

WHO CAN CONSENT TO ORGAN AND TISSUE DONATION IN NEW YORK STATE?

A New Law Authorizes New Categories of People, and Revises Order of Priority

In a move aimed at increasing the number of organ and tissue donors in New York State, Governor David Paterson signed into law a bill (A.904A/S.3910) that sets a new order of priority for who makes decisions about donation when someone has died.

It also expands the groups of people authorized to consent to donation.

The law went into effect on October 25. It amends Sections 4301, 4351 and 4201 of New York State public health law.



The law recognizes three new categories of people who can make donation decisions:

1. A designated health care agent
2. An agent for the disposition of remains (burial agent)
3. A patient's domestic partner, if there is no spouse or the spouse is legally separated from the patient.



Subject to any written statement in the health care proxy form, the health care agent becomes the highest authority to make a decision regarding donation.

The second authority — a relatively new legal designation in New York State — allows for the burial agent to make decisions regarding what to do with the body of the deceased person, subject to any statement in the written instrument

Appointment of Agent to Control Disposition of Remains (per Article 42, Title 1 of the Public Health Law).

For the third authority (the spouse, if not legally separated, or domestic partner), the law now recognizes a legal separation, and therefore a

spouse under these circumstances does not have authority to make the decision. Domestic partners are now recognized.

The remaining hierarchy remains unchanged: Adult children, parents, adult siblings, guardian and any other person authorized or under the obligation to dispose of the body.



Another change to the law is that consent may be given by a member of a lower class of priority in the hierarchy when a member of the higher class is "not reasonably available, willing and able to act."

This language was amended to allow more flexibility for organ procurement organizations when trying to locate individuals in the highest authority. It ensures that this person can be contacted without undue effort and be willing and able to act in a timely manner consistent with existing medical criteria necessary for making an anatomical gift.

► **New York Organ Donor Network staff members are available to assist with revising and updating your hospital's Anatomical Gift Policy.**

Christina W. Strong, Esq., a nationally recognized expert on legal matters surrounding organ and tissue donation, provides this summary of the new law:

"A-904 strengthens patient autonomy, protects health care providers, and facilitates the donation process. Health care agents (proxies) are now legally empowered, along with domestic partners and certain significant others, to authorize donation. Providers are safe in relying on the representations of authorizing parties that they are who they say they are. And the search for those 'at the top of the list' to authorize donation may now move forward if that person is not willing, able, or available to act in a time frame compatible with donation."

CUSTOMER SATISFACTION SURVEY: HOSPITAL EMPLOYEES ARE "HIGHLY SATISFIED" WITH THE DONOR NETWORK

The vast majority of hospital employees — 86 percent — are highly satisfied with the New York Organ Donor Network, according to a recent customer satisfaction survey conducted by an independent firm on behalf of the organization.

The study, which was commissioned to learn how to better serve our hospital partners, involved open-ended telephone interviews and rating questions with physicians, department directors, nurses, managers and administrative staff from hospitals in our region.

Here are some further highlights from the study:

- 88% are satisfied with the overall quality of Donor Network personnel sent to your hospital.
- 85% are satisfied with our level of communication during the referral of a potential organ or tissue donor and case.
- 70% are satisfied with us keeping you informed during the recovery process.
- 71% of you know your hospital's consent rate but only 44% are satisfied with the rate.
- 92% are not concerned about the expense of keeping a potential donor in an ICU bed or the cost of additional testing.
- 83% of you want the same level of involvement during a case as you do now, and 17% seek more involvement.
- The majority feel that we need to do more professional and public education to have better donation outcomes.

Linda Bowes, the Donor Network's director of hospital and family services, said, "We're very pleased with the outcome of the survey. It's evident that hospital employees believe strongly in our mission and want to play a bigger role in improving consent rates.

"We'll work toward increasing their level of satisfaction in the areas of public and professional education, and tighten up our communication with them during and after cases. We'll also identify those who want to be more involved and gladly include them in the process."





**New York
Organ Donor
Network**

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WE HAVE MOVED...OUR PHONE NUMBERS ARE UNCHANGED!

The Donor Network moved to our new home at 460 W. 34th Street on October 30, but you can still reach us on the same phone numbers:

Phone: 646-291-4444

24-Hour Donor Referrals: 800-GIFT-4-NY

BEST PRACTICES *update*

METRO AREA HOSPITALS RECEIVE HHS MEDALS OF HONOR FOR THEIR DONATION ACCOMPLISHMENTS

Seven hospitals in our region were presented with Medals of Honor on September 30 by the Department of Health and Human Services at the Fifth National Learning Congress for the Donation and Transplantation Community of Practice held in Grapevine, Texas.

A total of 428 hospitals nationwide were recognized for achieving and sustaining at least one out of three national goals for organ donation: 1) Attaining a donation rate of 75 percent or more of eligible donors at their facilities; 2) Increasing the number of organs donated per individual donor to 3.75 or higher, and 3) Expanding clinical processes for recovering organs from donors after cardiac death by 10 percent.

Each hospital had eight or more eligible organ donors during the 22-month award period ending in April 2009.

The following hospitals were awarded a Silver 1 Medal for meeting two of three goals: Mount Sinai Medical Center, Roosevelt Hospital, University Hospital of Stony Brook and Vassar Brothers Hospital.

These Bronze Medal winners achieved the 75 percent conversion rate: Elmhurst Hospital Center, Richmond University Medical Center and St. Barnabas Hospital.



AT THE AWARDS CEREMONY: Front row, from left: Jennifer Frontera, MD (The Mount Sinai Hospital); Carrie Comellas (Stony Brook University Medical Center); Julie Mirkin (Donor Network); Elizabeth Clarke (St. Luke's-Roosevelt Hospital); Donna Krog and Carol Wilson (Vassar Brothers Hospital); Elaine Berg, Christine Palms and Maria Sabeta (Donor Network).

Back row, from left: Michael Goldstein, MD (NewYork Presbyterian Hospital-Columbia University Medical Center and Donor Network); Theresa Daly (NewYork Presbyterian Hospital-Columbia University Medical Center); Anthony Dawson (NewYork Presbyterian-Milstein Hospital Building); Mark Houston (The Eye Bank for Sight Restoration, Inc.); Sue Kontak (Donor Network); Kenrick Olmer and David Bekofsky (Stony Brook University Medical Center), and Uri Gordon (Halachic Organ Donor Society). *Photo: HRSA*

BEST PRACTICES FOR DONATION AFTER CARDIAC DEATH

Here are best practices to ensure success gleaned from the September 11 and 12, 2009 Donor Network collaborative summit, ***Improving Organ Donation and Transplantation from Donors After Cardiac Death (DCD)***:

DAY 1: End-of-Life Care for the DCD Donor

1. Commitment of leadership to improve DCD within your institution
2. Clearly defined policies and procedures
3. Build a team of experts with specifically defined roles and responsibilities
4. Optimal communication within multidisciplinary team
5. Commitment to quality donor family care

DAY 2: Transplant Management for DCD

1. Standardization of recovery process to insure optimal outcomes
2. Use data to build evidence-based best practices
3. Optimizing donor selection criteria

DONOR NETWORK WEB SITE:
donatelifeny.org

ENROLL IN THE NEW YORK STATE DONATE LIFE REGISTRY:
SaveLivesNewYork.org

