

1 AN ACT concerning organ transplantation.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 3. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by adding Section 2310-396 as follows:

7 (20 ILCS 2310/2310-396 new)

8 Sec. 2310-396. Organ Donation Task Force. The
9 Department shall establish an Organ Donation Task Force to
10 study the various laws and rules regarding organ donation to
11 determine whether consolidation or other changes in the laws
12 or rules are needed to facilitate organ donation in Illinois.
13 The Director shall appoint the members of the Task Force and
14 shall determine the number of members to be appointed. The
15 members of the Task Force shall include representatives of
16 the Illinois Hospital and HealthSystems Association, the
17 Illinois State Medical Society, organ procurement agencies,
18 the Illinois Eye Bank, and any other entities deemed
19 appropriate by the Director.

20 Section 5. The Uniform Anatomical Gift Act is amended by
21 changing Section 3 as follows:

22 (755 ILCS 50/3) (from Ch. 110 1/2, par. 303)

23 Sec. 3. Persons who may execute an anatomical gift.

24 (a) Any individual of sound mind who has attained the
25 age of 18 may give all or any part of his or her body for any
26 purpose specified in Section 4. Such a gift may be executed
27 in any of the ways set out in Section 5, and shall take
28 effect upon the individual's death without the need to obtain
29 the consent of any survivor. An anatomical gift made by an

1 agent of an individual, as authorized by the individual under
 2 the Powers of Attorney for Health Care Law, as now or
 3 hereafter amended, is deemed to be a gift by that individual
 4 and takes effect without the need to obtain the consent of
 5 any other person.

6 (b) If no gift has been executed under subsection (a),
 7 any of the following persons, in the order of priority stated
 8 in items (1) through (9) ~~(6)~~ below, when persons in prior
 9 classes are not available and in the absence of (i) actual
 10 notice of contrary intentions by the decedent and (ii) actual
 11 notice of opposition by any member within the same priority
 12 class, may give all or any part of the decedent's body after
 13 or immediately before death for any purpose specified in
 14 Section 4:

15 (1) the decedent's agent under a power of attorney
 16 for health care which provides specific direction
 17 regarding organ donation,

18 (2) ~~(1)~~ the decedent's spouse,

19 (3) ~~(2)~~ the decedent's adult sons or daughters,

20 (4) ~~(3)~~ either of the decedent's parents,

21 (5) ~~(4)~~ any of the decedent's adult brothers or
 22 sisters,

23 (6) any adult grandchild of the decedent,

24 (7) ~~(5)~~ the guardian of the decedent's estate
 25 ~~decedent-at-the-time-of-his-or-her-death,~~

26 (8) the decedent's surrogate decision maker under
 27 the Health Care Surrogate Act,

28 (9) ~~(6)~~ any person authorized or under obligation
 29 to dispose of the body.

30 If the donee has actual notice of opposition to the gift
 31 by the decedent or any person in the highest priority class
 32 in which an available person can be found, then no gift of
 33 all or any part of the decedent's body shall be accepted.

34 (c) For the purposes of this Act, a person will not be

1 considered "available" for the giving of consent or refusal
2 if:

3 (1) the existence of the person is unknown to the
4 donee and is not readily ascertainable through the
5 examination of the decedent's hospital records and the
6 questioning of any persons who are available for giving
7 consent;

8 (2) the donee has unsuccessfully attempted to
9 contact the person by telephone or in any other
10 reasonable manner;

11 (3) the person is unable or unwilling to respond in
12 a manner which indicates the person's refusal or consent.

13 (d) A gift of all or part of a body authorizes any
14 examination necessary to assure medical acceptability of the
15 gift for the purposes intended.

16 (e) The rights of the donee created by the gift are
17 paramount to the rights of others except as provided by
18 Section 8 (d).

19 (f) If no gift has been executed under this Section,
20 then no part of the decedent's body may be used for any
21 purpose specified in Section 4 of this Act, except in
22 accordance with the Organ Donation Request Act or the Corneal
23 Transplant Act.

24 (Source: P.A. 86-736.)

25 Section 10. The Illinois Corneal Transplant Act is
26 amended by changing Section 2 as follows:

27 (755 ILCS 55/2) (from Ch. 110 1/2, par. 352)

28 Sec. 2. (a) Objection to the removal of corneal tissue
29 may be made known to the coroner or county medical examiner
30 or authorized individual acting for the coroner or county
31 medical examiner by the individual during his lifetime or by
32 the following persons, in the order of priority stated, after

1 the decedent's death:

2 (1) The decedent's agent under a power of attorney
3 for health care which provides specific direction
4 regarding organ donation;

5 (2) (1) The decedent's spouse;

6 (3) (2)--If--there--is--no--spouse,--any---of The
7 decedent's adult sons or daughters;

8 (4) (3)--If--there--is--no--spouse--and--no--adult--sons--or
9 daughters, Either of the decedent's parents;

10 (5) (4)--If--there--is--no--spouse,--no--adult--sons--or
11 daughters,--and--no--parents, Any of the decedent's adult
12 brothers or sisters;

13 (6) Any adult grandchild of the decedent;

14 (7) (5)--If--there--is--no--spouse,--no--adult--sons--or
15 daughters,--no--parents,--and--no--adult--brothers--or--sisters,
16 The guardian of the decedent's estate; decedent--at--the
17 time--of--his--or--her--death.

18 (8) The decedent's surrogate decision maker under
19 the Health Care Surrogate Act;

20 (9) Any person authorized or under obligation to
21 dispose of the body.

22 (b) If the coroner or county medical examiner or any
23 authorized individual acting for the coroner or county
24 medical examiner has actual notice of any contrary
25 indications by the decedent or actual notice that any member
26 within the same class specified in subsection (a), paragraphs
27 (1) through (9) (5) of this Section, in the same order of
28 priority, objects to the removal, the coroner or county
29 medical examiner shall not approve the removal of corneal
30 tissue.

31 (Source: P.A. 87-633.)

32 Section 15. The Organ Donation Request Act is amended by
33 changing Section 2 as follows:

1 (755 ILCS 60/2) (from Ch. 110 1/2, par. 752)

2 Sec. 2. Notification; consent; definitions.

3 (a) When, based upon generally accepted medical
4 standards, an inpatient in a general acute care hospital with
5 more than 100 beds is a suitable candidate for organ or
6 tissue donation and such patient has not made an anatomical
7 gift of all or any part of his or her body pursuant to
8 Section 5 of the Uniform Anatomical Gift Act, the hospital
9 administrator, or his or her designated representative,
10 shall, if the candidate is suitable for the donation of
11 organs at the time of or after notification of death, notify
12 the hospital's federally designated organ procurement agency.
13 The organ procurement agency shall request a consent for
14 organ donation according to the priority and conditions
15 established in subsection (b). In the case of a candidate
16 suitable for donation of tissue only, the hospital
17 administrator or his or her designated representative or
18 tissue bank shall, at the time of or shortly after
19 notification of death, request a consent for tissue donation
20 according to the priority need conditions established in
21 subsection (b). Alternative procedures for requesting
22 consent may be implemented by mutual agreement between a
23 hospital and a federally designated organ procurement agency
24 or tissue bank.

25 (b) In making a request for organ or tissue donation,
26 the hospital administrator or his or her designated
27 representative or the hospital's federally designated organ
28 procurement agency or tissue bank shall request any of the
29 following persons, in the order of priority stated in items
30 (1) through (9) ~~(7)~~ below, when persons in prior classes are
31 not available and in the absence of (i) actual notice of
32 contrary intentions by the decedent, (ii) actual notice of
33 opposition by any member within the same priority class, and
34 (iii) reason to believe that an anatomical gift is contrary

1 to the decedent's religious beliefs, to consent to the gift
2 of all or any part of the decedent's body for any purpose
3 specified in Section 4 of the Uniform Anatomical Gift Act:

4 (1) the decedent's agent under a power of attorney
5 for health care which provides specific direction
6 regarding organ donation ~~the--Powers--of--Attorney--for~~
7 ~~Health-Care-Law;~~

8 ~~(2)--the-decedent's-surrogate-decision-maker--under~~
9 ~~the-Health-Care-Surrogate-Act;~~

10 (2) ~~(3)~~ the decedent's spouse;

11 (3) ~~(4)~~ the decedent's adult sons or daughters;

12 (4) ~~(5)~~ either of the decedent's parents;

13 (5) ~~(6)~~ any of the decedent's adult brothers or
14 sisters;

15 (6) any adult grandchild of the decedent;

16 (7) the guardian of the decedent's estate; ~~decedent~~
17 ~~at-the-time-of-his-or-her-death.~~

18 (8) the decedent's surrogate decision maker under
19 the Health Care Surrogate Act;

20 (9) any person authorized or under obligation to
21 dispose of the body.

22 (c) If (1) the hospital administrator, or his or her
23 designated representative, the organ procurement agency, or
24 the tissue bank has actual notice of opposition to the gift
25 by the decedent or any person in the highest priority class
26 in which an available person can be found, or (2) there is
27 reason to believe that an anatomical gift is contrary to the
28 decedent's religious beliefs, or (3) the Director of Public
29 Health has adopted a rule signifying his determination that
30 the need for organs and tissues for donation has been
31 adequately met, then such gift of all or any part of the
32 decedent's body shall not be requested. If a donation is
33 requested, consent or refusal may only be obtained from the
34 person or persons in the highest priority class available.

1 If the hospital administrator, or his or her designated
2 representative, the designated organ procurement agency, or
3 the tissue bank is unable to obtain consent from any of the
4 persons named in items (1) through ~~(9)~~ ~~(7)~~ of subsection (b)
5 ~~(a)~~ of this Section, the decedent's body shall not be used
6 for an anatomical gift unless a valid anatomical gift
7 document was executed under the Uniform Anatomical Gift Act
8 or the Corneal Transplant Act.

9 (d) For the purposes of this Act, a person will not be
10 considered "available" for the giving of consent or refusal
11 if:

12 (1) the existence of the person is unknown to the
13 hospital administrator or designee, organ procurement
14 agency, or tissue bank and is not readily ascertainable
15 through the examination of the decedent's hospital
16 records and the questioning of any persons who are
17 available for giving consent;

18 (2) the administrator or designee, organ
19 procurement agency, or tissue bank has unsuccessfully
20 attempted to contact the person by telephone or in any
21 other reasonable manner;

22 (3) the person is unable or unwilling to respond in
23 a manner which indicates the person's refusal or consent.

24 (e) For the purposes of this Act, "federally designated
25 organ procurement agency" means the organ procurement agency
26 designated by the Secretary of the U.S. Department of Health
27 and Human Services for the service area in which a hospital
28 is located; except that in the case of a hospital located in
29 a county adjacent to Wisconsin which currently contracts with
30 an organ procurement agency located in Wisconsin that is not
31 the organ procurement agency designated by the U.S. Secretary
32 of Health and Human Services for the service area in which
33 the hospital is located, if the hospital applies for a waiver
34 pursuant to 42 USC 1320b-8(a), it may designate an organ

1 procurement agency located in Wisconsin to be thereafter
2 deemed its federally designated organ procurement agency for
3 the purposes of this Act.

4 (f) For the purposes of this Act, "tissue bank" means
5 any facility or program operating in Illinois that is
6 certified by the American Association of Tissue Banks or the
7 Eye Bank Association of America and is involved in procuring,
8 furnishing, donating, or distributing corneas, bones, or
9 other human tissue for the purpose of injecting, transfusing,
10 or transplanting any of them into the human body. "Tissue
11 bank" does not include a licensed blood bank.

12 For the purposes of this Act, "tissue" does not include
13 organs.

14 (g) Nothing in Public Act 89-393 ~~this-amendatory-Act--of~~
15 ~~1995~~ alters any agreements or affiliations between tissue
16 banks and hospitals.

17 (Source: P.A. 89-393, eff. 8-20-95; revised 2-23-00.)