

1 AMENDMENT TO HOUSE BILL 446

2 AMENDMENT NO. _____. Amend House Bill 446 as follows:

3 by replacing everything after the enacting clause with the
4 following:

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

8 (20 ILCS 2310/2310-396 new)

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

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

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

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

5 (a) Any individual of sound mind who has attained the
6 age of 18 may give all or any part of his or her body for any
7 purpose specified in Section 4. Such a gift may be executed
8 in any of the ways set out in Section 5, and shall take
9 effect upon the individual's death without the need to obtain
10 the consent of any survivor. An anatomical gift made by an
11 agent of an individual, as authorized by the individual under
12 the Powers of Attorney for Health Care Law, as now or
13 hereafter amended, is deemed to be a gift by that individual
14 and takes effect without the need to obtain the consent of
15 any other person.

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

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

28 (2) ~~(1)~~ the decedent's spouse,

29 (3) ~~(2)~~ the decedent's adult sons or daughters,

30 (4) ~~(3)~~ either of the decedent's parents,

31 (5) ~~(4)~~ any of the decedent's adult brothers or
32 sisters,

33 (6) any adult grandchild of the decedent,

1 (7) ~~(5)~~ the guardian of the decedent's estate
2 ~~decedent-at-the-time-of-his-or-her-death,~~

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

5 (9) ~~(6)~~ any person authorized or under obligation
6 to dispose of the body.

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

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

14 (1) the existence of the person is unknown to the
15 donee and is not readily ascertainable through the
16 examination of the decedent's hospital records and the
17 questioning of any persons who are available for giving
18 consent;

19 (2) the donee has unsuccessfully attempted to
20 contact the person by telephone or in any other
21 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 (d) A gift of all or part of a body authorizes any
25 examination necessary to assure medical acceptability of the
26 gift for the purposes intended.

27 (e) The rights of the donee created by the gift are
28 paramount to the rights of others except as provided by
29 Section 8 (d).

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

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

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

4 (755 ILCS 55/2) (from Ch. 110 1/2, par. 352)

5 Sec. 2. (a) Objection to the removal of corneal tissue
6 may be made known to the coroner or county medical examiner
7 or authorized individual acting for the coroner or county
8 medical examiner by the individual during his lifetime or by
9 the following persons, in the order of priority stated, after
10 the decedent's death:

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

14 (2) (1) The decedent's spouse;

15 (3) (2)--If--there--is--no--spouse,--any--of The
16 decedent's adult sons or daughters;

17 (4) (3)--If--there--is--no--spouse--and--no--adult--sons--or
18 daughters, Either of the decedent's parents;

19 (5) (4)--If--there--is--no--spouse,--no--adult--sons--or
20 daughters,--and--no--parents, Any of the decedent's adult
21 brothers or sisters;

22 (6) Any adult grandchild of the decedent;

23 (7) (5)--If--there--is--no--spouse,--no--adult--sons--or
24 daughters,--no--parents,--and--no--adult--brothers--or--sisters,
25 The guardian of the decedent's estate; deecedent-at-the
26 time-of-his-or-her-death.

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

29 (9) Any person authorized or under obligation to
30 dispose of the body.

31 (b) If the coroner or county medical examiner or any
32 authorized individual acting for the coroner or county

1 medical examiner has actual notice of any contrary
2 indications by the decedent or actual notice that any member
3 within the same class specified in subsection (a), paragraphs
4 (1) through (9) ~~(5)~~ of this Section, in the same order of
5 priority, objects to the removal, the coroner or county
6 medical examiner shall not approve the removal of corneal
7 tissue.

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

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

11 (755 ILCS 60/2) (from Ch. 110 1/2, par. 752)

12 Sec. 2. Notification; consent; definitions.

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

1 hospital and a federally designated organ procurement agency
2 or tissue bank.

3 (b) In making a request for organ or tissue donation,
4 the hospital administrator or his or her designated
5 representative or the hospital's federally designated organ
6 procurement agency or tissue bank shall request any of the
7 following persons, in the order of priority stated in items
8 (1) through (9) ~~(7)~~ below, when persons in prior classes are
9 not available and in the absence of (i) actual notice of
10 contrary intentions by the decedent, (ii) actual notice of
11 opposition by any member within the same priority class, and
12 (iii) reason to believe that an anatomical gift is contrary
13 to the decedent's religious beliefs, to consent to the gift
14 of all or any part of the decedent's body for any purpose
15 specified in Section 4 of the Uniform Anatomical Gift Act:

16 (1) the decedent's agent under a power of attorney
17 for health care which provides specific direction
18 regarding organ donation ~~the--Powers--of--Attorney--for~~
19 ~~Health-Care-Law;~~

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

22 (2) ~~(3)~~ the decedent's spouse;

23 (3) ~~(4)~~ the decedent's adult sons or daughters;

24 (4) ~~(5)~~ either of the decedent's parents;

25 (5) ~~(6)~~ any of the decedent's adult brothers or
26 sisters;

27 (6) any adult grandchild of the decedent;

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

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

32 (9) any person authorized or under obligation to
33 dispose of the body.

34 (c) If (1) the hospital administrator, or his or her

1 designated representative, the organ procurement agency, or
2 the tissue bank has actual notice of opposition to the gift
3 by the decedent or any person in the highest priority class
4 in which an available person can be found, or (2) there is
5 reason to believe that an anatomical gift is contrary to the
6 decedent's religious beliefs, or (3) the Director of Public
7 Health has adopted a rule signifying his determination that
8 the need for organs and tissues for donation has been
9 adequately met, then such gift of all or any part of the
10 decedent's body shall not be requested. If a donation is
11 requested, consent or refusal may only be obtained from the
12 person or persons in the highest priority class available.
13 If the hospital administrator, or his or her designated
14 representative, the designated organ procurement agency, or
15 the tissue bank is unable to obtain consent from any of the
16 persons named in items (1) through (9) ~~(7)~~ of subsection (b)
17 ~~(a)~~ of this Section, the decedent's body shall not be used
18 for an anatomical gift unless a valid anatomical gift
19 document was executed under the Uniform Anatomical Gift Act
20 or the Corneal Transplant Act.

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

24 (1) the existence of the person is unknown to the
25 hospital administrator or designee, organ procurement
26 agency, or tissue bank and is not readily ascertainable
27 through the examination of the decedent's hospital
28 records and the questioning of any persons who are
29 available for giving consent;

30 (2) the administrator or designee, organ
31 procurement agency, or tissue bank has unsuccessfully
32 attempted to contact the person by telephone or in any
33 other reasonable manner;

34 (3) the person is unable or unwilling to respond in

1 a manner which indicates the person's refusal or consent.

2 (e) For the purposes of this Act, "federally designated
3 organ procurement agency" means the organ procurement agency
4 designated by the Secretary of the U.S. Department of Health
5 and Human Services for the service area in which a hospital
6 is located; except that in the case of a hospital located in
7 a county adjacent to Wisconsin which currently contracts with
8 an organ procurement agency located in Wisconsin that is not
9 the organ procurement agency designated by the U.S. Secretary
10 of Health and Human Services for the service area in which
11 the hospital is located, if the hospital applies for a waiver
12 pursuant to 42 USC 1320b-8(a), it may designate an organ
13 procurement agency located in Wisconsin to be thereafter
14 deemed its federally designated organ procurement agency for
15 the purposes of this Act.

16 (f) For the purposes of this Act, "tissue bank" means
17 any facility or program operating in Illinois that is
18 certified by the American Association of Tissue Banks or the
19 Eye Bank Association of America and is involved in procuring,
20 furnishing, donating, or distributing corneas, bones, or
21 other human tissue for the purpose of injecting, transfusing,
22 or transplanting any of them into the human body. "Tissue
23 bank" does not include a licensed blood bank.

24 For the purposes of this Act, "tissue" does not include
25 organs.

26 (g) Nothing in Public Act 89-393 ~~this-amendatory-Act-of~~
27 ~~1995~~ alters any agreements or affiliations between tissue
28 banks and hospitals.

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