§ 4301. Persons who may execute an anatomical gift. 1. (a) Any individual of sound mind and eighteen years of age or more may make an anatomical gift to take effect upon their death for any purpose specified in section forty-three hundred two of this article, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift. In any case where the donor has a properly executed document of gift authorization for donation shall not be rescinded or amended by any other person except upon a showing that the donor revoked the authorization pursuant to section forty-three hundred five of this article.

(b) Any person who is sixteen or seventeen years of age and of sound mind may make an anatomical gift to take effect upon their death for any purpose specified in section forty-three hundred two of this article, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift. In any case where the donor has a properly executed document of gift, notice of such gift shall be provided to the donor's parents or guardians, and authorization for donation may be rescinded or amended by an objection by a parent or guardian of the donor at the time of death and prior to the recovery of any organ or tissue if the donor is less than eighteen years of age. An anatomical gift made by an individual more than sixteen years of age but less than eighteen shall otherwise not be rescinded, except upon a showing that the donor revoked the authorization pursuant to section forty-three hundred five of this article. Upon the donor reaching the age of eighteen, the donor's consent to donate his or her organs or tissue shall be regarded as consent for authorization to make an anatomical gift pursuant to paragraph (a) of this subdivision.

(c) In the absence of an express, contrary indication by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an individual's ability to make an anatomical gift under subdivision two of this section.

2. (a) In the absence of a gift made by the donor under subdivision one of this section, and in the absence of actual notice of contrary indications by the decedent, including religious or moral objections, an anatomical gift of the decedent's body may be made by any member of the following classes of persons who is reasonably available, in the order

of priority listed, for any purpose specified in section forty-three hundred two of this article:

(i) the person designated as the decedent's health care agent under article twenty-nine-C of this chapter, subject to any written statement in the health care proxy form,

(ii) the person designated as the decedent's agent in a written instrument under article forty-two of this chapter, subject to any written statement in the written instrument,

(iii) the spouse, if not legally separated from the patient, or the domestic partner,

(iv) a son or daughter eighteen years of age or older,

(v) either parent,

(vi) a brother or sister eighteen years of age or older,

(vii) an adult grandchild of the decedent,

(viii) a grandparent of the decedent,

(ix) a guardian of the person of the decedent at the time of his or her death,

(x) a close friend as defined in subdivision four of section twenty-nine hundred ninety-four-a of this chapter, or

(xi) any other person authorized or under the obligation to dispose of the body.

(b) If there is more than one member of a class listed in subparagraph (iv), (vi), (vii), (viii), or (x) of paragraph (a) of this subdivision entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or person knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

3. An anatomical gift may not be made by a person listed in subdivision two of this section if:

(a) a person in a prior class is reasonably available;

(b) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent, including that an anatomical gift is contrary to the decedent's religious or moral beliefs.

4. Any gift by a person designated in subdivision two of this section

shall be by a document signed by him or her or made by his or her telegraphic, recorded telephonic, or other recorded message. Where a gift is made under this subdivision, either: (a) the authorizing party shall indicate in the document or message that he or she has no actual notice of contrary indications by the decedent and no reason to believe that an anatomical gift is contrary to the decedent's religious or moral beliefs; or (b) an agent of the organ procurement organization or of the donee shall make reasonable efforts to inquire of the authorizing party or otherwise determine that the authorizing party has no actual notice of contrary indications by the decedent and no reason to believe that an anatomical gift is contrary to the decedent's religious or moral beliefs.

5. The donee shall not accept the gift under the following circumstances:

(a) the donee has actual notice of contrary indication by the decedent;

(b) where an anatomical gift is not properly made pursuant to this section; or

(c) the donee has reason to believe that an anatomical gift is contrary to the decedent's religious or moral beliefs.

6. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of gift for the purposes intended.

7. The rights of the donee created by the gift are paramount to the rights of others except as provided by section forty-three hundred eight of this article.

8. The person who documents the making, amending or revoking of an anatomical gift, acting reasonably and in good faith in accordance with this article, may accept an anatomical gift under this article made by a person who represents that he or she is entitled to consent to the donation.