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HOUSE BILL 647

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dani ce R. Pi craux

AN ACT

RELATING TO ANATOMICAL GIFTS; CREATING A FUND; PROVIDING FOR VOLUNTARY DONATIONS THROUGH DRIVING LICENSURE APPLICATIONS AND MOTOR VEHICLE REGISTRATION; 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. [NEW MATERIAL] SHORT TITLE. --Sections 1 through 4 of this act may be cited as the "Gift of Life Act".

Section 2. [NEW MATERIAL] 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.

1 Section 3. [NEW MATERIAL] FUND CREATED. --

2 A. The "gift of life trust fund" is created in the
3 state treasury. The fund shall consist of donations from
4 applicants for driver's licenses, instruction permits and
5 identification cards and applicants for motor vehicle
6 registration; gifts, grants and other donations. Interest
7 earned on investment of the fund shall be credited to the
8 fund. Money in the fund shall not be transferred to any other
9 fund. The fund shall be administered by the department of
10 health, and money in the fund is appropriated to the
11 department to carry out the provisions of the Gift of Life
12 Act. Money in the fund shall be expended only upon warrants
13 of the secretary of finance and administration pursuant to
14 vouchers signed by the secretary of health or his designated
15 representative.

16 Section 4. [NEW MATERIAL] ADVISORY COUNCIL CREATED--
17 POWERS AND DUTIES. --

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

- 20 (1) one member from a New Mexico organ
21 procurement organization;
- 22 (2) one member from a New Mexico eye bank;
- 23 (3) three members representing organ, tissue
24 or eye recipients, family members of recipients and family
25 members of donors;

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1 (4) one member who is a forensic pathologist
2 in New Mexico;

3 (5) one member from each organ transplant
4 hospital in New Mexico;

5 (6) one member representing the New Mexico
6 hospital association; and

7 (7) three members representing the general
8 public.

9 B. Terms of the members shall be four years, and
10 members may serve no more than two full terms. Vacancies
11 shall be filled by appointment by the governor for the
12 unexpired term. Members of the gift of life council serve at
13 the pleasure of the governor. The council shall appoint a
14 chairman and vice chairman annually. Members of the council
15 may receive per diem and mileage expenses as provided in the
16 Per Diem and Mileage Act, but shall receive no other
17 compensation, perquisite or allowance. The council shall meet
18 semiannually and otherwise at the call of the chairman or a
19 majority of the members.

20 C. The council shall:

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

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

25 (3) make recommendations to the department of

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1 health and the taxation and revenue department to increase
2 public awareness of and registration with the New Mexico donor
3 registry;

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

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

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

11 "24-6A-1. DEFINITIONS. -- As used in the Uniform
12 Anatomical Gift Act [~~(1987)~~]:

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

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

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

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

25 [~~D.~~] E. "donor" means an individual who makes an

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1 anatomical gift of all or part of the individual's body;

2 [E-] F. "enucleator" means an individual who has
3 completed a course in eye enucleation conducted and certified
4 by an accredited school of medicine and who possesses a
5 certificate of competence issued upon completion of the
6 course;

7 [F-] G. "hospital" means a facility licensed,
8 accredited or approved as a hospital under the law of any
9 state or a facility operated as a hospital by the United
10 States government, a state or a subdivision of a state;

11 [G-] H. "part" means an organ, tissue, eye, bone,
12 artery, blood, fluid or other portion of a human body;

13 [H-] I. "person" means an individual, corporation,
14 business trust, estate, trust, partnership, joint venture,
15 limited liability company, association, government,
16 governmental subdivision or agency or any other legal or
17 commercial entity;

18 [I-] J. "physician" means an individual licensed
19 or otherwise authorized to practice medicine or osteopathic
20 medicine under the laws of any state;

21 [J-] K. "procurement organization" means a person
22 licensed, accredited or approved under the laws of any state
23 for procurement, distribution or storage of human bodies or
24 parts. The term includes a nonprofit agency [~~which~~] that is
25 organized to procure eye tissue for the purpose of

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1 transplantation or research and ~~[which]~~ that meets the medical
2 standards set by the eye bank association of America;

3 ~~[K.]~~ L. "state" means a state, territory or
4 possession of the United States, the District of Columbia or
5 the commonwealth of Puerto Rico; ~~[and~~

6 ~~L.]~~ M. "technician" means an individual who, under
7 the supervision of a physician, removes or processes a part;
8 and

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

14 Section 6. Section 24- 6A- 2 NMSA 1978 (being Laws 1995,
15 Chapter 116, Section 2) is amended to read:

16 "24- 6A- 2. MAKING, AMENDING, REVOKING AND REFUSING TO
17 MAKE ANATOMICAL GIFTS-- BY INDIVIDUAL. --

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

20 (1) ~~make~~ an anatomical gift for any of the
21 purposes stated in Section ~~[6 of the Uniform Anatomical Gift~~
22 ~~Act (1987)]~~ 24- 6A- 6 NMSA 1978;

23 (2) limit an anatomical gift to one or more of
24 those purposes; ~~[or]~~

25 (3) refuse to ~~make~~ an anatomical gift; or

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(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 [~~must~~] 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

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1 two individuals;

2 (3) any form of communication during a
3 terminal illness or injury addressed to a physician; or

4 (4) the delivery of a signed statement to a
5 specified donee to whom a document of gift had been delivered.

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

10 G. An anatomical gift that is not revoked by the
11 donor before death is irrevocable and does not require the
12 consent or concurrence of any person after the donor's death.

13 H. An individual may refuse to make an anatomical
14 gift of the individual's body or part by:

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

17 (2) complying with the provisions of Section
18 66-5-10 or 66-5-401 NMSA 1978; or

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

23 I. In the absence of contrary indications by the
24 donor, an anatomical gift of a part is neither a refusal to
25 give other parts nor a limitation on an anatomical gift under

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1 Section [~~3 of the Uniform Anatomical Gift Act (1987)~~] 24-6A-3
2 NMSA 1978 or on a removal or release of other parts under
3 Section [~~4 of that act~~] 24-6A-4 NMSA 1978.

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

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

12 "24-6A-3. MAKING, REVOKING AND OBJECTING TO ANATOMICAL
13 GIFTS-- BY OTHERS. --

14 A. Any member of the following classes of persons,
15 in the order of priority listed, may make an anatomical gift
16 of all or a part of the decedent's body for an authorized
17 purpose, unless the decedent, at the time of death, has made
18 an unprovoked refusal to make that anatomical gift:

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

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

25 (3) the spouse of the decedent unless legally

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1 separated or unless there is a pending petition for annulment,
2 divorce, dissolution of marriage or separation;

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

6 (5) either parent of the decedent;

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

10 (7) a grandparent of the decedent; or

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

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

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

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

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

24 C. An anatomical gift by a person authorized under
25 Subsection A of this section [~~must~~] shall be made by:

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

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

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

13 E. A failure to make an anatomical gift under
14 Subsection A of this section is not an objection to the making
15 of an anatomical gift. "

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

18 "24-6A-5. REQUIRED REQUEST--SEARCH AND NOTIFICATION--
19 CIVIL OR CRIMINAL IMMUNITY.--

20 A. If, at or near the time of death of a patient,
21 there is no medical record that the patient has made or
22 refused to make an anatomical gift, the hospital administrator
23 or a representative designated by the administrator shall
24 discuss the option to make or refuse to make an anatomical
25 gift and request the making of an anatomical gift pursuant to

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1 Subsection A of Section [~~3 of the Uniform Anatomical Gift Act~~
2 (~~1987~~)] 24-6A-3 NMSA 1978. The request shall be made with
3 reasonable discretion and sensitivity to the circumstances of
4 the family. A request is not required if the gift is not
5 suitable, based upon accepted medical standards, for a purpose
6 specified in Section [~~6 of the Uniform Anatomical Gift Act~~
7 (~~1987~~)] 24-6A-6 NMSA 1978. An entry shall be made in the
8 medical record of the patient, stating the name and
9 affiliation of the individual making the request and of the
10 name, response and relationship to the patient of the person
11 to whom the request was made. The secretary of health may
12 adopt regulations to implement this subsection.

13 B. The following persons shall make a reasonable
14 search for a document of gift, or driver's license,
15 identification card, medical alert bracelet or other
16 information identifying the bearer as a donor or as an
17 individual who has refused to make an anatomical gift:

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

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

25 C. If a document of gift or evidence of refusal to

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

6 D. If, at or near the time of death of a patient,
7 a hospital knows that an anatomical gift has been made
8 pursuant to Subsection A of Section [~~3 of the Uniform~~
9 ~~Anatomical Gift Act (1987)~~] 24-6A-3 NMSA 1978 or a release and
10 removal of a part has been permitted pursuant to Section [~~4 of~~
11 ~~that act~~] 24-6A-4 NMSA 1978, or that a patient or an
12 individual identified as in transit to the hospital is a
13 donor, the hospital shall notify the donee if one is named and
14 known to the hospital; if not, it shall notify an appropriate
15 procurement organization. The hospital shall cooperate in the
16 implementation of the anatomical gift or release and removal
17 of a part.

18 E. A person who [~~fails to discharge the duties~~
19 ~~imposed by this section is not subject to criminal or civil~~
20 ~~liability but is subject to appropriate administrative~~
21 ~~sanctions~~] in good faith acts or attempts to act in accordance
22 with the provisions of the Uniform Anatomical Gift Act or the
23 anatomical gift laws of another state is not liable for
24 damages in a civil action or subject to prosecution in a
25 criminal proceeding for his acts. "

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

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

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

13 "[NEW MATERIAL] IDENTIFICATION OF POTENTIAL DONORS. --

14 A. Each hospital in New Mexico, with the
15 concurrence of its medical staff, shall develop by July 1,
16 2000 a protocol for identifying potential donors. The
17 protocol shall be developed in collaboration with a
18 procurement organization. The protocol shall provide that at
19 or near the time of a patient's death and prior to the removal
20 of life support, the hospital shall contact a procurement
21 organization to determine the suitability of the patient as a
22 donor. The person designated by the hospital to contact the
23 procurement organization shall have the following information
24 available prior to making the contact:

- (1) the patient's identifier number;

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- (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

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1 whose deaths are imminent and prior to the removal of life
2 support of who have died in the hospital;

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

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

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

15 (5) ensure that the hospital works
16 cooperatively with the procurement organization in educating
17 hospital staff on donation issues reviewing death records to
18 improve identification of potential donors and maintaining
19 potential donors while necessary testing and placement of
20 anatomical gifts take place. "

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

23 "[NEW MATERIAL] IDENTIFICATION OF POTENTIAL DONEES. --

24 A. If an anatomical gift of a vascular organ is
25 made in New Mexico to a New Mexico procurement organization

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1 for transplantation purposes and the donor does not name a
2 specific donee and the vascular organ is deemed suitable for
3 transplantation, the New Mexico procurement organization shall
4 use its best efforts to determine if there is a suitable
5 recipient in New Mexico.

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

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

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

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

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

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1 "24-7A-4. OPTIONAL FORM --The following form may, but
2 need not, be used to create an advance health-care directive.
3 The other sections of the Uniform Health-Care Decisions Act
4 govern the effect of this or any other writing used to create
5 an advance health-care directive. An individual may complete
6 or modify all or any part of the following form:

7 "OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

8 Explanation

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

14 THIS FORM IS OPTIONAL. Each paragraph and word of this
15 form is also optional. If you use this form, you may cross
16 out, complete or modify all or any part of it. You are free
17 to use a different form. If you use this form, be sure to
18 sign it and date it.

19 PART 1 of this form is a power of attorney for health
20 care. Part 1 lets you name another individual as agent to
21 make health-care decisions for you if you become incapable of
22 making your own decisions or if you want someone else to make
23 those decisions for you now even though you are still capable.
24 You may also name an alternate agent to act for you if your
25 first choice is not willing, able or reasonably available to

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1 make decisions for you. Unless related to you, your agent may
2 not be an owner, operator or employee of a health-care
3 institution at which you are receiving care.

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

- 11 (a) consent or refuse consent to any care,
12 treatment, service or procedure to maintain,
13 diagnose or otherwise affect a physical or
14 mental condition;
- 15 (b) select or discharge health-care providers and
16 institutions;
- 17 (c) approve or disapprove diagnostic tests,
18 surgical procedures, programs of medication
19 and orders not to resuscitate; and
- 20 (d) direct the provision, withholding or
21 withdrawal of artificial nutrition and
22 hydration and all other forms of health care.

23 PART 2 of this form lets you give specific instructions
24 about any aspect of your health care. Choices are provided
25 for you to express your wishes regarding life-sustaining

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1 treatment, including the provision of artificial nutrition and
2 hydration, as well as the provision of pain relief. In
3 addition, you may express your wishes regarding whether you
4 want to make an anatomical gift of some or all of your organs
5 and tissue. Space is also provided for you to add to the
6 choices you have made or for you to write out any additional
7 wishes.

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

10 After completing this form, sign and date the form at the
11 end. It is recommended but not required that you request two
12 other individuals to sign as witnesses. Give a copy of the
13 signed and completed form to your physician, to any other
14 health-care providers you may have, to any health-care
15 institution at which you are receiving care and to any health-
16 care agents you have named. You should talk to the person you
17 have named as agent to make sure that he or she understands
18 your wishes and is willing to take the responsibility.

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

21 * * * * *

22 PART 1

23 POWER OF ATTORNEY FOR HEALTH CARE

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

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1 for me:

2 _____

3 (name of individual you choose as agent)

4 _____

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

6 _____

7 (home phone) (work phone)

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

11 _____

12 (name of individual you choose as first alternate agent)

13 _____

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

15 _____

16 (home phone) (work phone)

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

21 _____

22 (name of individual you choose as second alternate agent)

23 _____

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

25 _____

1 (home phone) (work phone)

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

8 _____
9 _____

10 (Add additional sheets if needed.)

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

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

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

7 PART 2

8 INSTRUCTIONS FOR HEALTH CARE

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

14 (6) END-OF-LIFE DECISIONS: If I am unable to make
15 or communicate decisions regarding my health care, and IF (i)
16 I have an incurable or irreversible condition that will result
17 in my death within a relatively short time, OR (ii) I become
18 unconscious and, to a reasonable degree of medical certainty,
19 I will not regain consciousness, OR (iii) the likely risks and
20 burdens of treatment would outweigh the expected benefits,
21 THEN I direct that my health-care providers and others
22 involved in my care provide, withhold or withdraw treatment in
23 accordance with the choice I have initialed below in one of
24 the following three boxes:

25 [] [(a)] I CHOOSE NOT to prolong life

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[bracketed material] = delete

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I do not want my life to be prolonged.

[] [~~b~~] 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.

[] [~~e~~] I CHOOSE to let my agent decide

My agent under my power of attorney for [~~heath~~] 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

underscored material = new
[bracketed material] = delete

1 specify as marked below whether I choose to make an anatomical
2 gift of all or some of my organs or tissue:

3 [] I REFUSE to make an anatomical gift of any of
4 my organs or tissue

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

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

10 _____
11 _____

12 [] I CHOOSE to let my agent decide.

13 ~~(9)~~ (10) OTHER WISHES: (If you wish to write
14 your own instructions, or if you wish to add to the
15 instructions you have given above, you may do so here.) I
16 direct that:

17 _____
18 _____

(Add additional sheets if needed.)

PART 3

PRIMARY PHYSICIAN

22 ~~(10)~~ (11) I designate the following physician as
23 my primary physician:

24 _____

(name of physician)

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(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)

* * * * *

~~[(11)]~~ (12) EFFECT OF COPY: A copy of this form has the same effect as the original.

~~[(12)]~~ (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.

underscored material = new
[bracketed material] = delete

1 generally accepted health-care standards applicable to the
2 health-care provider or health-care institution is not subject
3 to civil or criminal liability or to discipline for
4 unprofessional conduct for:

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

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

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

16 (4) declining to comply with a health-care
17 directive as permitted by Subsection E or F of Section [~~7 of~~
18 ~~the Uniform Health-Care Decisions Act~~] 24-7A-7 NMSA 1978; or

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

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

underscored material = new
[bracketed material] = delete

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

3 "[NEW MATERIAL] GIFT OF LIFE DONATIONS--COLLECTION BY
4 DEPARTMENT AND AGENTS.--The department and its fee agents
5 shall accept monetary gift of life donations from persons
6 applying for driver's licenses, instruction permits or
7 identification cards or registering their motor vehicles. The
8 department shall provide applicants and registrants with
9 information provided by the department of health about organ
10 and tissue donation and provide notice on the application and
11 registration forms that monetary donations to the gift of life
12 trust fund may be made through the application or registration
13 process. Donations shall not be less than one dollar (\$1.00).
14 Money received shall be deposited to the credit of the gift of
15 life trust fund. The department may charge an administrative
16 service fee not to exceed fifty cents (\$.50) per transaction."

17 Section 15. A new section of the Motor Vehicle Code is
18 enacted to read:

19 "[NEW MATERIAL] DWI PREVENTION AND EDUCATION PROGRAM-
20 ORGAN DONATION.--DWI prevention and education program
21 applicants for instruction permits and driver's licenses shall
22 include information on organ donation and the provisions of
23 the Uniform Anatomical Gift Act. "

24 Section 16. Section 66-2-7.1 NMSA 1978 (being Laws 1995,
25 Chapter 135, Section 4, as amended) is amended to read:

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1 "66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--

2 CONFIDENTIAL. --

3 A. It is unlawful for any department employee or
4 contractor or for any former department employee or contractor
5 to disclose to any person other than another employee of the
6 department any personal information about an individual
7 obtained by the department in connection with a driver's
8 license or permit, the titling or registration of a vehicle or
9 an identification card issued by the department pursuant to
10 the Motor Vehicle Code except:

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

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

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

24 (4) for use in research activities and for
25 use in producing statistical reports, so long as the personal

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underscored material = new
[bracketed material] = delete

1 information is not published, redisclosed or used to contact
2 individuals;

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

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

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

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

16 (9) for any use in response to requests for
17 individual motor vehicle records if the department has
18 provided in a clear and conspicuous manner on forms for
19 issuance or renewal of operator's permits, titles,
20 registrations or identification cards notice that personal
21 information collected by the department may be disclosed to
22 any person and the department has provided in a clear and
23 conspicuous manner on such forms an opportunity to prohibit
24 such disclosures; [or]

25 (10) for use by an insured state-chartered or

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1 federally chartered credit union; an insured state or national
2 bank; an insured state or federal savings and loan
3 association; or an insured savings bank, but only:

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

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

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

15 B. Any person who violates the provisions of this
16 section is guilty of a misdemeanor and upon conviction shall
17 be punished in accordance with the provisions of Section
18 31-19-1 NMSA 1978. "

19 Section 17. Section 66-5-10 NMSA 1978 (being Laws 1978,
20 Chapter 35, Section 232, as amended) is amended to read:

21 "66-5-10. APPLICATION FOR LICENSE-- INFORMATION-- TRANSFER
22 TO LICENSE. --

23 A. Within the forms prescribed by the department
24 for applications and licenses of drivers of motor vehicles, a
25 space shall be provided to show whether the applicant is a

underscored material = new
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1 donor as provided in the Uniform Anatomical Gift Act. Anyone
2 applying for a license may, if he desires, indicate his donor
3 status on the space provided on the application, and this
4 information, if given by an applicant, shall be shown upon the
5 license issued. The form and driver's license shall be signed
6 by the donor in the presence of a witness who shall also sign
7 the form in the donor's presence.

8 B. The department shall mark the donor status on
9 each person's driver's license record and shall retain each
10 application form or its image of a person who wishes to be a
11 donor. The department shall create and maintain a statewide
12 donor registry and shall provide on-line computer terminal
13 access to the donor registry to organ procurement agencies and
14 procurement organizations, as defined in the Uniform
15 Anatomical Gift Act. [~~Authorized hospital or~~] Organ
16 procurement organizations shall use the organ donor status
17 information contained in the donor registry for verification
18 of the donor's status. Organ and tissue donor program
19 personnel, immediately prior to or after a donor's death, may
20 request verification of the donor's status from the department
21 and may obtain a copy of the application from the department."

22 Section 18. Section 66-5-20 NMSA 1978 (being Laws 1978,
23 Chapter 35, Section 242) is amended to read:

24 "66-5-20. DUPLICATE LICENSES.--In the event that a
25 permit or driver's license issued under the provisions of this

underscored material = new
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1 article is lost, stolen, mutilated or destroyed or in the
2 event of a name and address change or in the event a person
3 charges his organ donor status, the person to whom the [~~same~~]
4 permit or driver's license was issued may, upon payment of the
5 required fee, obtain a duplicate or substitute [~~thereof~~] upon
6 furnishing proof satisfactory to the division. "

7 Section 19. Section 66-5-23 NMSA 1978 (being Laws 1978,
8 Chapter 35, Section 245, as amended) is amended to read:

9 "66-5-23. RECORDS TO BE KEPT BY THE DIVISION. --

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

- 15 (1) all applications denied and, on each,
16 note the reasons for denial;
- 17 (2) all applications granted;
- 18 (3) the name of every licensee whose license
19 has been suspended or revoked by the division and, after each,
20 note the reasons for the action; [~~and~~]
- 21 (4) the name of every licensee who has
22 violated his written promise to appear in court;
- 23 (5) all applications of persons who wish to
24 be organ donors as provided in the Uniform Anatomical Gift
25 Act; and

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(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 [~~received by it~~], 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 20. 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;

underscored material = new
[bracketed material] = delete

- 1 (2) a physical description of the person,
- 2 including sex, height, weight and eye color;
- 3 (3) the person's date of birth;
- 4 (4) the person's social security number;
- 5 (5) the person's signature;
- 6 (6) a consent to release the person's driving
- 7 record information; [~~and~~]
- 8 (7) organ donor information as provided in
- 9 the Uniform Anatomical Gift Act; and
- 10 [~~(7)~~] (8) any other information required by
- 11 the department.

12 B. When a licensee changes his name or residence
13 or mailing address or organ donor designation, an application
14 for a duplicate license shall be made as provided in Section
15 66-5-20 NMSA 1978. "

16 Section 21. Section 66-5-401 NMSA 1978 (being Laws 1978,
17 Chapter 35, Section 328, as amended) is amended to read:

18 "66-5-401. IDENTIFICATION CARDS. --

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

25 B. The forms prescribed by the division for

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1 applications and identification cards shall include a space to
2 show whether the applicant is an organ donor as provided in
3 the Uniform Anatomical Gift Act. A person sixteen years of
4 age or older who is applying for an identification card may,
5 if he chooses, indicate his organ donor status on the space
6 provided on the application, and the information shall be
7 shown on the identification card. The form and identification
8 card shall be signed by the organ donor in the presence of a
9 witness, who shall also sign the form in the organ donor's
10 presence. The division shall mark the organ donor status on
11 the identification card and shall retain the application of an
12 person who wishes to be an organ donor and shall include this
13 information in the statewide donor registry.

14 C. Every application for an identification card
15 shall be signed. The director may, for good cause shown,
16 revoke or deny the issuance of an identification card. "

17 Section 22. Section 66-5-404 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 331) is amended to read:

19 "66-5-404. DUPLICATE CARDS.--In the event an
20 identification card is lost, destroyed or mutilated or a new
21 name is acquired or the person revokes his organ donor status
22 as provided in the Uniform Anatomical Gift Act, the person to
23 whom it was issued shall obtain a duplicate upon furnishing
24 satisfactory proof of such fact to the division and paying the
25 required fee. Any person who loses an identification card and

underscored material = new
~~[bracketed material]~~ = delete

1 who after obtaining a duplicate finds the original card shall
2 immediately surrender the original card to the division. The
3 same documentary evidence shall be furnished for a duplicate
4 as for an original identification card. "

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4
5

6 March 5, 1999
7

8 Mr. Speaker:
9

10 Your JUDICIARY COMMITTEE, to whom has been referred
11

12 HOUSE BILL 647
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16 1. On page 11, lines 22 and 23, strike "the hospital
17 administrator or a representative designated by the
18 administrator" and insert in lieu thereof "a procurement
19 organization or a designated representative".
20

21 2. On page 16, line 17, after "issues" insert a comma.
22
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 647

Page 40

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Luna, Mallory, Sanchez, Pederson

Absent: None

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J:\99Bill\SWP\H0647

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underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 5, 1999

5
6
7 Mr. Speaker:

8
9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE BILL 647

11
12 has had it under consideration and reports same with
13 recommendation that it DO PASS, amended as follows:

14
15 1. On page 11, lines 22 and 23, strike "the hospital
16 administrator or a representative designated by the
17 administrator" and insert in lieu thereof "a procurement
18 organization or a designated representative".

19 2. On page 16, line 17, after "issues" insert a comma.
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 647

Page 42

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Luna, Mallory, Sanchez, Pederson

Absent: None

128061.1

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underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSION, 1999

HB 647/a

3
4 March 17, 1999

5
6 Mr. President:

7
8 Your JUDICIARY COMMITTEE, to whom has been referred

9 HOUSE BILL 647, as amended

10
11 has had it under consideration and reports same with
12 recommendation that it DO PASS, amended as follows:

13
14 1. On page 1, line 11, after the second semicolon strike
15 the remainder of the line, strike line 12 and strike line 13
16 through the first semicolon.

17 2. On page 2, line 3, after "of" strike the remainder of
18 the line, strike lines 4 and 5 and strike line 6 through the
19 semicolon and insert in lieu thereof "appropriations,".

20
21 3. On page 29, strike Section 14 in its entirety.

22 4. Renumber the succeeding sections accordingly.

23
24 5. On page 31, strike lines 16 through 24.

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SJC/HB 647

Page 44

6. Renumber the succeeding paragraphs accordingly.

7. On page 34, line 3, strike "charges" and insert in lieu thereof "changes".

8. On page 37, line 11, strike "an" and insert in lieu thereof "a".

Respectfully submitted,

Michael S. Sanchez, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SJC/HB 647

Page 45

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Stockard

Absent: None

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