

AN ACT

RELATING TO ANATOMICAL GIFTS; CREATING A FUND; CREATING AN ADVISORY COUNCIL; PROVIDING POWERS AND DUTIES; CLARIFYING DUTIES AND PROCEDURES UNDER THE UNIFORM ANATOMICAL GIFT ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Gift of Life Act".

Section 2. PURPOSE.--The purpose of the Gift of Life Act is to provide a funding source for the department of health to educate the public about organ and tissue donation and the Uniform Anatomical Gift Act and to promote organ and tissue donation in New Mexico.

Section 3. FUND CREATED.--The "gift of life trust fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants and other donations. Interest earned on investment of the fund shall be credited to the fund. Money in the fund shall not be transferred to any other fund. The fund shall be administered by the department of health, and money in the fund is appropriated to the department to carry out the provisions of the Gift of Life Act. Money in the fund shall be expended only upon warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of health or his

designated representative.

Section 4. ADVISORY COUNCIL CREATED--POWERS AND
DUTIES.--

A. The "gift of life council" is created. The governor shall appoint the members of the council as follows:

- (1) one member from a New Mexico organ procurement organization;
- (2) one member from a New Mexico eye bank;
- (3) three members representing organ, tissue or eye recipients, family members of recipients and family members of donors;
- (4) one member who is a forensic pathologist in New Mexico;
- (5) one member from each organ transplant hospital in New Mexico;
- (6) one member representing the New Mexico hospital association; and
- (7) three members representing the general public.

B. Terms of the members shall be four years, and members may serve no more than two full terms. Vacancies shall be filled by appointment by the governor for the unexpired term. Members of the gift of life council serve at the pleasure of the governor. The council shall appoint a chairman and vice chairman annually. Members of the council

may receive per diem and mileage expenses as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance. The council shall meet semiannually and otherwise at the call of the chairman or a majority of the members.

C. The council shall:

(1) advise the department of health on matters related to organ and tissue donation in New Mexico;

(2) develop educational programs and campaigns to increase organ and tissue donation;

(3) make recommendations to the department of health and the taxation and revenue department to increase public awareness of and registration with the New Mexico donor registry;

(4) make recommendations on how money in the gift of life trust fund should be expended; and

(5) encourage the incorporation of organ and tissue donation education into medical, nursing and other health sciences education curricula.

Section 5. Section 24-6A-1 NMSA 1978 (being Laws 1995, Chapter 116, Section 1) is amended to read:

"24-6A-1. DEFINITIONS.--As used in the Uniform Anatomical Gift Act:

A. "anatomical gift" means a donation of all or part of a human body to take effect upon or after death;

B. "decedent" means a deceased individual and includes a stillborn infant or fetus;

C. "document of gift" means a card, a statement attached to or imprinted on a motor vehicle driver's license, an identification card, a will or other writing used to make an anatomical gift;

D. "designated requester" means a person who has completed a course offered or approved by a procurement organization that trains persons to approach potential donor families and request anatomical gifts;

E. "donor" means an individual who makes an anatomical gift of all or part of the individual's body;

F. "enucleator" means an individual who has completed a course in eye enucleation conducted and certified by an accredited school of medicine and who possesses a certificate of competence issued upon completion of the course;

G. "hospital" means a facility licensed, accredited or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state or a subdivision of a state;

H. "part" means an organ, tissue, eye, bone, artery, blood, fluid or other portion of a human body;

I. "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture,

limited liability company, association, government, governmental subdivision or agency or any other legal or commercial entity;

J. "physician" means an individual licensed or otherwise authorized to practice medicine or osteopathic medicine under the laws of any state;

K. "procurement organization" means a person licensed, accredited or approved under the laws of any state for procurement, distribution or storage of human bodies or parts. The term includes a nonprofit agency that is organized to procure eye tissue for the purpose of transplantation or research and that meets the medical standards set by the eye bank association of America;

L. "state" means a state, territory or possession of the United States, the District of Columbia or the commonwealth of Puerto Rico;

M. "technician" means an individual who, under the supervision of a physician, removes or processes a part; and

N. "vascular organ" means the heart, lungs, kidneys, liver, pancreas or other organ that requires the continuous circulation of blood to remain useful for transplantation purposes and does not include human tissue, bones or corneas."

Chapter 116, Section 2) is amended to read:

"24-6A-2. MAKING, AMENDING, REVOKING AND REFUSING TO
MAKE ANATOMICAL GIFTS--BY INDIVIDUAL.--

A. An individual who is at least sixteen years of
age may:

(1) make an anatomical gift for any of the
purposes stated in Section 24-6A-6 NMSA 1978;

(2) limit an anatomical gift to one or more
of those purposes;

(3) refuse to make an anatomical gift; or

(4) revoke an anatomical gift.

B. An anatomical gift may be made only by a
document of gift signed by the donor or by complying with the
provisions of Section 66-5-10 or 66-5-401 NMSA 1978. If the
donor cannot sign, the document of gift shall be signed by
another individual and by two witnesses, all of whom have
signed at the direction and in the presence of the donor and
of each other, and state that it has been so signed.

Revocation, suspension, expiration or cancellation of the
license or identification card does not invalidate the
anatomical gift.

C. A document of gift may designate a particular
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 anatomical

gift may employ or authorize any physician, technician or enucleator to carry out the appropriate procedures.

D. An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

E. A donor may amend or revoke an anatomical gift, not made by will, only by:

- (1) a signed statement;
- (2) an oral statement made in the presence of two individuals;
- (3) any form of communication during a terminal illness or injury addressed to a physician; or
- (4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

F. The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection E of this section.

G. An anatomical gift 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.

H. An individual may refuse to make an anatomical

gift of the individual's body or part by:

(1) a writing signed in the same manner as a document of gift;

(2) complying with the provisions of Section 66-5-10 or 66-5-401 NMSA 1978; or

(3) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

I. In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under Section 24-6A-3 NMSA 1978 or on a removal or release of other parts under Section 24-6A-4 NMSA 1978.

J. In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to Subsection H of this section."

Section 7. Section 24-6A-3 NMSA 1978 (being Laws 1995, Chapter 116, Section 3) is amended to read:

"24-6A-3. MAKING, REVOKING AND OBJECTING TO ANATOMICAL GIFTS--BY OTHERS.--

A. Any member of the following classes of

persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unprovoked refusal to make that anatomical gift:

(1) a guardian of the person of the decedent at the time of death, if expressly authorized by the court to make health care decisions for the decedent;

(2) an agent under a durable power of attorney which expressly authorizes the agent to make health care decisions on behalf of the decedent;

(3) the spouse of the decedent unless legally separated or unless there is a pending petition for annulment, divorce, dissolution of marriage or separation;

(4) an adult son or daughter of the decedent if only one is present or a majority of adult children present;

(5) either parent of the decedent;

(6) an adult brother or sister of the decedent if only one is present or a majority of adult siblings present;

(7) a grandparent of the decedent; or

(8) an adult who has exhibited special care and concern for the decedent and who is familiar with the decedent's values.

B. An anatomical gift may not be made by a person listed in Subsection A of this section if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

C. An anatomical gift by a person authorized under Subsection A of this section shall be made by:

(1) a document of gift signed by the person; or

(2) the person's telegraphic, recorded telephonic or other recorded message or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

D. An anatomical gift by a person authorized under Subsection A of this section may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, technician or enucleator removing the part knows of the revocation.

E. A failure to make an anatomical gift under

Subsection A of this section is not an objection to the making of an anatomical gift."

Section 8. Section 24-6A-5 NMSA 1978 (being Laws 1995, Chapter 116, Section 5) is amended to read:

"24-6A-5. REQUIRED REQUEST--SEARCH AND NOTIFICATION-- CIVIL OR CRIMINAL IMMUNITY.--

A. If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, a procurement organization or a designated representative shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to Subsection A of Section 24-6A-3 NMSA 1978. The request shall be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in Section 24-6A-6 NMSA 1978. An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual making the request and of the name, response and relationship to the patient of the person to whom the request was made. The secretary of health may adopt regulations to implement this subsection.

B. The following persons shall make a reasonable search for a document of gift, or driver's license,

identification card, medical alert bracelet or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, emergency medical technician, emergency medical services first responder or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

C. If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by Paragraph (1) of Subsection B of this section and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

D. If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to Subsection A of Section 24-6A-3 NMSA 1978 or a release and removal of a part has been permitted pursuant to Section 24-6A-4 NMSA 1978, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate

procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

E. A person who in good faith acts or attempts to act in accordance with the provisions of the Uniform Anatomical Gift Act or the anatomical gift laws of another state is not liable for damages in a civil action or subject to prosecution in a criminal proceeding for his acts."

Section 9. A new section of the Uniform Anatomical Gift Act is enacted to read:

"DEATH RECORD REVIEWS.--Every hospital shall work jointly with the appropriate procurement agency to conduct death record reviews at least annually. The procurement agency shall compile the results of the death record reviews and provide a report to the department of health by September 1 of each year; provided that the report to the department shall not identify hospitals, individual donors or recipients."

Section 10. A new section of the Uniform Anatomical Gift Act is enacted to read:

"IDENTIFICATION OF POTENTIAL DONORS.--

A. Each hospital in New Mexico, with the concurrence of its medical staff, shall develop by July 1, 2000 a protocol for identifying potential donors. The protocol shall be developed in collaboration with a

procurement organization. The protocol shall provide that at or near the time of a patient's death and prior to the removal of life support, the hospital shall contact a procurement organization to determine the suitability of the patient as a donor. The person designated by the hospital to contact the procurement organization shall have the following information available prior to making the contact:

- (1) the patient's identifier number;
- (2) the patient's age;
- (3) the cause of death; and
- (4) any past medical history available.

B. The procurement organization shall determine the suitability for donation. If the procurement organization determines that donation is not appropriate based on established medical criteria, that determination shall be noted by hospital personnel on the patient's record and no further action is necessary.

C. If the procurement organization determines that the patient is a suitable candidate for donation, the procurement organization shall initiate donor proceedings by:

- (1) first requesting verification of the patient's donor status from the donor registry system in accordance with Section 66-5-10 or 66-5-401 NMSA 1978; or
- (2) making a reasonable search for a document of gift or other information identifying the patient

as a donor or as an individual who has refused to make an anatomical gift.

D. The hospital must have and implement written protocols that:

(1) incorporate an agreement with a procurement organization under which the hospital must notify, in a timely manner, the procurement organization or a third party designated by the procurement organization of patients whose deaths are imminent and prior to the removal of life support of who have died in the hospital;

(2) ensure that the retrieval, processing, preservation, storage and distribution of tissues and eyes does not interfere with vascular organ procurement;

(3) ensure that the family of each potential donor is informed of its options to donate organs, tissues or eyes or to decline to donate. The person designated by the hospital to initiate the request to the family must be an organ procurement organization employee or a designated requester;

(4) encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the families of potential donors; and

(5) ensure that the hospital works cooperatively with the procurement organization in educating hospital staff on donation issues, reviewing death records to

improve identification of potential donors and maintaining potential donors while necessary testing and placement of anatomical gifts take place."

Section 11. A new section of the Uniform Anatomical Gift Act is enacted to read:

"IDENTIFICATION OF POTENTIAL DONEES.--

A. If an anatomical gift of a vascular organ is made in New Mexico to a New Mexico procurement organization for transplantation purposes and the donor does not name a specific donee and the vascular organ is deemed suitable for transplantation, the New Mexico procurement organization shall use its best efforts to determine if there is a suitable recipient in New Mexico.

B. The New Mexico procurement organization may in its sole discretion enter into reciprocal agreements for the sharing of vascular organs with procurement organizations in other states. The terms of these reciprocal vascular organ sharing arrangements may provide that a vascular organ donated to a New Mexico procurement organization may be transferred to a procurement organization in another state for transplantation.

C. A New Mexico procurement organization may transfer a vascular organ to a procurement organization in another state or suitable recipient located in another state for transplantation only if:

(1) a suitable donee awaiting organ transplant in New Mexico cannot be found in a reasonable amount of time; or

(2) the New Mexico procurement organization has a reciprocal agreement for the sharing of vascular organs with a procurement organization in another state."

Section 12. Section 24-7A-4 NMSA 1978 (being Laws 1995, Chapter 182, Section 4, as amended) is amended to read:

"24-7A-4. OPTIONAL FORM.--The following form may, but need not, be used to create an advance health-care directive. The other sections of the Uniform Health-Care Decisions Act govern the effect of this or any other writing used to create an advance health-care directive. An individual may complete or modify all or any part of the following form:

"OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health-care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your primary physician.

THIS FORM IS OPTIONAL. Each paragraph and word of this form is also optional. If you use this form, you may cross out, complete or modify all or any part of it. You are free

to use a different form. If you use this form, be sure to sign it and date it.

PART 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health-care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a health-care institution at which you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health-care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health-care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

- (a) consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;
- (b) select or discharge health-care providers and institutions;

- (c) approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and
- (d) direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care.

PART 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding life-sustaining treatment, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. In addition, you may express your wishes regarding whether you want to make an anatomical gift of some or all of your organs and tissue. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

PART 3 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. It is recommended but not required that you request two other individuals to sign as witnesses. Give a copy of the signed and completed form to your physician, to any other health-care providers you may have, to any health-care institution at which you are receiving care and to any health-care agents you have named. You should talk to the

person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health-care directive or replace this form at any time.

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PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

(address) (city) (state) (zip code)

(home phone)

(work phone)

If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health-care decision for me, I designate as my second alternate agent:

(name of individual you choose as second alternate agent)

(address)

(city)

(state)

(zip code)

(home phone)

(work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to obtain and review medical records, reports and information about me and to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition, hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician and one other qualified health-care professional determine that I am unable to make my own health-care decisions. If I initial this box, [] my agent's authority to make health-

care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may cross out any wording you do not want.

(6) END-OF-LIFE DECISIONS: If I am unable to make or communicate decisions regarding my health care, and

IF (i) I have an incurable or irreversible condition that will result in my death within a relatively short time, OR (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, OR (iii) the likely risks and burdens of treatment would outweigh the expected benefits, THEN I direct that my health-care providers and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have initialed below in **one** of the following three boxes:

I CHOOSE NOT to prolong life

I do not want my life to be prolonged.

I CHOOSE to prolong life

I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

I CHOOSE to let my agent decide

My agent under my power of attorney for health care may make life-sustaining treatment decisions for me.

(7) ARTIFICIAL NUTRITION AND HYDRATION: If I have chosen above NOT to prolong life, I also specify by marking my initials below:

I DO NOT want artificial nutrition OR

I DO want artificial nutrition.

I DO NOT want artificial hydration unless required for my comfort OR

I DO want artificial hydration.

(8) RELIEF FROM PAIN: Regardless of the choices I have made in this form and except as I state in the following space, I direct that the best medical care possible to keep me clean, comfortable and free of pain or discomfort be provided at all times so that my dignity is maintained, even if this care hastens my death:

(9) ANATOMICAL GIFT DESIGNATION: Upon my death I specify as marked below whether I choose to make an anatomical gift of all or some of my organs or tissue:

I REFUSE to make an anatomical gift of any of my organs or tissue

I CHOOSE to make an anatomical gift of all of my organs or tissue to be determined by medical suitability at the time of death

I CHOOSE to make a partial anatomical gift of some of my organs and tissue as specified below:

I CHOOSE to let my agent decide.

(10) OTHER WISHES: (If you wish to write your own instructions, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3

PRIMARY PHYSICIAN

(11) I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

If the physician I have designated above is not willing, able or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

* * * * *

(12) EFFECT OF COPY: A copy of this form has the

same effect as the original.

(13) REVOCATION: I understand that I may revoke this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and that if I revoke it, I should promptly notify my supervising health-care provider and any health-care institution where I am receiving care and any others to whom I have given copies of this power of attorney. I understand that I may revoke the designation of an agent either by a signed writing or by personally informing the supervising health-care provider.

(14) SIGNATURES: sign and date the form here:

_____	_____
(date)	(sign your name)
_____	_____
(address)	(print your name)
_____	_____
(city) (state)	(your social security number)

(Optional) SIGNATURES OF WITNESSES:

First witness	Second witness
_____	_____
(print name)	(print name)
_____	_____
(address)	(address)
_____	_____
(city) (state)	(city) (state)
_____	_____

(signature of witness)

(signature of witness)

(date)

(date)"."

Section 13. Section 24-7A-9 NMSA 1978 (being Laws 1995, Chapter 182, Section 9) is amended to read:

"24-7A-9. IMMUNITIES.--

A. A health-care provider or health-care institution acting in good faith and in accordance with generally accepted health-care standards applicable to the health-care provider or health-care institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(1) complying or attempting to comply with a health-care decision of a person apparently having authority to make a health-care decision for a patient, including a decision to withhold or withdraw health care or make an anatomical gift;

(2) declining to comply with a health-care decision of a person based on a belief that the person then lacked authority;

(3) complying or attempting to comply with an advance health-care directive and assuming that the directive was valid when made and has not been revoked or terminated;

(4) declining to comply with a health-care

directive as permitted by Subsection E or F of Section 24-7A-7 NMSA 1978; or

(5) complying or attempting to comply with any other provision of the Uniform Health-Care Decisions Act.

B. An individual acting as agent, guardian or surrogate under the Uniform Health-Care Decisions Act is not subject to civil or criminal liability or to discipline for unprofessional conduct for health-care decisions made in good faith."

Section 14. A new section of the Motor Vehicle Code is enacted to read:

"DWI PREVENTION AND EDUCATION PROGRAM--ORGAN DONATION.--DWI prevention and education program applicants for instruction permits and driver's licenses shall include information on organ donation and the provisions of the Uniform Anatomical Gift Act."

Section 15. Section 66-2-7.1 NMSA 1978 (being Laws 1995, Chapter 135, Section 4, as amended) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department employee or contractor or for any former department employee or contractor to disclose to any person other than another employee of the department any personal information about an individual obtained by the department in connection with a

driver's license or permit, the titling or registration of a vehicle or an identification card issued by the department pursuant to the Motor Vehicle Code except:

(1) to the individual or the individual's authorized representative;

(2) for use by any governmental agency, including any court, in carrying out its functions or by any private person acting on behalf of the government;

(3) for use in connection with matters of motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; motor vehicle production alterations, recalls or advisories; and removal of non-owner records from original owner records of motor vehicle manufacturers;

(4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(5) for use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting;

(6) for providing notice to owners of towed or impounded vehicles;

(7) for use by an employer or its agent or insurer in obtaining or verifying information relating to a holder of a commercial driver's license;

(8) for use by any requester if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

(9) for use by an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association; or an insured savings bank, but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by, pursuing legal remedies against or recovering on a debt or security interest from the individual; or

(10) for providing organ donor information as provided in the Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978.

B. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall

be punished in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 16. Section 66-5-10 NMSA 1978 (being Laws 1978, Chapter 35, Section 232, as amended) is amended to read:

"66-5-10. APPLICATION FOR LICENSE--INFORMATION--TRANSFER TO LICENSE.--

A. Within the forms prescribed by the department for applications and licenses of drivers of motor vehicles, a space shall be provided to show whether the applicant is a donor as provided in the Uniform Anatomical Gift Act. Anyone applying for a license may, if he desires, indicate his donor status on the space provided on the application, and this information, if given by an applicant, shall be shown upon the license issued. The form and driver's license shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence.

B. The department shall mark the donor status on each person's driver's license record and shall retain each application form or its image of a person who wishes to be a donor. The department shall create and maintain a statewide donor registry and shall provide on-line computer terminal access to the donor registry to organ procurement agencies and procurement organizations, as defined in the Uniform Anatomical Gift Act. Organ procurement organizations shall

use the organ donor status information contained in the donor registry for verification of the donor's status. Organ and tissue donor program personnel, immediately prior to or after a donor's death, may request verification of the donor's status from the department and may obtain a copy of the application from the department."

Section 17. Section 66-5-20 NMSA 1978 (being Laws 1978, Chapter 35, Section 242) is amended to read:

"66-5-20. DUPLICATE LICENSES.--In the event that a permit or driver's license issued under the provisions of this article is lost, stolen, mutilated or destroyed or in the event of a name and address change or in the event a person changes his organ donor status, the person to whom the permit or driver's license was issued may, upon payment of the required fee, obtain a duplicate or substitute upon furnishing proof satisfactory to the division."

Section 18. Section 66-5-23 NMSA 1978 (being Laws 1978, Chapter 35, Section 245, as amended) is amended to read:

"66-5-23. RECORDS TO BE KEPT BY THE DIVISION.--

A. The division shall file every application for a driver's license or a commercial driver's license pursuant to the provisions of the New Mexico Commercial Driver's License Act received by it and shall maintain suitable indexes containing:

- (1) all applications denied and, on each, note the reasons for denial;
- (2) all applications granted;
- (3) the name of every licensee whose license has been suspended or revoked by the division and, after each, note the reasons for the action;
- (4) the name of every licensee who has violated his written promise to appear in court;
- (5) all applications of persons who wish to be organ donors as provided in the Uniform Anatomical Gift Act; and
- (6) each notice of revocation of organ donor status.

B. The division shall also file all abstracts of court records of conviction or reports from the trial courts of this state, which show either that a driver is a first offender or a subsequent offender and whether that offender was represented by counsel or waived the right to counsel, received by it under the laws of this state, with attention to Article III of the Driver License Compact, and in connection therewith maintain convenient records or make suitable notations in order that the individual record of each licensee showing the convictions of the licensee in which he has been involved shall be readily ascertainable and available for the consideration of the division upon any

application for renewal of license and at other suitable times."

Section 19. Section 66-5-63 NMSA 1978 (being Laws 1989, Chapter 14, Section 12, as amended) is amended to read:

"66-5-63. COMMERCIAL DRIVER'S LICENSE--PERMIT--APPLICATION--DUPLICATE.--

A. The application for a commercial driver's license or commercial driver's instruction permit shall include the following:

(1) the full name and current mailing and residential address of the person;

(2) a physical description of the person, including sex, height, weight and eye color;

(3) the person's date of birth;

(4) the person's social security number;

(5) the person's signature;

(6) a consent to release the person's driving record information;

(7) organ donor information as provided in the Uniform Anatomical Gift Act; and

(8) any other information required by the department.

B. When a licensee changes his name or residence or mailing address or organ donor designation, an application for a duplicate license shall be made as provided in Section

66-5-20 NMSA 1978."

Section 20. Section 66-5-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS.--

A. Any person thirteen years of age or older who does not have a valid New Mexico driver's license may be issued an identification card by the division certified by the registrant and attested to by the division as to true name, correct age and other identifying data as the division may require.

B. The forms prescribed by the division for applications and identification cards shall include a space to show whether the applicant is an organ donor as provided in the Uniform Anatomical Gift Act. A person sixteen years of age or older who is applying for an identification card may, if he chooses, indicate his organ donor status on the space provided on the application, and the information shall be shown on the identification card. The form and identification card shall be signed by the organ donor in the presence of a witness, who shall also sign the form in the organ donor's presence. The division shall mark the organ donor status on the identification card and shall retain the application of a person who wishes to be an organ donor and shall include this information in the statewide donor

