

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978
Part 102
DISPOSITION OF HUMAN BODY PARTS

333.10201 Definitions.

Sec. 10201.

As used in this part:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or physical parts of human bodies.

(b) "Next of kin" means the spouse of a deceased individual or a person related to a deceased individual within the third degree of consanguinity as determined by the civil law method.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979

Popular Name: Act 368

333.10202 Removal of cornea; circumstances.

Sec. 10202.

(1) In any case in which an autopsy is to be done by a county medical examiner or a county medical examiner causes an autopsy to be done, the cornea of the deceased person may be removed by a person authorized by the county medical examiner.

(2) Removal under subsection (1) may be made only under the following circumstances:

(a) An autopsy has already been authorized by the county medical examiner.

(b) The county medical examiner does not have knowledge of an objection by the next of kin of the decedent to the removal of the cornea.

(c) The removal of the cornea will not interfere with the course of any subsequent investigation or autopsy or alter post-mortem facial appearance.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979 ;-- Am. 1982, Act 158, Imd. Eff. May 20, 1982

Popular Name: Act 368

333.10203 Removal of cornea; liability.

Sec. 10203.

The county medical examiner, the assistant county medical examiner, a bank or storage facility, or any person authorized by the county medical examiner to remove the cornea of a deceased person, shall not be liable in a civil action if it is subsequently alleged that authorization for the removal was required of the next of kin.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979

Popular Name: Act 368

333.10204 Prohibited conduct; felony; permissible practices; definitions; rules.

Sec. 10204.

(1) Except as otherwise provided in subsection (2), a person shall not knowingly acquire, receive, or otherwise transfer a human organ or part of a human organ for valuable consideration for any purpose, including but not limited to transplantation, implantation, infusion, injection, or other medical or scientific purpose. A person who violates this subsection is guilty of a felony.

(2) Subsection (1) does not prohibit 1 or more of the following practices:

(a) The removal and use of a human cornea pursuant to section 10202, or the removal and use of a human pituitary gland pursuant to section 2855.

(b) An anatomical gift pursuant to part 101, or the acquisition or distribution of bodies or parts by the department pursuant to sections 2652 to 2663.

(c) Financial assistance payments provided under a plan of insurance or other health care coverage.

(3) Except as otherwise provided in part 101, only an individual who is 1 of the following may surgically remove a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose:

(a) A physician licensed under article 15.

(b) An individual acting under the delegatory authority and supervision of a physician pursuant to section 16215(2), but not including an individual whose license has been suspended under article 15. This subdivision includes, but is not limited to, an individual described in section 16215(3).

(c) An individual residing in another state and authorized to practice allopathic medicine or osteopathic medicine and surgery in that state who is called into this state by a physician licensed under article 15 and is authorized by a hospital licensed under article 17 to surgically remove 1 or more of the following organs for transport back to the other state:

(i) A heart.

(ii) A liver.

(iii) A lung.

(iv) A pancreas.

(v) A kidney.

(vi) All or part of an intestine.

(vii) Any other human organ specified by rule promulgated by the department under subsection (6).

(4) An individual who violates subsection (3) is guilty of a felony.

(5) As used in this section:

(a) "Human organ" means the human kidney, liver, heart, lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin, cartilage, dura mater, ligaments, tendons, fascia, pituitary gland, and middle ear structures and any other human organ specified by rule promulgated by the department under subsection (6). Human organ does not include whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or human hair.

(b) "Valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the medical expenses and expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the human organ.

(6) The department may promulgate rules to specify human organs in addition to the human organs listed in subsection (3)(c) or (5)(a).

History: Add. 1984, Act 390, Eff. Mar. 29, 1985 ;-- Am. 1988, Act 63, Imd. Eff. Mar. 24, 1988 ;-- Am. 1999, Act 60, Eff. Sept. 1, 1999 ;-- Am. 2008, Act 39, Eff. May 1, 2008

Popular Name: Act 368

333.10205 Surgical removal of human organ for transplant, implant, infusion, injection or other purpose; facilities; exceptions; rules; violation as felony.

Sec. 10205.

(1) Except as otherwise provided in subsections (2) and (3), an individual who surgically removes a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the surgery only in 1 of the following facilities:

(a) A hospital licensed under article 17.

(b) A facility approved by the director of the department of licensing and regulatory affairs under subsection (4).

(c) A facility operated by a federally designated organ procurement organization for the state of Michigan.

(2) An individual who surgically removes a human organ consisting of tissue, a cornea, or a whole eye for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the removal surgery only in 1 of the following facilities or in a hospital or other facility described in subsection (1):

(a) A mortuary that is part of a funeral establishment owned or operated by the holder of a license for the practice of mortuary science issued under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.

(b) A morgue or a facility operated by a county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(3) Subsections (1) and (2) do not apply to a licensed allopathic physician or osteopathic physician who performs a biopsy or the routine removal of human tissue from a patient in the physician's private practice office or other health facility licensed under article 17 for the diagnosis or treatment of that patient and not for purposes of transplantation, implantation, infusion, or injection.

(4) The director of the department of licensing and regulatory affairs may promulgate rules to designate 1 or more approved facilities for purposes of subsection (1)(b).

(5) An individual who violates subsection (1) or (2) is guilty of a felony.

History: Add. 1999, Act 62, Eff. Sept. 1, 1999 ;-- Am. 2016, Act 71, Imd. Eff. Apr. 5, 2016

Compiler's Notes: Former MCL 333.10205, which pertained to expiration of part, was repealed by Act 158 of 1982, Imd. Eff. May 20, 1982.

Popular Name: Act 368

333.10251 Organ transplant services; discrimination against individuals with disability; prohibition; action for injunctive relief; definitions.

Sec. 10251.

(1) In providing health care and other services related to an organ transplant, a health care provider in this state shall not discriminate against an individual who has a disability based solely on the individual's disability. Discriminating against an individual who has a disability based solely on the individual's disability includes, but is not limited to, any of the following:

(a) Refusing to transplant an organ in the individual based solely on the individual's disability.

(b) Subject to subsection (2), refusing to transplant an organ in the individual based on an assessment that the individual will be unable, without support, to comply with postransplantation medical requirements because of the individual's disability.

(c) Refusing to place the individual on an organ transplant waiting list or lowering the individual's priority on that waiting list to receive an organ transplant, based solely on the individual's disability.

(d) Refusing to provide or diminish the quality of counseling or postoperative treatment for the individual based solely on the individual's disability.

(2) A health care provider in this state shall consider the support of an individual described under subsection (1) in determining the individual's ability to comply with postransplantation medical requirements.

(3) An individual with a disability who reasonably believes that a health care provider has violated this section may bring an action for injunctive relief in the appropriate court. The action for injunctive relief must be heard in an expedited manner.

(4) This section does not limit an individual's rights or remedies otherwise provided by law.

(5) As used in this section:

(a) "Disability" means that term as defined in 42 USC 12102.

(b) "Health care provider" means both of the following:

(i) An individual licensed, registered, or otherwise authorized to engage in a health profession under article 15.

(ii) A health facility or agency licensed under article 17.

(c) "Organ" means that term as defined in section 10102.

History: Add. 2022, Act 253, Imd. Eff. Dec. 22, 2022

Popular Name: Act 368

333.10301 Peace of mind registry; creation, operation, and maintenance; report; rules; immunity from civil liability; legal weight and validity; definitions.

Sec. 10301.

(1) The department may create, operate, and maintain the peace of mind registry, which must contain the directives of voluntary registrants who are residents of this state. The peace of mind registry must be created, operated, and maintained as provided in this act.

(2) The department may by contract delegate the creation, operation, and maintenance of a peace of mind registry to a peace of mind registry organization contingent on the peace of mind registry organization incurring all of the cost related to design, maintain, and operate the registry.

(3) Both of the following conditions apply to a directive:

(a) A directive may be submittable through the United States mail, or through uploaded portable document format (PDF) or another secure electronic format as determined by the department.

(b) A directive must contain a signature line for the registrant.

(4) The peace of mind registry must meet all of the following requirements:

(a) Be accessible to registrants, health care providers, and the department by way of a designated user identification and password.

(b) Store all an individual's directive. However, the most recently signed directive supersedes any earlier directive.

(c) Provide electronic access to stored directives on a continuous basis at no cost to the health care providers and allow health care providers to transmit directives into their respective electronic medical records.

(d) Provide electronic storage and access to directives submitted at no cost to the registrant.

(e) Include a unique identifier-searchable database, including, but not limited to, the last 4 digits of an individual's Social Security number and the individual's date of birth and address.

(5) The department and the secretary of state shall each provide on its public website information on directives and the peace of mind registry. The department and the secretary of state shall promote public awareness of the advantages of creating directives and the availability of the registry.

(6) The peace of mind registry must satisfy all of the following conditions to the satisfaction of the department:

(a) Maintain a record of each individual who files a directive to be stored in the peace of mind registry and make the record available to the department.

(b) Create and provide forms for the registration of a directive.

(c) Create and provide forms for the revocation of a directive.

(7) The department and the peace of mind registry organization shall ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the peace of mind registry. The department and any person who accesses the peace of mind registry shall comply with all other provisions of this act and any other law of this state or federal law establishing privacy and security standards applicable to health or other personal identifying information.

(8) Information in the peace of mind registry must not be accessed or used for any purpose unrelated to decision making for health care or disposition of human remains, except that the information may be used solely by the department or its designee for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

(9) The department or its designee shall provide both of the following to an individual who files a directive with the peace of mind registry to be stored in the registry:

(a) A wallet-sized card indicating that the holder has a directive in the registry.

(b) An electronic mail message or postcard indicating confirmation of the registration of a directive.

(10) By January 31 of each year, the department or peace of mind organization, as applicable, shall report to the standing committees of the house of representatives and senate on health policy stating the total number of current and new registrants who have submitted directives during the preceding calendar year.

(11) The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation and administration of this section.

(12) A peace of mind registry organization, with which the department has contracted under subsection (2), and its employees are immune from civil liability arising from the accuracy or content of the registry, except for willful negligence or gross negligence.

(13) A directive that was filed with and stored in the peace of mind registry is not considered to be of greater legal weight or validity solely by virtue of that filing and storage.

(14) As used in this section:

(a) "Department" means the department of health and human services.

(b) "Directive" means a document that is registered or filed with the peace of mind registry as provided in this act and that is either of the following:

(i) A durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(ii) A signed or authorized record concerning an anatomical gift containing a donor's direction concerning a health care decision for the donor under the revised uniform anatomical gift law, sections 10101 to 10123.

- (c) "Health care provider" means any of the following:
 - (i) A health professional licensed, registered, or otherwise authorized to engage in a health profession under part 170, 172, or 175, or a law of another state substantially similar to part 170, 172, or 175.
 - (ii) A health facility or agency licensed or certified under article 17 or a law of another state substantially similar to article 17.
- (d) "Peace of mind registry" or "registry" means an internet website containing access to directives as provided under this act.
- (e) "Peace of mind registry organization" means an organization certified or recertified by the secretary of the United States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b), or its successor organization.
- (f) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:
 - (i) Executes or adopts a tangible symbol.
 - (ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

History: Add. 2012, Act 179, Imd. Eff. June 19, 2012 ;-- Am. 2023, Act 189, Eff. Feb. 13, 2024
Popular Name: Act 368

333.11101 Prohibited donation or sale of blood or blood products; notice of violation.

Sec. 11101.

An individual shall not donate or sell his or her blood or blood products to a blood bank or storage facility or to an agency or organization that collects blood or blood products for a blood bank or storage facility knowing that he or she has tested positive for the presence of HIV or an antibody to HIV. A blood bank or other health facility to which blood or blood products is donated in violation of this section immediately shall notify the local health department of the violation. The local health facility will immediately proceed under part 52.

History: Add. 1988, Act 487, Eff. July 1, 1989
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