

## Article - Health - General

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§19–310.

(a) (1) In this subsection, “designated requestor” means a hospital employee who has completed a course offered by an organ, tissue, or eye recovery agency on how to approach potential donor families and request organ or tissue donation.

(2) (i) On or before the occurrence of each death in a hospital, the hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to determine the patient’s suitability for organ, tissue, or eye donation.

(ii) The contact and its disposition shall be noted in the patient’s medical record.

(3) (i) The appropriate organ, tissue, or eye recovery agency, in consultation with the patient’s attending physician or the physician’s designee, shall determine the patient’s suitability for organ, tissue, or eye donation.

(ii) If the organ, tissue, or eye recovery agency, in consultation with the patient’s attending physician or the physician’s designee, determines that donation is not appropriate based on established medical criteria, this determination shall be noted by hospital personnel in the patient’s medical record and no further action is necessary.

(iii) If the organ, tissue, or eye recovery agency, in consultation with the patient’s attending physician or the physician’s designee, determines that the patient is a suitable candidate for organ, tissue, or eye donation, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall initiate a request under paragraph (4) of this subsection, if applicable.

(4) (i) Except as provided in the Maryland Revised Uniform Anatomical Gift Act, when an individual dies in a hospital in accordance with § 5–202 of this article, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall request, with sensitivity and in compliance with § 4–507 of the Estates and Trusts Article, that the individual’s representative consent to the donation of all or any of the decedent’s organs or tissues as an anatomical donation if suitable.

(ii) Directions given by a person authorized under § 4–503 of the Estates and Trusts Article to make, amend, revoke, or refuse to make an anatomical gift of a decedent’s body or parts shall be recorded in the decedent’s medical record.

(iii) The representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor and the representative of the deceased patient are entitled to protection from civil and criminal liability as provided in § 4–514 of the Estates and Trusts Article.

(5) In all discussions concerning donations of organs and tissues, the representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor shall show reasonable discretion and sensitivity:

- (i) To the circumstances of the family of the decedent;
- (ii) To the religious beliefs of the decedent; and
- (iii) To the nonsuitability for organ or tissue donation of the decedent.

(6) (i) When a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor makes a request under paragraph (4)(i) of this subsection, the representative or designated requestor shall document the request and its disposition as required by § 4–508 of the Estates and Trusts Article.

(ii) Hospital personnel shall note the request and its disposition in the decedent’s medical record or death certificate.

(7) A hospital may not bill the estate of the decedent, a surviving spouse or domestic partner of the decedent, any heirs of the decedent, or an insurer of the decedent for the costs associated with the removal of all or any of the decedent’s organs or tissues for the purpose of an anatomical donation.

(8) After consultation with the Maryland Hospital Association, Inc., the Medical and Chirurgical Faculty of the State of Maryland, Living Legacy Foundation, the Washington Regional Transplant Community, the Medical Eye Bank of Maryland, the Health Facilities Association of Maryland, and Tissue Banks International, the Secretary shall publish guidelines designed to implement this subsection, including guidelines:

(i) Requiring that, at or near the time of each individual death in a hospital, the hospital contact by telephone an appropriate organ, tissue, or eye recovery agency to determine the suitability of the individual for organ, tissue, and eye donation;

(ii) Requiring that each hospital designate a person to make the contact; and

(iii) Identifying the information that the person designated by the hospital shall have available before making the contact.

(9) The provisions of this subsection shall in no way interfere with the duties of the office of the Chief Medical Examiner. In sudden deaths under the jurisdiction of the office of the Chief Medical Examiner as provided in § 5–309 of this article, notification will be made to the office of the Chief Medical Examiner prior to organ removal.

(10) The consent of the decedent’s representative is not necessary and the provisions of paragraph (4) of this subsection do not apply if § 4–506 of the Estates and

Trusts Article precludes the decedent's representative from making an anatomical gift.

(11) A person who acts in good faith to recover organs or tissues in accordance with a notation on the decedent's driver's license or identification card that the decedent is an organ donor, a gift made in accordance with § 5-604.1 of this article or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance with the anatomical gift laws of another state or country is immune from criminal prosecution and liability for damages in any cause of action related to the recovery and donation of the decedent's organs or tissues.

(12) The Department shall conduct annual death record reviews at each hospital to determine the hospital's compliance with the provisions of this subsection. The Department may delegate its duty to conduct annual death record reviews to the appropriate organ, tissue, or eye recovery agency serving the region in which a particular hospital is located.

(b) (1) Subject to paragraph (2) of this subsection and notwithstanding any other provision of law, a hospital offering bone marrow transplant services shall allow an individual to donate bone marrow to any individual.

(2) An individual may donate bone marrow to another individual if a licensed physician determines, based on the physician's medical judgment, that the donation of the bone marrow is in the best interests of the donee and there is no substantial risk of medical injury to the donor.

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