

26:6-58.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 87
NJSA: 26:6-58.1 (Uniform Anatomical Gift Act—amendment)
BILL NO: A2801 (Substituted for S1988)

SPONSOR(S): Russo and Vandervalk

DATE INTRODUCED: October 5, 2000

COMMITTEE: **ASSEMBLY:** Health

SENATE: Health

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 11, 2000

SENATE: March 26, 2001

DATE OF APPROVAL: May 8, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original bill enacted)

A2801

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S1988

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

Bill and Sponsors Statement identical to A2801

COMMITTEE STATEMENT:

ASSEMBLY: No

SENATE: Yes

Identical to Assembly Statement for A2801

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

ASSEMBLY, No. 2801

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED OCTOBER 5, 2000

Sponsored by:

Assemblyman DAVID C. RUSSO

District 40 (Bergen and Passaic)

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Co-Sponsored by:

**Assemblyman Blee, Senators Matheussen, Inverso, Allen, Sinagra, Bucco,
Singer, Robertson and Kosco**

SYNOPSIS

Amends "Uniform Anatomical Gift Act" regarding notification to designated persons about option to donate decedent's organs or tissues.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/27/2001)

1 AN ACT concerning organ donations and revising parts of the
2 statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
8 as follows:

9 1. a. [When the decision has been made in a hospital to pronounce
10 the death of a person who, based on accepted medical standards, is a
11 suitable candidate for human body part donation, the person in charge
12 of the hospital, or that person's designated representative, other than
13 a person connected with the determination of death, shall make known
14 to any of the following persons, in order of priority stated, when
15 persons in prior classes are not available at the time of death and in the
16 absence of actual notice of contrary indications by the decedent or
17 actual notice of opposition by a member of the same or a prior class
18 specified in paragraph (1), (2), (3), (4), (5) or (6) of this subsection,
19 or when there is any other reason to believe that an anatomical gift is
20 contrary to the decedent's religious beliefs, that the person has the
21 option to consent to the gift of all or any part of the decedent's body
22 for any purpose specified in section 3 of P.L.1969, c.161 (C.26:6-59)]
23 At or around the time of death of a patient in a hospital licensed
24 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital shall
25 notify its designated organ procurement organization of the patient's
26 death. If the patient has a validly executed donor card, donor
27 designation on a driver's license, advance directive pursuant to
28 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
29 registration with a Statewide organ and tissue donor registry, the
30 organ procurement organization representative or the hospital's
31 designated requestor shall attempt to notify a person listed in this
32 subsection of the gift. If no document of gift is known to the organ
33 procurement organization representative or the designated requestor,
34 one of those two individuals shall ask the persons listed in this
35 subsection whether the decedent had a validly executed document of
36 gift. If there is no evidence of an anatomical gift or actual notice of
37 contrary indications by the decedent, the organ procurement
38 organization representative or the designated requestor shall attempt
39 to notify a person listed in this subsection of the option to donate
40 organs or tissues. Consent need only be obtained from an available
41 person in the highest priority class applicable, but an anatomical gift
42 shall be barred by actual notice of opposition by a member of the same
43 or a prior class. If no available member of a class will make a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 decision, the organ procurement organization representative or the
2 designated requestor shall approach a member of the next class.

3 The classes in order of priority are:

- 4 (1) the spouse,
- 5 (2) an adult son or daughter,
- 6 (3) either parent,
- 7 (4) an adult brother or sister,
- 8 (5) a guardian of the person of the decedent at the time of the
9 decedent's death, or
- 10 (6) any other person authorized or under the obligation to dispose
11 of the body.

12 [Consent or refusal need only be obtained from a person in the
13 highest priority class available] For the purposes of this section, a
14 person is available if that person can be approached within a time
15 period compatible with effecting an anatomical gift.

16 b. The person in charge of the hospital or that person's designated
17 representative shall indicate in the medical record of the decedent
18 whether or not consent was granted, the name of the person granting
19 or refusing the consent, and that person's relationship to the decedent.

20 c. A gift made pursuant to the request required by this act shall be
21 executed pursuant to the applicable provisions of P.L.1969, c.161
22 (C.26:6-57 et seq.).

23 d. A person who acts in good faith in accordance with the
24 provisions of this act is not liable for any damages in any civil action
25 or subject to prosecution in any criminal proceeding for any act or
26 omission of the person.

27 e. If the decedent is deemed an unsuitable candidate for donation,
28 an explanatory notation shall be made part of the medical record of the
29 decedent.

30 (cf: P.L.1995, c.257, s.3)

31

32 2. Section 2 of P.L.1985, c.284 (C.26:6-60.2) is amended to read
33 as follows:

34 2. A hospital shall maintain, as part of a patient's permanent record,
35 the information required under this act and any other pertinent
36 information concerning the anatomical gift which will facilitate the
37 discharge of the patient's wishes in the event of the patient's death.

38 [Upon the death of a patient who has made an anatomical gift, a
39 hospital shall make every good faith effort to contact, without delay,
40 the donee, if any, to whom the gift has been made.]

41 (cf: P.L.1985, c.284, s.2)

42

43 3. The following are repealed:

44 Section 8 of P.L.1995, c.257 (C.26:6-58.7); and

45 Section 1 of P.L.1985, c.284 (C.26:6-60.1).

1 4. This act shall take effect immediately.

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STATEMENT

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6 This bill is designed to incorporate into State law the
7 recommendations of the New Jersey Law Revision Commission based
8 upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-
9 57 et seq., in order to bring the relevant statutes into full conformance
10 with federal regulations and current practice.

11 Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or
12 around the time of death of a patient in a licensed hospital, the hospital
13 shall notify its designated organ procurement organization (OPO) of
14 the patient's death. If the patient has a validly executed donor card,
15 donor designation on a driver's license, advance directive, will, other
16 document of gift, or registration with a Statewide organ and tissue
17 donor registry, the OPO representative or the hospital's designated
18 requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1
19 of the gift (i.e., the spouse, an adult son or daughter, either parent, an
20 adult brother or sister, a guardian of the person of the decedent at the
21 time of the decedent's death, or any other person authorized or under
22 the obligation to dispose of the body, in that order of priority). If no
23 document of gift is known to the OPO representative or the designated
24 requestor, one of those two individuals shall ask the persons listed in
25 N.J.S.A.26:6-58.1 whether the decedent had a validly executed
26 document of gift. If there is no evidence of an anatomical gift or
27 actual notice of contrary indications by the decedent, the OPO
28 representative or the designated requestor shall attempt to notify a
29 person listed in N.J.S.A.26:6-58.1 of the option to donate organs or
30 tissues. Consent need only be obtained from an available person in the
31 highest priority class applicable, but an anatomical gift shall be barred
32 by actual notice of opposition by a member of the same or a prior
33 class. If no available member of a class will make a decision, the OPO
34 representative or the designated requestor shall approach a member of
35 the next class.

36 The bill stipulates that a person listed in N.J.S.A.26:6-58.1 is
37 available if that person can be approached within a time period
38 compatible with effecting an anatomical gift.

39 The bill also amends N.J.S.A.26:6-60.2 to delete the provision that
40 a hospital, upon the death of a patient who has made an anatomical
41 gift, shall make every good faith effort to contact, without delay, the
42 donee, if any, to whom the gift has been made. Under federal law and
43 current practice, the designated OPO for the hospital is the sole entity
44 responsible for contacting the donee.

45 Finally, the bill repeals:

46 -- N.J.S.A.26:6-58.7 (which requires a hospital to notify its

1 designated OPO of each death in that hospital), as its provisions would
2 be incorporated within N.J.S.A.26:6-58.1 by this bill; and
3 -- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a
4 patient upon admission whether the patient has made an anatomical
5 gift and the donee, if any, to whom the gift has been made), as its
6 provisions do not limit the types of hospital employees who may
7 inquire about organ donations as provided in federal regulations (i.e.,
8 a representative of the hospital's designated OPO or a designated
9 requestor), and are obviated by the new language added to
10 N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2801

STATE OF NEW JERSEY

DATED: OCTOBER 12, 2000

The Assembly Health Committee reports favorably Assembly Bill No. 2801.

This bill is designed to incorporate into State law the recommendations of the New Jersey Law Revision Commission based upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-57 et seq., in order to bring the relevant statutes into full conformance with federal regulations and current practice.

Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or around the time of death of a patient in a licensed hospital, the hospital shall notify its designated organ procurement organization (OPO) of the patient's death. If the patient has a validly executed donor card, donor designation on a driver's license, advance directive, will, other document of gift, or registration with a Statewide organ and tissue donor registry, the OPO representative or the hospital's designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the gift (i.e., the spouse, an adult son or daughter, either parent, an adult brother or sister, a guardian of the person of the decedent at the time of the decedent's death, or any other person authorized or under the obligation to dispose of the body, in that order of priority). If no document of gift is known to the OPO representative or the designated requestor, one of those two individuals shall ask the persons listed in N.J.S.A.26:6-58.1 whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or actual notice of contrary indications by the decedent, the OPO representative or the designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the option to donate organs or tissues. Consent need only be obtained from an available person in the highest priority class applicable, but an anatomical gift shall be barred by actual notice of opposition by a member of the same or a prior class. If no available member of a class will make a decision, the OPO representative or the designated requestor shall approach a member of the next class.

The bill stipulates that a person listed in N.J.S.A.26:6-58.1 is available if that person can be approached within a time period compatible with effecting an anatomical gift.

The bill also amends N.J.S.A.26:6-60.2 to delete the provision that a hospital, upon the death of a patient who has made an anatomical

gift, shall make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made. Under federal law and current practice, the designated OPO for the hospital is the sole entity responsible for contacting the donee.

Finally, the bill repeals:

-- N.J.S.A.26:6-58.7 (which requires a hospital to notify its designated OPO of each death in that hospital), as its provisions would be incorporated within N.J.S.A.26:6-58.1 by this bill; and

-- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a patient upon admission whether the patient has made an anatomical gift and the donee, if any, to whom the gift has been made), as its provisions do not limit the types of hospital employees who may inquire about organ donations as provided in federal regulations (i.e., a representative of the hospital's designated OPO or a designated requestor), and are obviated by the new language added to N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

SENATE HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2801

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 2001

The Senate Health Committee reports favorably Assembly Bill No. 2801.

This bill is designed to incorporate into State law the recommendations of the New Jersey Law Revision Commission based upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-57 et seq., in order to bring the relevant statutes into full conformance with federal regulations and current practice.

Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or around the time of death of a patient in a hospital, the hospital shall notify its designated organ procurement organization (OPO) of the patient's death. If the patient has a validly executed donor card, donor designation on a driver's license, advance directive, will, other document of gift, or registration with a Statewide organ and tissue donor registry, the OPO representative or the hospital's designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the gift (i.e., the spouse, an adult son or daughter, either parent, an adult brother or sister, a guardian of the person of the decedent at the time of the decedent's death, or any other person authorized or under the obligation to dispose of the body, in that order of priority). If no document of gift is known to the OPO representative or the designated requestor, one of those two individuals shall ask the persons listed in N.J.S.A.26:6-58.1 whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or actual notice of contrary indications by the decedent, the OPO representative or the designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the option to donate organs or tissues. Consent need only be obtained from an available person in the highest priority class applicable, but an anatomical gift shall be barred by actual notice of opposition by a member of the same or a prior class. If no available member of a class will make a decision, the OPO representative or the designated requestor shall approach a member of the next class.

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-- N.J.S.A.26:6-58.7 (which requires a hospital to notify its designated OPO of each death in that hospital), as its provisions would be incorporated within N.J.S.A.26:6-58.1 by this bill; and

-- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a patient upon admission whether the patient has made an anatomical gift and the donee, if any, to whom the gift has been made), as its provisions do not limit the types of hospital employees who may inquire about organ donations as provided in federal regulations (i.e., a representative of the hospital's designated OPO or a designated requestor), and are obviated by the new language added to N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

This bill is identical to Senate Bill No.1988 (Matheussen/Inverso), which the committee also reported favorably on this date.

SENATE, No. 1988

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED DECEMBER 18, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN
District 4 (Camden and Gloucester)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Allen, Sinagra, Bucco, Singer, Robertson and Kosco

SYNOPSIS

Amends "Uniform Anatomical Gift Act" regarding notification to designated persons about option to donate decedent's organs or tissues.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/19/2000)

S1988 MATHEUSSEN, INVERSO

2

1 AN ACT concerning organ donations and revising parts of the
2 statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
8 as follows:

9 1. a. [When the decision has been made in a hospital to pronounce
10 the death of a person who, based on accepted medical standards, is a
11 suitable candidate for human body part donation, the person in charge
12 of the hospital, or that person's designated representative, other than
13 a person connected with the determination of death, shall make known
14 to any of the following persons, in order of priority stated, when
15 persons in prior classes are not available at the time of death and in the
16 absence of actual notice of contrary indications by the decedent or
17 actual notice of opposition by a member of the same or a prior class
18 specified in paragraph (1), (2), (3), (4), (5) or (6) of this subsection,
19 or when there is any other reason to believe that an anatomical gift is
20 contrary to the decedent's religious beliefs, that the person has the
21 option to consent to the gift of all or any part of the decedent's body
22 for any purpose specified in section 3 of P.L.1969, c.161 (C.26:6-59)]
23 At or around the time of death of a patient in a hospital licensed
24 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital shall
25 notify its designated organ procurement organization of the patient's
26 death. If the patient has a validly executed donor card, donor
27 designation on a driver's license, advance directive pursuant to
28 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
29 registration with a Statewide organ and tissue donor registry, the
30 organ procurement organization representative or the hospital's
31 designated requestor shall attempt to notify a person listed in this
32 subsection of the gift. If no document of gift is known to the organ
33 procurement organization representative or the designated requestor,
34 one of those two individuals shall ask the persons listed in this
35 subsection whether the decedent had a validly executed document of
36 gift. If there is no evidence of an anatomical gift or actual notice of
37 contrary indications by the decedent, the organ procurement
38 organization representative or the designated requestor shall attempt
39 to notify a person listed in this subsection of the option to donate
40 organs or tissues. Consent need only be obtained from an available
41 person in the highest priority class applicable, but an anatomical gift
42 shall be barred by actual notice of opposition by a member of the same
43 or a prior class. If no available member of a class will make a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 decision, the organ procurement organization representative or the
2 designated requestor shall approach a member of the next class.

3 The classes in order of priority are:

- 4 (1) the spouse,
- 5 (2) an adult son or daughter,
- 6 (3) either parent,
- 7 (4) an adult brother or sister,
- 8 (5) a guardian of the person of the decedent at the time of the
9 decedent's death, or
- 10 (6) any other person authorized or under the obligation to dispose
11 of the body.

12 [Consent or refusal need only be obtained from a person in the
13 highest priority class available] For the purposes of this section, a
14 person is available if that person can be approached within a time
15 period compatible with effecting an anatomical gift.

16 b. The person in charge of the hospital or that person's designated
17 representative shall indicate in the medical record of the decedent
18 whether or not consent was granted, the name of the person granting
19 or refusing the consent, and that person's relationship to the decedent.

20 c. A gift made pursuant to the request required by this act shall be
21 executed pursuant to the applicable provisions of P.L.1969, c.161
22 (C.26:6-57 et seq.).

23 d. A person who acts in good faith in accordance with the
24 provisions of this act is not liable for any damages in any civil action
25 or subject to prosecution in any criminal proceeding for any act or
26 omission of the person.

27 e. If the decedent is deemed an unsuitable candidate for donation,
28 an explanatory notation shall be made part of the medical record of the
29 decedent.

30 (cf: P.L.1995, c.257, s.3)

31

32 2. Section 2 of P.L.1985, c.284 (C.26:6-60.2) is amended to read
33 as follows:

34 2. A hospital shall maintain, as part of a patient's permanent record,
35 the information required under this act and any other pertinent
36 information concerning the anatomical gift which will facilitate the
37 discharge of the patient's wishes in the event of the patient's death.

38 [Upon the death of a patient who has made an anatomical gift, a
39 hospital shall make every good faith effort to contact, without delay,
40 the donee, if any, to whom the gift has been made.]

41 (cf: P.L.1985, c.284, s.2)

42

43 3. The following are repealed:

44 Section 8 of P.L.1995, c.257 (C.26:6-58.7); and

45 Section 1 of P.L.1985, c.284 (C.26:6-60.1).

1 4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill is designed to incorporate into State law the
7 recommendations of the New Jersey Law Revision Commission based
8 upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-
9 57 et seq., in order to bring the relevant statutes into full conformance
10 with federal regulations and current practice.

11 Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or
12 around the time of death of a patient in a licensed hospital, the hospital
13 shall notify its designated organ procurement organization (OPO) of
14 the patient's death. If the patient has a validly executed donor card,
15 donor designation on a driver's license, advance directive, will, other
16 document of gift, or registration with a Statewide organ and tissue
17 donor registry, the OPO representative or the hospital's designated
18 requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1
19 of the gift (i.e., the spouse, an adult son or daughter, either parent, an
20 adult brother or sister, a guardian of the person of the decedent at the
21 time of the decedent's death, or any other person authorized or under
22 the obligation to dispose of the body, in that order of priority). If no
23 document of gift is known to the OPO representative or the designated
24 requestor, one of those two individuals shall ask the persons listed in
25 N.J.S.A.26:6-58.1 whether the decedent had a validly executed
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28 representative or the designated requestor shall attempt to notify a
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30 tissues. Consent need only be obtained from an available person in the
31 highest priority class applicable, but an anatomical gift shall be barred
32 by actual notice of opposition by a member of the same or a prior
33 class. If no available member of a class will make a decision, the OPO
34 representative or the designated requestor shall approach a member of
35 the next class.

36 The bill stipulates that a person listed in N.J.S.A.26:6-58.1 is
37 available if that person can be approached within a time period
38 compatible with effecting an anatomical gift.

39 The bill also amends N.J.S.A.26:6-60.2 to delete the provision that
40 a hospital, upon the death of a patient who has made an anatomical
41 gift, shall make every good faith effort to contact, without delay, the
42 donee, if any, to whom the gift has been made. Under federal law and
43 current practice, the designated OPO for the hospital is the sole entity
44 responsible for contacting the donee.

45 Finally, the bill repeals:

46 -- N.J.S.A.26:6-58.7 (which requires a hospital to notify its

S1988 MATHEUSSEN, INVERSO

5

1 designated OPO of each death in that hospital), as its provisions would
2 be incorporated within N.J.S.A.26:6-58.1 by this bill; and
3 -- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a
4 patient upon admission whether the patient has made an anatomical
5 gift and the donee, if any, to whom the gift has been made), as its
6 provisions do not limit the types of hospital employees who may
7 inquire about organ donations as provided in federal regulations (i.e.,
8 a representative of the hospital's designated OPO or a designated
9 requestor), and are obviated by the new language added to
10 N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 1988

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 2001

The Senate Health Committee reports favorably Senate Bill No. 1988.

This bill is designed to incorporate into State law the recommendations of the New Jersey Law Revision Commission based upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-57 et seq., in order to bring the relevant statutes into full conformance with federal regulations and current practice.

Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or around the time of death of a patient in a hospital, the hospital shall notify its designated organ procurement organization (OPO) of the patient's death. If the patient has a validly executed donor card, donor designation on a driver's license, advance directive, will, other document of gift, or registration with a Statewide organ and tissue donor registry, the OPO representative or the hospital's designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the gift (i.e., the spouse, an adult son or daughter, either parent, an adult brother or sister, a guardian of the person of the decedent at the time of the decedent's death, or any other person authorized or under the obligation to dispose of the body, in that order of priority). If no document of gift is known to the OPO representative or the designated requestor, one of those two individuals shall ask the persons listed in N.J.S.A.26:6-58.1 whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or actual notice of contrary indications by the decedent, the OPO representative or the designated requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1 of the option to donate organs or tissues. Consent need only be obtained from an available person in the highest priority class applicable, but an anatomical gift shall be barred by actual notice of opposition by a member of the same or a prior class. If no available member of a class will make a decision, the OPO representative or the designated requestor shall approach a member of the next class.

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The bill also amends N.J.S.A.26:6-60.2 to delete the provision that a hospital, upon the death of a patient who has made an anatomical

gift, shall make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made. Under federal law and current practice, the designated OPO for the hospital is the sole entity responsible for contacting the donee.

Finally, the bill repeals:

-- N.J.S.A.26:6-58.7 (which requires a hospital to notify its designated OPO of each death in that hospital), as its provisions would be incorporated within N.J.S.A.26:6-58.1 by this bill; and

-- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a patient upon admission whether the patient has made an anatomical gift and the donee, if any, to whom the gift has been made), as its provisions do not limit the types of hospital employees who may inquire about organ donations as provided in federal regulations (i.e., a representative of the hospital's designated OPO or a designated requestor), and are obviated by the new language added to N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

This bill is identical to Assembly Bill No.2801 (Russo\Vandervalk), which the committee also reported favorably on this date.

P.L. 2001, CHAPTER 87, *approved May 8, 2001*

Assembly, No. 2801

1 AN ACT concerning organ donations and revising parts of the
2 statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read
8 as follows:

9 1. a. [When the decision has been made in a hospital to pronounce
10 the death of a person who, based on accepted medical standards, is a
11 suitable candidate for human body part donation, the person in charge
12 of the hospital, or that person's designated representative, other than
13 a person connected with the determination of death, shall make known
14 to any of the following persons, in order of priority stated, when
15 persons in prior classes are not available at the time of death and in the
16 absence of actual notice of contrary indications by the decedent or
17 actual notice of opposition by a member of the same or a prior class
18 specified in paragraph (1), (2), (3), (4), (5) or (6) of this subsection,
19 or when there is any other reason to believe that an anatomical gift is
20 contrary to the decedent's religious beliefs, that the person has the
21 option to consent to the gift of all or any part of the decedent's body
22 for any purpose specified in section 3 of P.L.1969, c.161 (C.26:6-59)]
23 At or around the time of death of a patient in a hospital licensed
24 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital shall
25 notify its designated organ procurement organization of the patient's
26 death. If the patient has a validly executed donor card, donor
27 designation on a driver's license, advance directive pursuant to
28 P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or
29 registration with a Statewide organ and tissue donor registry, the
30 organ procurement organization representative or the hospital's
31 designated requestor shall attempt to notify a person listed in this
32 subsection of the gift. If no document of gift is known to the organ
33 procurement organization representative or the designated requestor,
34 one of those two individuals shall ask the persons listed in this
35 subsection whether the decedent had a validly executed document of
36 gift. If there is no evidence of an anatomical gift or actual notice of
37 contrary indications by the decedent, the organ procurement
38 organization representative or the designated requestor shall attempt
39 to notify a person listed in this subsection of the option to donate
40 organs or tissues. Consent need only be obtained from an available
41 person in the highest priority class applicable, but an anatomical gift

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 shall be barred by actual notice of opposition by a member of the same
2 or a prior class. If no available member of a class will make a
3 decision, the organ procurement organization representative or the
4 designated requestor shall approach a member of the next class.

5 The classes in order of priority are:

- 6 (1) the spouse,
- 7 (2) an adult son or daughter,
- 8 (3) either parent,
- 9 (4) an adult brother or sister,
- 10 (5) a guardian of the person of the decedent at the time of the
11 decedent's death, or
- 12 (6) any other person authorized or under the obligation to dispose
13 of the body.

14 [Consent or refusal need only be obtained from a person in the
15 highest priority class available] For the purposes of this section, a
16 person is available if that person can be approached within a time
17 period compatible with effecting an anatomical gift.

18 b. The person in charge of the hospital or that person's designated
19 representative shall indicate in the medical record of the decedent
20 whether or not consent was granted, the name of the person granting
21 or refusing the consent, and that person's relationship to the decedent.

22 c. A gift made pursuant to the request required by this act shall be
23 executed pursuant to the applicable provisions of P.L.1969, c.161
24 (C.26:6-57 et seq.).

25 d. A person who acts in good faith in accordance with the
26 provisions of this act is not liable for any damages in any civil action
27 or subject to prosecution in any criminal proceeding for any act or
28 omission of the person.

29 e. If the decedent is deemed an unsuitable candidate for donation,
30 an explanatory notation shall be made part of the medical record of the
31 decedent.

32 (cf: P.L.1995, c.257, s.3)

33

34 2. Section 2 of P.L.1985, c.284 (C.26:6-60.2) is amended to read
35 as follows:

36 2. A hospital shall maintain, as part of a patient's permanent record,
37 the information required under this act and any other pertinent
38 information concerning the anatomical gift which will facilitate the
39 discharge of the patient's wishes in the event of the patient's death.
40 [Upon the death of a patient who has made an anatomical gift, a
41 hospital shall make every good faith effort to contact, without delay,
42 the donee, if any, to whom the gift has been made.]

43 (cf: P.L.1985, c.284, s.2)

44

45 3. The following are repealed:

46 Section 8 of P.L.1995, c.257 (C.26:6-58.7); and

1 Section 1 of P.L.1985, c.284 (C.26:6-60.1).

2

3 4. This act shall take effect immediately.

4

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STATEMENT

7

8 This bill is designed to incorporate into State law the
9 recommendations of the New Jersey Law Revision Commission based
10 upon its report on the "Uniform Anatomical Gift Act," N.J.S.A.26:6-
11 57 et seq., in order to bring the relevant statutes into full conformance
12 with federal regulations and current practice.

13 Specifically, the bill amends N.J.S.A.26:6-58.1 to provide that at or
14 around the time of death of a patient in a licensed hospital, the hospital
15 shall notify its designated organ procurement organization (OPO) of
16 the patient's death. If the patient has a validly executed donor card,
17 donor designation on a driver's license, advance directive, will, other
18 document of gift, or registration with a Statewide organ and tissue
19 donor registry, the OPO representative or the hospital's designated
20 requestor shall attempt to notify a person listed in N.J.S.A.26:6-58.1
21 of the gift (i.e., the spouse, an adult son or daughter, either parent, an
22 adult brother or sister, a guardian of the person of the decedent at the
23 time of the decedent's death, or any other person authorized or under
24 the obligation to dispose of the body, in that order of priority). If no
25 document of gift is known to the OPO representative or the designated
26 requestor, one of those two individuals shall ask the persons listed in
27 N.J.S.A.26:6-58.1 whether the decedent had a validly executed
28 document of gift. If there is no evidence of an anatomical gift or
29 actual notice of contrary indications by the decedent, the OPO
30 representative or the designated requestor shall attempt to notify a
31 person listed in N.J.S.A.26:6-58.1 of the option to donate organs or
32 tissues. Consent need only be obtained from an available person in the
33 highest priority class applicable, but an anatomical gift shall be barred
34 by actual notice of opposition by a member of the same or a prior
35 class. If no available member of a class will make a decision, the OPO
36 representative or the designated requestor shall approach a member of
37 the next class.

38 The bill stipulates that a person listed in N.J.S.A.26:6-58.1 is
39 available if that person can be approached within a time period
40 compatible with effecting an anatomical gift.

41 The bill also amends N.J.S.A.26:6-60.2 to delete the provision that
42 a hospital, upon the death of a patient who has made an anatomical
43 gift, shall make every good faith effort to contact, without delay, the
44 donee, if any, to whom the gift has been made. Under federal law and
45 current practice, the designated OPO for the hospital is the sole entity
46 responsible for contacting the donee.

1 Finally, the bill repeals:

2 -- N.J.S.A.26:6-58.7 (which requires a hospital to notify its
3 designated OPO of each death in that hospital), as its provisions would
4 be incorporated within N.J.S.A.26:6-58.1 by this bill; and

5 -- N.J.S.A.26:6-60.1 (which requires a hospital to ascertain from a
6 patient upon admission whether the patient has made an anatomical
7 gift and the donee, if any, to whom the gift has been made), as its
8 provisions do not limit the types of hospital employees who may
9 inquire about organ donations as provided in federal regulations (i.e.,
10 a representative of the hospital's designated OPO or a designated
11 requestor), and are obviated by the new language added to
12 N.J.S.A.26:6-58.1 by this bill which reflects the federal regulations.

13

14

15

16

17 Amends "Uniform Anatomical Gift Act" regarding notification to
18 designated persons about option to donate decedent's organs or
19 tissues.

CHAPTER 87

AN ACT concerning organ donations and revising parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1987, c.244 (C.26:6-58.1) is amended to read as follows:

C.26:6-58.1 Consent for organ donations.

1. a. At or around the time of death of a patient in a hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the hospital shall notify its designated organ procurement organization of the patient's death. If the patient has a validly executed donor card, donor designation on a driver's license, advance directive pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), will, other document of gift, or registration with a Statewide organ and tissue donor registry, the organ procurement organization representative or the hospital's designated requestor shall attempt to notify a person listed in this subsection of the gift. If no document of gift is known to the organ procurement organization representative or the designated requestor, one of those two individuals shall ask the persons listed in this subsection whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or actual notice of contrary indications by the decedent, the organ procurement organization representative or the designated requestor shall attempt to notify a person listed in this subsection of the option to donate organs or tissues. Consent need only be obtained from an available person in the highest priority class applicable, but an anatomical gift shall be barred by actual notice of opposition by a member of the same or a prior class. If no available member of a class will make a decision, the organ procurement organization representative or the designated requestor shall approach a member of the next class.

The classes in order of priority are:

- (1) the spouse,
- (2) an adult son or daughter,
- (3) either parent,
- (4) an adult brother or sister,
- (5) a guardian of the person of the decedent at the time of the decedent's death, or
- (6) any other person authorized or under the obligation to dispose of the body.

For the purposes of this section, a person is available if that person can be approached within a time period compatible with effecting an anatomical gift.

b. The person in charge of the hospital or that person's designated representative shall indicate in the medical record of the decedent whether or not consent was granted, the name of the person granting or refusing the consent, and that person's relationship to the decedent.

c. A gift made pursuant to the request required by this act shall be executed pursuant to the applicable provisions of P.L.1969, c.161 (C.26:6-57 et seq.).

d. A person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person.

e. If the decedent is deemed an unsuitable candidate for donation, an explanatory notation shall be made part of the medical record of the decedent.

2. Section 2 of P.L.1985, c.284 (C.26:6-60.2) is amended to read as follows:

C.26:6-60.2 Maintenance of records by hospital relative to anatomical gifts.

2. A hospital shall maintain, as part of a patient's permanent record, the information required under this act and any other pertinent information concerning the anatomical gift which will facilitate the discharge of the patient's wishes in the event of the patient's death.

Repealer.

3. The following are repealed:

Section 8 of P.L.1995, c.257 (C.26:6-58.7); and
Section 1 of P.L.1985, c.284 (C.26:6-60.1).

4. This act shall take effect immediately.

Approved May 8, 2001.