

2005 Assembly Bill 659

Date of enactment: **March 29, 2006**

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2005 WISCONSIN ACT 229

AN ACT *to renumber and amend* 157.06 (3) (c) 2.; *to amend* 157.06 (1) (c), 157.06 (3) (c) 1., 157.06 (4) (am) 2., 157.06 (5) (b) 1. and 157.06 (5) (b) 2.; and *to create* 157.06 (1) (km), 157.06 (3) (c) 2. a., 157.06 (3) (c) 2. b., 157.06 (3) (c) 2. c., 157.06 (6m) and 157.06 (10m) of the statutes; **relating to**: consent for the uses of certain anatomical gifts and providing a penalty.

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

SECTION 1. 157.06 (1) (c) of the statutes is amended to read:

157.06 (1) (c) "Document of gift" means a card, a statement attached to or imprinted on a license under s. 343.175 (2) or on an identification card under s. 343.50 (3), a will, or another writing, including a writing under sub. (3) (c) 2., that is used to make an anatomical gift.

SECTION 2. 157.06 (1) (km) of the statutes is created to read:

157.06 (1) (km) "Tissue bank" means a corporation that recovers, processes, or distributes tissue for transplantation into humans.

SECTION 3. 157.06 (3) (c) 1. of the statutes is amended to read:

157.06 (3) (c) 1. Executing Subject to sub. (6m), if applicable, executing a document of gift that is signed by the individual.

SECTION 4. 157.06 (3) (c) 2. of the statutes is renumbered 157.06 (3) (c) 2. (intro.) and amended to read:

157.06 (3) (c) 2. (intro.) Making a telegraphic, Subject to sub. (6m), if applicable, making a recorded telephonic or other recorded message, or other form of communication, to another that is reduced to writing and

signed by the recipient at the time it is received. In the instance of a recorded message in which a hospital, organ procurement organization, tissue bank, coroner, or medical examiner is requesting an anatomical gift, the hospital, organ procurement organization, tissue bank, coroner, or medical examiner shall do all of the following:

SECTION 5. 157.06 (3) (c) 2. a. of the statutes is created to read:

157.06 (3) (c) 2. a. Inform the individual that the conversation is recorded and that a recorded copy of the conversation is available upon request and, if requested, provide such a copy.

SECTION 6. 157.06 (3) (c) 2. b. of the statutes is created to read:

157.06 (3) (c) 2. b. Read aloud to the individual the sentences required under sub. (6m) (a).

SECTION 7. 157.06 (3) (c) 2. c. of the statutes is created to read:

157.06 (3) (c) 2. c. Note on the request form that the individual has been read the sentences required under sub. (6m) (a) and note any limitations that the individual imposes on the use of the bones or tissues or the types of organizations that recover, process, or distribute the donation. If the procedure under this subdivision is followed, the individual's signature or initials, as specified in sub. (6m) (b), are not required.

* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

SECTION 8. 157.06 (4) (am) 2. of the statutes is amended to read:

157.06 (4) (am) 2. The official has made a reasonable effort, taking into account the useful life of the part of the body, to locate and examine the decedent's medical records and, subject to sub. (6m), inform individuals listed in sub. (3) (a) of their option to make, or object to making, an anatomical gift.

SECTION 9. 157.06 (5) (b) 1. of the statutes is 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, subject to sub. (6m), 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.

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

157.06 (5) (b) 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, subject to sub. (6m), that the individual make an anatomical gift of all or a part of the decedent's body.

SECTION 11. 157.06 (6m) of the statutes is created to read:

157.06 (6m) CONSENT FOR OR LIMITATION ON CERTAIN USES OF BONES OR TISSUE; REQUIREMENTS. (a) A hospital, organ procurement organization, tissue bank, coroner, or medical examiner that provides a document of gift to a potential donor or to an individual under sub. (3) (a) shall

include in the document of gift the following sentences: "I understand that donated bones or tissues, including skin, may have numerous uses, including for reconstructive and cosmetic purposes, and that multiple organizations, including nonprofit and for-profit organizations, may recover, process, or distribute the donations. I further understand that I may, by this document, limit the use of the bones or tissues, including skin, that are donated or types of organizations that recover, process, or distribute the donation."

(b) The document of gift under par. (a) shall include, following the 2nd sentence required in par. (a), all of the following:

1. A line or space for the donor or individual under sub. (3) (a) to sign or initial to acknowledge that he or she has read the sentences specified in par. (a) or that the sentences have been read aloud to him or her. Except as provided in sub. (3) (c) 2. c., failure of the donor or individual to place his or her initials or signature in the line or space is a refusal to make an anatomical gift of bones or tissues.

2. A line or space for the donor or individual under sub. (3) (a) to sign or initial and specify a limitation, if any, on the use of bones or tissues or on the types of organizations that recover, process, or distribute the donation.

(c) If a potential donor or individual makes an anatomical gift under this subsection, the hospital, organ procurement organization, tissue bank, coroner, or medical examiner that provides to the donor or individual a document of gift under par. (a) shall also provide the donor or individual with the telephone number and address of the agency or organization that recovers the anatomical gift.

(d) The requester under par. (a) shall provide the donor or the individual under sub. (3) (a), as applicable, with a copy of any document of gift executed under the requirements of this subsection.

SECTION 12. 157.06 (10m) of the statutes is created to read:

157.06 (10m) PENALTY. Whoever fails to comply with the requirement to provide sentences under sub. (3) (c) 2. b. or sub. (6m) (a) may be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation.

SECTION 13. Nonstatutory provisions.

(1) STUDY ON DOCUMENT OF GIFT FORM. The department of health and family services shall study and, by January 1, 2007, report to the legislature in the manner provided under section 13.172 (3) of the statutes concerning the need for a uniform document of gift form specifically for hospitals, organ procurement organizations, tissue banks, coroners, or medical examiners to provide to potential anatomical gift donors or other individuals under section 157.06 (6m) of the statutes. In conducting the study, the department of health and family services shall consult with hospitals, organ procurement organizations, tissue banks, coroners, and medical examiners.

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SECTION 14. Initial applicability.

(1) This act first applies to requests for anatomical gifts that are made on the effective date of this subsection.

SECTION 15. Effective date.

(1) This act takes effect on this first day of the 7th month beginning after publication.
