§ 4362. Organ procurement organizations. 1. No person shall own or operate an organ procurement organization that is principally located or operated in New York state unless:

(a) the organization is currently designated by the secretary of health and human services as an organ procurement organization; and

(b) the organ procurement organization is operated by a not-for-profit corporation having a board of directors which meets no less than four times annually or is operated by a hospital and has an advisory board which meets no less than four times annually. At least thirty percent of the members of the board of directors or advisory board shall be members of the public not otherwise directly or indirectly affiliated with a transplant center or organ procurement organization, and not more than fifty percent shall be surgeons or physicians. Such board of directors or advisory board shall include representatives of more than one transplant center. The board of directors of an organ procurement organization operated by a not-for-profit corporation or the advisory board of an organ procurement organization operated by a hospital shall be responsible for developing and adopting the written by-laws and policies that govern the operation of the organ procurement organization. All such by-laws and policies for an organ procurement organization operated by a hospital shall be subject to approval by the board of directors of the hospital. Written policies shall include, but not be limited to: (i) policies and procedures to educate the public and health care professionals about organ donations; (ii) medical standards for donor screening and testing; (iii) policies and procedures for the distribution of organs; (iv) procedures to ensure fiscal accountability of the organ procurement organization; and (v) policies concerning any arrangements or agreements that the organ procurement organization may enter with tissue banks storage facilities or other organ procurement organizations.

2. No hospital or other facility and no physician shall permit any person to, and no person shall, procure organs for transplantation unless such person has been designated in accordance with this article or has been asked by a designated organ procurement organization to procure a specified organ.

3. The commissioner, in consultation with the transplant council, may promulgate regulations to establish standards for organ procurement organizations regarding organ sharing among organ procurement organizations in this state. Such standards shall include policies for sera sharing or other measures to meet the needs of patients who are highly sensitized and for whom it is difficult to identify a suitable kidney due to conditions such as a blood transfusion, immunization, prior pregnancy or a previous failed kidney transplant.