

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 253

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

AN ACT

RELATING TO ANATOMICAL GIFTS; CLARIFYING THE LEGAL BASIS OF A  
DOCUMENT OF GIFT; AMENDING AND ENACTING SECTIONS OF THE NMSA  
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-6A-5 NMSA 1978 (being Laws 1995,  
Chapter 116, Section 5, as amended) is amended to read:

"24-6A-5. REQUIRED REQUEST--SEARCH AND NOTIFICATION--  
CIVIL OR CRIMINAL IMMUNITY.--

A. If, at or near the time of death of a patient,  
there is no medical record that the patient has made or  
refused to make an anatomical gift, the hospital administrator  
or a representative designated by the administrator shall  
discuss the option to make or refuse to make an anatomical  
gift and request the making of an anatomical gift pursuant to

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1 Subsection A of Section 24-6A-3 NMSA 1978. The request shall  
2 be made with reasonable discretion and sensitivity to the  
3 circumstances of the family. A request is not required if the  
4 gift is not suitable, based upon accepted medical standards,  
5 for a purpose specified in Section 24-6A-6 NMSA 1978. An  
6 entry shall be made in the medical record of the patient,  
7 stating the name and affiliation of the ~~[individual]~~ person  
8 making the request and of the name, response and relationship  
9 to the patient of the person to whom the request was made.  
10 The secretary of health may adopt ~~[regulations]~~ rules to  
11 implement this subsection.

12 B. The following persons shall make a reasonable  
13 search for a document of gift or other information identifying  
14 the bearer as a donor or as ~~[an individual]~~ a person who has  
15 refused to make an anatomical gift:

16 (1) a law enforcement officer, firefighter,  
17 emergency medical technician, emergency medical services first  
18 responder or other emergency rescuer finding ~~[an individual]~~ a  
19 person who the searcher believes is dead or near death; and

20 (2) a hospital, upon the admission of ~~[an~~  
21 ~~individual]~~ a person at or near the time of death, if there is  
22 not immediately available any other source of that  
23 information.

24 C. If a document of gift or evidence of refusal to  
25 make an anatomical gift is located by the search required by

1 Paragraph (1) of Subsection B of this section and the  
 2 [~~individual~~] person or body to whom [~~it~~] the document or  
 3 evidence relates is taken to a hospital, the hospital shall be  
 4 notified of the contents and the document or other evidence  
 5 shall be sent to the hospital.

6 D. If, at or near the time of death of a patient,  
 7 a hospital knows that an anatomical gift has been made  
 8 pursuant to Subsection A of Section 24-6A-3 NMSA 1978, [~~or~~]  
 9 that a release and removal of a part has been permitted  
 10 pursuant to Section 24-6A-4 NMSA 1978, [~~or~~] that a patient or  
 11 [~~an individual~~] a person identified as in transit to the  
 12 hospital is a donor or that an anatomical gift has been made  
 13 in a document of gift, the hospital shall notify the donee if  
 14 one is named and known to the hospital; if not, it shall  
 15 notify an appropriate procurement organization. The hospital  
 16 shall cooperate in the implementation of the anatomical gift  
 17 or release and removal of a part.

18 E. A person who in good faith acts or attempts to  
 19 act in accordance with the provisions of the Uniform  
 20 Anatomical Gift Act or the anatomical gift laws of another  
 21 state is not liable for damages in a civil action or subject  
 22 to prosecution in a criminal proceeding for his acts."

23 Section 2. Section 24-6A-6 NMSA 1978 (being Laws 1995,  
 24 Chapter 116, Section 6) is amended to read:

25 "24-6A-6. PERSONS WHO MAY BECOME DONEES--PURPOSES FOR

1 WHICH ANATOMICAL GIFTS MAY BE MADE. --

2 A. The following persons may become donees of  
3 anatomical gifts for the purposes stated:

4 (1) a hospital, physician, procurement  
5 organization or an accredited medical school, dental school,  
6 college or university, for transplantation, therapy, medical  
7 or dental education, research or advancement of medical or  
8 dental science; or

9 (2) a designated individual, for  
10 transplantation or therapy needed by that individual. A donee  
11 may not be designated on the basis of the donee's race, age,  
12 religion, color, national origin, ancestry, gender, sexual  
13 orientation or physical or mental handicaps.

14 B. An anatomical gift may be made to a designated  
15 donee or without designating a donee. If a donee is not  
16 designated in the document of gift or if the donee is not  
17 available or rejects the anatomical gift, the anatomical gift  
18 may be accepted by any hospital or procurement organization.

19 C. If the donee knows of the decedent's refusal or  
20 contrary indications to make an anatomical gift or that an  
21 anatomical gift by a member of a class having priority to act  
22 is opposed by a member of the same class or a prior class  
23 under Subsection A of Section [~~3 of the Uniform Anatomical~~  
24 ~~Gift Act (1987)] 24-6A-3 NMSA 1978, the donee shall not accept  
25 the anatomical gift. "~~

1 Section 3. A new section of the Uniform Anatomical Gift  
2 Act is enacted to read:

3 "[NEW MATERIAL] DOCUMENT OF GIFT AS A LEGAL DOCUMENT. -- A  
4 document of gift, which includes a motor vehicle driver's  
5 license, constitutes a legal document and has sufficient legal  
6 authority to be accepted by a designated or undesignated donee  
7 of anatomical gifts pursuant to the Uniform Anatomical Gift  
8 Act. "

9 Section 4. Section 66-5-10 NMSA 1978 (being Laws 1978,  
10 Chapter 35, Section 232, as amended) is amended to read:

11 "66-5-10. APPLICATION FOR LICENSE-- INFORMATION-- TRANSFER  
12 TO LICENSE. --

13 A. Within the forms prescribed by the department  
14 for applications and licenses of drivers of motor vehicles, a  
15 space shall be provided to show whether the applicant is a  
16 donor as provided in the Uniform Anatomical Gift Act. Anyone  
17 applying for a license may, if he desires, indicate his donor  
18 status on the space provided on the application, and this  
19 information, if given by an applicant, shall be shown upon the  
20 license issued. The form and driver's license shall be signed  
21 by the donor in the presence of a witness who shall also sign  
22 the form in the donor's presence. The department shall, as  
23 soon as practicable, include the following donor statement on  
24 the application form:

25 "I, \_\_\_\_\_, hereby make an

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(Name of applicant/donor)

anatomical gift effective upon my death. A  
medical evaluation at the time of my death shall  
determine the organs and tissues suitable for  
donation.

\_\_\_\_\_  
(Signature of donor)

\_\_\_\_\_  
(Signature of parent or guardian is required if  
the donor is under sixteen years of age.)".

B. The department shall mark the donor status on each person's driver's license record and shall retain each application form or its image of a person who wishes to be a donor. The department shall create and maintain a statewide donor registry and shall provide on-line computer terminal access to the donor registry to organ procurement agencies and procurement organizations, as defined in the Uniform Anatomical Gift Act. Authorized hospital or organ and tissue donor program personnel, immediately prior to or after a donor's death, may request verification of the donor's status from the department and may obtain a copy of the application from the department."

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