

Organ Donation Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor:

LONG TITLE**General Description:**

This bill addresses public awareness of organ donation.

Highlighted Provisions:

This bill:

- requires information about the option to register as an organ donor, and instructions for accessing a donor registry, to be provided in connection with:
 - a license, permit, or certificate of registration to be used for hunting, fishing, trapping, seining, or dealing in furs;
 - health curriculum;
 - driver education;
 - a preneed funeral arrangement contract;
 - individual income tax booklets;
 - procurement contracts; and
 - health care directives;
- designates the third full week of April as Organ Donor Awareness Week; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-4-202, as renumbered and amended by Laws of Utah 2023, Chapter 103

53B-1-111, as last amended by Laws of Utah 2023, Chapter 328

53G-10-402, as last amended by Laws of Utah 2024, Chapters 20, 507

53G-10-502, as last amended by Laws of Utah 2021, Chapter 247

58-9-701, as last amended by Laws of Utah 2012, Chapter 30

31 **59-10-103.1**, as last amended by Laws of Utah 2022, Chapter 258

32 **63G-1-401**, as last amended by Laws of Utah 2024, Chapter 377

33 **75A-3-207**, as renumbered and amended by Laws of Utah 2024, Chapter 364

34 ENACTS:

35 **63G-6a-122**, Utah Code Annotated 1953

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **23A-4-202** is amended to read:

39 **23A-4-202 . License, permit, and certificate forms prescribed by Wildlife Board.**

40 (1)(a) [The] Subject to Subsection (1)(b), the Wildlife Board shall prescribe the form of a
41 license, permit, or certificate of registration to be used for hunting, fishing, trapping,
42 seining, and dealing in furs.

43 (b) The Wildlife Board shall require that a license, permit, or certificate of registration to
44 be used for hunting, fishing, trapping, seining, or dealing in furs include, on the
45 license, permit, or certification or in paper-based or electronic materials that are
46 provided contemporaneously with the license, permit, or certification, information
47 about the option to register as a donor, as that term is defined in Section 26B-8-301,
48 and instructions for accessing a donor registry established under Section 26B-8-319.

49 (2) A license, permit, or certificate of registration may be paper-based or in electronic
50 format pursuant to the rules made by the Wildlife Board in accordance with Title 63G,
51 Chapter 3, Utah Administrative Rulemaking Act.

52 (3) A license issued pursuant to Section 23A-4-305 shall be designated as such by a code
53 number and may not contain a reference to the licensee's disability.

54 Section 2. Section **53B-1-111** is amended to read:

55 **53B-1-111 . Organ donation notification.**

56 (1) As used in this section:

57 (a) "Donor" means the same as that term is defined in Section ~~[26B-4-137]~~ 26B-8-301.

58 (b) "Donor registry" means the same as that term is defined in Section ~~[26B-4-137]~~
59 26B-8-301.

60 (c) "Institution of higher education" means an institution as described in Section
61 53B-3-102.

62 (2)(a) An institution of higher education shall distribute, twice each academic year to
63 each enrolled student:

64 (i) an electronic message notifying each student of the option to register as a donor by

selecting the Internet link described in Subsection (2)(a)(ii); and
(ii) through the electronic message described in Subsection (2)(a)(i) an Internet link
to a website for a donor registry established under Section 26B-8-319.

(b) An institution of higher education may also provide to students information on donor
registry by other electronic, printed, or in-person means.

Section 3. Section **53G-10-402** is amended to read:

**53G-10-402 . Instruction in health -- Parental consent requirements -- Conduct
and speech of school employees and volunteers -- Political and religious doctrine
prohibited.**

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing
board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another
individual;

(iii) informing a student of the student's right to report and seek counseling for
unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited
activities or activities for which the student is legally prohibited from giving
consent, including the electronic transmission of sexually explicit images by an
individual of the individual or another.

(2)(a) The state board shall establish curriculum requirements under Section 53E-3-501
that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; ~~and~~

(vi) the harmful effects of pornography[-] ; and

(vii) organ and tissue donation.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

99 state board shall make rules that~~[-and instruction shall]~~:

100 (i) require instruction to stress the importance of abstinence from all sexual activity
101 before marriage and fidelity after marriage as methods for preventing certain
102 communicable diseases;

103 (ii) require instruction to stress personal skills that encourage individual choice of
104 abstinence and fidelity;

105 (iii) prohibit instruction in:

106 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

107 (B) the advocacy of premarital or extramarital sexual activity; or

108 (C) the advocacy or encouragement of the use of contraceptive methods or
109 devices;~~[-and]~~

110 (iv) except as provided in Subsection (2)(d), allow instruction to include information
111 about contraceptive methods or devices that stresses effectiveness, limitations,
112 risks, and information on state law applicable to minors obtaining contraceptive
113 methods or devices~~[-]~~ ; and

114 (v) require instruction to include information about the option to register as a donor,
115 as that term is defined in Section 26B-8-301, and instructions for accessing a
116 donor registry established under Section 26B-8-319.

117 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
118 state board shall make rules for an LEA governing board that adopts instructional
119 materials under Subsection (2)(g)(ii) that:

120 (i) require the LEA governing board to report on the materials selected and the LEA
121 governing board's compliance with Subsection (2)(h); and

122 (ii) provide for an appeal and review process of the LEA governing board's adoption
123 of instructional materials.

124 (d) The state board may not require an LEA to teach or adopt instructional materials that
125 include information on contraceptive methods or devices.

126 (e)(i) At no time may instruction be provided, including responses to spontaneous
127 questions raised by students, regarding any means or methods that facilitate or
128 encourage the violation of any state or federal criminal law by a minor or an adult.

129 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
130 spontaneous question as long as the response is consistent with the provisions of
131 this section.

132 (f) The state board shall recommend instructional materials for use in the curricula

required under Subsection (2)(a).

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee;

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students who attend the respective schools; and

(iv) give parents an opportunity to express the parents' views and opinions on the materials at the meeting described in Subsection (2)(h)(iii).

(3)(a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health and Human Services shall cooperate with the state board in developing programs to provide instruction in those areas.

(4)(a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5)(a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to students, school employees or volunteers acting in an official capacity may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the

school employee's or volunteer's official capacity if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that support or encourage criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding an educator's, employee's, or volunteer's qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7)(a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable the teachers, counselors, and school administrators to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and students' parents.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7)(b).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 4. Section **53G-10-502** is amended to read:

53G-10-502 . Driver education established by a local education agency.

(1)(a) A local education agency may establish and maintain driver education for pupils.

(b) A school or local education agency that provides driver education shall provide an opportunity for each pupil enrolled in that school or local education agency to take the written test when the pupil is 15 years and nine months [~~of age~~] old.

(c) Notwithstanding the provisions of Subsection (1)(b), a school or local education agency that provides driver education may provide an opportunity for each pupil enrolled in that school or local education agency to take the written test when the pupil is 15 years [~~of age~~] old.

(2) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for driver education offered in the public schools.

(4) The rules under Subsection (3) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil;

(b) require instruction, based on data and information provided by the Division of Air

Quality, on:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;[and]

(c) require at least 30 minutes of instruction on the subject of organ donation, including information regarding the option to register as a donor, as that term is defined in Section 26B-8-301, and instructions for accessing a donor registry established under Section 26B-8-319; and

(d) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(5) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Section 5. Section **58-9-701** is amended to read:

58-9-701 . Preneed contract requirements.

(1)(a) A preneed funeral arrangement sold in Utah shall be evidenced by a written contract.

(b) The funeral service establishment shall maintain a copy of the contract until five years after all of the establishment's obligations under the contract have been executed.

(c) At the same time a sales agent or funeral service director provides a written contract of a preneed funeral arrangement to a buyer, the sales agent or funeral director shall distribute to the buyer a written or electronic message notifying the buyer of the option to register as a donor, as that term is defined in Section 26B-8-301, and providing instructions for accessing a donor registry established under Section 26B-8-319.

(2) The form for a written contract of a preneed funeral arrangement under Subsection (1) shall:

(a) be written in clear and understandable language printed in an easy-to-read type size and font;

(b) bear the preprinted name, address, telephone number, and license number of the funeral service establishment obligated to provide the services under the contract terms;

(c) clearly identify that the contract is a guaranteed product contract;

(d) provide that a trust is established in accordance with the provisions of Section 58-9-702;

(e) if the contract is funded by an insurance policy or product, provide that the insurance policy or product is filed with the Insurance Department and meets the requirements of Title 31A, Insurance Code; and

(f) conform to other standards created by rules made by division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to protect the interests of buyers and potential buyers.

(3) A preneed funeral arrangement contract shall provide for payment by the buyer in a form which may be liquidated by the funeral service establishment within 30 days after the day the funeral service establishment or sales agent receives the payment.

(4) A preneed funeral arrangement contract may not be revocable by the funeral service establishment except:

(a) in the event of nonpayment; and

(b) under terms and conditions clearly set forth in the contract.

(5)(a) A preneed funeral arrangement contract may not be revocable by the buyer or beneficiary except:

(i) in the event of:

(A) a substantial contract breach by the funeral service establishment; or

(B) substantial evidence that the funeral service establishment is or will be unable to provide the personal property or services to the beneficiary as provided under the contract; or

(ii) under terms and conditions clearly set forth in the contract.

(b) The preneed funeral arrangement contract shall contain a clear statement of the manner in which payments made on the contract shall be refunded to the buyer or beneficiary upon revocation by the beneficiary.

(6)(a) A preneed funeral arrangement contract shall provide the buyer the option to require the funeral service establishment to furnish a written disclosure to a person who does not live at the same residence as the buyer.

(b) The preneed funeral arrangement buyer may choose:

(i) a full disclosure containing a copy of the entire preneed funeral arrangement contract;

(ii) a partial disclosure informing the recipient of:

(A) the existence of a preneed funeral arrangement contract; and

(B) the name, address, telephone number, and license number of the funeral service establishment obligated to provide the services under the preneed

303 funeral arrangement contract; or

304 (iii) not to require the funeral service establishment to furnish a written disclosure to
305 another person.

306 Section 6. Section **59-10-103.1** is amended to read:

307 **59-10-103.1 . Information to be contained on individual income tax returns or**
308 **booklets.**

309 (1) The commission shall print the phrase "all state income tax dollars support education,
310 children, and individuals with disabilities" on:

311 (a) the first page of an individual income tax return; and

312 (b) the cover page of an individual income tax forms and instructions booklet.

313 (2) The commission shall include on an individual income tax return a statement for a
314 property owner to declare that the property owner no longer qualifies to receive a
315 residential exemption authorized under Section 59-2-103 for that property owner's
316 primary residence.

317 (3) The commission shall include in each instruction booklet information about the option
318 to register as a donor, as that term is defined in Section 26B-8-301, and instructions for
319 accessing a donor registry established under Section 26B-8-319.

320 Section 7. Section **63G-1-401** is amended to read:

321 **63G-1-401 . Commemorative periods.**

322 (1) As used in this section, "commemorative period" means a special observance declared
323 by the governor that annually recognizes and honors a culturally or historically
324 significant day, week, month, or other time period in the state.

325 (2)(a) The governor may declare a commemorative period by issuing a declaration.

326 (b) The governor shall maintain a list of all commemorative periods declared by the
327 governor.

328 (3)(a) The governor's declaration of a commemorative period expires the year
329 immediately following the day on which the governor issues the declaration.

330 (b) Subsection (3)(a) does not prevent the governor from redeclaring a commemorative
331 period before or after the commemorative period expires.

332 (4) Notwithstanding Subsections (2) and (3), the following days shall be commemorated
333 annually:

334 (a) Utah History Day at the Capitol, on the Friday immediately following the fourth
335 Monday in January, to encourage citizens of the state, including students, to
336 participate in activities that recognize Utah's history;

- (b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;
- (c) Utah State Flag Day, on March 9;
- (d) Vietnam Veterans Recognition Day, on March 29;
- (e) Utah Railroad Workers Day, on May 10;
- (f) Dandy-Walker Syndrome Awareness Day, on May 11;
- (g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;
- (h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;
- (i) Navajo Code Talker Day, on August 14;
- (j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:
- (i) encourage individuals to make child safety a priority;
- (ii) remember the importance of continued efforts to reunite missing children with their families; and
- (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;
- (k) September 11th Day of Remembrance, on September 11, in honor and remembrance of the first responders and persons killed and injured in the terrorist attacks on September 11, 2001;
- (l) Constitution Day, on September 17, to invite all Utah adults and Utah school children to read directly from the United States Constitution and other primary sources, and for students to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses;
- (m) POW/MIA Recognition Day, on the third Friday in September;
- (n) Diwali, on the fifteenth day of the Hindu lunisolar month of Kartik, known as Lakshmi puja, or the Hindu festival of lights;
- (o) Victims of Communism Memorial Day, on November 7;
- (p) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and
- (q) Bill of Rights Day, on December 15.
- (5) The Department of Veterans and Military Affairs shall coordinate activities, special

371 programs, and promotional information to heighten public awareness and involvement
372 relating to Subsections (4)(g) and (m).

373 (6) The month of April shall be commemorated annually as Clean Out the Medicine
374 Cabinet Month to:

375 (a) recognize the urgent need to make Utah homes and neighborhoods safe from
376 prescription medication abuse and poisonings by the proper home storage and
377 disposal of prescription and over-the-counter medications; and

378 (b) educate citizens about the permanent medication disposal sites in Utah listed on
379 useonlyasdirected.org that allow disposal throughout the year.

380 (7) The second full week of April shall be commemorated annually as Animal Care and
381 Control Appreciation Week to recognize and increase awareness within the community
382 of the services that animal care and control professionals provide.

383 (8) The third full week of April shall be commemorated annually as Organ Donor
384 Awareness Week to increase public awareness of the need for organ donors, honor those
385 that have saved lives through the gift of organ donation, and encourage citizens to
386 register as organ donors.

387 [(8)] (9) The first full week of May shall be commemorated annually as State Water Week
388 to recognize the importance of water conservation, quality, and supply in the state.

389 [(9)] (10) The third full week of June shall be commemorated annually as Workplace Safety
390 Week to heighten public awareness regarding the importance of safety in the workplace.

391 [(10)] (11) The second Friday and Saturday in August shall be commemorated annually as
392 Utah Fallen Heroes Days to:

393 (a) honor fallen heroes who, during service in the military or public safety, have
394 sacrificed their lives to protect the country and the citizens of the state; and

395 (b) encourage political subdivisions to acknowledge and honor fallen heroes.

396 [(11)] (12) The third full week in August shall be commemorated annually as Drowsy
397 Driving Awareness Week to:

398 (a) educate the public about the relationship between fatigue and driving performance;
399 and

400 (b) encourage the Department of Public Safety and the Department of Transportation to
401 recognize and promote educational efforts on the dangers of drowsy driving.

402 [(12)] (13) The month of September shall be commemorated annually as American
403 Founders and Constitution Month to:

404 (a) encourage all civic, fraternal, and religious organizations, and public and private

educational institutions, to recognize and observe this occasion through appropriate programs, teaching, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate; and

- (b) invite all Utah school children to read directly from the United States Constitution and other primary sources, and to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses.

~~[(13)]~~ (14) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

~~[(14)]~~ (15) The month of October shall be commemorated annually as Italian-American Heritage Month.

~~[(15)]~~ (16) The month of November shall be commemorated annually as American Indian Heritage Month.

~~[(16)]~~ (17) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

- (a) educate the public about avalanche awareness and safety;
- (b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and
- (c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

Section 8. Section **63G-6a-122** is enacted to read:

63G-6a-122 . Encouraging the dissemination of information regarding organ donation.

A procurement unit shall encourage all contractors to provide the contractor's employees with information about the option to register as a donor, as that term is defined in Section 26B-8-301, and instructions for accessing a donor registry established under Section 26B-8-319.

Section 9. Section **75A-3-207** is amended to read:

75A-3-207 . Notification to health care provider -- Obligations of health care providers -- Liability.

- (1) It is the responsibility of the declarant or surrogate, to the extent that the responsibility is not assigned to a health care provider or health care facility by state or federal law, to notify or provide for notification to a health care provider and a health care facility of:
- (a) the existence of a health care directive;

- (b) the revocation of a health care directive;
 - (c) the existence or revocation of appointment of an agent or default surrogate;
 - (d) the disqualification of a default surrogate; or
 - (e) the appointment or revocation of appointment of a guardian.
- (2)(a) A health care provider or health care facility is not subject to civil or criminal liability or to claims of unprofessional conduct for failing to act upon a health care directive, a revocation of a health care directive, or a disqualification of a surrogate until the health care provider or health care facility has received an oral directive from an adult or a copy of a written directive or revocation of the health care directive, or the disqualification of the surrogate.
- (b) A health care provider and health care facility that is notified under Subsection (1) shall include in the adult patient's medical record:
- (i) the health care directive or a copy of it, a revocation of a health care directive, or a disqualification of a surrogate; and
 - (ii) the date, time, and place in which any written or oral notice of the document described in this Subsection (2)(b) is received.
- (3) A health care provider or health care facility acting in good faith and in accordance with generally accepted health care standards is not subject to civil or criminal liability or to discipline for unprofessional conduct for:
- (a) complying with a health care decision made by an adult with health care decision making capacity;
 - (b) complying with a health care decision made by a surrogate apparently having authority to make a health care decision for a person, including a decision to withhold or withdraw health care;
 - (c) declining to comply with a health care decision of a surrogate based on a belief that the surrogate then lacked authority;
 - (d) declining to comply with a health care decision of an adult who lacks decision making capacity;
 - (e) seeking a judicial determination, or requiring a surrogate to obtain a judicial determination, under Section 75A-3-107 of:
 - (i) the validity of a health care directive;
 - (ii) the validity of directions from a surrogate or guardian;
 - (iii) the decision making capacity of an adult who challenges a physician's finding of incapacity; or

- 473 (iv) the authority of a guardian or surrogate; or
- 474 (f) complying with an advance health care directive and assuming that the directive was
- 475 valid when made, and has not been revoked or terminated.
- 476 (4)(a) Health care providers and health care facilities shall:
- 477 (i) cooperate with a person authorized under this chapter to make written directives
- 478 concerning health care;
- 479 (ii) unless the provisions of Subsection (4)(b) apply, comply with:
- 480 (A) a health care decision of an adult; and
- 481 (B) a health care decision made by the highest ranking surrogate then authorized
- 482 to make health care decisions for an adult, to the same extent as if the decision
- 483 had been made by the adult;
- 484 (iii) before implementing a health care decision made by a surrogate, make a
- 485 reasonable attempt to communicate to the adult on whose behalf the decision is
- 486 made:
- 487 (A) the decision made; and
- 488 (B) the identity of the surrogate making the decision.
- 489 (b) A health care provider or health care facility may decline to comply with a health
- 490 care decision if:
- 491 (i) in the opinion of the health care provider:
- 492 (A) the adult who made the decision lacks health care decision making capacity;
- 493 (B) the surrogate who made the decision lacks health care decision making
- 494 capacity;
- 495 (C) the health care provider has evidence that the surrogate's instructions are
- 496 inconsistent with the adult's health care instructions, or, for a person who has
- 497 always lacked health care decision making capacity, that the surrogate's
- 498 instructions are inconsistent with the best interest of the adult; or
- 499 (D) there is reasonable doubt regarding the status of a person claiming the right to
- 500 act as a default surrogate, in which case the health care provider shall comply
- 501 with Subsection 75A-3-203(6); or
- 502 (ii) the health care provider declines to comply for reasons of conscience.
- 503 (c) A health care provider or health care facility that declines to comply with a health
- 504 care decision in accordance with Subsection (4)(b) must:
- 505 (i) promptly inform the adult and any acting surrogate of the reason for refusing to
- 506 comply with the health care decision;

- (ii) make a good faith attempt to resolve the conflict; and
- (iii) provide continuing care to the patient until the issue is resolved or until a transfer can be made to a health care provider or health care facility that will implement the requested instruction or decision.

(d) A health care provider or health care facility that declines to comply with a health care instruction, after meeting the obligations set forth in Subsection (4)(c) may transfer the adult to a health care provider or health care facility that will carry out the requested health care decisions.

(e) A health care facility may decline to follow a health care decision for reasons of conscience under Subsection (4)(b)(ii) if:

- (i) the health care decision is contrary to a policy of the facility that is expressly based on reasons of conscience;
- (ii) the policy was timely communicated to the adult and an adult's surrogate;
- (iii) the facility promptly informs the adult, if possible, and any surrogate then authorized to make decisions for the adult;
- (iv) the facility provides continuing care to the adult until a transfer can be made to a health care facility that will implement the requested instruction or decision; and
- (v) unless an adult or surrogate then authorized to make health care decisions for the adult refuses assistance, immediately make all reasonable efforts to assist in the transfer of the adult to another health care facility that will carry out the instructions or decisions.

(5) A health care provider and health care facility:

(a) may not require or prohibit the creation or revocation of an advance health care directive as a condition for providing health care; ~~and~~

~~(b)~~ when notified of a circumstance described in Subsection (1), shall inform the individual giving the notification about the option to register as a donor, as that term is defined in Section 26B-8-301, and provide instructions for accessing a donor registry established under Section 26B-8-319; and

~~(b)~~ (c) shall comply with all state and federal laws and regulations governing advance health care directives.

Section 10. Effective Date.

This bill takes effect on May 7, 2025.