

## **Description of Uniform Anatomical Gift Act (UAGA)**

The UAGA is a federal law, first declared in 1968. This Act created the power to donate organs, eyes and tissue for transplant purposes throughout the United States. It was revised in 1987 and 2006 to reflect changes in the practice of organ donation, and the critical need to save more lives through donation. Because of the UAGA,

- Individuals can document their wish to be donors upon or after death through a Donor Registry
- Parents or guardians can make an anatomical gift during a minor's lifetime
- Families are dis-empowered from making or refusing to make anatomical gifts in contradiction to a registered donor's wishes.
- If someone's wishes are unknown, a spouse or relative can make the decision to donate.
- The trafficking of organs for profit is illegal.

You can learn more about federal and state laws regarding donation at [organdonor.gov](http://organdonor.gov).

## Revisions made to UAGA in 2007

### Revised UAGA, adopted in Oregon May 2007: SB2163

**97.955 Purpose of anatomical gift; persons authorized to make gift.** (1) Subject to ORS 97.963, a donor may make an anatomical gift of a donor's body or body part during the life of the donor for the purpose of transplantation, therapy, research or education.

(2) An anatomical gift may be made in the manner provided in ORS 97.957 by:

(a) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under ORS 807.280 to apply for an instruction driver permit because the donor is at least 15 years of age;

(b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(c) A parent of the donor, if the donor is an unemancipated minor; or

(d) The donor's guardian. [2007 c.681 §3]

**Note:** See note under 97.951.

**97.956** [1995 c.717 §4; 1997 c.472 §7; 1999 c.201 §3; repealed by 2007 c.681 §31]

**97.957 Methods of making anatomical gift before death of donor.** (1) A donor may make an anatomical gift:

(a) By a designation on the donor's driver license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness;

(d) By a donor card or other record signed by the donor or other person making the gift; or

(e) By authorizing that a statement, symbol or designation indicating that the donor has made an anatomical gift is to be included on a donor registry.

(2) If the donor or other person authorized to make an anatomical gift under ORS 97.955 is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

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

- (b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.
- (3) Revocation, suspension, expiration or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.
- (4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift. [2007 c.681 §4]

## REVISED UNIFORM ANATOMICAL GIFT ACT

**97.951 Short title.** ORS 97.951 to 97.982 may be cited as the Revised Uniform Anatomical Gift Act. [2007 c.681 §1]

**Note:** 97.951 to 97.982 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 97 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**97.952** [1995 c.717 §2; 1997 c.472 §5; 2005 c.505 §2; repealed by 2007 c.681 §31]

**97.953 Definitions.** As used in ORS 97.951 to 97.982:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Agent" means an:
  - (a) Attorney-in-fact as that term is defined in ORS 127.505; or
  - (b) Individual expressly authorized to make an anatomical gift on the principal's behalf by any record signed by the principal.
- (3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education.
- (4) "Body part" means an organ, an eye or tissue of a human being. The term does not include the whole body.
- (5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift, and includes a stillborn infant or a fetus.
- (6)(a) "Disinterested witness" means a witness other than:
  - (A) A spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift; or
  - (B) An adult who exhibited special care and concern for the individual.
- (b) "Disinterested witness" does not include a person to whom an anatomical gift could pass under ORS 97.969.
- (7) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement, symbol or designation on a driver license, identification card or donor registry.
- (8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.
- (9) "Donor registry" means a centralized database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (10) "Driver license" means a license or permit issued under ORS 807.040, 807.200 or 807.280, regardless of whether conditions are attached to the license or permit.

(11) “Eye bank” means an organization licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

(12) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. “Guardian” does not include a guardian ad litem.

(13) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state.

(14) “Identification card” means the card issued under ORS 807.400 or a comparable provision of the motor vehicle laws of another state.

(15) “Know” means to have actual knowledge.

(16) “Minor” means an individual who is under 18 years of age.

(17) “Organ procurement organization” means an organization designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) “Parent” means a parent whose parental rights have not been terminated.

(19) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.

(20) “Procurement organization” means an eye bank, organ procurement organization or tissue bank.

(21) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal.

(22) “Reasonably available” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(23) “Recipient” means an individual into whose body a decedent’s body part has been or is intended to be transplanted.

(24) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) “Refusal” means a record that expressly states an intent to prohibit other persons from making an anatomical gift of an individual’s body or body part.

(26) “Sign” means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

(27) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(28) “Technician” means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator.

(29) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(30) “Tissue bank” means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

(31) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients. [2007 c.681 §2]

**Note:** See note under 97.951.

**97.954** [1995 c.717 §3; 1997 c.472 §6; 1999 c.201 §2; 2005 c.505 §3; repealed by 2007 c.681 §31]

**97.955 Purpose of anatomical gift; persons authorized to make gift.** (1) Subject to ORS 97.963, a donor may make an anatomical gift of a donor’s body or body part during the life of the donor for the purpose of transplantation, therapy, research or education.

(2) An anatomical gift may be made in the manner provided in ORS 97.957 by:

(a) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under ORS 807.280 to apply for an instruction driver permit because the donor is at least 15 years of age;

(b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(c) A parent of the donor, if the donor is an unemancipated minor; or

(d) The donor’s guardian. [2007 c.681 §3]

**Note:** See note under 97.951.

**97.956** [1995 c.717 §4; 1997 c.472 §7; 1999 c.201 §3; repealed by 2007 c.681 §31]

**97.957 Methods of making anatomical gift before death of donor.** (1) A donor may make an anatomical gift:

(a) By a designation on the donor’s driver license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness;

(d) By a donor card or other record signed by the donor or other person making the gift; or

(e) By authorizing that a statement, symbol or designation indicating that the donor has made an anatomical gift is to be included on a donor registry.

(2) If the donor or other person authorized to make an anatomical gift under ORS 97.955 is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

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

(b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.

(3) Revocation, suspension, expiration or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift. [2007 c.681 §4]

**Note:** See note under 97.951.

**97.958** [1995 c.717 §5; 1997 c.472 §8; 1999 c.201 §4; 2005 c.505 §4; repealed by 2007 c.681 §31]

**97.959 Revocation or amendment of anatomical gift before death of donor.** (1) Except as provided in ORS 97.963, a donor or other person authorized to make an anatomical gift under ORS 97.955 may amend or revoke an anatomical gift by:

(a) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(C) of this section must:

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

(b) State that it has been signed and witnessed as required in this subsection.

(3) Except as provided in ORS 97.963, a donor or other person authorized to make an anatomical gift under ORS 97.955 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

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

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (3) of this section. [2007 c.681 §5]

**Note:** See note under 97.951.

**97.960** [1995 c.717 §6; 1997 c.472 §9; repealed by 2007 c.681 §31]

**97.961 Refusal to make anatomical gift; effect of refusal.** (1) An individual may refuse to make an anatomical gift of the individual's body or body part by:

(a) A record signed by:

(A) The individual; or

(B) Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

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

(2) A record signed under subsection (1)(a)(B) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) State that it has been signed and witnessed as provided in this subsection.

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection (1) of this section for making a refusal;

(b) By subsequently making an anatomical gift pursuant to ORS 97.957 that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, provided that the destruction or cancellation is done with the intent to revoke the refusal.

(4) Except as otherwise provided in ORS 97.963 (8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or body part prohibits all other persons from making an anatomical gift of the individual's body or body part. [2007 c.681 §6]

**Note:** See note under 97.951.

**97.962** [1995 c.717 §7; repealed by 2007 c.681 §31]

**97.963 Effect of making, amending or revoking anatomical gift.** (1) Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is prohibited from making, amending or revoking an anatomical gift of a donor's body or body part if the donor made an anatomical gift of the donor's body or body part under ORS 97.957 or an amendment to an anatomical gift of the donor's body or body part under ORS 97.959.

(2) A donor's revocation of an anatomical gift of the donor's body or body part under ORS 97.959 is not a refusal and does not prohibit another person specified in ORS 97.955 or 97.965 from making an anatomical gift of the donor's body or body part under ORS 97.957 or 97.967.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under ORS 97.957 or an amendment to an anatomical gift of the donor's body or body part under ORS 97.959, another person may not make, amend or revoke the gift of the donor's body or body part under ORS 97.967.

(4) A revocation of an anatomical gift of a donor's body or body part under ORS 97.959 by a person other than the donor does not prohibit another person from making an anatomical gift of the body or body part under ORS 97.957 or 97.967.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ORS 97.955, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or other person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ORS 97.955, an anatomical gift of a body part for one or more of the purposes set forth in ORS 97.955 is not a limitation on the making of an anatomical gift of

the body part for any of the other purposes by the donor or other person under ORS 97.957 or 97.967.

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

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal. [2007 c.681 §7]

**Note:** See note under 97.951.

**97.964** [1995 c.717 §8; 2005 c.505 §5; repealed by 2007 c.681 §31]

**97.965 Persons authorized to make anatomical gift of body or body part of decedent.** (1) Subject to subsections (2) and (3) of this section and unless prohibited by ORS 97.961 or 97.963, an anatomical gift of a decedent's body or body part for purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the following order:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under ORS 97.955 (2)(b) immediately before the decedent's death;

(b) The spouse of the decedent;

(c) An adult child of the decedent;

(d) A parent of the decedent;

(e) An adult sibling of the decedent;

(f) An adult grandchild of the decedent;

(g) A grandparent of the decedent;

(h) An adult who exhibited special care and concern for the decedent;

(i) A guardian of the decedent at the time of death; or

(j) Any other person having the authority to dispose of the decedent's body.

(2) If there is more than one member of a class listed in subsection (1) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under ORS 97.969 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift. [2007 c.681 §8]

**Note:** See note under 97.951.

**97.966** [Formerly 97.295; 2007 c.681 §30; renumbered 97.984 in 2007]

**97.967 Methods for making, amending or revoking anatomical gift of body or body part of decedent by authorized person.** (1) A person authorized to make an anatomical gift under ORS 97.965 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.



(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under ORS 97.965 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under ORS 97.965 may be:

(a) Amended only if a majority of the reasonably available members agree to amendment of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revocation of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a body part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, physician or technician knows of the revocation. [2007 c.681 §9]

**Note:** See note under 97.951.

**97.968** [Formerly 97.300; renumbered 97.985 in 2007]

**97.969 Authorized recipients of anatomical gifts; purposes for which gift may be used.**

(1) An anatomical gift may be made to the following persons named in the document of gift:

(a) A hospital, accredited medical school, dental school, college, university, organ procurement organization or other appropriate person, for research or education;

(b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the body part; or

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the body part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one or more specific body parts or of all body parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the body part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the body part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the body part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purposes of subsection (3) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one or more specific body parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the

purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor,” “organ donor” or “body donor” or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(7) For purposes of subsections (2), (5) and (6) of this section, the following rules apply:

(a) If the body part is an eye, the gift passes to the appropriate eye bank.

(b) If the body part is tissue, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) to (8) of this section or the decedent’s body or body part is not used for transplantation, therapy, research or education, custody of the body or body part passes to the person under obligation to dispose of the body or body part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under ORS 97.957 or 97.967 or if the person knows that the decedent made a refusal under ORS 97.961 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b) of this section, ORS 97.951 to 97.982 do not affect the allocation of organs for transplantation or therapy. [2007 c.681 §10]

**Note:** See note under 97.951.

**97.970 Search for document of anatomical gift or refusal; duty to send document or refusal to hospital.** (1) The following persons shall make a reasonable search of an individual who the persons reasonably believe is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic or other emergency rescuer finding the individual; and

(b) If no other source of the information is immediately available, a hospital, as soon as practicable after the individual’s arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or the refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions. [2007 c.681 §11]

**Note:** See note under 97.951.

**97.971 Delivery of document of gift or refusal not required; right to examine.** (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or the refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to whom the gift could pass under ORS 97.969. [2007 c.681 §12]

**Note:** See note under 97.951.

**97.972 Rights and duties of procurement organizations and others; authorized examinations.** (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Transportation and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the Department of Transportation to ascertain whether an individual at or near death is a donor.

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

(4) Unless otherwise prohibited by law, at any time after a donor's death, the person to whom a body part passes under ORS 97.969 may conduct any reasonable examination necessary to ensure the medical suitability of the body or body part for its intended purpose.

(5) Unless otherwise prohibited by law, an examination under subsection (3) or (4) of this section may include an examination of all medical and dental records of the donor or prospective donor.

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

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in ORS 97.965 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to ORS 97.969 (9) and 97.980, the rights of the person to whom a body part passes under ORS 97.969 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and ORS 97.951 to 97.982, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation and use of remains in a funeral service. If the gift is of a body part, the person to whom the body part passes under ORS 97.969, upon the death

of the donor and before embalming, burial or cremation, shall cause the body part to be removed without unnecessary mutilation.

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

(10) A physician or technician may remove from the body of a donor a donated body part that the physician or technician is qualified to remove. [2007 c.681 §13]

**Note:** See note under 97.951.

**97.973 Coordination of procurement and use of anatomical gifts.** Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. [2007 c.681 §14]

**Note:** See note under 97.951.

**97.974 Immunity of persons acting in accordance with ORS 97.951 to 97.982.** (1) A person who acts in accordance with ORS 97.951 to 97.982 or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

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

(3) In determining whether an anatomical gift has been made, amended or revoked under ORS 97.951 to 97.982, a person may rely upon representations of an individual listed in ORS 97.965 (1)(b), (c), (d), (e), (f), (g) or (h) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue. [2007 c.681 §15]

**Note:** See note under 97.951.

**97.975** [Formerly 97.930; renumbered 97.987 in 2007]

**97.976 Law governing validity of document of gift; presumption of validity.** (1) A document of gift is valid if executed in accordance with:

(a) ORS 97.951 to 97.982;

(b) The laws of the state or country where it was executed; or

(c) The laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked. [2007 c.681 §16]

**Note:** See note under 97.951.

**97.977 Donor registry; duty of Department of Transportation to cooperate with donor registry.** (1)(a) The Department of Human Services may allow an organ procurement organization to establish a donor registry.

(b) Only one donor registry may be established within this state.

(c) The donor registry shall comply with subsections (3) and (4) of this section.

(2) The Department of Transportation shall:

(a) Cooperate with a person who administers the donor registry established under subsection (1) of this section for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amending or revoking an anatomical gift.

(b) When requested by the organ procurement organization that has established the donor registry in this state, the department shall electronically transfer to the organ procurement organization the name, address, birthdate and donor designation listed on the driver license or identification card of a person designated as a donor. The organ procurement organization shall treat the information transferred from the department as confidential and may use the information only to expedite the making of anatomical gifts authorized by the donor.

(3) The donor registry must:

(a) Allow a donor or other person authorized under ORS 97.955 to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(b) Be accessible to a procurement organization to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(c) Be accessible for purposes of this subsection seven days a week on a 24-hour basis.

(4) Personally identifiable information on the donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift. [2007 c.681 §17]

**Note:** See note under 97.951.

**97.978 Resolution of conflict between potential anatomical gift and advance directive.**

(1) As used in this section:

(a) "Advance directive" has the meaning given that term in ORS 127.505.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision regarding the health care of a prospective donor.

(2) If a prospective donor has a declaration or advance directive and the terms of the declaration or advance directive and the express or implied terms of a potential anatomical gift are in conflict regarding administration of measures necessary to ensure the medical suitability of a body part for transplantation, therapy, research or education, the prospective donor and the prospective donor's attending physician shall confer to resolve the conflict.

(3) If the prospective donor is incapable of resolving the conflict, one of the following persons shall act for the prospective donor to resolve the conflict:

(a) An agent acting under the prospective donor's declaration or advance directive; or

(b) If an agent is not named in the declaration or advance directive or the agent is not reasonably available, another person authorized by law, other than in ORS 97.951 to 97.982, to make health care decisions for the prospective donor.

(4) The conflict must be resolved as expeditiously as possible.

(5) Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any person authorized under ORS 97.965 to make an anatomical gift for the prospective donor.

(6) During the resolution of the conflict, measures necessary to ensure the medical suitability of the body part may not be withheld or withdrawn from the prospective donor unless withholding or withdrawing the measures is medically indicated by appropriate end of life care. [2007 c.681 §18]

**Note:** See note under 97.951.

**97.979 Cooperation between medical examiner and procurement organization.** (1) A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.

(2) Subject to ORS 97.980, if a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the medical examiner and a post-mortem examination is going to be performed, the medical examiner or designee shall conduct a post-mortem examination of the body or the body part in a manner and within a period compatible with its preservation for the purposes of the gift.

(3) A body part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research or education unless the body part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing the medicolegal investigation upon the body or body parts of a decedent under the jurisdiction of the medical examiner. [2007 c.681 §19]

**Note:** See note under 97.951.

**97.980 Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.** (1) Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's body or body part is medically suitable for transplantation, therapy, research or education, the medical examiner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner only if relevant to transplantation, therapy, research or education.

(2) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X-rays, other diagnostic results and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner that the medical examiner determines may be relevant to the investigation.

(3) A person who has any information requested by a medical examiner pursuant to subsection (2) of this section shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of body parts for the purpose of transplantation, therapy, research or education.

(4) If an anatomical gift has been or might be made of a body part of a decedent whose body is under the jurisdiction of the medical examiner and a post-mortem examination is not required, or the medical examiner determines that a post-mortem examination is required but that the recovery of the body part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the body part from the decedent for the purpose of transplantation, therapy, research or education.

(5) If an anatomical gift of a body part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the body part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the medical examiner shall consult with the procurement organization, or physician or technician designated by the procurement organization, about the proposed recovery. The procurement organization shall provide the medical examiner with all of the information that the procurement organization possesses that could relate to the decedent's cause or manner of death.

(6)(a) The medical examiner and the procurement organization may enter into an agreement establishing protocols and procedures governing their relationship when:

(A) An anatomical gift of a body part from a decedent whose body is under the jurisdiction of the medical examiner has been or might be made; and

(B) The medical examiner believes that the recovery of the body part could interfere with the post-mortem investigation into the decedent's cause or manner of death or the documentation or preservation of evidence.

(b) A decision regarding the recovery of the body part from the decedent shall be made in accordance with the agreement.

(c) The medical examiner and the procurement organization shall evaluate the effectiveness of the agreement at regular intervals but not less frequently than every two years.

(7)(a) In the absence of an agreement establishing protocols and procedures governing the relationship between the medical examiner and the procurement organization when an anatomical gift of an eye or tissue from a decedent whose body is under the jurisdiction of the medical examiner has been or might be made, and following the consultation under subsection (5) of this section, the medical examiner may delay the recovery of the eye or tissue until after the collection of evidence or the post-mortem examination, in order to preserve and collect evidence, to maintain a proper chain of custody and to allow an accurate determination of the decedent's cause or manner of death.

(b) When a determination to delay the recovery of an eye or tissue is made, every effort possible shall be made by the medical examiner to complete the collection of evidence or the post-mortem examination in a timely manner compatible with the preservation of the eye or tissue for the purpose of transplantation, therapy, research or education.

(c) The collection of evidence or the post-mortem examination shall occur during the normal business hours of the medical examiner and, when possible and practicable, at times other than the normal business hours of the medical examiner.

(d) If the collection of evidence or the post-mortem examination occurs at times other than the normal business hours of the medical examiner, the procurement organization shall reimburse the medical examiner a mutually agreed-upon reasonable fee.

(8) If the medical examiner denies or delays recovery under subsection (6) or (7) of this section, the medical examiner shall:

(a) Explain in a record the specific reasons for not allowing or for delaying recovery of the body part;

(b) Include the specific reasons in the records of the medical examiner; and

(c) Provide a record with the specific reasons to the procurement organization.

(9) If the medical examiner allows recovery of a body part, the procurement organization shall cooperate with the medical examiner in any documentation of injuries and the preservation and collection of evidence prior to and during the recovery of the body part and, upon request of the medical examiner, shall cause the physician or technician who removes the body part to provide the medical examiner with a record describing the condition of the body part, a photograph and any other information and observations that would assist in the post-mortem examination. [2007 c.681 §20]

**Note:** See note under 97.951.

**97.981 Purchase or sale of body parts prohibited.** (1) Except as otherwise provided in subsection (3) of this section, a person commits the crime of purchase or sale of a body part for transplantation or therapy if the person, for valuable consideration, knowingly purchases or sells a body part for transplantation or therapy if removal of the body part from an individual is intended to occur after the individual's death.

(2) Purchase or sale of a body part for transplantation or therapy is a Class C felony.

(3) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a body part. [2007 c.681 §21]

**Note:** See note under 97.951.

**97.982 Alteration of document of anatomical gift prohibited.** (1) A person commits the crime of alteration of a document of gift if the person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a document of gift or a refusal.

(2) Alteration of a document of gift is a Class C felony. [2007 c.681 §22]

**Note:** See note under 97.951.

**97.983 Relation to Electronic Signatures in Global and National Commerce Act.** The provisions of ORS 97.951 to 97.982 modify, limit and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but do not modify, limit or supersede section 101(a) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, or authorize electronic delivery of any of the notices described in section 103(b) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7003(b) as in effect January 1, 2008. [2007 c.681 §23]



**Note:** 97.983 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 97 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## ANATOMICAL GIFTS

**97.984 Liability of executor who carries out anatomical gift.** A person named executor who carries out an anatomical gift of the testator made under the provisions of ORS 97.957 before issuance of letters testamentary or under a will which is not admitted to probate shall not be liable to the surviving spouse or next of kin for performing acts necessary to carry out the gift of the testator. [Formerly 97.966]

**97.985 Transplants not covered by implied warranty.** (1) The procuring, processing, furnishing, distributing, administering or using of any part of a human body for the purpose of injecting, transfusing or transplanting that part into a human body is not a sales transaction covered by an implied warranty under the Uniform Commercial Code or otherwise.

(2) As used in this section, "part" means organs or parts of organs, tissues, eyes or parts of eyes, bones, arteries, blood, other fluids and any other portions of a human body. [Formerly 97.968]