Organ Donation In-House Coordinators have an important position in the overall organ donation process. They are the persons professionally responsible for the organ donation process in the respective donation hospitals, and fulfill key functions in this capacity. Following the amendment of the Transplantation Act, all donation hospitals are obliged by federal law to appoint at least one Organ Donation In-House Coordinator. In fulfilling their tasks, they report directly to the medical management of the donation hospital and are to be released from their normal duties to the extent necessary for correct performance of their tasks. Organ Donation In-House Coordinators are usually doctors from the field of intensive-care medicine. Nursing personnel working in intensive care can also be commissioned with this function in individual cases. The details are determined by the Länder.

Among other things, Organ Donation In-House Coordinators are responsible for ensuring that the relatives of donors are given appropriate support, that the competencies and procedures for fulfilling the statutory obligations in the donation hospitals are defined, and that the medical and nursing personnel in the donation hospitals are regularly informed about the importance and the process of organ donation.

In keeping with the specifications of EU law, the regulation on data protection existing in the Transplantation Act has been expanded in order to permit the use of personal data for research purposes in the interests of advancing transplantation medicine. This applies to the own research projects of the doctors and other scientific personnel of the donation hospital, the coordination agency or the allocation agency. The existing requirements of data protection law must be fulfilled in the event of disclosure of personal data to third parties for a specific research project. A violation of this prohibition under the Organ Transplantation Act is punishable by up to two years of imprisonment or a fine, depending on the gravity of the offence.

From now on, the guidelines of the German Medical Association have to be accounted for and are subject to approval by the Federal Ministry of Health. These measures make the guidelines transparent and verifiable.
IN THE TRANSPLANTATION ACT
NEW STATUTORY REGULATIONS
THE DECISION SOLUTION IN THE TRANSPLANTATION ACT

I. Changes resulting from the Act Regulating the Decision Solution in the Transplantation Act, entering into force on 01/11/2012:

No. The health insurance funds and health insurance companies merely request their insureds to make a declaration regarding their personal willingness to donate organs and tissues. This declaration is recorded neither by the health insurance funds, nor by the health insurance companies. There is also no other register in which people’s declarations are recorded. In the long term, there are plans for members of the statutory health insurance scheme to be able to store their declaration for or against organ and tissue donation on their electronic health card, if they so wish.

Further information on advance directives can be found in the brochure “Advance directive. Suffering – Sickness – Death. How do I determine the medical action to be taken if I am incapable of making a decision?” Published by the Federal Ministry of Justice: (http://www.bmj.de/SharedDocs/Downlo
loads/DE/pdfs/Patientenverfuegung.html).

The (statutory) health insurance funds provide their insureds over the age of 16 with education material on organ and tissue donation, as well as organ donor cards, at the time of issuing the electronic health card to their insureds. The (private) health insurance companies provide their insureds with these documents at the time of providing a premium notification. If provision in conjunction with the mailing of the electronic health card or the premium notification is initially not possible, the health insurance funds and health insurance companies send their insureds the aforementioned education documents separately, together with the organ donor card. At the time of being provided with the education material and the organ donor card, the insureds are called upon to document a declaration regarding organ and tissue donation. This declaration is made on a voluntary basis and can be documented on the organ donor card. The health insurance funds and health insurance companies give their insureds the names of professionally qualified contacts to deal with any enquiries on the subject of organ and tissue donation.

II. Changes resulting from the Act Amending the Transplantation Act, entering into force on 01/08/2012:

The Act Amending the Transplantation Act clearly regulates and greatly improves the insurance cover of living organ donors. Health insurance law now expressly stipulates that, regardless of their own insurance status, living organ donors have a statutory right to treatment as a result of the organ fund of the organ recipient. This includes the outpatient and inpatient treatment of the donors, medically necessary preoperative and postoperative care, medical rehabilitation benefits, as well as sickness benefits and necessary travel expenses. Moreover, in addition to the care of patients before and after organ transplantations, the care of living organ donors will in future also belong to the field of so-called specialist care. This makes it possible to guarantee high-quality, specialised diagnosis and treatment, as well as structured aftercare.

In the case of living organ donations to persons having private health insurance, the private health insurance company of the organ recipient guarantees to cover the donors (where appropriate, another insurance institution, e.g. the office of health insurance for civil servants, also pays part of the costs). In a voluntary commitment dated 9 February 2012, all the member companies of Germany’s Association of Private Health Insurers agreed to pay the expenses incurred by the donor (involvement and inpatient treatment, rehabilitation measures, travel expenses, suffered loss of earnings). This ensures a standardised coverage of the living organ donation, regardless of the insurance status of the organ recipients.

The Act Amending the Transplantation Act of 01/08/2012 additionally stipulates that temporary incapacity for work as a result of organ donation also constitutes blameworthy incapacity for work. Consequently, the affected employees are entitled to continue to receive their regular pay for six weeks. The employer has a claim to remuneration on the statutory health insurance fund or private health insurance company (where appropriate, on the health insurance scheme for civil servants for part of the cost) of the organ recipient. After expiry of the six weeks, or if no claim to pay continuation exists, the claim to sickness benefit on the health insurance fund of the organ recipient takes effect, or the private health insurance company of the organ recipient pays for the loss of earnings suffered.

Improved insurance cover also exists in the field of statutory accident insurance: the accident insurance cover extends to all damage to health in connection with organ donation. This includes damage to the health of the donor that goes beyond what is normally considered to be normal risk of donation and demonstrates a causal relationship. The occurrence of this kind of damage to health is rated as a fictitious event insured under the accident insurance scheme. The length of time between donation and occurrence of the damage to health is irrelevant. A – refutable – statutory presumption exists as regards the causality. For the time after entry into force of the Act Amending the Transplantation Act, this extended accident insurance cover for living organ donors also extends to damage to health occurring in donors after introduction of the Transplantation Act in 1997 and before entry into force of the extended accident insurance cover.