

26:6-58

LEGISLATIVE HISTORY CHECKLIST
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(Uniform Anatomical Gift Act)

NJSA: 26:6-58

LAWS OF: 1995 **CHAPTER:** 257

BILL NO: S1612

SPONSOR(S): Sinagra

DATE INTRODUCED: November 21, 1994

COMMITTEE: **ASSEMBLY** Health & Human Services

SENATE: Health

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 29, 1995

SENATE: February 9, 1995

DATE OF APPROVAL: November 6, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached:

"Law eases transplants," 11-7-95, Star Ledger.

"Law designed to save lives by increasing organ transplants," 11-7-95, Asbury Park Press.

KBG:pp

[SECOND REPRINT]

SENATE, No. 1612

STATE OF NEW JERSEY

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INTRODUCED NOVEMBER 21, 1994

By Senators SINAGRA and Inverso

1 AN ACT concerning human body part donations, amending and
2 supplementing P.L.1969, c.161 and amending P.L.1987, c.244.

3

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

6 1. (New section) The Legislature finds and declares that:
7 there is a need to increase the number of suitable organs
8 recovered and transplanted in New Jersey, and that toward that
9 end, and in the interest of cost-effective health care delivery,
10 medical professionals and technicians should be trained as
11 transplant recovery specialists and should be enabled to perform
12 the recovery of human body parts within licensed hospitals,
13 independent of physician supervision. Recovery and
14 transplantation will be further increased by the requirement that
15 acute care hospitals provide federally designated organ
16 procurement organizations with information concerning each
17 death, and the accompanying medical information necessary for
18 the organization to complete an audit in accordance with federal
19 law.

20 2. Section 1 of P.L.1969, c.161 (C.26:6-57) is amended to read
21 as follows:

22 1. As used in this act:

23 (a) "Bank or storage facility" means a facility licensed,
24 accredited, or approved under the laws of any State for storage
25 of human bodies or parts thereof.

26 (b) "Decedent" means a deceased individual and includes a
27 stillborn infant or fetus.

28 (c) "Donor" means an individual who makes a gift of all or part
29 of his body.

30 (d) "Hospital" means a hospital licensed, accredited, or
31 approved under the laws of any State; includes a hospital
32 operated by the United States Government, a State, or a
33 subdivision thereof, although not required to be licensed under
34 State laws.

35 (e) "Part" means organs, tissues, eyes, bones, arteries, blood,
36 other fluids and any other portions of a human body.

37 (f) "Person" means an individual, corporation, government or
38 governmental subdivision or agency, business trust, estate, trust,
39 partnership or association, or any other legal entity.

40 (g) "Physician" or "surgeon" means a physician or surgeon
41 licensed or authorized to practice under the laws of any State.

42 (h) "State" includes any State, district, commonwealth,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 23, 1995.

² Assembly AHH committee amendments adopted May 15, 1995.

1 territory, insular possession, and any other area subject to the
2 legislative authority of the United States of America.

3 (i) "Transplant recovery specialist" means a medical
4 professional ²licensed by this or another State² or technician
5 trained by an organ procurement organization in accordance with
6 federal standards pursuant to 42 U.S.C. §274(b) ²and nationally
7 accredited standards for human body part removal².

8 (j) "Organ procurement organization" means an organization
9 which is qualified by the Secretary of Health and Human Services
10 pursuant to 42 U.S.C. §273(b).

11 (cf: P.L.1969, c.161, s.1)

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

14 1. a. When the decision has been made in a hospital to
15 pronounce the death of a person who, based on accepted medical
16 standards, is a suitable candidate for [organ] human body part
17 donation, the person in charge of the hospital, or that person's
18 designated representative, other than a person connected with
19 the determination of death, shall make known to any of the
20 following persons, in order of priority stated, when persons in
21 prior classes are not available at the time of death and in the
22 absence of actual notice of contrary indications by the decedent
23 or actual notice of opposition by a member of the same or a prior
24 class specified in paragraph (1), (2), (3), (4), (5) or (6) of this
25 subsection, or when there is any other reason to believe that an
26 anatomical gift is contrary to the decedent's religious beliefs,
27 that the person has the option to consent to the gift of all or any
28 part of the decedent's body for any purpose specified in section 3
29 of P.L.1969, c.161 (C.26:6-59):

30 (1) the spouse,

31 (2) an adult son or daughter,

32 (3) either parent,

33 (4) an adult brother or sister,

34 (5) a guardian of the person of the decedent at the time of the
35 decedent's death, or

36 (6) any other person authorized or under the obligation to
37 dispose of the body.

38 Consent or refusal need only be obtained from a person in the
39 highest priority class available.

40 b. The person in charge of the hospital or that person's
41 designated representative shall [complete a certificate of organ
42 donation option for an anatomical gift, on a form supplied by the
43 Commissioner of Health. The certificate shall include a
44 statement that the option for consent to an anatomical gift has
45 been made known, and shall further indicate thereupon whether
46 or not consent was granted, the name of the person granting or
47 refusing the consent, and that person's relationship to the
48 decedent. The death certificate required by R.S.26:6-5.1 shall
49 not be deemed complete unless a completed organ donation
50 option certificate is attached thereto; except that, if the person
51 who presents the death certificate to the registrar attests in
52 writing on a form provided by the Department of Health, that a
53 good faith effort has been made to obtain the organ donation
54 certificate from the hospital, the registrar shall accept that

1 form, if it is properly completed, in lieu of the completed organ
2 donation option certificate, and shall forward a copy of the form
3 to the Department of Health. The information on the form shall
4 not be available for public inspection pursuant to P.L.1963, c.73
5 (C.47:1A-1 et seq.), but may be used by the Department of
6 Health to carry out the purposes of P.L.1987, c.244 (C.26:6-58.1
7 et seq.)] indicate in the medical record of the decedent whether
8 or not consent was granted, the name of the person granting or
9 refusing the consent, and that person's relationship to the
10 decedent.

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

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

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

21 (cf: P.L.1989, c.57, s.1)

22 4. Section 2 of P.L.1987, c.244 (C.26:6-58.2) is amended to
23 read as follows:

24 2. The Commissioner of Health shall establish a program to be
25 administered by hospitals and other public and private agencies
26 that are involved in the acquisition and distribution of human
27 [tissue and human organs] body parts to:

28 a. Increase public and health care professional awareness of
29 the provisions of this act and P.L. ,c. (C.)(Pending before
30 the Legislature as this bill) regarding the acquisition and
31 distribution of human [tissue and human organs] body parts; and

32 b. Investigate the methods used by other states for the
33 acquisition and distribution of human [tissue and human organs]
34 body parts, reciprocity agreements established between other
35 states, and the development of similar agreements between New
36 Jersey and other states.

37 (cf: P.L.1987, c.244, s.2)

38 5. Section 3 of P.L.1987, c.244 (C.26:6-58.3) is amended to
39 read as follows:

40 3. In accordance with the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.) the commissioner, in
42 consultation with professionals involved in [organ] human body
43 part donations, shall adopt such rules and regulations as are
44 necessary to effectuate the purposes of this act including, but not
45 limited to, regulations concerning the training of hospital
46 employees who may be designated to perform the request, the
47 procedure to be employed in making the request, and where,
48 based on medical criteria, the request would not yield a donation
49 which would be suitable for use, the commissioner may, by
50 regulation, authorize an exception to the request required by
51 section 1 of [this act] P.L.1987, c.244 (C.26:6-58.1).

52 (cf: P.L.1987, c.244, s.3)

53 6. (New Section) A transplant recovery specialist may recover
54 a human body part for any purpose specified in section 3 of

1 P.L.1969, c.161 (C.26:6-59). A physician shall not be required to
2 be present during the recovery procedure. Nothing in this section
3 shall be construed to limit a physician ¹or other person¹
4 authorized by law to recover human body parts pursuant to law.

5 7. (New Section) An organ procurement organization may
6 perform ongoing medical record reviews of all deaths occurring in
7 an acute care hospital licensed pursuant to P.L.1971, c.136
8 (C.26:2H-1 et seq.), for the purpose of determining body part
9 donation potential by hospital.

10 8. (New section) An acute care hospital licensed pursuant to
11 P.L.1971, c.136 (C.26:2H-1 et seq.) shall notify and provide
12 pertinent medical information to the organ procurement
13 organization designated pursuant to 42 U.S.C.§273(b) concerning
14 each death occurring in that hospital.

15 9. This act shall take effect immediately.

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20 Amends "Uniform Anatomical Gift Act" to increase human body
21 part donations.

1 be present during the recovery procedure. Nothing in this section
2 shall be construed to limit a physician authorized by law to
3 recover human body parts pursuant to law.

4 7. (New Section) An organ procurement organization may
5 perform ongoing medical record reviews of all deaths occurring in
6 an acute care hospital licensed pursuant to P.L.1971, c.136
7 (C.26:2H-1 et seq.), for the purpose of determining body part
8 donation potential by hospital.

9 8. (New section) An acute care hospital licensed pursuant to
10 P.L.1971, c.136 (C.26:2H-1 et seq.) shall notify and provide
11 pertinent medical information to the organ procurement
12 organization designated pursuant to 42 U.S.C.§273(b) concerning
13 each death occurring in that hospital.

14 9. This act shall take effect immediately.

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STATEMENT

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19 This bill supplements and amends the "Uniform Anatomical
20 Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) by allowing
21 recovery of human body parts for donation to be performed by a
22 transplant recovery specialist. A physician is not required to be
23 present during the recovery procedure. A transplant recovery
24 specialist is a medical professional or technician trained by an
25 organ procurement organization in accordance with federal
26 standards pursuant to 42 U.S.C.§274(b). An organ procurement
27 organization is an organization which is qualified by the
28 Secretary of Health and Human Services pursuant to 42
29 U.S.C.§273(b).

30 The bill removes the requirement that a certificate of organ
31 donation option for an anatomical gift be completed upon a
32 patient's death and, instead, requires that a notation be made in
33 the deceased person's medical record indicating whether or not
34 consent was granted, the name of the person granting or refusing
35 consent, and that person's relationship to the decedent. If the
36 deceased person is deemed an unsuitable candidate for donation,
37 then a notation so stating shall be made part of the medical
38 record.

39 The bill permits a federally qualified organ procurement
40 organization to perform ongoing medical record reviews of all
41 deaths occurring in acute care hospitals in the State, for the
42 purpose of determining body part donation potential by hospital.

43 Additionally, the bill requires that an acute care hospital in the
44 State notify and provide pertinent medical information to the
45 organ procurement organization designated pursuant to 42
46 U.S.C.§273(b) concerning each death occurring in that hospital.

47 Finally, the bill requires the Commissioner of Health to
48 increase its public awareness program to include health care
49 professional awareness of acquisition and distribution of human
50 body parts.

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55 Amends "Uniform Anatomical Gift Act" to increase human body
56 part donations.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1612

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 1995

The Assembly Health and Human Services Committee favorably reports Senate Bill No. 1612 (1R) with committee amendments.

As amended by the committee, this bill supplements and amends the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) by allowing recovery of human body parts for donation to be performed by a transplant recovery specialist without a physician being present during the recovery procedure. The amended bill defines: a "transplant recovery specialist" as a medical professional licensed by this or another State or technician trained by an organ procurement organization in accordance with federal standards pursuant to 42 U.S.C.§274(b) and nationally accredited standards for human body part removal, and an "organ procurement organization" as an organization which is qualified by the Secretary of Health and Human Services pursuant to 42 U.S.C.§273(b).

The bill removes the requirement that a certificate of organ donation option for an anatomical gift be completed upon a patient's death and, instead, requires that a notation be made in the deceased person's medical record indicating whether or not consent was granted for the donation, the name of the person granting or refusing consent, and that person's relationship to the decedent. If the deceased person is deemed an unsuitable candidate for donation, then a notation so stating shall be made part of the medical record.

The bill permits a federally qualified organ procurement organization to perform ongoing medical record reviews of all deaths occurring in acute care hospitals in the State, for the purpose of determining body part donation potential by hospital.

Additionally, the bill requires that each acute care hospital in the State notify and provide pertinent medical information to the organ procurement organization designated pursuant to 42 U.S.C.§273(b) concerning each death occurring in that hospital.

The bill further requires the Commissioner of Health to expand the public awareness program established pursuant to section 2 of P.L.1987, c.244 (C.26:6-58.2) to promote awareness of acquisition and distribution of human body parts among health care professionals.

The bill stipulates that, notwithstanding its authorization for transplant recovery specialists to recover human body parts, nothing in the bill shall be construed to limit a physician or any other person authorized by law to recover human body parts pursuant to law.

The committee amendments clarify the definition of "transplant recovery specialist" to include a medical professional licensed by this or another State or technician trained in accordance with nationally accredited standards for human body part removal.

As reported by the committee, this bill is identical to Assembly Bill No. 2211 Aca (DeCroce/Warsh), which the committee also reported on this date.

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SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 1612

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1995

The Senate Health Committee favorably reports Senate Bill No. 1612 with committee amendments.

As amended by committee, this bill supplements and amends the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.) by allowing recovery of human body parts for donation to be performed by a transplant recovery specialist. A physician is not required to be present during the recovery procedure. A transplant recovery specialist is a medical professional or technician trained by an organ procurement organization in accordance with federal standards pursuant to 42 U.S.C.§274(b). An organ procurement organization is an organization which is qualified by the Secretary of Health and Human Services pursuant to 42 U.S.C.§273(b).

The bill removes the requirement that a certificate of organ donation option for an anatomical gift be completed upon a patient's death and, instead, requires that a notation be made in the deceased person's medical record indicating whether or not consent was granted, the name of the person granting or refusing consent, and that person's relationship to the decedent. If the deceased person is deemed an unsuitable candidate for donation, then a notation so stating shall be made part of the medical record.

The bill permits a federally qualified organ procurement organization to perform ongoing medical record reviews of all deaths occurring in acute care hospitals in the State, for the purpose of determining body part donation potential by hospital.

Additionally, the bill requires that an acute care hospital in the State notify and provide pertinent medical information to the organ procurement organization designated pursuant to 42 U.S.C.§273(b) concerning each death occurring in that hospital.

Finally, the bill requires the Commissioner of Health to increase its public awareness program to include health care professional awareness of acquisition and distribution of human body parts.

The committee amended the bill to clarify that notwithstanding the authorization for transplant recovery specialists to recover human body parts, nothing in section 6 of the bill shall be construed to limit any other person authorized by law to recover human body parts.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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RELEASE: Nov. 6 1995

Gov. Christie Whitman today signed legislation to facilitate organ transplants in New Jersey, increasing the number of human organs available for donation.

"Countless times, throughout this state, lives are saved by organ donation," said Gov. Whitman. "We must do all that we can to increase the number of organs available for donation to individuals suffering from serious illness."

The legislation, S-1612/A-2211, sponsored by Senators Jack Sinagra (R-Middlesex) and Peter Inverso (R-Mercer/Middlesex) and Assemblymen Alex DeCroce (R-Essex/Morris/Passaic) and Jeffrey Warsh (R-Middlesex), amends the current transplant law to permit a "transplant recovery specialist," in addition to a physician, to recover human body parts for donation. A transplant recovery specialist is a licensed medical professional or technician who is trained by an organ procurement organization in accordance with federal standards.

Acute care hospitals are required under this bill to notify the state's federally qualified organ procurement organization of relevant medical information regarding deaths that occur in their hospitals. The organ procurement organization is authorized under the bill to perform ongoing reviews of the death records in order to determine the donation potential of each hospital.

The legislation also requires the state Commissioner of the Department of Health to institute a program to increase the awareness of health care professionals regarding human body part donation.

The new law takes effect immediately.