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UTAH ANATOMICAL GIFT ACT AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Karen Hale

This act modifies the Uniform Anatomical Gift Act and the Uniform Driver License Act.

This act modifies the Uniform Anatomical Gift Act to comply with federal law. The act requires a hospital to notify an organ procurement organization of the imminent or actual death of a patient. The act requires a hospital to collaborate with the organ procurement organization or designate trained individuals to ensure that specified persons are informed about anatomical gift options. This act deletes the requirement to obtain signatures from those specified persons and enter information on the Utah Anatomical Consent Form. This act authorizes the Driver License Division to release to an organ procurement organization the names and addresses of persons who indicate on their licenses that they intend to make an anatomical gift. This act sets forth the manner of collecting and releasing anatomical gift information and sets limits on its use. This act amends definitions, makes technical changes, and provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-28-2, as last amended by Chapter 21, Laws of Utah 1999

26-28-6, as last amended by Chapter 343, Laws of Utah 1995

53-3-207, as last amended by Chapter 216, Laws of Utah 1999

53-3-804, as last amended by Chapter 36, Laws of Utah 1999

53-3-805, as renumbered and amended by Chapters 24 and 234, Laws of Utah 1993

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-28-2** is amended to read:

26-28-2. Definitions.

As used in this chapter:

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(1) "Anatomical gift" means the giving of permission for a person authorized in this chapter to remove parts of the human body as limited in the document of gift after death of the human body and use them for the purposes listed in Subsection 26-28-3(1).

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Document of gift" means a card, a will, or other writing used to make an anatomical gift in compliance with this chapter.

(4) "Donor" means an individual who, prior to his death, executes a document of gift concerning all or part of his own body.

(5) "Evidence of a document of gift" means a statement attached to or imprinted on any license to operate a motor vehicle or any other writing expressing a desire to make an anatomical gift or giving evidence of the existence of a document of gift.

(6) "Hospital" means a general acute hospital facility licensed in accordance with Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or by the United States government.

(7) "Organ procurement organization" means an organization recognized by the United States Department of Health and Human Services as meeting the requirements of 42 U.S.C. Section 273.

~~[(7)]~~ (8) "Part" means an organ, tissue, eye, bone, blood vessel, blood, fluid, or other portion of a human body.

~~[(8)]~~ (9) "Physician" means a person licensed to practice medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or under Title 58, Chapter 67, Utah Medical Practice Act, or a person similarly licensed in any state.

~~[(9)]~~ (10) "Procurement entity" means:

(a) an organ procurement organization ~~[recognized by the United States Department of Health and Human Services as meeting the requirements of 42 U.S.C. Section 273];~~ or

(b) a hospital, medical school, physician, eye bank, or tissue bank.

~~[(10)]~~ (11) "Technician" means a person certified by the American Association of Tissue Banks as a certified tissue bank specialist.

Section 2. Section **26-28-6** is amended to read:

26-28-6. Routine inquiry and required request -- Search and notification.

(1) At or near the time of a patient's death, the administrator of the hospital where the

patient is being treated or a representative designated by the administrator shall:

(a) notify the appropriate organ procurement organization of the imminent or actual death of the patient; and

~~[(a) discuss with the]~~ (b) ensure, in collaboration with the organ procurement organization, that readily available persons listed as having priority in Section 26-28-4 are informed of the option to make or refuse to make an anatomical gift in accordance with Section 26-28-4, with reasonable discretion and sensitivity appropriate to the circumstances of the family[;].

~~[(b) enter the required information on a Utah Anatomical Consent Form as adopted by the department, which may include the patient's name and demographic information, medical suitability of the patient, the response of the person to whom the request was made and the person's relationship to the patient, and if the patient does not meet the medical criteria, the reasons he did not meet the criteria; and]~~

~~[(c) obtain the signature of the one having the highest priority of the readily available persons listed as having priority in Section 26-28-4, signifying whether he consented or declined to consent to the making of an anatomical gift on behalf of the patient.]~~

(c) For purposes of Subsection (1)(b), the individual designated by the hospital to initiate the request to the family must be an organ procurement representative or an individual who has completed a course offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families.

(2) A law enforcement officer, fireman, emergency medical services provider, or other emergency rescuer who finds an individual who is deceased or near death, and a hospital, upon the admission of an individual at or near death, shall:

(a) make a reasonable search for a document of gift or other information identifying whether the individual has made or refused to make an anatomical gift; and

(b) if he finds a document of gift, evidence of a document of gift, or evidence of refusal, notify the hospital to which the individual is taken and deliver the evidence to the hospital.

(3) A hospital shall notify ~~[an]~~ the appropriate organ procurement ~~[entity]~~ organization that a part is available if~~[-~~ (a) at or near the time of death of a patient, a hospital knows that the patient or a person authorized in accordance with Section 26-28-4, executed a document of gift; or (b)]

a person known to be a donor, and at or near death, is in transit to the hospital.

(4) The hospital shall cooperate in the release and removal of the anatomical gift.

(5) A person who fails to discharge the duties imposed by this section is not subject to civil or criminal liability but is subject to appropriate administrative sanctions against the professional certification or license and against the facility's license.

Section 3. Section **53-3-207** is amended to read:

53-3-207. License certificates issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses -- Minors' licenses and permits -- Violation.

(1) (a) The division shall issue to every person privileged to drive a motor vehicle, a license certificate indicating the type or class of motor vehicle the licensee may drive.

(b) A person may not drive a class of motor vehicle unless licensed in that class.

(2) (a) Every license certificate shall bear:

(i) the distinguishing number assigned to the licensee by the division;

(ii) the name, birth date, and residence address of the licensee;

(iii) a brief description of the licensee for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the licensee; ~~and~~

(vi) a photograph or other facsimile of the licensee's signature[-]; and

(vii) an indication whether the licensee intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

(b) A new license certificate issued by the division may bear the social security number of the licensee only at the request of the licensee.

(c) (i) The license certificate shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the license certificate shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited license certificate under Subsection 53-3-220(4) and may authorize the issuance of a renewed or duplicate license certificate without a picture if the applicant is not then living in the state.

~~[(3)-(a)-(i) When a license is granted or renewed, the division shall, upon request of the~~

licensee, provide a method of identification on the license certificate, which indicates the licensee's intent to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.]

~~[(ii) The statement shall be signed in the presence of at least one witness, who shall sign the statement in the presence of the licensee.]~~

~~[(b) The division or any of its employees are not liable for any loss, detriment, or injury, directly or indirectly, which results from false or inaccurate information regarding the anatomical gift notification.]~~

(3) (a) The indication of intent under Subsection (2)(a)(vii) shall be based upon a written statement:

(i) signed by the licensee in the presence of a witness;

(ii) signed by the witness in the presence of the licensee; and

(iii) authorizing the division, if the licensee intends to make an anatomical gift, to release the licensee's name, address, and indication of intent to an organ procurement organization, as defined in Section 26-28-2.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection (2)(a)(vii):

(A) indicate that they intend to make an anatomical gift; and

(B) authorize release of their names, addresses, and indications of intent.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry;

(B) inform licensees of anatomical gift options, procedures, and benefits; and

(C) solicit financial and other support for organ procurement.

(4) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (2)(a)(vii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

~~[(4)]~~ (5) (a) (i) The division upon determining after an examination that an applicant is mentally and physically qualified to be granted a license may issue to an applicant a receipt for the fee.

(ii) The receipt serves as a temporary license certificate allowing him to drive a motor vehicle while the division is completing its investigation to determine whether he is entitled to be licensed.

(b) The receipt shall be in his immediate possession while driving a motor vehicle, and it is invalid when the applicant's license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the receipt a date after which it is not valid as a license certificate.

~~[(5)]~~ (6) The division shall distinguish learner permits, temporary permits, and license certificates issued to any person younger than 21 years of age by use of the plainly printed word "minor" or "under 21" or the use of a special color not used for other license certificates.

~~[(6)]~~ (7) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of Section 53-3-223.

~~[(7)]~~ (8) A person who violates Subsection (1)(b) is guilty of a class C misdemeanor.

Section 4. Section **53-3-804** is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information.

(1) To apply for an identification card, the applicant shall appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) Social Security number or temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph; and

(i) ~~[organ donor indication, if desired]~~ an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

Section 5. Section **53-3-805** is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) The division shall issue an identification card that:

(a) provides all the information contained in the application, other than the applicant's:

(i) Social Security number, except as provided in Subsection (3); and

(ii) place of birth;

(b) contains a photograph of the applicant; and

(c) contains a facsimile of the applicant's signature.

(2) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) The size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include any of the following:

(a) a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment; and

(b) the applicant's Social Security number.

~~[(4) The card may also indicate the applicant's intent to make an anatomical gift, under the same procedure as provided for an operator license under Section 53-3-207.]~~

(4) (a) The indication of intent under Subsection 53-3-804(2)(i) shall be based upon a written statement:

(i) signed by the applicant in the presence of a witness;

(ii) signed by the witness in the presence of the applicant; and

(iii) authorizing the division, if the applicant intends to make an anatomical gift, to release the applicant's name, address, and indication of intent to an organ procurement organization, as defined in Section 26-28-2.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection 53-3-804(2)(i):

(A) indicate that they intend to make an anatomical gift; and

(B) authorize release of their names, addresses, and indications of intent.

214 (ii) An organ procurement organization may use released information only to:
215 (A) obtain additional information for an anatomical gift registry;
216 (B) inform applicants of anatomical gift options, procedures, and benefits; and
217 (C) solicit financial and other support for organ procurement.
218 (5) The division and its employees are not liable, as a result of false or inaccurate
219 information provided under Subsection 53-3-804(2)(i), for direct or indirect:
220 (a) loss;
221 (b) detriment; or
222 (c) injury.
223 Section 6. **Effective date.**
224 This act takes effect on July 1, 2001.

Legislative Review Note
as of 1-12-01 10:38 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel