

### **311.1935 Rights and duties of procurement organization and others.**

- (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Transportation Cabinet, the registry created under KRS 311.1947, and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.
- (2) A procurement organization shall be allowed reasonable access to information in the records of the registries listed in subsection (1) of this section to ascertain whether an individual at or near death is a donor.
- (3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination of records necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent. Measures necessary to ensure the medical suitability of the part from a prospective donor may be administered unless it is determined that the administration of those measures would not provide the prospective donor with appropriate end-of-life care, or it can be anticipated by reasonable medical judgment that such measures would result in or hasten the prospective donor's death.
- (4) Unless prohibited by law other than KRS 311.1911 to 311.1959, at any time after a donor's death, the person to which a part passes under KRS 311.1929 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.
- (5) Unless prohibited by law other than KRS 311.1911 to 311.1959, an examination under subsection (3) or (4) of this section may include an examination of all medical and dental records of the donor or prospective donor.
- (6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.
- (7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in KRS 311.1925 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.
- (8) Subject to KRS 311.1929(9) and 311.1953, the rights of the person to which a part passes under KRS 311.1929 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and KRS 311.1911 to 311.1959, a person that accepts an anatomical gift of an entire body may allow

embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under KRS 311.1929, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

- (9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
- (10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

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**History:** Created 2010 Ky. Acts ch. 161, sec. 13, effective July 15, 2010.