.1-289.2 et seq.*) of Chapter 8 of Title 32.1.

564 L. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ  
 565 donor information brochure describing the organ donor program and providing instructions for  
 566 completion of the uniform donor document information describing the bone marrow donation program  
 567 and instructions for registration in the National Bone Marrow Registry. The Department shall include a  
 568 copy of such brochure with every driver's license renewal notice or application mailed to licensed  
 569 drivers in Virginia.

570 § 54.1-2982. Definitions.

571 As used in this article:

572 "Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in  
 573 accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the  
 574 declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in  
 575 accordance with the provisions of § 54.1-2983.

576 "Agent" means an adult appointed by the declarant under an advance directive, executed or made in  
 577 accordance with the provisions of § 54.1-2983, to make health care decisions for him, including  
 578 visitation, provided the advance directive makes express provisions for visitation and subject to  
 579 physician orders and policies of the institution to which the declarant is admitted. The declarant may  
 580 also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his  
 581 body pursuant to Article 2 (~~§ 32.1-289 et seq.~~) (*§ 32.1-289.2 et seq.*) of Chapter 8 of Title 32.1.

582 "Attending physician" means the primary physician who has responsibility for the treatment and care  
 583 of the patient.

584 "Declarant" means an adult who makes an advance directive, as defined in this article, while capable  
 585 of making and communicating an informed decision.

586 "Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to  
 587 § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac  
 588 or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac  
 589 compression, endotracheal intubation and other advanced airway management, artificial ventilation, and  
 590 defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate  
 591 Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as  
 592 an advance directive.

593 "Incapable of making an informed decision" means the inability of an adult patient, because of  
 594 mental illness, mental retardation, or any other mental or physical disorder which precludes  
 595 communication or impairs judgment and which has been diagnosed and certified in writing by his  
 596 attending physician and a second physician or licensed clinical psychologist after personal examination  
 597 of such patient, to make an informed decision about providing, withholding or withdrawing a specific  
 598 medical treatment or course of treatment because he is unable to understand the nature, extent or  
 599 probable consequences of the proposed medical decision, or to make a rational evaluation of the risks  
 600 and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic  
 601 or have other communication disorders, who are otherwise mentally competent and able to communicate  
 602 by means other than speech, shall not be considered incapable of making an informed decision.

603 "Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes  
 604 mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is  
 605 otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal

606 condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the  
607 dying process. The term includes artificially administered hydration and nutrition. However, nothing in  
608 this act shall prohibit the administration of medication or the performance of any medical procedure  
609 deemed necessary to provide comfort care or to alleviate pain, including the administration of pain  
610 relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and  
611 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include  
612 cardiopulmonary resuscitation.

613 "Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient  
614 has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of  
615 surroundings in a learned manner, other than reflex activity of muscles and nerves for low level  
616 conditioned response, and from which, to a reasonable degree of medical probability, there can be no  
617 recovery.

618 "Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the  
619 jurisdiction where the treatment is to be rendered or withheld.

620 "Qualified patient" means a patient who has made an advance directive in accordance with this  
621 article and either (i) has been diagnosed and certified in writing by the attending physician and a second  
622 physician or licensed clinical psychologist after personal examination to be incapable of making an  
623 informed decision about providing, withholding or withdrawing a specific medical treatment or course of  
624 treatment, in accordance with § 54.1-2986 or (ii) has been diagnosed and certified in writing by the  
625 attending physician to be afflicted with a terminal condition.

626 "Terminal condition" means a condition caused by injury, disease or illness from which, to a  
627 reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent  
628 or (ii) the patient is in a persistent vegetative state.

629 "Witness" means any person over the age of 18, including a spouse or blood relative of the  
630 declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be  
631 permitted to serve as witnesses for purposes of this article.

632 § 54.1-2984. Suggested form of written advance directives.

633 An advance directive executed pursuant to this article may, but need not, be in the following form,  
634 and may (i) direct a specific procedure or treatment to be provided, such as artificially administered  
635 hydration and nutrition; (ii) direct a specific procedure or treatment to be withheld; or (iii) appoint an  
636 agent to make health care decisions for the declarant as specified in the advance directive if the  
637 declarant is determined to be incapable of making an informed decision, including the decision to make,  
638 after the declarant's death, an anatomical gift of all of the declarant's body or an organ, tissue or eye  
639 donation pursuant to Article 2 (~~§ 32.1-289 et seq.~~) (*§ 32.1-289.2 et seq.*) of Chapter 8 of Title 32.1 and  
640 in compliance with any directions of the declarant. Should any other specific directions be held to be  
641 invalid, such invalidity shall not affect the advance directive. If the declarant appoints an agent in an  
642 advance directive, that agent shall have the authority to make health care decisions for the declarant as  
643 specified in the advance directive if the declarant is determined to be incapable of making an informed  
644 decision and shall have decision-making priority over any individuals authorized under § 54.1-2986 to  
645 make health care decisions for the declarant. In no case shall the agent refuse or fail to honor the  
646 declarant's wishes in relation to anatomical gifts or organ, tissue or eye donation.

647 ADVANCE MEDICAL DIRECTIVE

648 I, ....., willfully and voluntarily make known my desire and do hereby  
649 declare:

650 If at any time my attending physician should determine that I have a  
651 terminal condition where the application of life-prolonging procedures  
652 would serve only to artificially prolong the dying process, I direct that  
653 such procedures be withheld or withdrawn, and that I be permitted to die  
654 naturally with only the administration of medication or the performance of  
655 any medical procedure deemed necessary to provide me with comfort care or  
656 to alleviate pain (OPTION:

657 I specifically direct that the following procedures or treatments be  
658 provided to me: .....

659 In the absence of my ability to give directions regarding the use of such life-prolonging procedures,  
660 it is my intention that this advance directive shall be honored by my family and physician as the final  
661 expression of my legal right to refuse medical or surgical treatment and accept the consequences of such  
662 refusal.

663 OPTION: APPOINTMENT OF AGENT (CROSS THROUGH IF YOU DO NOT WANT TO  
664 APPOINT AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.)

665 I hereby appoint ..... (primary agent), of ..... (address and

666 telephone number), as my agent to make health care decisions on my behalf  
667 as authorized in this document. If ..... (primary agent) is not  
668 reasonably available or is unable or unwilling to act as my agent, then I  
669 appoint ..... (successor agent), of ..... (address and telephone  
670 number), to serve in that capacity.

671 I hereby grant to my agent, named above, full power and authority to make health care decisions on  
672 my behalf as described below whenever I have been determined to be incapable of making an informed  
673 decision about providing, withholding or withdrawing medical treatment. The phrase "incapable of  
674 making an informed decision" means unable to understand the nature, extent and probable consequences  
675 of a proposed medical decision or unable to make a rational evaluation of the risks and benefits of a  
676 proposed medical decision as compared with the risks and benefits of alternatives to that decision, or  
677 unable to communicate such understanding in any way. My agent's authority hereunder is effective as  
678 long as I am incapable of making an informed decision.

679 The determination that I am incapable of making an informed decision shall be made by my  
680 attending physician and a second physician or licensed clinical psychologist after a personal examination  
681 of me and shall be certified in writing. Such certification shall be required before treatment is withheld  
682 or withdrawn, and before, or as soon as reasonably practicable after, treatment is provided, and every  
683 180 days thereafter while the treatment continues.

684 In exercising the power to make health care decisions on my behalf, my agent shall follow my  
685 desires and preferences as stated in this document or as otherwise known to my agent. My agent shall  
686 be guided by my medical diagnosis and prognosis and any information provided by my physicians as to  
687 the intrusiveness, pain, risks, and side effects associated with treatment or nontreatment. My agent shall  
688 not authorize a course of treatment which he knows, or upon reasonable inquiry ought to know, is  
689 contrary to my religious beliefs or my basic values, whether expressed orally or in writing. If my agent  
690 cannot determine what treatment choice I would have made on my own behalf, then my agent shall  
691 make a choice for me based upon what he believes to be in my best interests.

692 OPTION: POWERS OF MY AGENT (CROSS THROUGH ANY LANGUAGE YOU DO NOT  
693 WANT AND ADD ANY LANGUAGE YOU DO WANT.)

694 The powers of my agent shall include the following:

695 A. To consent to or refuse or withdraw consent to any type of medical care, treatment, surgical  
696 procedure, diagnostic procedure, medication and the use of mechanical or other procedures that affect  
697 any bodily function, including, but not limited to, artificial respiration, artificially administered nutrition  
698 and hydration, and cardiopulmonary resuscitation. This authorization specifically includes the power to  
699 consent to the administration of dosages of pain-relieving medication in excess of recommended dosages  
700 in an amount sufficient to relieve pain, even if such medication carries the risk of addiction or  
701 inadvertently hastens my death;

702 B. To request, receive, and review any information, verbal or written, regarding my physical or  
703 mental health, including but not limited to, medical and hospital records, and to consent to the  
704 disclosure of this information;

705 C. To employ and discharge my health care providers;

706 D. To authorize my admission to or discharge (including transfer to another facility) from any  
707 hospital, hospice, nursing home, adult home or other medical care facility for services other than those  
708 for treatment of mental illness requiring admission procedures provided in Article 1 (§ 37.2-800 et seq.)  
709 of Chapter 8 of Title 37.2; and

710 E. To take any lawful actions that may be necessary to carry out these decisions, including the  
711 granting of releases of liability to medical providers.

712 Further, my agent shall not be liable for the costs of treatment pursuant to his authorization, based  
713 solely on that authorization.

714 OPTION: APPOINTMENT OF AN AGENT TO MAKE AN ANATOMICAL GIFT OR ORGAN,  
715 TISSUE OR EYE DONATION (CROSS THROUGH IF YOU DO NOT WANT TO APPOINT AN  
716 AGENT TO MAKE AN ANATOMICAL GIFT OR ANY ORGAN, TISSUE OR EYE DONATION  
717 FOR YOU.)

718 Upon my death, I direct that an anatomical gift of all of my body or  
719 certain organ, tissue or eye donations may be made pursuant to Article 2  
720 (~~§ 32.1-289 et seq.~~) (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1  
721 and in accordance with my directions, if any. I hereby appoint ..... as  
722 my agent, of ..... (address and telephone number), to make any such  
723 anatomical gift or organ, tissue or eye donation following my death. I  
724 further direct that: ..... (declarant's directions concerning anatomical  
725 gift or organ, tissue or eye donation).

726 This advance directive shall not terminate in the event of my disability.  
727 By signing below, I indicate that I am emotionally and mentally competent to make this advance  
728 directive and that I understand the purpose and effect of this document.

729 \_\_\_\_\_  
730 (Date) (Signature of Declarant)

731 The declarant signed the foregoing advance directive in my presence.  
732 (Witness) \_\_\_\_\_  
733 (Witness) \_\_\_\_\_

734 § 57-48. Definitions.

735 As used in this chapter, unless the context requires a different meaning:

736 "Board" means the Board of Agriculture and Consumer Services.

737 "Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his  
738 staff to whom he may delegate his duties under this chapter.

739 "Charitable organization" means any person which is or holds itself out to be organized or operated  
740 for any charitable purpose, or any person which solicits or obtains contributions solicited from the  
741 public. This definition shall not be deemed to include (i) any church or convention or association of  
742 churches, primarily operated for nonsecular purposes and no part of the net income of which inures to  
743 the direct benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political  
744 campaign committee or political action committee or other political committee required by state or  
745 federal law to file a report or statement of contributions and expenditures; or (iii) any authorized  
746 individual who solicits, by authority of such organization, solely on behalf of a registered or exempt  
747 charitable organization or on behalf of an organization excluded from the definition of charitable  
748 organization.

749 "Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or  
750 eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any  
751 public official or instigating, prosecuting, or intervening in litigation.

752 "Charitable sales promotion" means advertised sales that feature the names of both the commercial  
753 co-venturer and the charitable or civic organization and which state that the purchase or use of the  
754 goods, services, entertainment, or any other thing of value that the commercial co-venturer normally  
755 sells, will benefit the charitable or civic organization or its purposes. To qualify as a charitable sales  
756 promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer  
757 usually charges without the charitable sales promotion and the consumer retains the thing of value.

758 "Civic organization" means any local service club, veterans' post, fraternal society or association,  
759 volunteer fire or rescue groups, or local civic league or association of 10 or more persons not organized  
760 for profit but operated exclusively for educational or charitable purposes as defined herein, including the  
761 promotion of community welfare, and the net earnings of which are devoted exclusively to charitable,  
762 educational, recreational or social welfare purposes.

763 "Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and  
764 primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic  
765 organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a  
766 specified limited period of time.

767 "Contribution" means any gift, bequest, devise or other grant of any money, credit, financial  
768 assistance or property of any kind or value, including the promise to contribute, except payments by the  
769 membership of an organization for membership fees, dues, fines, or assessments, or for services rendered  
770 to individual members, and except money, credit, financial assistance or property received from any  
771 governmental authority. The term "contribution" shall not include any donation of blood or any gift  
772 made pursuant to Article 2 (~~§ 32.1-289 et seq.~~) (*§ 32.1-289.2 et seq.*) of Chapter 8 of Title 32.1.

773 "Federated fund-raising organization" means any federation of independent charitable organizations  
774 which have voluntarily joined together, including but not limited to a United Fund or Community Chest,  
775 for purposes of raising and distributing money for and among themselves and where membership does  
776 not confer operating authority and control of the individual agencies upon the federated group  
777 organization.

778 "File with the Commissioner" means depositing the originals of the documents required to be filed,  
779 along with the payment of the appropriate fee and all supporting documents with the Office of  
780 Consumer Affairs, or submitting the required documents and any appropriate attachments and fees by  
781 utilizing an online filing system approved by the Commissioner.

782 "Fund-raising expenses" means the expenses of all activities that constitute or are an integral and  
783 inseparable part of a solicitation.

784 "Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an  
785 organization provides services and confers a bona fide right, privilege, professional standing, honor or  
786 other direct benefit, in addition to the right to vote, elect officers, or hold offices. The term

787 "membership" shall not include those persons who are granted a membership upon making a  
788 contribution as the result of solicitation.

789 "Parent organization" means that part of a charitable organization which coordinates, supervises or  
790 exercises control over policy, fund raising, and expenditures, or assists or advises one or more chapters,  
791 branches or affiliates.

792 "Person" means any individual, organization, trust, foundation, association, partnership, corporation,  
793 society, or other group or combination acting as a unit.

794 "Professional fund-raising counsel" means any person who for a flat fixed fee under a written  
795 agreement plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or  
796 indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic  
797 organization, but who actually solicits no contributions as a part of such services. A bona fide salaried  
798 officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or  
799 employee of a registered parent organization shall not be deemed to be a professional fund-raising  
800 counsel.

801 "Professional solicitor" means any person who, for a financial or other consideration, solicits  
802 contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is  
803 performed personally or through his agents, servants, or employees or through agents, servants, or  
804 employees specially employed by, or for a charitable or civic organization, who are engaged in the  
805 solicitation of contributions under the direction of such person, or any person who, for a financial or  
806 other consideration, plans, conducts, manages, carries on, advises or acts as a consultant to a charitable  
807 or civic organization in connection with the solicitation of contributions but does not qualify as a  
808 professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt  
809 charitable organization or a bona fide salaried officer or employee of a registered parent organization  
810 shall not be deemed to be a professional solicitor.

811 "Sale," "sell" and "sold" mean the transfer of any property or the rendition of any service to any  
812 person in exchange for consideration, including any purported contribution without which such property  
813 would not have been transferred or such services would not have been rendered.

814 "Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on  
815 the plea or representation that such contribution will be used for a charitable purpose, including, without  
816 limitation, the following methods of requesting such contribution:

- 817 1. Any oral or written request;
- 818 2. Any announcement to the press, over the radio or television, or by telephone or telegraph  
819 concerning an appeal or campaign to which the public is requested to make a contribution for any  
820 charitable purpose connected therewith;
- 821 3. The distribution, circulation, posting or publishing of any handbill, written advertisement or other  
822 publication which directly or by implication seeks to obtain public support; or
- 823 4. The sale of, offer or attempt to sell, any advertisement, advertising space, subscription, ticket, or  
824 any service or tangible item in connection with which any appeal is made for any charitable purpose or  
825 where the name of any charitable or civic organization is used or referred to in any such appeal as an  
826 inducement or reason for making any such sale, or when or where in connection with any such sale, any  
827 statement is made that the whole or any part of the proceeds from any such sale will be donated to any  
828 charitable purpose.

829 "Solicitation" as defined herein, shall be deemed to occur when the request is made, at the place the  
830 request is received, whether or not the person making the same actually receives any contribution.

831 "Terrorists and terrorist organizations" means any person, organization, group or conspiracy who  
832 assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339 B or who commits or  
833 attempts to commit acts of terrorism, as defined in § 18.2-46.4.

834 **2. That §§ 32.1-287, 32.1-289, 32.1-290, 32.1-291, 32.1-292.1, 32.1-293, and 32.1-295 of the Code of**  
835 **Virginia are repealed.**

836 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**  
837 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
838 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**  
839 **periods of commitment to the custody of the Department of Juvenile Justice.**