

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

6 (755 ILCS 50/3) (from Ch. 110 1/2, par. 303)

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

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

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

28 (1) the decedent's agent under a power of attorney
29 for health care,

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

- 1 (3) the decedent's guardian of the person,
- 2 (4) (1) the decedent's spouse,
- 3 (5) (2) the decedent's adult sons or daughters,
- 4 (6) (3) either of the decedent's parents,
- 5 (7) (4) any of the decedent's adult brothers or
- 6 sisters,
- 7 (8) any adult grandchild of the patient,
- 8 (9) a close friend of the patient,
- 9 (10) (5) the guardian of the decedent's estate
- 10 ~~decedent-at-the-time-of-his-or-her-death,~~
- 11 (11) (6) any person authorized or under obligation
- 12 to dispose of the body.

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

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

- 20 (1) the existence of the person is unknown to the
- 21 donee and is not readily ascertainable through the
- 22 examination of the decedent's hospital records and the
- 23 questioning of any persons who are available for giving
- 24 consent;
- 25 (2) the donee has unsuccessfully attempted to
- 26 contact the person by telephone or in any other
- 27 reasonable manner;
- 28 (3) the person is unable or unwilling to respond in
- 29 a manner which indicates the person's refusal or consent.

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

33 (e) The rights of the donee created by the gift are
 34 paramount to the rights of others except as provided by

1 Section 8 (d).

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

7 (g) As used in this Section, "close friend" means any
8 person 18 years of age or older who has exhibited special
9 care and concern for the patient and who presents an
10 affidavit to the attending physician stating that he or she
11 (i) is a close friend of the patient, (ii) is willing and
12 able to become involved in the patient's health care, and
13 (iii) has maintained sufficient regular contact with the
14 patient to be familiar with the patient's activities, health,
15 and religious and moral beliefs. The affidavit must also
16 state facts and circumstances that demonstrate that
17 familiarity.

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

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

21 (755 ILCS 55/2) (from Ch. 110 1/2, par. 352)

22 Sec. 2. (a) Objection to the removal of corneal tissue
23 may be made known to the coroner or county medical examiner
24 or authorized individual acting for the coroner or county
25 medical examiner by the individual during his lifetime or by
26 the following persons, in the order of priority stated, after
27 the decedent's death:

28 (1) The decedent's agent under a power of attorney
29 for health care;

30 (2) If there is no agent, the decedent's surrogate
31 decision maker under the Health Care Surrogate Act;

32 (3) If there is no agent and no surrogate decision

1 maker, the decedent's guardian of the person;

2 (4) (1) If there is no agent, no surrogate decision
3 maker, and no guardian of the person, the decedent's
4 spouse;

5 (5) (2) If there is no agent, no surrogate decision
6 maker, no guardian of the person, and no spouse, any of
7 the decedent's adult sons or daughters;

8 (6) (3) If there is no agent, no surrogate decision
9 maker, no guardian of the person, no spouse, and no adult
10 sons or daughters, either of the decedent's parents;

11 (7) (4) If there is no agent, no surrogate decision
12 maker, no guardian of the person, no spouse, no adult
13 sons or daughters, and no parents, any of the decedent's
14 adult brothers or sisters;

15 (8) If there is no agent, no surrogate decision
16 maker, no guardian of the person, no spouse, no adult
17 sons or daughters, no parents, and no adult brothers or
18 sisters, any adult grandchild of the patient;

19 (9) If there is no agent, no surrogate decision
20 maker, no guardian of the person, no spouse, no adult
21 sons or daughters, no parents, no adult brothers or
22 sisters, and no adult grandchildren, a close friend of
23 the patient;

24 (10) (5) If there is no agent, no surrogate
25 decision maker, no guardian of the person, no spouse, no
26 adult sons or daughters, no parents, and no adult
27 brothers or sisters, no adult grandchildren, and no close
28 friend, the guardian of the decedent's estate decedent-at
29 the-time-of-his-or-her-death.

30 (b) If the coroner or county medical examiner or any
31 authorized individual acting for the coroner or county
32 medical examiner has actual notice of any contrary
33 indications by the decedent or actual notice that any member
34 within the same class specified in subsection (a), paragraphs

1 (1) through (8) ~~(5)~~ of this Section, in the same order of
2 priority, objects to the removal, the coroner or county
3 medical examiner shall not approve the removal of corneal
4 tissue.

5 (c) As used in this Section, "close friend" means any
6 person 18 years of age or older who has exhibited special
7 care and concern for the patient and who presents an
8 affidavit to the attending physician stating that he or she
9 (i) is a close friend of the patient, (ii) is willing and
10 able to become involved in the patient's health care, and
11 (iii) has maintained sufficient regular contact with the
12 patient to be familiar with the patient's activities, health,
13 and religious and moral beliefs. The affidavit must also
14 state facts and circumstances that demonstrate that
15 familiarity.

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

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

19 (755 ILCS 60/2) (from Ch. 110 1/2, par. 752)

20 Sec. 2. Notification; consent; definitions.

21 (a) When, based upon generally accepted medical
22 standards, an inpatient in a general acute care hospital with
23 more than 100 beds is a suitable candidate for organ or
24 tissue donation and such patient has not made an anatomical
25 gift of all or any part of his or her body pursuant to
26 Section 5 of the Uniform Anatomical Gift Act, the hospital
27 administrator, or his or her designated representative,
28 shall, if the candidate is suitable for the donation of
29 organs at the time of or after notification of death, notify
30 the hospital's federally designated organ procurement agency.
31 The organ procurement agency shall request a consent for
32 organ donation according to the priority and conditions

1 established in subsection (b). In the case of a candidate
 2 suitable for donation of tissue only, the hospital
 3 administrator or his or her designated representative or
 4 tissue bank shall, at the time of or shortly after
 5 notification of death, request a consent for tissue donation
 6 according to the priority need conditions established in
 7 subsection (b). Alternative procedures for requesting
 8 consent may be implemented by mutual agreement between a
 9 hospital and a federally designated organ procurement agency
 10 or tissue bank.

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

24 (1) the decedent's agent under a power of attorney
 25 for health care ~~the Powers of Attorney--for--Health--Care~~
 26 ~~Law~~;

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

29 (3) the decedent's guardian of the person;

30 (4) ~~(3)~~ the decedent's spouse;

31 (5) ~~(4)~~ the decedent's adult sons or daughters;

32 (6) ~~(5)~~ either of the decedent's parents;

33 (7) ~~(6)~~ any of the decedent's adult brothers or
 34 sisters;

1 (8) ~~(7)~~ the guardian of the decedent's estate;
2 decedent-at-the-time-of-his-or-her-death.

3 (9) any adult grandchild of the patient;

4 (10) a close friend of the patient.

5 (b-1) As used in this Section, "close friend" means any
6 person 18 years of age or older who has exhibited special
7 care and concern for the patient and who presents an
8 affidavit to the attending physician stating that he or she
9 (i) is a close friend of the patient, (ii) is willing and
10 able to become involved in the patient's health care, and
11 (iii) has maintained sufficient regular contact with the
12 patient to be familiar with the patient's activities, health,
13 and religious and moral beliefs. The affidavit must also
14 state facts and circumstances that demonstrate that
15 familiarity.

16 (c) If (1) the hospital administrator, or his or her
17 designated representative, the organ procurement agency, or
18 the tissue bank has actual notice of opposition to the gift
19 by the decedent or any person in the highest priority class
20 in which an available person can be found, or (2) there is
21 reason to believe that an anatomical gift is contrary to the
22 decedent's religious beliefs, or (3) the Director of Public
23 Health has adopted a rule signifying his determination that
24 the need for organs and tissues for donation has been
25 adequately met, then such gift of all or any part of the
26 decedent's body shall not be requested. If a donation is
27 requested, consent or refusal may only be obtained from the
28 person or persons in the highest priority class available.
29 If the hospital administrator, or his or her designated
30 representative, the designated organ procurement agency, or
31 the tissue bank is unable to obtain consent from any of the
32 persons named in items (1) through (7) of subsection (b) (a)
33 of this Section, the decedent's body shall not be used for an
34 anatomical gift unless a valid anatomical gift document was

1 executed under the Uniform Anatomical Gift Act or the Corneal
2 Transplant Act.

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

6 (1) the existence of the person is unknown to the
7 hospital administrator or designee, organ procurement
8 agency, or tissue bank and is not readily ascertainable
9 through the examination of the decedent's hospital
10 records and the questioning of any persons who are
11 available for giving consent;

12 (2) the administrator or designee, organ
13 procurement agency, or tissue bank has unsuccessfully
14 attempted to contact the person by telephone or in any
15 other reasonable manner;

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

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

32 (f) For the purposes of this Act, "tissue bank" means
33 any facility or program operating in Illinois that is
34 certified by the American Association of Tissue Banks or the

1 Eye Bank Association of America and is involved in procuring,
2 furnishing, donating, or distributing corneas, bones, or
3 other human tissue for the purpose of injecting, transfusing,
4 or transplanting any of them into the human body. "Tissue
5 bank" does not include a licensed blood bank.

6 For the purposes of this Act, "tissue" does not include
7 organs.

8 (g) Nothing in Public Act 89-393 ~~this-amendatory-Act-of~~
9 1995 alters any agreements or affiliations between tissue
10 banks and hospitals.

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