

**HEALTH AND SAFETY CODE**  
**SECTION 7150-7156.5**

7150. This chapter may be cited as the "Uniform Anatomical Gift Act."

7150.1. As used in this chapter:

(a) "Anatomical gift" means a donation of all or part of a human body or a pacemaker 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 operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

(d) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body or a pacemaker.

(e) "Enucleator" means an individual who removes or processes eyes or parts of eyes.

(f) "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.

(g) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body or a pacemaker.

(h) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(i) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the laws of any state.

(j) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state or by the State Department of Health Services for procurement, distribution, or storage of human bodies or parts.

(k) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(l) "Technician" means an individual who has completed training in removal of parts for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

7150.2. (a) The State Department of Health Services shall have oversight and regulatory authority with respect to the implementation in this state of the Uniform Anatomical Gift Act.

(b) The State Department of Health Services shall adopt regulations that provide for the implementation of this chapter. Regulations adopted pursuant to this section shall include, but not be limited to, providing public awareness of being an organ and tissue donor and of the importance of informed consent prior to donation.

(c) (1) It is the intent of the Legislature that no provision of

this section be construed to be in conflict with federal law.

(2) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

7150.5. (a) Except as provided in subdivision (b) of Section 12811 of, and subdivision (b) of Section 13005 of, the Vehicle Code, an individual who is at least 18 years of age, or an individual who is between 15 and 18 years of age as specified in subdivision (m), may make an anatomical gift for any of the purposes stated in subdivision (a) of Section 7153, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift.

(b) An anatomical gift may be made only by one of the following:

(1) A document of gift signed by the donor.

(2) A document of gift 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.

(3) A document of gift orally made by a donor by means of a tape recording in his or her own voice.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift shall comply with subdivision (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon 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, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) 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.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by one or more of the following:

(1) A signed statement.

(2) An oral statement made in the presence of two individuals or by means of a tape recording in the donor's own voice.

(3) Any form of communication during a terminal illness or injury addressed to a physician or surgeon.

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

(g) 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 subdivision (f).

(h) 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.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by a writing signed in the same manner as a document of gift, a statement attached to or imprinted on a donor's

motor vehicle operator's or chauffeur's license, or 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.

(j) 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 7151 or on a removal or release of other parts under Section 7151.5.

(k) 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 subdivision (i).

(l) Any signed statement that is in compliance with this chapter, or a driver's license or identification card that meets the requirements for validity set forth in subdivision (b) of Section 12811 of the Vehicle Code or subdivision (b) of Section 13005 of the Vehicle Code, shall be honored and no further consent or approval from the next of kin or other person listed in subdivision (a) of Section 7151 shall be required.

(m) Notwithstanding subdivision (a), an individual who is between 15 and 18 years of age may make an anatomical gift for any purpose stated in subdivision (a) of Section 7153, limit an anatomical gift to one or more of those purposes, refuse to make an anatomical gift, or amend or revoke an anatomical gift, only upon the written consent of a parent or guardian.

7151. (a) Except as provided in Section 7152, any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or part of the decedent's body or a pacemaker for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(1) The agent under a power of attorney for health care that expressly authorizes or does not limit the authority of the agent to make an anatomical gift of all or part of the principal's body or a pacemaker.

(2) The spouse of the decedent.

(3) An adult son or daughter of the decedent.

(4) Either parent of the decedent.

(5) An adult brother or sister of the decedent.

(6) A grandparent of the decedent.

(7) A guardian or conservator of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in subdivision (a) if any of the following occur:

(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.

(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 subdivision

(a) shall be made by a document of gift signed by the person or 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 subdivision (a) 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, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make an anatomical gift under subdivision (a) is not an objection to the making of an anatomical gift.

7151.5. (a) Except as provided in Section 7152, the coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation, therapy, or reconditioning, if all of the following occur:

(1) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization or, in the case of a pacemaker, from a person who reconditions pacemakers.

(2) A reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to making, an anatomical gift. Except in the case where the useful life of the part does not permit, a reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151.

(3) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in subdivision (a) of Section 7151.

(4) The removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator.

(5) The removal will not interfere with any autopsy or investigation.

(6) The removal will be in accordance with accepted medical standards.

(7) Cosmetic restoration will be done, if appropriate.

(b) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner, a hospital may release and permit the removal of a part from a body if the hospital, after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to making, an anatomical gift, determines and certifies that the persons are not available. A search for the persons listed in subdivision (a) of Section 7151 may be initiated in anticipation of death, but, except in the case where the useful life of the part does not permit, the determination may not be made until the search has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the

decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151.

(c) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner or a hospital, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation, therapy, or reconditioning if the requirements of subdivision (a) are met.

(d) An official or hospital releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, any required written or recorded telephonic consent, and the person to whom it was released.

(e) In the case of corneal material to be used for the purpose of transplantation, the official releasing and permitting the removal of the corneal material and the requesting entity shall obtain and keep on file for not less than three years a copy of any one of the following:

(1) A dated and signed written consent by the donor or any other person specified in Section 7151 on a form that clearly indicates the general intended use of the tissue and contains the signature of at least one witness.

(2) Proof of the existence of a recorded telephonic consent by the donor or any person specified in Section 7151 in the form of an audio tape recording of the conversation or a transcript of the recorded conversation, which indicates the general intended use of the tissue.

(3) A document recording a verbal telephonic consent by the donor or any other person specified in Section 7151, witnessed and signed by no less than two members of the requesting entity, hospital, eye bank, or procurement organization, memorializing the consenting person's knowledge of and consent to the general intended use of the gift.

These requirements are necessary only if the official agency chooses to participate in the transfer of corneal tissue with the requesting entity.

(f) Neither the coroner nor medical examiner authorizing the removal of a body part or tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of a body part or tissue pursuant to this section, shall incur civil liability for the removal in an action brought by any person who did not object prior to the removal of the body part or tissue, nor be subject to criminal prosecution for the removal of the body part or tissue pursuant to this section.

7152. Only an individual may make an anatomical gift of all or part of the individual's body or a pacemaker, if it is made known that the individual at the time of death was a member of a religion, church, sect, or denomination which relies solely upon prayer for the healing of disease or which has religious tenets that would be violated by the disposition of the human body or parts thereof or a

pacemaker for any of the purposes stated in subdivision (a) of Section 7153.

7152.5. (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, the hospital shall comply with the protocol developed pursuant to Section 7184.

(b) The following persons shall make a reasonable search for a document of gift 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 finding an individual who the officer believes is dead or near death.

(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.

(3) Ambulance or emergency medical personnel, upon providing emergency medical services to an individual, when it appears that death of that individual may be imminent. This requirement shall be secondary to the requirement that ambulance or emergency medical personnel provide emergency medical services to the patient.

(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 subdivision (b), 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 subdivision (a) of Section 7151 or a release and removal of a part has been permitted pursuant to Section 7151.5, 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 fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

7152.7. (a) The California organ procurement organizations designated pursuant to Section 273 and following, of Title 42 of the United States Code, are hereby authorized to establish a not-for-profit entity that shall be designated the California Organ and Tissue Donor Registrar, which shall establish and maintain the California Organ and Tissue Donor Registry. The registry shall contain information regarding persons who have identified themselves as organ and tissue donors upon their death. The registrar shall be responsible for developing methods to increase the number of donors who enroll in the registry.

(b) The registrar shall make available to the federally designated organ procurement organizations (OPOs) in California and the state licensed tissue and eye banks information contained in the registry regarding potential donors on a 24-hour-a-day, seven-days-a-week

basis. This information shall be used to expedite a match between identified organ and tissue donors and potential recipients.

(c) The registrar may receive voluntary contributions to support the registry and its activities.

(d) The registrar shall submit an annual written report to the Director of Health Services and the Legislature that includes all of the following:

(1) The number of donors on the registry.

(2) The changes in the number of donors on the registry.

(3) The general characteristics of donors as may be determined by information provided on the donor registry forms pursuant to Sections 12811 and 13005 of the Vehicle Code.

7153. (a) Only the following persons may become donees of anatomical gifts for the purposes stated:

(1) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

(2) An accredited medical or dental school, college, or university for education, research, or advancement of medical or dental science.

(3) A designated individual for transplantation or therapy needed by that individual.

(4) In the case of a pacemaker, a person who reconditions pacemakers.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or, in the case of a pacemaker, the pacemaker may be accepted by any person who reconditions pacemakers.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under subdivision (a) of Section 7151, the donee may not accept the anatomical gift.

7153.2. (a) No hospital, physician and surgeon, procurement organization, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

(b) Subdivision (a) shall apply to each part of the organ transplant process. The organ transplant process includes, but is not limited to, the following:

(1) The referral from a primary care provider to a specialist.

(2) The referral from a specialist to a transplant center.

(3) The evaluation of the patient for the transplant by the transplant center.

(4) The consideration of the patient for placement on the official

waiting list.

(c) A person with a physical or mental disability shall not be required to demonstrate postoperative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance.

(d) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

(e) This section shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants.

(f) As used in this section "disabilities" has the same meaning as in the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq., Public Law 101-336).

7153.5. (a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, accredited medical or dental school, college, or university, or, in the event that the gift is for transplantation or therapy only, to a procurement organization that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

7154. (a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under subdivision (b) of Section 7155.5. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body or a pacemaker, the donee, upon the death of the donor and before embalming, shall cause the part or pacemaker to be removed without unnecessary mutilation. After removal of the part or pacemaker, custody of the remainder of the body vests in the person specified in Section 7100.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to subdivision (d) of Section 7150.5.

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

(d) For all donations made pursuant to an document of gift

executed after January 1, 2001, following the final disposition of the remains of the donor, upon request of a person specified in Section 7100, the donee shall return the cremated remains of the donor at no cost to the person specified in Section 7100, unless the donor has previously designated otherwise in the document of gift. A person who knowingly returns the cremated remains of a person other than the donor to a person specified in Section 7100 shall be punished by imprisonment in the county jail for not more than one year.

7154.5. Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

7155. (a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation, therapy, or reconditioning, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, a fine not exceeding fifty thousand dollars (\$50,000), or both.

7155.5. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended. All donors shall be screened for infectious diseases, including human immunodeficiency virus (HIV) antibody testing, pursuant to regulations adopted by the State Department of Health Services.

(b) The provisions of this chapter are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to Section 7150.5 or 7151 and the individual's estate or heirs are not liable for any injury, damage, or cost that may result from the making or the use of the anatomical gift.

7155.7. (a) On request from a qualified procurement organization, the county medical examiner or coroner may permit the removal of organs that constitute an anatomical gift from a decedent who died under circumstances requiring an inquest by the medical examiner or

coroner.

(b) If no autopsy is required, the organs to be removed may be released to the qualified procurement organization.

(c) If an autopsy is required and the county medical examiner or coroner determines that the removal of the organs will not interfere with the subsequent course of an investigation or autopsy, the organs may be released for removal. The autopsy shall be performed following the removal of the organs.

(d) Except in cases where there is no known next of kin or when a person dies in the custody of a law enforcement agency, if the medical examiner or coroner is considering withholding one or more organs of a potential donor for any reason, the medical examiner or coroner, or his or her designee, upon request from a qualified organ procurement organization, shall be present during the procedure to remove the organs. The medical examiner or coroner, or his or her designee, may request a biopsy of those organs or deny removal of the organs if necessary. If the county medical examiner or coroner, or his or her designee, denies removal of the organs, the county medical examiner or coroner may do both of the following:

(1) In the investigative report, explain in writing the reasons for the denial.

(2) Provide the explanation to the qualified organ procurement organization.

(e) If the county medical examiner or coroner, or his or her designee, is present during the removal of the organs, the qualified procurement organization requesting the removal of the organ shall reimburse the county of the medical examiner or coroner, or his or her designee, for the actual costs incurred in performing the duty specified in subdivision (d), if reimbursement is requested by the county medical examiner or coroner. The payment shall be applied to the additional costs incurred by the county medical examiner's or coroner's office in performing the duty specified in subdivision (d).

(f) The health care professional removing organs from a decedent who died under circumstances requiring an inquest shall file with the county medical examiner or coroner a report detailing the condition of the organs removed and their relationship, if any, to the cause of death.

(g) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

7156. This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after January 1, 1989.

7156.5. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.