

# UNIFORM ANATOMICAL GIFT ACT

## Footnotes

Effective July 1, 1995; for applicability of this chapter and former chapter 142A, see § 142C.13

### 142C.1 Short title.

This chapter shall be known and may be cited as the "*Uniform Anatomical Gift Act*".

95 Acts, ch 39, §1

### 142C.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Anatomical gift*" means a donation, effective upon or after the death of the donor, of all or part of the human body of the donor.
2. "*Bank or storage organization*" means a person licensed, accredited, certified, registered, or approved under the laws of any state for the procurement, removal, preservation, storage, or distribution of human bodies or parts.
3. "*Decedent*" means a deceased individual and includes a stillborn infant or fetus.
4. "*Document of gift*" means a card signed by an individual donor, a written statement attached to or imprinted or noted on a driver's license or nonoperator's identification card, an entry in a donor registry, a donor's will, or any other written document used by a donor to make an anatomical gift.
5. "*Donor*" means an individual who makes an anatomical gift.
6. "*Donor registry*" means the statewide organ and tissue donor registry established pursuant to section 142C.18 or a similar registry.
7. "*Enucleator*" means an individual who is certified by the department of ophthalmology of the university of Iowa college of medicine or by the eye bank association of America to remove or process eyes or parts of eyes.
8. "*Hospital*" means a hospital licensed under chapter 135B, or a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.
9. "*Medical examiner*" means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.
10. "*Organ procurement organization*" means an organization that performs or coordinates the performance of retrieving, preserving, or transplanting organs, which maintains a system of locating prospective recipients for available organs, and which is registered with the united network for organ sharing and designated by the United States secretary of health and human services pursuant to 42 C.F.R. § 485, subpt. D.
11. "*Part*" means organs, tissues, eyes, bones, vessels, whole blood, plasma, blood platelets, blood derivatives, fluid, or any other portion of a human body.

12. *"Person"* means person as defined in section 4.1.

13. *"Physician"* or *"surgeon"* means a physician, surgeon, or osteopathic physician and surgeon, licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

14. *"State"* means any state, district, commonwealth, territory, or insular possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

15. *"Technician"* means an individual who is licensed, certified, or approved by an organ procurement organization or who is certified, or approved by a bank or storage organization to procure, remove, process, preserve, store, or distribute a part.

95 Acts, ch 39, §2; 2001 Acts, ch 74, §3; 2002 Acts, ch 1064, §1, 2

### **142C.3 Donation of anatomical gifts persons who may execute manner of executing.**

1. A competent individual who is at least eighteen years of age, or a minor fourteen through seventeen years of age with written consent of a parent or legal guardian, may make an anatomical gift for one or more of the purposes listed in section 142C.5, may limit an anatomical gift to one or more of the purposes listed in section 142C.5, or may refuse to make an anatomical gift, the gift to take effect upon the death of the donor.

2. An anatomical gift may be made only by completion of a document of gift or as otherwise provided in this section. If the prospective donor is a minor fourteen through seventeen years of age, to be valid, a document of gift shall be signed by the minor and the minor's parent or legal guardian. If the document of gift requires the signature of the donor, but the donor is unable to sign the document, the document of gift shall be signed by another individual and by two witnesses, all of whom sign at the direction and in the presence of the donor, the other individual, and the two witnesses. The document of gift, including an entry in a donor registry, shall provide certification that the document has been executed in the prescribed manner.

3. If a donor indicates the wish to become a donor, pursuant to section 321.189, and the indication is attached to or imprinted or noted on an individual's driver's license or nonoperator's identification card, or if a donor indicates the wish to become a donor via an entry in a donor registry and the entry is certified as being executed in the prescribed manner, the document, including an entry in a donor registry, shall be considered a valid document of gift.

4. A document of gift may designate a particular physician, technician, or enucleator to perform the appropriate procedures. In the absence of a designation or if the designee is not available to perform the procedures, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, technician, or enucleator to perform the appropriate procedures.

5. A document of gift by will takes effect upon the death of the testator, whether or not the will is probated. For the purposes of a document of gift by will, invalidation of the will for testamentary purposes does not result in the invalidation of the document of gift.

6. A donor may amend or revoke a document of gift by any of the following means:

*a.* A signed statement, executed by the donor.

*b.* An oral statement made by the donor in the presence of two individuals.

*c.* Any form of communication during a terminal illness or injury addressed to a health care professional, licensed or certified pursuant to chapter 148, 148C, 150A, or 152.

d. The delivery of a written statement, signed by the donor, to a specified donee to whom a document of gift has been delivered.

7. The donor of an anatomical gift made by will may amend or revoke the gift as provided in subsection 6 or in the manner provided for amendment or revocation of wills.

8. A document of gift that is not revoked by the donor prior to the donor's death does not require the consent or concurrence of any other person after the donor's death and is sufficient legal authority, following the donor's death, for the removal of any part donated under the document of gift, without the consent or concurrence of any other person. A person, including but not limited to a family member, a guardian, an attorney in fact named under a durable power of attorney for health care, or an executor of the donor's estate, is not authorized to and shall not revoke or in any way supersede a document of gift that is not revoked by the donor prior to the donor's death.

9. An individual may refuse to make an anatomical gift of the individual's body or part by completing any written document expressing the individual's refusal to make an anatomical gift. During a terminal illness or injury, the refusal may be by an oral statement or other form of unwritten communication addressed to a health care professional licensed or certified under chapter 148, 148C, 150A, or 152.

10. In the absence of a contrary indication by the donor, an anatomical gift of a part does not constitute a refusal to donate other parts nor does it constitute a limitation on an anatomical gift made pursuant to section 142C.4.

11. In the absence of a contrary indication by the donor, a revocation or amendment of an anatomical gift does not constitute a refusal to make a subsequent anatomical gift. If the donor intends a revocation to constitute a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection 9.

12. A document of gift may be in the form of a specific donor card such as an eye donor card, a uniform donor card, a driver's license, a nonoperator's identification card, an entry in a donor registry, a will, or any other written document executed pursuant to this chapter. A uniform donor card shall include the options of donating any and all parts, or any specific part or parts. A uniform donor card may, but is not required to, be in the following form: UNIFORM DONOR CARD

I, ..... have made a commitment to be an anatomical gift donor.

I wish to donate the following: .... Any needed .... Only the art following part ..... Donor Signature  
..... Date .....

95 Acts, ch 39, §3; 2002 Acts, ch 1064, §3, 4

#### **142C.4 Donation of anatomical gifts by individuals other than the donor.**

1. Any available member of the following classes of persons, in the order of priority listed, may make an anatomical gift of a decedent's body or parts for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make an anatomical gift:

a. The attorney in fact pursuant to a durable power of attorney for health care.

b. The spouse of the decedent.

c. An adult child of the decedent.

d. A parent of the decedent.

*e.* An adult sibling of the decedent.

*f.* A grandparent of the decedent.

*g.* A guardian of the decedent at the time of the decedent's death.

2. An anatomical gift shall not be made by a person listed in subsection 1 if any of the following conditions apply:

*a.* A person in a prior class is available, in person or by telephone contact, at the time of the death of the decedent to make an anatomical gift.

*b.* The person proposing to make an anatomical gift knows of a refusal by the decedent to make an anatomical gift.

*c.* The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

3. An anatomical gift by a person authorized under subsection 1 shall be made by execution of a document of gift signed by the person or by the person's telegraphic, recorded telephonic, or other recorded message, or by any other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient of the communication.

4. An anatomical gift by a person authorized under subsection 1 may be revoked by any member of the same or prior class if, before the procedures have begun for removal of a part from the body of the decedent, the physician, technician, or enucleator performing the removal procedures is notified of the revocation.

5. Failure to make an anatomical gift under subsection 1 does not constitute an objection to the making of an anatomical gift.

95 Acts, ch 39, §4; 2002 Acts, ch 1064, §5

#### **142C.4A Authority of medical examiner release and removal of part for making of anatomical gift.**

1. A medical examiner may permit the removal of a part from a body in the custody of the medical examiner and may release the part for any purpose authorized pursuant to section 142C.5 if the body of the decedent cannot be identified or if the next of kin of the decedent cannot be located, and if all of the following conditions are met:

*a.* The medical examiner has received a request for the part from a hospital, physician, organ procurement organization, or bank or storage organization.

*b.* Given the useful life of the specific part, the medical examiner is satisfied that a reasonable effort has been made by the organ procurement organization or bank or storage organization to locate and examine the decedent's medical records and to inform a person specified in section 142C.4 of the option to make or object to the making of an anatomical gift.

*c.* The medical examiner does not know of a refusal or contrary indication by the decedent or of an objection by a person having priority to act pursuant to section 142C.4 regarding the making of an anatomical gift.

*d.* The medical examiner does not know that the decedent, at the time of death, was a member of a religion, church, sect, or denomination which relies solely upon prayer for the healing of disease or which has religious tenets that would be violated by the disposition of the decedent's body or part for any of the

purposes provided pursuant to section 142C.5.

- e.* Removal of a part will be performed by a physician, technician, or enucleator.
  - f.* Removal of a part will not significantly alter or compromise the results of any autopsy or investigation.
  - g.* Removal of a part will be in accordance with accepted medical standards.
  - h.* Cosmetic restoration will be performed, if appropriate.
  - i.* The person's death is not a death which affects the public interest as defined in section 331.802, or if the death is a death which affects the public interest, any investigation relating to the decedent's death has been completed.
2. The medical examiner releasing and permitting the removal of a part shall maintain a permanent record of all of the following:

- a.* The name of the decedent, if available.
- b.* The date and time of the release of the body or part and the name of the person to whom the body or part was released.

96 Acts, ch 1048, §1

#### **142C.5 Requirements acceptable donees and purposes for which anatomical gifts may be made.**

1. The following persons may be donees of anatomical gifts for the purposes stated:
- a.* A hospital, physician, organ procurement organization, or bank or storage organization for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.
  - b.* An accredited medical or dental school, college, or university for education, research, or the advancement of medical or dental science.
  - c.* A designated individual for transplantation or therapy needed by the individual.
2. An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any person listed in subsection 1.
3. If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class listed in section 142C.4, the donee shall not accept the anatomical gift.

95 Acts, ch 39, §5

#### **142C.6 Delivery of document of gift.**

1. Validity of an anatomical gift does not require delivery of the document of gift during the donor's lifetime.
2. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the death of the donor. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization, bank or storage organization, or

donor registry office that accepts the document of gift for safekeeping or for the facilitation of procedures after the death of the donor. If a document is deposited by a donor in a hospital, donor registry office, or bank or storage organization, the hospital, donor registry office, or bank or storage organization may forward the document to an organ procurement organization which will retain the document for facilitating procedures following the death of the donor. Upon request of a hospital, physician, or surgeon, upon or after the donor's death, the person in possession of the document of gift may allow the hospital, physician, or surgeon to examine or copy the document of gift.

95 Acts, ch 39, §6; 2002 Acts, ch 1064, §6; 2003 Acts, ch 108, §38

#### **142C.7 Confidential information.**

A hospital, licensed or certified health care professional pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to an organ procurement organization, donor registry, or bank or storage organization as part of a referral or retrospective review of the patient as a potential donor. Additionally, a medical examiner or a medical examiner's designee, peace officer, fire fighter, or emergency medical care provider may release an individual's identifying information to an organ procurement organization, donor registry, or bank or storage organization to determine if the individual is a donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

95 Acts, ch 39, §7; 96 Acts, ch 1048, §2; 2002 Acts, ch 1064, §7

#### **142C.8 Rights and duties at death.**

1. The rights of a donee created by an anatomical gift are superior to the rights of any other person except with respect to autopsies pursuant to section 142C.11.
2. A donee may accept or reject an anatomical gift of an entire body or part. If the donee accepts the entire body as a gift, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed with minimal alteration to body appearance. Following removal of the part, custody of the remainder of the body vests in the person under a legal obligation to dispose of the body.
3. The time of death shall be determined by a physician who attends the donor at death, as defined in section 702.8, or, if no attending physician is present, the physician who certifies the death. The physician who attends the donor at death and the physician who certifies the time of death shall not participate in the procedures for removing or transplanting a part of the decedent. A medical examiner acting to determine the time of death or to certify the death, however, may remove a part if otherwise in accordance with this chapter.
4. If an anatomical gift is made, a physician or technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician.
5. A donee may presume that a document of gift is valid absent actual knowledge to the contrary.

95 Acts, ch 39, §8

#### **142C.9 Coordination of procurement and use.**

Each hospital in the state shall establish agreements or affiliations for coordination of procurement and use of human parts with an organ procurement organization for any purpose stated in section 142C.5.

95 Acts, ch 39, §9

**142C.10 Sale or purchase of parts prohibited.**

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.
2. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, distribution, transportation, or implantation of a part.
3. A person who violates this section is guilty of a class "C" felony and is subject to imprisonment not to exceed ten years and notwithstanding section 902.9, to a fine not to exceed two hundred fifty thousand dollars, or both.

95 Acts, ch 39, §10

**142C.11 Examination, autopsy, liability.**

1. An anatomical gift is subject to reasonable examination, including but not limited to an autopsy, human immunodeficiency virus testing, and testing for communicable disease, which is necessary to ensure medical acceptability of the gift for the purposes intended.
2. Anatomical gifts made pursuant to this chapter are subject to the laws governing autopsies.
3. A hospital, funeral establishment, health care professional licensed or certified pursuant to chapter 148, 148C, 150A, or 152, a medical examiner or a medical examiner's designee, technician, enucleator, peace officer, fire fighter, emergency medical care provider, funeral director, or other person, who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from any liability, civil or criminal, which might result from the making or acceptance of an anatomical gift.
4. An individual who makes an anatomical gift pursuant to section 142C.3 or 142C.4 and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.

95 Acts, ch 39, §11; 2002 Acts, ch 1064, §8

**142C.12 Service but not a sale.**

The procurement, removal, preservation, processing, storage, distribution, or use of parts for the purpose of injecting, transfusing, or transplanting any of the parts into the human body is, for all purposes, the rendition of a service by every person participating in the act, and whether or not any remuneration is paid, is not a sale of the part for any purposes. However, any person that renders such service warrants only under this section that due care has been exercised and that acceptable professional standards of care in providing such service according to the state of the medical arts have been followed. Strict liability, in tort, shall not be applicable to the rendition of such services.

95 Acts, ch 39, §12

**142C.13 Transitional provisions.**

This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to the making of an anatomical gift on or after July 1, 1995. A

document of gift, revocation, or refusal to make an anatomical gift pursuant to the law in effect prior to July 1, 1995, shall not be affected by the provisions of this chapter.

95 Acts, ch 39, §13; 95 Acts, ch 209, §20

#### **142C.14 Uniformity of application and construction.**

This chapter shall be applied and construed to effectuate the general purpose to make uniform the law with respect to anatomical gifts among states which enact this law.

95 Acts, ch 39, §14

#### **142C.15 Anatomical gift public awareness and transplantation fund established uses of fund.**

1. An anatomical gift public awareness and transplantation fund is created as a separate fund in the state treasury under the control of the Iowa department of public health. The fund shall consist of moneys remitted by the county treasurer of a county or by the department of transportation which were collected through the payment of a contribution made by an applicant for registration of a motor vehicle pursuant to section 321.44A and any other contributions to the fund.

2. The moneys collected under this section and deposited in the fund are appropriated to the Iowa department of public health for the purposes specified in this section. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

3. The treasurer of state shall act as custodian of the fund and shall disburse amounts contained in the fund as directed by the department. The treasurer of state may invest the moneys deposited in the fund. The income from any investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes of this section.

4. The Iowa department of public health may use not more than five percent of the moneys in the fund for administrative costs. The remaining moneys in the fund may be expended through grants to any of the following persons, subject to the following conditions:

*a.* Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation to conduct public awareness projects. Moneys remaining that were not requested and awarded for public awareness projects may be used for research, or to develop and support a statewide organ and tissue donor registry. Grants shall be made based upon the submission of a grant application by an agency or entity to conduct a public awareness project or to research, or develop and support a statewide organ and tissue donor registry.

*b.* Not more than thirty percent of the moneys in the fund annually may be expended in the form of grants to hospitals for reimbursement for costs directly related to the development of in-hospital anatomical gift public awareness projects, anatomical gift referral protocols, and associated administrative expenses. As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for all deaths occurring in the hospital at a percentage rate which places the hospital in the upper fifty percent of all protocol compliance rates for hospitals submitting documentation for cost reimbursement under this section.

*c.* Not more than fifty percent of the moneys in the fund annually may be expended in the form of grants to transplant recipients, transplant candidates, living organ donors, or to legal representatives on behalf of transplant recipients, transplant candidates, or living organ donors. Transplant recipients, transplant

candidates, living organ donors, or the legal representatives of transplant recipients, transplant candidates, or living organ donors shall submit grant applications with supporting documentation provided by a hospital that performs transplants, verifying that the person by or for whom the application is submitted requires a transplant or is a living organ donor and specifying the amount of the costs associated with the following, if funds are not available from any other third-party payor:

- (1) The costs of the organ transplantation procedure.
- (2) The costs of post-transplantation drug or other therapy.
- (3) Other transplantation costs including but not limited to food, lodging, and transportation.

96 Acts, ch 1076, §1; 98 Acts, ch 1015, §1; 2000 Acts, ch 1052, §1; 2003 Acts, ch 32, §2; 2005 Acts, ch 89, §11; 2006 Acts, ch 1030, §14

#### **142C.16 Anatomical gift public awareness advisory committee established duties.**

1. The Iowa department of public health shall establish an anatomical gift public awareness advisory committee. Members shall include a representative of each of the following, appointed by the respective entity or that entity's successor:

- a.* A state organ procurement organization.
- b.* The Iowa medical society.
- c.* The Iowa hospital association.
- d.* The osteopathic medical association.
- e.* A bank or storage organization.
- f.* The Iowa chapter of the national association of social workers. The representative shall be a member of the association knowledgeable in anatomical gifts.
- g.* The Iowa funeral directors association.
- h.* The Iowa department of public health.
- i.* The department of human services.
- j.* The department of inspections and appeals.

2. Members shall serve staggered terms of two years. Appointments of members of the committee shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointment.

3. Members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.

4. The committee shall annually select a chairperson from its membership. A majority of the members of the committee shall constitute a quorum.

5. The advisory committee shall assist the department in all of the following activities:

- a. Accepting and awarding grants to promote the donation of anatomical gifts.
- b. Establishing criteria for the application for and awarding of grants to promote the donation of anatomical gifts.
- c. Examining the anatomical gifts system to identify improvements or enhancements to promote anatomical gifts.
- d. Recommending legislation to improve state law regarding anatomical gifts.

96 Acts, ch 1076, §2; 2001 Acts, ch 74, §4

#### **142C.17 Annual donation and compliance report.**

The Iowa department of public health, in conjunction with any statewide organ procurement organization in Iowa, shall prepare and submit a report to the general assembly on or before January 1 each year regarding organ donation rates and voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and other health systems organizations. The report shall contain the following:

1. An evaluation of organ procurement efforts in the state, including statistics regarding organ and tissue donation activity as of September 30 of the preceding year.
2. Efforts by any statewide organ procurement organization in Iowa, and related parties, to increase organ and tissue donation and consent rates.
3. Voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and health systems organizations and the results of those efforts.
4. Annual contribution levels to the anatomical gift public awareness and transplantation fund created in section 142C.15, and any distributions made from the fund.
5. Efforts and ideas for increasing public awareness of the option of organ and tissue donation.
6. Additional information deemed relevant by the department in assessing the status and progress of organ and tissue donation efforts in the state.

98 Acts, ch 1015, §2

#### **142C.18 Statewide organ and tissue donor registry.**

The director of public health may contract for the establishment of a statewide organ and tissue donor registry. The contract shall provide for a centralized database and automated system to make organ and tissue donor information available to family members and physicians seven days a week, twenty-four hours per day. The registry shall be used to compile the organ and tissue donation information received by the state department of transportation, county treasurers, attorneys, organ donation awareness programs, and others.

The director of public health shall work with the state department of transportation, county treasurers, and the Iowa organ donor network in developing specifications for the registry. Consideration shall be given to implementing an automated toll-free hotline and providing internet access to the registry.

2000 Acts, ch 1052, §2