

CHAPTER 155

CORPSES

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155.01 Rules for preparation, transportation and disposition. (1) The department of health and social services shall make, and delegate to the funeral directors examining board the enforcement of, rules not inconsistent with ch. 445 covering the control of communicable diseases and sanitary and health regulations in the preparation, transportation and disposition of dead human bodies.

(2) Disinterred corpses may not be transported unless each corpse is accompanied by a separate permit from the local health officer for removal, showing the name, age, place, cause of death and medical attendant, the point to which to be shipped, and the undertaker in charge. Local health officers may not issue a permit if the cause of death is given as heart failure unless the physician in charge states that the cause was not diphtheria.

History: 1975 c. 39; 1979 c. 175 s. 53; 1979 c. 221 ss. 658, 2202 (45); 1983 a. 485.

155.02 Disposal of unclaimed corpses. (1) NOTICE TO RELATIVES. When an inmate of any state, county or municipal institution dies, the superintendent or other person in charge of the institution shall immediately notify a relative of the decedent. A public officer having the possession or the disposition of a corpse shall immediately notify a relative of the decedent. If no relative is known, or discoverable by use of ordinary diligence, notice may be dispensed with.

(2) TIME ALLOWED RELATIVE TO ACT. If a relative or friend fails to arrange for taking charge of the corpse within a reasonable time after death, the superintendent or other officer may proceed as provided in this section, but relatives or friends may claim the corpse at any time before it has been delivered pursuant to sub. (3).

(3) NOTICE TO UNIVERSITY OR SCHOOL. If the corpse is in the Mendota mental health institute district, the university of Wisconsin shall be notified that it may have the corpse. If the

corpse is in the Winnebago mental health institute district, medical college of Wisconsin, inc. or any accredited school of mortuary science at Milwaukee shall be notified that it may have the corpse. The university or school so notified shall immediately inform the superintendent or public officer whether it desires to have the corpse. If it does, the corpse shall be delivered accordingly, properly encased, to the most available facility for transportation to the consignee, the consignee to pay the cost of transportation.

(4) STANDING APPLICATIONS. If there are advance applications for such bodies, by medical college of Wisconsin, inc. or any accredited school of mortuary science, such superintendent or public officer shall make an equitable distribution between them.

(5) OTHER DISPOSITION. If the corpse is not disposed of under subs. (1) to (4), the superintendent or public officer shall properly bury it.

History: 1971 c. 211; 1973 c. 90 s. 560 (3).

155.03 Restrictions on use of bodies for anatomical purposes; embalming such bodies; delivery of bodies to relatives. (1) The corpse of one who died with smallpox, diphtheria or scarlet fever, or who in his last sickness shall request to be buried or cremated, and of a stranger or traveler who suddenly died, shall not be disposed of under s. 155.02 (3), and no person having charge of a corpse authorized to be so disposed of shall sell or deliver it to be used outside the state.

(2) Upon receipt of the corpse by a university or school pursuant to s. 155.02 (3) it shall be properly embalmed and retained for 3 months before being used or dismembered and shall be delivered to any relative claiming it upon satisfactory proof of relationship.

155.04 Penalty. Any officer or person having a corpse in charge, and refusing to report and deliver it, when required by this chapter, or violating the provisions forbidding sale or deliv-

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ery thereof, to be used outside the state, shall be liable to the person, university or medical school aggrieved, in the sum of fifty dollars.

155.05 Autopsy. Consent for a licensed physician to conduct an autopsy on the body of a deceased person shall be deemed sufficient when given by whichever one of the following assumes custody of the body for purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, or in the absence of any of the foregoing, a friend, or a person charged by law with the responsibility for burial. If 2 or more such persons assume custody of the body, the consent of one of them shall be deemed sufficient.

History: 1979 c. 110

155.06 Uniform anatomical gift act. (1) DEFINITIONS: (a) "Anatomical research" means a gift of the entire body to a medical or dental school anatomy department for purposes of dissection or other like purpose.

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

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

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

(d) "Hospital" means a hospital licensed, accredited or approved under the laws of any state and includes a hospital operated by the U.S. government, a state, or a subdivision thereof, although not required to be licensed under state laws.

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

(f) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(2) PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT. (a) Except as provided in this paragraph, any individual of sound mind may give all or any part of his or her body for any purpose specified in sub. (3), the gift to take effect upon death. If a decedent has given his or her entire body to any donee for the purpose of anatomical research, a parent of an unmarried decedent under 18 years of age may revoke the gift. If a decedent has given his or her entire body to any donee for the purpose of anatomical research, unless the surviving spouse gave consent to the donation in writing prior to the donor's death, the surviving spouse of the decedent may revoke the gift.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are

not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in sub. (3):

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 his death.
6. Any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by par. (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by subs. (2) (a) and (7) (d).

(3) PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(a) Any hospital, surgeon or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or

(b) Any accredited medical or dental school, college or university, for education, research, advancement of medical or dental science or therapy; or

(c) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or

(d) Any specified individual for therapy or transplantation needed by him.

(4) MANNER OF EXECUTING ANATOMICAL GIFTS. (a) A gift of all or part of the body under sub. (2) (a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under sub. (2) (a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may

be a card designed to be carried on the person, must be signed by the donor in the presence of 2 witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding sub. (7) (b), the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in sub. (2) (b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic or other recorded message.

(5) DELIVERY OF DOCUMENT OF GIFT. If the gift is made by the donor to a specified donee, the will, card or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

(6) AMENDMENT OR REVOCATION OF THE GIFT. (a) If the will, card or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

1. The execution and delivery to the donee of a signed statement; or

2. An oral statement made in the presence of 2 persons and communicated to the donee; or

3. A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or

4. A signed card or document found on his or her person or in his or her effects; or

5. Crossing out the donor authorization in the space provided on the driver's license as prescribed in s. 343.17 (1) (c)

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in par. (a), or by destruction, cancellation or mutilation of the document and all executed copies of the document or by crossing out the authorization in the space provided on the license as prescribed in s. 343.17 (1) (c).

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in par. (a).

(7) RIGHTS AND DUTIES AT DEATH. (a) The donee may accept or reject the gift. If the entire body is given for the purpose of anatomical research, it shall not be delivered to the donee or his agent if the surviving spouse or other person who assumes custody of the body requests a funeral service or other last rites for the deceased. If such a request is made, the body shall not be delivered until after the rites have been conducted. If the entire body is given for any purpose other than anatomical research or if the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause any parts given which it intends to remove to be removed without unnecessary mutilation. After removal of any such parts, custody of the remainder of the body vests in the surviving spouse, next of kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who tends the donor at his death or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this section or with the anatomical gift laws of another state (or a foreign country) is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) This section is subject to the laws of this state prescribing powers and duties of the coroner, medical examiner and other physicians licensed to perform autopsies with respect to autopsies and the reporting of certain deaths under ch. 979.

(e) Except as expressly provided in this section, nothing in this section affects rights or obligations of next of kin of a decedent.

(7m) REMOVAL OF EYES BY FUNERAL DIRECTORS AND PERSONS ACTING UNDER DIRECTION OF PHYSICIAN. In addition to any physician licensed to practice medicine and surgery under ch. 448,

any person acting under the direction of a physician or any funeral director licensed under ch. 445, who has completed a course in eye enucleation and holds a valid certificate of competence from a medical college approved by the medical examining board under s. 448.05 (2), may enucleate the eyes of a deceased donor under this section. A certificate of competence shall be valid for 3 years. No licensed funeral director so certified and no funeral establishment with which such a funeral director is affiliated shall be liable for damages resulting from such enucleation.

(8) UNIFORMITY OF INTERPRETATION. This section shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(9) SHORT TITLE. This act may be cited as the uniform anatomical gift act.

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485

Revisor's Note: Although this section is labeled the "Uniform Anatomical Gifts Act," it does vary from the Uniform Act in that subs. (1) (a) and (7) (e) were not in the Uniform Act and subs. (2) (a) and (e) and (7) (a) and (d) were amended. Care should be used in adapting the suggested document of gift forms.

Constitutionality of (7) (c) upheld *Williams v Hofmann*, 66 W (2d) 145, 223 NW (2d) 844

155.10 Disinterment of dead. Any person, not lawfully authorized, who shall dig up, disinter, remove or convey away any human body or the remains thereof, or shall knowingly aid in such disinterment, removal or conveying away, or any accessory thereto, either before or after the fact, shall be punished by imprisonment in the Wisconsin state prisons not more than 3 years nor less than one year or in the county jail not more than one year, or by fine not exceeding \$500.

History: 1977 c. 418 s. 924 (18) (e)