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CHAPTER 43.

 DISPOSITIONS OF HUMAN BODIES AND PARTS; POST‑MORTEM EXAMINATIONS

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 44‑43‑10.** Applicability of implied warranties of merchantability and fitness.

The implied warranties of merchantability and fitness are not applicable to a contract for the sale, procurement, processing, distribution, or use of human tissues including, but not limited to, corneas, bones or organs, whole blood, plasma, blood products, or blood derivatives. Human tissues, whole blood, plasma, blood products, and blood derivatives must not be considered commodities subject to sale or barter, and the transplanting, injection, transfusion, or other transfer of these substances into the human body are considered a medical service.

**SECTION 44‑43‑20.** Age restrictions for blood donors; parental permission.

(A) A person may lawfully donate blood if he is:

(1) at least seventeen years of age; or

(2) sixteen years of age and has the written consent of his parent or guardian.

(B) A person under eighteen years of age may not sell blood.

**SECTION 44‑43‑30.** Donor gift forms and accompanying information.

Whenever a person applies for the issuance, reissuance, or renewal of any class of driver’s license, the Department of Motor Vehicles is authorized to furnish that person with a form, sufficient under the provisions of the Uniform Anatomical Gift Act, Article 5, for the gift of all or part of the donor’s body conditioned upon the donor’s death and a document containing a summary description and explanation of the act. If a person who is legally authorized desires to execute such a gift, the department may provide that person with appropriate assistance and the presence of the legally required number of witnesses.

**SECTION 44‑43‑40.** Notification of donation on driver’s license.

Donations and gifts of all or part of a person’s body made at the time of application, issuance, reissuance, or renewal of a driver’s license pursuant to this chapter must be noted on the person’s driver’s license. After a driver’s license has been issued, reissued, or renewed, the department shall issue to each person who has notified the department that he is a donor under the Uniform Anatomical Gift Act a suitable emblem embedded within the person’s driver’s license to indicate his status as a donor. The notation does not constitute execution of a gift under the Uniform Anatomical Gift Act. The department is not the registry of anatomical gifts.

**SECTION 44‑43‑50.** Immunity.

The Department of Motor Vehicles, its officers, and employees are immune from any civil liability for any acts or omissions in carrying out the provisions of Section 44‑43‑40.

ARTICLE 2.

 BONE MARROW DONOR PROGRAM

**SECTION 44‑43‑60.** Citation of article.

This article may be cited as the Bone Marrow Donor Act.

**SECTION 44‑43‑70.** Bone marrow donor programs established; purpose; dissemination of information; recruitment of donors.

(A) Bone marrow donor programs are established within the Medical University of South Carolina and within the University of South Carolina, School of Medicine. The purpose of each program is to educate citizens of the State about:

(1) the need for bone marrow donors;

(2) the procedures required to become registered as a potential bone marrow donor, including the procedures for determining the person’s tissue type; and

(3) the medical procedures a donor must undergo to donate bone marrow.

(B) Special efforts must be made to educate and recruit minorities to volunteer as potential bone marrow donors. Dissemination of information and recruitment of bone marrow donors may be accomplished through use of the press, radio, and television, through the placement of educational materials in appropriate health care facilities, blood banks, and state and local agencies, and through any other means of public dissemination. The Medical University of South Carolina and the University of South Carolina, School of Medicine, in conjunction with the Department of Motor Vehicles, shall make educational materials available at all places where drivers’ licenses are issued or renewed.

**SECTION 44‑43‑80.** Paid leaves of absence to employees to donate bone marrow.

(A) An employer may grant paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. As used in this section, “employer” means a person or entity that employs twenty or more employees at least at one site within this State and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, state, county, city, or other governmental subdivision. “Employee” means a person who performs services for hire for an employer for an average of twenty or more hours a week and includes all individuals employed at a site owned or operated by an employer but does not include an independent contractor.

(B) The combined length of paid leaves of absence requested by an employee must be determined by the employee but may not exceed forty work hours unless the employer agrees to a longer period of time. The employer may require verification by a physician of the purpose and length of each paid leave of absence requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited.

(C) An employer may not retaliate against an employee for requesting or obtaining a paid leave of absence as provided by this section.

(D) This section does not prevent an employer from providing a paid leave of absence for bone marrow donations in addition to leave allowed under this section. This section does not affect an employee’s rights with respect to any other employment benefit.

ARTICLE 3.

 DONATING EYES FOR RESTORATION OF SIGHT [OMITTED]

**SECTIONS 44‑43‑110 to 44‑43‑160.** Omitted by 2006 Act No. 334, Section 1, eff June 2, 2006.

**SECTIONS 44‑43‑110 to 44‑43‑160.** Omitted by 2006 Act No. 334, Section 1, eff June 2, 2006.

**SECTIONS 44‑43‑110 to 44‑43‑160.** Omitted by 2006 Act No. 334, Section 1, eff June 2, 2006.

ARTICLE 5.

 UNIFORM ANATOMICAL GIFT ACT

**SECTION 44‑43‑310.** Citation of article.

This article may be cited as the Uniform Anatomical Gift Act.

**SECTION 44‑43‑320.** Definitions.

As used in this article:

(1) “Bank or storage facility” means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts of human bodies.

(2) “Decedent” means a deceased individual and includes a stillborn infant or fetus.

(3) “Donor” means an individual who makes a gift of all or part of his body.

(4) “Hospital” means a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the United States Government, a state, or a subdivision of the United States Government or state, although not required to be licensed under state laws.

(5) “Part” includes organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of a human body, and “part” includes “parts”.

(6) “Person” means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(7) “Physician” or “surgeon” means a physician or surgeon licensed or authorized to practice under the laws of any state.

(8) “State” includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(9) “Organ procurement organization” means the agency or organization designated by the United States Department of Health and Human Services as the organ procurement agency for the State.

**SECTION 44‑43‑330.** Authority to make gift; notice to donee of opposition to donation; examination to assure medical acceptability; status of rights of donee.

(A) An individual of sound mind and eighteen years of age or more may give all or any part of his body for any purposes specified in Section 44‑43‑340, the gift to take effect upon death.

(B) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent’s body for any purposes specified in Section 44‑43‑340:

(1) an attorney‑in‑fact appointed by the decedent in a durable power of attorney executed pursuant to Section 62‑5‑501, if the decision is within the scope of his authority;

(2) a spouse of the decedent unless the spouse and the decedent are separated pursuant to one of the following:

(a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement;

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the spouse and the decedent;

(3) a parent or adult child of the decedent;

(4) an adult sibling, grandparent, or adult grandchild of the decedent;

(5) a guardian of the person of the decedent at the time of his death;

(6) any other person authorized or under obligation to dispose of the body.

(C) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee must not accept the gift. The persons authorized by this section may make the gift after death or immediately before death.

(D) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(E) The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 44‑43‑380(D).

**SECTION 44‑43‑340.** Qualified donees.

The following persons may become donees of gifts of bodies or parts of bodies for the purposes stated:

(1) a hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(2) an accredited medical or dental school or college or university for education, research, advancement of medical or dental science, or therapy;

(3) a bank or storage facility for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(4) a specified individual for therapy or transplantation needed by that individual.

**SECTION 44‑43‑350.** Methods of making gift; revocability; determination of donor status at scene of accident.

(A) A gift of all or part of the body under Section 44‑43‑330(A) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(B) A gift of all or part of the body under Section 44‑43‑330(A) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of two witnesses who must sign the document in the donor’s presence. If the donor cannot sign, the document may be signed for the donor at his direction and in the donor’s presence, and in the presence of two witnesses who must sign the document in the donor’s presence. Delivery of the document of gift during the donor’s lifetime is not necessary to make the gift valid.

(C) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection must not participate in the procedures for removing or transplanting a part.

(D) Notwithstanding Section 44‑43‑380(B), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(E) A gift by a person designated in Section 44‑43‑330(B) must be made by:

(1) a document signed by that person or an oral designation witnessed by at least two people; or

(2) that person’s telephonic or recorded message.

(F) If an organ and tissue donor card, donor driver’s license, living will, durable power of attorney, or other document of gift evidencing a gift of organs or tissue, or any combination of these, has been executed, the consent required pursuant to Section 44‑43‑330 is not required to render the gift valid and effective.

(G) A gift of all or part of the body, regardless of the document making such gift or donation, that is not revoked by the donor before death, is irrevocable and does not require the consent or concurrence of any person after the donor’s death to render the gift of the donor valid and effective.

(H) Coroners, law enforcement officers, and emergency personnel responding to the scene of an accident or trauma shall take reasonable steps to ensure that the driver’s license, organ and tissue donor card, or other evidence that the individual is an organ or tissue donor and a medical alert bracelet, if any, of the individuals involved in the accident or trauma, accompany the individuals to the hospital or other health care facility.

**SECTION 44‑43‑360.** Delivery or deposit of document of gift or copy thereof.

If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy of one of these, may be delivered to the donee to expedite the appropriate procedures immediately after death; however, delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy of one of these may be deposited in any hospital, bank, or storage facility or registry office that accepts them for safekeeping or for facilitation of procedures after death. On request of an interested party upon or after the donor’s death, the person in possession shall produce the document for examination.

**SECTION 44‑43‑370.** Amendment or revocation of gift.

(A) If a will, card, or other document, or executed copy of one of these, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) the execution and delivery to the donee of a signed statement;

(2) an oral statement made in the presence of two persons and communicated to the donee;

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee;

(4) a signed card or document found on his person or in his effects.

(B) A document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (A) or by destruction, cancellation, or mutilation of the document and all executed copies of the document.

(C) A gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (A).

**SECTION 44‑43‑380.** Acceptance or rejection by donee; funeral service; removal of donated parts; determination of time of death; immunity; autopsy laws.

(A) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the donee may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(B) The time of death must be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. This physician must not participate in the procedures for removing or transplanting a part.

(C) A person who acts in good faith in accord with the terms of this article, or under the anatomical gift laws of another state, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act. However, immunity from civil liability does not extend to cases of provable malpractice on the part of a physician, surgeon, or other medical attendant.

(D) The provisions of this article are subject to the laws of this State prescribing powers and duties with respect to autopsies.

**SECTION 44‑43‑400.** Construction.

This article must be liberally construed to effectuate the wishes of the donor.

**SECTION 44‑43‑410.** Organ donations where donee not specified by donor.

If an anatomical gift is made in this State of an organ for transplantation purposes for which the donor does not name a specific donee and if the organ is deemed suitable for transplantation to an individual, the organ must be donated to the organ procurement organization designated by the United States Department of Health and Human Services as the organ procurement agency for the State. The organ procurement organization shall use its best efforts to determine if there is a suitable recipient in this State.

**SECTION 44‑43‑420.** Reciprocal agreements for sharing organs with other states; restrictions and exceptions.

(A) The organ procurement organization may enter into reciprocal agreements for the sharing of organs with qualified organ procurement organizations in other states that the organ procurement organization considers advisable, necessary, or expedient. However, before the organ procurement organization enters into a reciprocal agreement, the proposed agreement must be approved by the Organ Procurement and Transplantation Network under contract to the United States Department of Health and Human Services.

(B) Except as may otherwise be provided for by an agreement entered into pursuant to subsection (A), the organ procurement organization may only transfer an organ to an out‑of‑state organ procurement organization or suitable out‑of‑state recipient for transplantation only if a suitable recipient in this State cannot be found in a reasonable amount of time.

ARTICLE 6.

 UNIFORM DETERMINATION OF DEATH ACT

**SECTION 44‑43‑450.** Short title.

This act may be cited as the Uniform Determination of Death Act.

**SECTION 44‑43‑460.** When individual is deemed to be dead; standards applicable to determination.

An individual who has sustained irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

ARTICLE 7.

 DISTRIBUTION OF DEAD BODIES FOR SCIENTIFIC PURPOSES

**SECTION 44‑43‑510.** Board for distribution and delivery of dead human bodies; composition.

The faculty members of the departments of anatomy and surgery of the Medical University of South Carolina and the University of South Carolina, School of Medicine, or any other colleges or schools of this State authorized by law to teach medical science and issue diplomas, constitute a board for the distribution and delivery of dead human bodies as and for the purpose provided in this article.

**SECTION 44‑43‑520.** Adoption of rules and regulations; records.

The board may adopt rules and promulgate regulations for its government and the proper discharge of its functions. The board shall keep a record of its proceedings and particularly of all bodies received and distributed. These records must be open at all times to the inspection of each member of the board and the Attorney General and the solicitor of each circuit in the State.

**SECTION 44‑43‑530.** Dead bodies available to board; notification of availability.

Each officer, agent, and servant of every city in the State and of every almshouse, prison, morgue, hospital, jail, or other public institution in cities having charge or control of any dead human body that is required to be buried at the public expense and every officer or other person having charge or control of the body of any person upon whom the sentence of death for crime has been executed under the law shall notify the board, or the person or persons as may, from time to time, be designated by the board or the board’s authorized officer or agent, whenever and as soon as a body comes to the person’s possession, charge, or control and shall, without fee or reward, deliver the body and permit the board and its agents, and physicians and surgeons as may, from time to time, be designated by the board, to take and remove the body to be used for the advancement of medical science.

**SECTION 44‑43‑540.** Dead bodies not available to board.

Notice is not required to be given and a body must not be delivered if a person claiming to be, and satisfying the authorities in charge of the body that he is, of kin or related by marriage to the deceased claims the body for burial and pays the burial expenses; and notice is not required to be given for the body to be delivered if the deceased was a traveler who died suddenly.

**SECTION 44‑43‑550.** Distribution of bodies.

The bodies received must be distributed by the board to and among medical colleges and schools of the State and physicians and surgeons as the board may designate. The colleges and schools first must be supplied with bodies needed for lectures and demonstration. The remaining bodies must be distributed equitably among the physicians and surgeons; however, in equitable distribution of the bodies, the physicians and surgeons of the city where the death of the person took place have prior right to receive the body. The board, instead of by themselves or through their agents receiving and delivering bodies, may, from time to time, either directly or by their officers or agents, designate physicians and surgeons to receive the bodies and the number each shall receive. For the purpose of the distribution contemplated by this section, a body must be held, subject to the order of the board or its authorized agent, in the city where death occurs not less than twenty‑four hours.

**SECTION 44‑43‑560.** Conveyance of bodies.

The board may employ a carrier or carriers for conveyance of bodies, which must be well enclosed in a suitable case and carefully deposited, free from public observation. Every carrier shall obtain a receipt by name or, if the person be unknown, by a description for each body delivered by the carrier and deposit the receipt with the board or its authorized agent. After the bodies have been sufficiently used for the purposes of instruction, the bodies must be decently and respectfully disposed of by the university, college, physicians, or surgeons, as the case may be, receiving them.

**SECTION 44‑43‑570 Omitted by 2006 Act No.** 334, Section 1, eff June 2, 2006.

**SECTION 44‑43‑580.** Traffic in dead bodies; penalty; authorization to traffic in anatomical material and pathological specimens.

(A) It is unlawful for a person to sell or buy a dead human body or in any way to traffic in dead human bodies.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or, in the discretion of the court, be imprisoned not more than one year; however, the board may, on the application of any person, empower that person to import into this State and traffic in anatomical material and pathological specimens as the board may designate.

**SECTION 44‑43‑590.** Penalties.

If a person fails or refuses to perform any duty imposed upon him by this article the person must, for every failure or refusal, be fined not less than one hundred or more than five hundred dollars.

ARTICLE 9.

 POST‑MORTEM EXAMINATIONS

**SECTION 44‑43‑710.** Consent; who may give consent.

A pathologist or a licensed physician or surgeon may conduct a postmortem examination on a dead human body when consent is given in writing by the person prior to his death or when consent is given by the spouse of the deceased; but if the spouse at the time of death was living apart from the deceased, or, if there is no spouse surviving, the consent may be given by whichever one of the next of kin, as determined by law of this State, assumes custody of the body for burial purposes; however, the autopsy must not be performed under a consent given by a person if, before the autopsy is performed, any other next of kin objects in writing to the person by whom the autopsy is to be performed. If two or more persons assume custody of the body, consent of one of them is sufficient. If no next of kin assumes custody of the body for burial purposes, consent may be given by the person who assumes custody of the body for burial. If all of the next of kin are minors, the consent of a minor who is sixteen years of age or older is sufficient. A consent purporting to have been given by a person authorized to give consent is conclusively presumed to have been given by the person.

**SECTION 44‑43‑720.** Consent required for certain autopsies and postmortem examinations; use of body parts restricted; form of consent.

(A) Except for an autopsy or postmortem examination ordered by a coroner or medical examiner, no autopsy or postmortem examination may be performed unless the person authorizing the autopsy or postmortem examination has given informed consent to the procedure. The person giving the informed consent must be given the opportunity to give informed consent and authorize the procedure on a witnessed, written consent form using language understandable to the average lay person after face‑to‑face communication with a physician about the procedure. If the person authorizing the procedure is unable to consent in person, consent may be given through a recorded telephonic communication.

(B) In performing an autopsy or postmortem examination, no body parts, as defined in Section 44‑43‑320, removed from the body may be used for any purpose other than to determine the cause or manner of death unless the person authorizing the autopsy or postmortem examination has given informed consent to the procedure. The person giving the informed consent must be given the opportunity to give informed consent on a witnessed, written consent form using language understandable to the average lay person after face‑to‑face communication with a physician about the procedure. If the person authorizing the procedure is unable to consent in person, consent may be given through a recorded telephonic communication.

ARTICLE 11.

 HOSPITAL POLICY AND PROTOCOL FOR ORGAN AND TISSUE DONATION

**SECTION 44‑43‑910.** Definitions.

As used in this article:

(1) “Brain death” means irreversible cessation of all functions of the brain, including the brain stem, as determined in accordance with accepted medical standards.

(2) “Hospital” means a hospital licensed, accredited, or approved under the laws of this State and includes a hospital operated by the United States or the State or its subdivisions, although not required to be licensed under state law.

(3) “Potential organ or tissue donor” means a person who has died or is dying in circumstances that give rise to a reasonable medical belief that the person will meet the medical criteria for donation of at least one organ including, but not limited to, the heart, lung, liver, pancreas, and kidneys or any tissue including, but not limited to, heart valves, eyes, bone, cartilage, skin, ligaments, tendons, and fascia.

(4) “Organ and Tissue Procurement Organization” means the organ procurement organization designated to perform organ recovery services in South Carolina by the United States Department of Health and Human Services which also has the capability to procure tissues.

**SECTION 44‑43‑920.** Organ and tissue donor policies and continuing education.

A hospital shall establish policies on organ and tissue donation, as well as on related continuing education, in accordance with applicable federal and state laws and regulations.

**SECTION 44‑43‑930.** Notification of organ procurement organization.

When death is imminent or has occurred, the hospital shall notify the organ procurement organization in a timely manner in accordance with applicable federal and state laws and regulations.

**SECTION 44‑43‑940.** Collaboration in support of donation process.

All relevant hospital administration and staff shall collaborate with the organ and tissue procurement organization in a cooperative effort to support and promote the donation process.

**SECTION 44‑43‑945.** Determination of appropriateness of donation; contacting person authorized to give consent.

(A) If upon referral of a potential organ or tissue donor, the organ and tissue procurement organization determines that the donation is not appropriate based on established medical criteria, this determination must be noted by hospital personnel on the patient’s record. Within two hours of this determination or within two hours of a patient’s death and the deceased patient’s next‑of‑kin designating a funeral director, the hospital shall notify the funeral director of this designation and when the body of the deceased will be made available to the funeral director. If the organ and tissue procurement organization determines that the patient is a suitable candidate for organ or tissue donation, or both, a representative of the organ and tissue procurement organization or a person designated by the organ and tissue procurement organization shall contact the appropriate person authorized to consent to the donation pursuant to Section 44‑43‑330 to ascertain if the deceased is an organ or tissue donor, or both, and if not, to inform the person about and the procedures for organ and tissue donation.

(B) Discretion and sensitivity to family circumstances and religious beliefs must be used in all contacts with family members regarding organ and tissue donation.

**SECTION 44‑43‑950.** Consent.

As provided in Section 44‑43‑330, persons in the stated order of priority may give consent for organ or tissue donation.

**SECTION 44‑43‑960.** Permission of, or referral by, medical examiner or coroner.

If a death is under the jurisdiction of the coroner or medical examiner, as provided in Section 17‑5‑530, written or verbal permission must be obtained by the organ and tissue procurement organization from the coroner or medical examiner before organ or tissue recovery. A coroner or medical examiner shall refer to the designated organ and tissue procurement organization in South Carolina as a potential donor a person whose death occurs outside of a hospital.

**SECTION 44‑43‑970.** Exclusive agency for receipt of referrals and donations.

(A) LifePoint, Inc., within the territory designated pursuant to federal law, is the exclusive agency to receive potential organ donor referrals and organ donations and tissue referrals and tissue donations so long as this entity remains and is certified by the Centers for Medicare and Medicaid Services and abides by the regulations of the Organ Procurement Transplantation Network and the United Network for Organ Sharing or its successor.

(B) LifePoint, Inc., annually by April first shall submit a report to the General Assembly concerning its activities and the incidence of organ and tissue donation.

**SECTION 44‑43‑980.** Omitted by 2006 Act No. 334, Section 1, eff June 2, 2006.

**SECTION 44‑43‑985.** Fees.

The organ and tissue procurement organization may not assess a charge, fee, or cost against another procurement agency for referral of an organ or tissue donor. However, reasonable charges for related services pursuant to contractual relationships are permissible.

**SECTION 44‑43‑1000.** Documentation required in medical records of patients identified as potential donors.

The following must be documented in the medical records of patients identified as potential organ or tissue donors:

(1) why a family is not contacted to request organ or tissue donation;

(2) when a family is contacted to request organ or tissue donation and the outcome of the contact;

(3) disposition of a referral to a procurement agency, including acceptance or rejection by the agency. The appropriate procurement agency shall notify the referring hospital of the disposition;

(4) other documentation as may be required by federal or state law or regulation.

**SECTION 44‑43‑1010.** Costs pertaining to donation paid by procurement agency.

All hospital and physician charges following declaration of brain death that pertain to organ and tissue donation must be paid by the appropriate procurement agency and must not be charged to the donor’s estate. Procurement costs incurred by the agency must not be charged to the donor’s estate.

**SECTION 44‑43‑1015.** Death record reviews.

Each hospital shall work collaboratively with the organ and tissue procurement organization in conducting periodic death record reviews.

ARTICLE 13.

 DONATE LIFE SOUTH CAROLINA

**SECTION 44‑43‑1310.** Donate life South Carolina established; purpose.

There is established Donate Life South Carolina, an eleemosynary corporation, the resources of which must be used to promote and encourage organ and tissue donation and education and to assess and assist with the needs of transplant recipients in South Carolina. Donate Life may accept gifts, bequests, and grants from individuals, foundations, organizations, associations, and any other source. Donate Life supplements and augments services provided by state agencies and does not take the place of these services.

**SECTION 44‑43‑1320.** Administration; board of directors.

(A) Donate Life South Carolina is to be administered by a board of directors appointed by the Governor, with the advice and consent of the Senate, and is composed of:

(1) one representative from a civic organization that promotes organ or tissue donation or both;

(2) four members representing organ and tissue recipients, families of recipients, and families of donors who are residents of South Carolina; of these four members, one each must represent the Lowcountry, Pee Dee, Midlands, and Piedmont regions of the State;

(3) one forensic pathologist who is a resident of and who is licensed to practice medicine in South Carolina;

(4) four at‑large members who have demonstrated an interest in organ and tissue donation and education and who are residents of this State.

(B) Members shall serve terms of four years and until successors are appointed and qualify. A board member may be removed by the Governor in accordance with Section 1‑3‑240(B). Members may serve no more than two full terms, except that there is no limit to the number of terms that a forensic pathologist may serve. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

**SECTION 44‑43‑1330.** Reimbursement of expenses of board numbers.

Board members are not entitled to per diem but may be reimbursed for mileage and all necessary and reasonable expenses incurred in the performance of their duties under this article.

**SECTION 44‑43‑1340.** Authority of trust fund board; particular powers.

In administering this article, the board is authorized, but not limited to:

(1) develop and implement educational programs and campaigns to increase organ and tissue donation in South Carolina;

(2) make policy recommendations for the promotion of organ and tissue donation in South Carolina;

(3) assess the needs of transplant recipients and establish priorities and develop goals and objectives to assist transplant recipients who are residents of South Carolina;

(4) determine how the monies in the fund are to be disbursed;

(5) acquire and hold property;

(6) invest trust monies, including pooled investment funds maintained by the State;

(7) utilize local resources including volunteers when appropriate.

**SECTION 44‑43‑1350.** Election of chairman; adoption of rules; meetings; quorum.

The board shall elect a chairman from among its members and shall adopt rules for the governance of its operations. The board shall meet at least semiannually. Six members constitute a quorum.

**SECTION 44‑43‑1360.** Administration of article.

The board may employ a director and other staff as necessary to carry out the provisions of this article; however, administration of this article may not exceed twenty percent of the total funds credited to Donate Life South Carolina, excluding the administrative fee paid to the Department of Revenue pursuant to Sections 12‑6‑5065 and 59‑1‑143.

**SECTION 44‑43‑1370.** Uses of resources.

Funds credited to Donate Life South Carolina, excluding the administrative fees paid to the Department of Revenue, may be used for, but are not limited to:

(1) administration of this article including, but not limited to, personnel and board expenses;

(2) development and promotion of organ and tissue donor public awareness educational programs in cooperation with LifePoint, Inc., and the United Network for Organ Sharing;

(3) encouraging the incorporation of organ and tissue donation education into the medical and nursing school curriculums of the Medical University of South Carolina and the University of South Carolina, School of Medicine; if funds are provided to a university for this educational purpose, the university annually shall conduct a survey to determine if attitudes of its students and graduates have been altered by the curriculum. The results of the survey must be submitted to Donate Life;

(4) a reserve fund in an interest‑bearing account with five percent of the funds received by Donate Life annually to be placed in this account. No withdrawals may be made from this account until the minimum balance has reached one hundred thousand dollars and then these funds may only be used in years in which donations do not meet the average normal operating cost incurred by Donate Life and funds are needed to meet expenses. Once the balance in the reserve funds reaches one hundred thousand dollars, excess funds earned by interest and yearly allocations may be used at the discretion of the board to cover operating costs and to provide additional funds.

**SECTION 44‑43‑1380.** Annual report of board to General Assembly.

Donate Life South Carolina board annually by February first shall submit a report to the General Assembly concerning its expenditures of funds, activities, and the incidence of organ and tissue donation.

ARTICLE 14.

 ORGAN AND TISSUE DONOR REGISTRY

**SECTION 44‑43‑1410.** Donor registry established; membership; terms.

(A) There is established the South Carolina Organ and Tissue Donor Registry which must be exclusively administered by Donate Life South Carolina. The registry shall include individuals who have indicated a willingness to be an organ and tissue donor by a designation on a driver’s license, state identification card, donor card, online, or any other donor registry form or any other document of gift.

(B) The purpose of the registry is to:

(1) facilitate the recovery of anatomical gifts for transplantation, therapy, research, and education;

(2) collect data to develop and evaluate the effectiveness of educational initiatives promoting organ and tissue donation.

**SECTION 44‑43‑1420.** Development of procedures for obtaining donor registrants.

Donate Life South Carolina shall develop procedures for collecting organ and tissue donor registrants from existing databases including, but not limited to, obtaining donor information from the driver’s license data bank maintained by the Department of Motor Vehicles. Donate Life also may develop other procedures including, but not limited to, establishing online donor registry enrollment.

**SECTION 44‑43‑1430.** Registrant information.

Donate Life South Carolina shall maintain and update the following information which must be included in the registry on each registrant:

(1) full name, address, sex, birth date, and race;

(2) driver’s license number or other unique identifying number; and

(3) other pertinent identifying personal information.

**SECTION 44‑43‑1440.** Contents of procedures for administration of donor registry.

In developing procedures for the administration of the donor registry, Donate Life South Carolina shall specify:

(1) a process for updating information in the registry including a method whereby an individual may revoke his or her intent to be an organ and tissue donor;

(2) a method for making information available to organ procurement organizations seven days a week twenty‑four hours a day;

(3) limitations on the use of and access to the registry.

**SECTION 44‑43‑1450.** Confidentiality.

All information contained in the registry is confidential and only may be accessed by procurement organizations that are licensed, accredited, or regulated under federal or state law, and only for the purpose of identifying a potential donor. Identifying information on a registrant or donor may not be disclosed or used for any other purpose without the express written consent of the registrant, donor, or the person who made the anatomical gift.