

State of Wisconsin



April 1998 Special Session
Assembly Bill 2

Date of enactment: **June 29, 1998**
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1997 WISCONSIN ACT 305

AN ACT to *repeal* 157.06 (1) (i); to *renumber and amend* 157.06 (4) (a), 157.06 (5) (b), 157.06 (5) (e) and 157.06 (9); to *amend* 157.06 (4) (title), 157.06 (5) (title), 157.06 (5) (f) 1., 157.06 (5) (f) 2., 157.06 (6) (a) 1., 157.06 (7) (b) and 157.06 (9) (title); and to *create* 146.82 (2) (a) 19., 157.06 (1) (fm) and (L), 157.06 (4) (ag) and 157.06 (9) (b), (c) and (d) of the statutes; **relating to**: changing requirements for hospitals, organ procurement organizations, coroners and medical examiners with respect to the potential donation of anatomical gifts and procurement and use of body parts by an organ procurement organization.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1g. 146.82 (2) (a) 19. of the statutes is created to read:

146.82 (2) (a) 19. To an organ procurement organization by a hospital pursuant to s. 157.06 (5) (b) 1.

SECTION 1m. 157.06 (1) (fm) and (L) of the statutes are created to read:

157.06 (1) (fm) "Organ procurement organization" means an organization that meets the requirements specified for a qualified organ procurement organization under 42 USC 273.

(L) "Vascularized organ" means a heart, lung, liver, pancreas, kidney, intestine or other organ that requires the continuous circulation of blood to remain useful for purposes of transplantation.

SECTION 2. 157.06 (1) (i) of the statutes is repealed.

SECTION 3. 157.06 (4) (title) of the statutes is amended to read:

157.06 (4) (title) AUTHORIZATION NOTIFICATION AND AUTHORIZATION BY CORONER OR MEDICAL EXAMINER.

SECTION 4. 157.06 (4) (a) of the statutes, as affected by 1997 Wisconsin Act 52, is renumbered 157.06 (4) (am), and 157.06 (4) (am) 1., as renumbered, is amended to read:

157.06 (4) (am) 1. The official has received a request for the part of the body from a hospital, physician or organ procurement organization.

SECTION 5. 157.06 (4) (ag) of the statutes is created to read:

157.06 (4) (ag) If a decedent is within the custody of a coroner or medical examiner and if there is no evidence that the decedent has made or refused to make an anatomical gift, the coroner or medical examiner shall contact by telephone the organ procurement organization designated for the region in which the death occurs. The coroner or medical examiner shall provide the organ procurement organization with information, if known to the coroner or medical examiner, concerning the decedent's age, the cause of the decedent's death and, if available, the decedent's medical history.

SECTION 6. 157.06 (5) (title) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

157.06 (5) (title) POLICIES; ORGAN PROCUREMENT ORGANIZATION NOTIFICATION; REQUIRED REQUEST; SEARCH AND NOTIFICATION.

SECTION 7. 157.06 (5) (b) of the statutes is renumbered 157.06 (5) (b) 1. and amended to read:

157.06 (5) (b) 1. If at or near the time of death of a patient there is no medical record or evidence obtained under par. (c) that the patient has made, revoked or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with an available individual, under the priority established in sub. (3) (a), the option to make or refuse to make an anatomical gift and request that the individual make an anatomical gift of all or a part of the decedent's body. Alternatively, the administrator shall contact by telephone the organ procurement organization designated for the region of which the hospital is a part. If the administrator or representative contacts the organ procurement organization, he or she shall provide the organ procurement organization with the identifier number of the patient, the patient's age, the actual or potential cause of the patient's death and, if available, the patient's medical history.

2. If the organ procurement organization is contacted under subd. 1., the organ procurement organization shall, in consultation with the attending physician of the patient under subd. 1., determine if an anatomical gift is suitable, based upon accepted medical standards, for a purpose specified in sub. (6) (a). If the organ procurement organization and the patient's attending physician determine that an anatomical gift is not so suitable, hospital personnel shall make a notation to this effect in the patient's medical record. If the organ procurement organization and the patient's attending physician determine that an anatomical gift is so suitable, an organ procurement organization representative or a requester designated by the organ procurement organization shall discuss with an available individual, under the priority established in sub. (3) (a), the option to make or refuse to make an anatomical gift and request that the individual make an anatomical gift of all or a part of the decedent's body.

3. The hospital administrator or representative or the organ procurement organization representative or designated requester shall make the request with reasonable discretion and sensitivity to the circumstances of the family. A request need not be made if the gift is not suitable, based upon accepted medical standards, for a purpose specified in sub. (6) (a) or if the requester knows that the patient, or the member of the class of individuals to whom the request would be directed under sub. (3) (a), has a cultural or religious objection or any other objection to the making of an anatomical gift. An entry shall be made in the medical record of the patient, in accordance with the rules promulgated under par. (f), stating the name and affiliation of the individual making the request

and the name, response and relationship to the patient of the individual to whom the request was made.

SECTION 8. 157.06 (5) (e) of the statutes is renumbered 157.06 (5) (bm) and amended to read:

157.06 (5) (bm) If at or near the time of death of a patient a hospital knows that an anatomical gift of all or a part of the patient's body has been made under sub. (3) (a), that a release and removal of a part of the patient's body has been permitted under sub. (4) or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital. If a donee is neither named nor known to the hospital, the hospital shall notify ~~an appropriate~~ the organ procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part of the body of the patient or individual.

SECTION 9. 157.06 (5) (f) 1. of the statutes is amended to read:

157.06 (5) (f) 1. Set forth policies and procedures to be followed for discussing the anatomical gift donation process with members of the patient's family in situations under par. (b) 2. and 3. in which there is or is not a document of gift.

SECTION 10. 157.06 (5) (f) 2. of the statutes is amended to read:

157.06 (5) (f) 2. Prescribe the manner in which information obtained under par. (b) 2. and 3. regarding anatomical gift donations, ~~objections~~ revocations and refusals shall be placed in the patient's medical record so that it is readily accessible to hospital and other medical personnel in the event of the death of the patient.

SECTION 11. 157.06 (6) (a) 1. of the statutes is amended to read:

157.06 (6) (a) 1. A hospital, physician or organ procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

SECTION 12. 157.06 (7) (b) of the statutes is amended to read:

157.06 (7) (b) 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 donor's death. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

SECTION 13. 157.06 (9) (title) of the statutes is amended to read:

157.06 (9) (title) ~~COORDINATION OF PROCUREMENT~~ PROCUREMENT AND USE.

SECTION 14. 157.06 (9) of the statutes is renumbered 157.06 (9) (a) and amended to read:

157.06 (9) (a) Each hospital in this state, after consultation with other hospitals and with the organ procurement organizations organization in whose designated service area the hospital is located, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts ~~of human bodies~~.

SECTION 15. 157.06 (9) (b), (c) and (d) of the statutes are created to read:

157.06 (9) (b) A vascularized organ that is obtained by an organ procurement organization for which the designated service area primarily includes area in this state shall be used within that designated service area unless par. (c) applies.

(c) If no suitable potential recipient for the vascularized organ is specified on a waiting list of a hospital that is within the designated service area of the organ procurement organization specified in par. (b), that organ procurement organization shall offer the vascularized organ for use by any other organ procurement organization for which the designated service area primarily includes area in this state.

(d) If no suitable potential recipient for the vascularized organ is specified on a waiting list of a hospital that is within the designated service area of the organ procurement organization to which the vascularized organ is offered under par. (c), the organ procurement organization specified in par. (b) shall do one of the following:

1. If the organ procurement organization has found that it is in the best interests of persons on waiting lists in this state in need of transplanted vascularized organs and will increase the number of people receiving transplants to enter into a reciprocal sharing agreement with an organ procurement organization for which the designated service area primarily is outside this state, and has entered into such an agreement, offer the vascularized organ for use by the organ procurement organization under the agreement.

2. Offer the vascularized organ for use by an entity that distributes vascularized organs on a regional or national basis under a contract with the federal department of health and human services or a subcontract with a contractor with the federal department of health and human services.

SECTION 16. Effective date.

(1) This act takes effect on September 1, 1998.
