

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB659)

Received: 12/12/2005

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Alvin Ott (608) 266-5831

By/Representing: Erin Ruby (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - decisionmaking

Extra Copies:

Submit via email: YES

Requester's email: Rep.Ott@legis.state.wi.us

Carbon copy (CC:) to: robin.ryan@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Consent for recovery, processing, or distribution of certain anatomical gifts

Instructions:

See Attached

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| /3 | dkennedy | lkunkel | chaugen | _____ | sbasford | sbasford | |

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| /5 | dkennedy 01/04/2006 | lkunkel 01/04/2006 | chaugen 01/04/2006 | _____ | sbasford 01/04/2006 | sbasford 01/04/2006 | |
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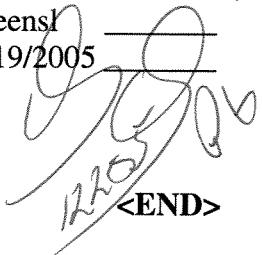
See Attached

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FE Sent For:

<END>

Kennedy, Debora

From: Ruby, Erin
Sent: Monday, December 12, 2005 9:39 AM
To: Kennedy, Debora
Subject: Amendment to AB 659

Attachments: Suggested Provisions for AB 659 Substitute Amendment.doc

Debora,

I would like to request a preliminary draft substitute amendment to AB 659 on behalf of Rep. Ott. The attached document outlines what we're looking for. Feel free to give me a call if you have any questions.

Thank you!

Erin

*Erin Ruby
Research Assistant
Clerk, Assembly Committee on Agriculture
Office of State Representative Al Ott
608.266.5831
erin.ruby@legis.state.wi.us*



Suggested
revisions for AB 65.

Suggested Provisions for AB 659 Substitute Amendment

- ✓ Delete provisions relating to the request for three specific requests (cosmetic surgery, international use, and for-profit use).
- ✓ In lieu of the aforementioned provisions, all requests for anatomical gifts of tissue shall include the following statement:

"I understand that skin, bones, and other such tissues may be used for a wide range of uses including reconstructive and cosmetic purposes and that multiple organizations (non-profit and/or for-profit) may be involved in facilitating the gifts."

"I further understand that I have the right to limit or restrict the use of skin, bones, and other such tissues I am authorizing for donation."

(* This section adopted from National Donor Family Council Executive Committee policy)

- ✓ The request form shall include immediately following or adjacent to this statement a space for the donor's or consenting individual's initials or signature.

to limit or restrict

- ✓ A donor or individual consenting to the donation of an anatomical gift is required to acknowledge they have read (or have been read) and understand the statement by signing or initialing in the space provided.

- ✓ Failure to initial or sign is considered refusal to donate skin, bones, and other such tissues.

- Telephonic Consent:

- ✓ ○ If authorization for donation occurs via telephone, the conversation shall be recorded and the requestor shall inform the consenting individual that the conversation is being recorded.

157.06 (3)(c)2,

- " ○ If an individual makes an anatomical gift under sub. (3) (c) 2, the requestor shall specifically read the above statement and shall note the response on the request form. Initials or signature is not required.

- " ○ On request, a transcript or recorded copy of the telephone conversation authorizing consent shall be sent to the person giving consent.

- A completed copy of the consent form must be sent to the consenting individual.

see (6m) (d)

- Remove provisions in current law referencing transmittal via telegraph.

- ✓ Maintain provision that requestor must provide copy of consent form when consent is done "in person".

- ✓ Maintain delayed effective date.

- The consenting individual must be provided with contact information (including phone number and address) for the recovery agency. *(This is to allow donor families to request additional information should they choose to do so.)* (6m)(c)

- D-Note
- Definitions of "cosmetic surgery" and "for-profit corporation" can be deleted. ✓
 - Remove existing penalty provisions and replace with a forfeiture of no less than \$500 and no more than \$1000 for failure to include the aforementioned statement on the donation form. ✓

Dec 19

50409/1

2005 - 2006 LEGISLATURE

LRB-2985/4

DAK:lmk:ch

D-NOTE

↑
keep

2005 ASSEMBLY BILL 659

ASA to AB659

September 15, 2005 - Introduced by Representatives OTT, GIELOW, WIECKERT, WASSERMAN, STRACHOTA, STASKUNAS, TOWNSEND, KERKMAN, VAN ROY, HAHN, ALBERS, SHERIDAN, BIES, KESTELL, GUNDERSON, HINES, LOTHIAN and MOULTON, cosponsored by Senators A. LASEE, ROESSLER, BROWN, DARLING, MILLER and LASSA. Referred to Committee on Health.

Regen ✓+

REGENERATE ✓+

1 AN ACT to amend 157.06 (1) (c), 157.06 (3) (c) 1., 157.06 (3) (c) 2., 157.06 (4) (am)

2 2., 157.06 (5) (b) 1. and 157.06 (5) (b) 2.; and to create 157.06 (1) (am), 157.06

3 (1) (eg), 157.06 (1) (er), 157.06 (1) (km) and 157.06 (6m) of the statutes; relating

4 to: consent for the recovery, processing, or distribution of certain anatomical

5 gifts. and providing a penalty uses

Analysis by the Legislative Reference Bureau

Under current law, a donation may be made of all or part of a human's body (an anatomical gift), to take effect at death. The following persons may make an anatomical gift:

1. The donor, by executing a document of gift that is signed by the donor or by another individual and two witnesses in the presence of the donor, that is specified on a driver's license or identification card that is issued by the Department of Transportation, or that is specified under a will.
2. The spouse, close relative, guardian, or health care agent of the donor after the donor's death (unless the decedent has made an unrevoked refusal to consent to making an anatomical gift), by executing a signed document of gift or by making a telegraphic, recorded telephonic or other recorded message, or other form of communication to another that is reduced to writing and signed by the recipient when received.
3. A coroner or medical examiner, upon request from a hospital, physician, or organ procurement organization, under limited circumstances.

ASSEMBLY BILL 659

INSERT ANAL 1

This bill requires that a hospital, organ procurement organization, tissue bank (as defined in the bill), coroner, or medical examiner that requests an anatomical gift from a potential donor or a spouse, close relative, guardian, or health care agent of a deceased potential donor provide in the document of gift ~~for, if the document of gift is transmitted electronically, specifically ask about~~ certain requests for activities that must be consented to or refused. The activities have to do with recovering, processing, or distributing donated skin for purposes of cosmetic surgery; recovering, processing, or distributing donated tissue (including skin) for applications outside the United States; and recovering, processing, or distributing donated tissue by a for-profit corporation before final use is made of the tissue for a patient or for purposes of research. If the donor or the spouse, close relative, guardian, or health care agent fails, in the document of gift, to initial or sign ~~a requested activity~~, consent ~~for that activity~~ is refused. The hospital, organ procurement organization, tissue bank, coroner, or medical examiner who obtains an executed document of gift must provide a copy of the document to the donor or other person who executed it.

INSERT ANAL 2

a consent to the use of bones or tissues that

The bill permits an anatomical gift donor or his or her estate to recover civil damages of not less than \$1,000 nor more than \$10,000, plus court costs, from a person who fails to comply with the donor's refusal of consent for any of the activities. Further, the bill provides that an intentional action by a health care provider that is contrary to the donor's refusal of consent for the activities is unprofessional conduct. Lastly, the bill establishes a standard, for an individual or entity that receives/donated skin or other tissue, for compliance with the donor's consent to or refusal for any of the activities and specifies a limit on the responsibility of that individual or entity.

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

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

2 157.06 (1) (am) "Cosmetic surgery" means surgery that is performed to alter
 3 or reshape a normal structure of the body in order to improve appearance. "Cosmetic
 4 surgery" does not include reconstructive surgery that is performed to correct or
 5 repair an abnormal structure of the body that is caused by congenital defect,
 6 developmental abnormality, trauma, infection, tumor, or disease for the purpose of
 7 improving function or, to the extent possible, creating a normal appearance.

8 SECTION 2. 157.06 (1) (c) of the statutes is amended to read:

ASSEMBLY BILL 659

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

5 **SECTION 3.** 157.06 (1) (eg) of the statutes is created to read:

6 157.06 (1) (eg) “For-profit corporation” means any corporation that is not
7 exempt from taxation under section 501 (c) (3) of the Internal Revenue Code.

8 **SECTION 4.** 157.06 (1) (er) of the statutes is created to read:

9 157.06 (1) (er) “Health care provider” has the meaning given in s. 146.81 (1).

INSERT
3-9

10 **SECTION 5.** 157.06 (1) (km) of the statutes is created to read:

11 157.06 (1) (km) “Tissue bank” means a corporation that recovers, processes, or
12 distributes tissue for transplantation into humans.

13 **SECTION 6.** 157.06 (3) (c) 1. of the statutes is amended to read:

14 157.06 (3) (c) 1. ~~Executing~~ Subject to sub. (6m), if applicable, executing a
15 document of gift that is signed by the individual.

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

17 157.06 (3) (c) 2. ~~Making~~ Subject to sub. (6m), if applicable, making a document
18 of gift by means of a telegraphic, recorded telephonic or other recorded message, or
19 other form of communication to another that is reduced to writing and signed by the
20 recipient at the time it is received.

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

22 157.06 (4) (am) 2. The official has made a reasonable effort, taking into account
23 the useful life of the part of the body, to locate and examine the decedent’s medical
24 records and, subject to sub. (6m), inform individuals listed in sub. (3) (a) of their
25 option to make, or object to making, an anatomical gift.

INSERT 3-20

ASSEMBLY BILL 659**SECTION 9**

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

2 157.06 (5) (b) 1. If at or near the time of death of a patient there is no medical
3 record or evidence obtained under par. (c) that the patient has made, revoked or
4 refused to make an anatomical gift, the hospital administrator or a representative
5 designated by the administrator shall discuss with an available individual, under
6 the priority established in sub. (3) (a), the option to make or refuse to make an
7 anatomical gift and request, subject to sub. (6m), that the individual make an
8 anatomical gift of all or a part of the decedent's body. Alternatively, the administrator
9 shall contact by telephone the organ procurement organization designated for the
10 region of which the hospital is a part. If the administrator or representative contacts
11 the organ procurement organization, he or she shall provide the organ procurement
12 organization with the identifier number of the patient, the patient's age, the actual
13 or potential cause of the patient's death and, if available, the patient's medical
14 history.

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

16 157.06 (5) (b) 2. If the organ procurement organization is contacted under subd.
17 1., the organ procurement organization shall, in consultation with the attending
18 physician of the patient under subd. 1., determine if an anatomical gift is suitable,
19 based upon accepted medical standards, for a purpose specified in sub. (6) (a). If the
20 organ procurement organization and the patient's attending physician determine
21 that an anatomical gift is not so suitable, hospital personnel shall make a notation
22 to this effect in the patient's medical record. If the organ procurement organization
23 and the patient's attending physician determine that an anatomical gift is so
24 suitable, an organ procurement organization representative or a requester
25 designated by the organ procurement organization shall discuss with an available

ASSEMBLY BILL 659

1 individual, under the priority established in sub. (3) (a), the option to make or refuse
2 to make an anatomical gift and request, subject to sub. (6m), that the individual
3 make an anatomical gift of all or a part of the decedent's body.

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

(CS)
BONES OR

5 157.06 (6m) CONSENT FOR CERTAIN USES OF TISSUE; REQUIREMENTS. (a) A hospital,
6 organ procurement organization, tissue bank, coroner, or medical examiner that
7 provides a document of gift to a potential donor or to an individual under sub. (3) (a)
8 shall include in the document of gift specific requests for consent and opportunities
9 for refusal by the donor or individual for all of the following:

- 10 1. The recovery, processing, or distribution of donated skin, for purposes of
11 cosmetic surgery.
- 12 2. The recovery, processing, or distribution of donated tissue, for applications
13 outside the United States.
- 14 3. The recovery, processing, or distribution of donated tissue by a for-profit
15 corporation before final use is made of the tissue for a patient or for purposes of
16 research.

17 (b) The document of gift under par. (a) shall include, adjacent to each of the
18 requests for consent under par. (a) 1., 2., and 3., a space for the donor's or individual's
19 consent or refusal, and a line or space for the donor's or individual's initials or
20 signature. Failure of the donor or individual to initial or sign a request for consent,
21 or a refusal for an activity under par. (a) 1., 2., or 3. is a refusal to make an anatomical
22 gift for that activity.

the space for his or her initials and to
individual's
a line for the donor's
signature line

23 (c) If an individual under sub. (3) (a) makes an anatomical gift under sub. (3)
24 (c) 2, at the request of a hospital, organ procurement organization, tissue bank,
25 coroner, or medical examiner, the requester shall specifically request consent from

ASSEMBLY BILL 659

SECTION 11

1 the individual for each of the activities under par. (a) 1., 2., and 3. and shall note the
2 request and response on the document received.

INSERT 6-2

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

6 (e) 1. A donor or his or her estate or an individual under sub. (3) (a) may recover
7 civil damages of not less than \$1,000 nor more than \$10,000, plus court costs, from
8 a person who does not comply with the donor's or individual's refusal of consent
9 under par. (a) or (c).

10 2. An intentional action that is contrary to a donor's or an individual's refusal
11 of consent under par. (a) or (c) by a health care provider who is an individual is
12 unprofessional conduct by the health care provider.

13 3. For purposes of subs. 1. and 2., an individual or entity that receives donated
14 skin or other tissue is considered to have complied with a refusal of consent under
15 par. (a) or (c) if the individual or entity designates skin or other tissue that has been
16 donated with restrictions under par. (a) or (c) or states or records any refusal of
17 consent in documents that may be maintained with regard to the donated skin or
18 other tissue. After the individual or entity transfers the donated skin or other tissue
19 to another entity, along with the designation or documentation, the transferor's
20 responsibility for compliance with the refusal of consent ceases.

21 **SECTION 12. Initial applicability.**

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

24 **SECTION 13. Effective date.**

INSERT 6-20

INSERT ANAL 1

^{NOT} two statements concerning the potential uses of donated bones or tissues by nonprofit corporations and for-profit corporations and the limitations on those uses that may be specified in a document of gift. ✓ The document of gift must also include lines or spaces for the donor or the spouse, close relative, guardian, or health care agent to acknowledge reading the statements or having them read to him or her, and to limit the use of bones or tissues or to consent to the use of bones or tissues. ✓ If the donor, spouse, close relative, guardian, or health care agent makes an anatomical gift, the requesting hospital, organ procurement organization, tissue bank, coroner, or medical examiner must provide the telephone number and address of the agency or organization that recovers the anatomical gift. ✓ If a hospital, organ procurement organization, tissue bank, coroner, or medical examiner is requesting an anatomical gift from the spouse, close relative, guardian, or health care agent by means of a telephonic or other recorded message, the requestor must inform the spouse, relative, guardian, or agent that the conversation is recorded and that a transcript or recorded copy is available on request; must read the statements concerning potential uses of donated bones or tissues and limitations on those uses; and must note on the document of gift the acknowledgement of the statements, any limitations on use of bones or tissues, and any consent to the uses of the bones or tissues. ✓

INSERT ANAL 2

¶ Under the bill, failure to comply with the requirement to provide the statements concerning the potential uses of donated bones or tissues and limitations on those uses may be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation. ✓

The bill eliminates the use of a telegraphic message to make a document of gift. ✓

INSERT 3-9

1 **SECTION 1.** 157.06 (1) (fg) of the statutes is created to read:

2 157.06 (1) (fg) "Nonprofit corporation" means a nonstock corporation organized
3 under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103. (17)

INSERT 3-20

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

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

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

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; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

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

6 157.06 (3) (c) 2. a. Inform the individual that the conversation is recorded and
 7 that a transcript or recorded copy of the conversation is available upon request and,
 8 if requested, provide such a transcript or copy.

9 **SECTION 4.** 157.06 (3) (c) 2. b. of the statutes is created to read:

10 157.06 (3) (c) 2. b. Read aloud to the individual the statements required under
 11 sub. (6m) (a).

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

13 157.06 (3) (c) 2. c. Note on the request form the individual's response to the
 14 requirements under sub. (6m) (b). If the procedure under this subdivision is followed,
 15 the individual's signature or initials, as specified in sub. (6m) (b), are not required.

INSERT 6-2

16 *MSF* the following statements: *move to 9*

17 "I understand that donated bones or tissues, including skin, may have
 18 numerous uses, including for reconstructive and cosmetic purposes, and that
 19 nonprofit corporations and for-profit corporations may facilitate the donations. I
 20 further understand that I may, by this document, limit the use of *the* bones or tissues,
 21 including skin, that *I am donating.* *are donated*"

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0409/?dn

.....
DAK: Im/c

(date)

To Representative Ott:

1. Since the terms "for-profit corporation" and "non-profit corporation" are used in this draft, I have not deleted the definition under s. 157.06 (1) (eg) and have created a definition under s. 157.06 (1) (fg). ✓
2. After consulting with Erin Ruby, I have added to s. 157.06 (6m) (b) the requirement that the document of gift include space for the donor or individual to limit the use of any donated bones or tissues. ✓
3. In accordance with your instructions to "remove existing penalty provisions," I have in this substitute amendment eliminated s. 157.06 (6m) (e) 3., ✓ which created a standard for the receiving agency's compliance with the donor's or other individual's refusal of consent or restrictions placed on the use of the donated tissue. Does this meet your intent? ✓

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0409/1dn
DAK:lmk:pg

December 19, 2005

To Representative Ott:

1. Since the terms "for-profit corporation" and "non-profit corporation" are used in this draft, I have not deleted the definition under s. 157.06 (1) (eg) and have created a definition under s. 157.06 (1) (fg).
2. After consulting with Erin Ruby, I have added to s. 157.06 (6m) (b) the requirement that the document of gift include space for the donor or individual to limit the use of any donated bones or tissues.
3. In accordance with your instructions to "remove existing penalty provisions," I have in this substitute amendment eliminated s. 157.06 (6m) (e) 3., which created a standard for the receiving agency's compliance with the donor's or other individual's refusal of consent or restrictions placed on the use of the donated tissue. Does this meet your intent?

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

12/20/05

CONVERSATION
WITH:

Erin

OF:

Ott's office

TELEPHONE NO:

6-5831

REGARDING LRB #
OR DRAFT TOPIC:

05 80409/1

INSTRUCTIONS:

Redraft

p. 6, l. 1 "multiple organizations,
including nonprofit corps or for-profit
corps"



WEDNESDAY
State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0409/2
DAK:lmk:pg
↑
keep

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 659

Rec'd ✓

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

Analysis by the Legislative Reference Bureau

Under current law, a donation may be made of all or part of a human's body (an anatomical gift), to take effect at death. The following persons may make an anatomical gift:

1. The donor, by executing a document of gift that is signed by the donor or by another individual and two witnesses in the presence of the donor, that is specified on a driver's license or identification card that is issued by the Department of Transportation, or that is specified under a will.
2. The spouse, close relative, guardian, or health care agent of the donor after the donor's death (unless the decedent has made an unrevoked refusal to consent to making an anatomical gift), by executing a signed document of gift or by making a telegraphic, recorded telephonic or other recorded message, or other form of

multiple organizations,
including

communication to another that is reduced to writing and signed by the recipient when received.

3. A coroner or medical examiner, upon request from a hospital, physician, or organ procurement organization, under limited circumstances.

This bill requires that a hospital, organ procurement organization, tissue bank (as defined in the bill), coroner, or medical examiner that requests an anatomical gift from a potential donor or a spouse, close relative, guardian, or health care agent of a deceased potential donor provide in the document of gift two statements concerning the potential uses of donated bones or tissues by nonprofit corporations and for-profit corporations and the limitations on those uses that may be specified in a document of gift. The document of gift must also include lines or spaces for the donor or the spouse, close relative, guardian, or health care agent to acknowledge reading the statements or having them read to him or her, and to limit the use of bones or tissues or to consent to the use of bones or tissues. If the donor, spouse, close relative, guardian, or health care agent makes an anatomical gift, the requesting hospital, organ procurement organization, tissue bank, coroner, or medical examiner must provide the telephone number and address of the agency or organization that recovers the anatomical gift. If a hospital, organ procurement organization, tissue bank, coroner, or medical examiner is requesting an anatomical gift from the spouse, close relative, guardian, or health care agent by means of a telephonic or other recorded message, the requestor must inform the spouse, relative, guardian, or agent that the conversation is recorded and that a transcript or recorded copy is available on request; must read the statements concerning potential uses of donated bones or tissues and limitations on those uses; and must note on the document of gift the acknowledgement of the statements, any limitations on use of bones or tissues, and any consent to the uses of the bones or tissues. If the donor or the spouse, close relative, guardian, or health care agent fails, in the document of gift, to initial or sign a consent to the use of bones or tissues, that consent is refused. The hospital, organ procurement organization, tissue bank, coroner, or medical examiner who obtains an executed document of gift must provide a copy of the document to the donor or other person who executed it.

Under the bill, failure to comply with the requirement to provide the statements concerning the potential uses of donated bones or tissues and limitations on those uses may be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation.

The bill eliminates the use of a telegraphic message to make a document of gift.

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

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

2 157.06 (1) (c) "Document of gift" means a card, a statement attached to or
3 imprinted on a license under s. 343.175 (2) or on an identification card under s.

1 343.50 (3), a will, or another writing, including a writing under sub. (3) (c) 2., that
2 is used to make an anatomical gift.

3 **SECTION 2.** 157.06 (1) (eg) of the statutes is created to read:

4 157.06 (1) (eg) “For-profit corporation” means any corporation that is not
5 exempt from taxation under section 501 (c) (3) of the Internal Revenue Code.

6 **SECTION 3.** 157.06 (1) (er) of the statutes is created to read:

7 157.06 (1) (er) “Health care provider” has the meaning given in s. 146.81 (1).

8 **SECTION 4.** 157.06 (1) (fg) of the statutes is created to read:

9 157.06 (1) (fg) “Nonprofit corporation” means a nonstock corporation organized
10 under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).

11 **SECTION 5.** 157.06 (1) (km) of the statutes is created to read:

12 157.06 (1) (km) “Tissue bank” means a corporation that recovers, processes, or
13 distributes tissue for transplantation into humans.

14 **SECTION 6.** 157.06 (3) (c) 1. of the statutes is amended to read:

15 157.06 (3) (c) 1. Executing Subject to sub. (6m), if applicable, executing a
16 document of gift that is signed by the individual.

17 **SECTION 7.** 157.06 (3) (c) 2. of the statutes is renumbered 157.06 (3) (c) 2. (intro.)
18 and amended to read:

19 157.06 (3) (c) 2. (intro.) Making a telegraphic, Subject to sub. (6m), if applicable,
20 making a recorded telephonic or other recorded message, or other form of
21 communication, to another that is reduced to writing and signed by the recipient at
22 the time it is received. In the instance of a recorded message in which a hospital,
23 organ procurement organization, tissue bank, coroner, or medical examiner is
24 requesting an anatomical gift, the hospital, organ procurement organization, tissue
25 bank, coroner, or medical examiner shall do all of the following:

1 **SECTION 8.** 157.06 (3) (c) 2. a. of the statutes is created to read:

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

5 **SECTION 9.** 157.06 (3) (c) 2. b. of the statutes is created to read:

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

8 **SECTION 10.** 157.06 (3) (c) 2. c. of the statutes is created to read:

9 157.06 (3) (c) 2. c. Note on the request form the individual's response to the
10 requirements under sub. (6m) (b). If the procedure under this subdivision is followed,
11 the individual's signature or initials, as specified in sub. (6m) (b), are not required.

12 **SECTION 11.** 157.06 (4) (am) 2. of the statutes is amended to read:

13 157.06 (4) (am) 2. The official has made a reasonable effort, taking into account
14 the useful life of the part of the body, to locate and examine the decedent's medical
15 records and, subject to sub. (6m), inform individuals listed in sub. (3) (a) of their
16 option to make, or object to making, an anatomical gift.

17 **SECTION 12.** 157.06 (5) (b) 1. of the statutes is amended to read:

18 157.06 (5) (b) 1. If at or near the time of death of a patient there is no medical
19 record or evidence obtained under par. (c) that the patient has made, revoked or
20 refused to make an anatomical gift, the hospital administrator or a representative
21 designated by the administrator shall discuss with an available individual, under
22 the priority established in sub. (3) (a), the option to make or refuse to make an
23 anatomical gift and request, subject to sub. (6m), that the individual make an
24 anatomical gift of all or a part of the decedent's body. Alternatively, the administrator
25 shall contact by telephone the organ procurement organization designated for the

1 region of which the hospital is a part. If the administrator or representative contacts
2 the organ procurement organization, he or she shall provide the organ procurement
3 organization with the identifier number of the patient, the patient's age, the actual
4 or potential cause of the patient's death and, if available, the patient's medical
5 history.

6 **SECTION 13.** 157.06 (5) (b) 2. of the statutes is amended to read:

7 157.06 (5) (b) 2. If the organ procurement organization is contacted under subd.
8 1., the organ procurement organization shall, in consultation with the attending
9 physician of the patient under subd. 1., determine if an anatomical gift is suitable,
10 based upon accepted medical standards, for a purpose specified in sub. (6) (a). If the
11 organ procurement organization and the patient's attending physician determine
12 that an anatomical gift is not so suitable, hospital personnel shall make a notation
13 to this effect in the patient's medical record. If the organ procurement organization
14 and the patient's attending physician determine that an anatomical gift is so
15 suitable, an organ procurement organization representative or a requester
16 designated by the organ procurement organization shall discuss with an available
17 individual, under the priority established in sub. (3) (a), the option to make or refuse
18 to make an anatomical gift and request, subject to sub. (6m), that the individual
19 make an anatomical gift of all or a part of the decedent's body.

20 **SECTION 14.** 157.06 (6m) of the statutes is created to read:

21 157.06 (6m) CONSENT FOR CERTAIN USES OF BONES OR TISSUE; REQUIREMENTS. (a)
22 A hospital, organ procurement organization, tissue bank, coroner, or medical
23 examiner that provides a document of gift to a potential donor or to an individual
24 under sub. (3) (a) shall include in the document of gift the following statements: "I
25 understand that donated bones or tissues, including skin, may have numerous uses,

multiple organizations,
including

1 including for reconstructive and cosmetic purposes, and that nonprofit corporations
2 ~~and for-profit corporations~~ may facilitate the donations. I further understand that
3 I may, by this document, limit the use of the bones or tissues, including skin, that are
4 donated.”

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

7 1. A line or space for the donor or individual under sub. (3) (a) to sign or initial
8 to acknowledge that he or she has read the statements specified in par. (a) or that the
9 statements have been read aloud to him or her.

10 2. A line or space for the donor or individual under sub. (3) (a) to sign or initial
11 to limit the use of bones or tissues.

12 3. A line or space for the donor or individual under sub. (3) (a) to sign or initial
13 to consent to the use of bones or tissues. Except as provided in sub. (3) (c) 2. c., failure
14 of the donor or individual to initial the space or to sign the signature line is a refusal
15 to make an anatomical gift of bones or tissues.

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

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

24 **SECTION 15.** 157.06 (10m) of the statutes is created to read:

Kennedy, Debora

From: Ruby, Erin
Sent: Wednesday, December 21, 2005 2:58 PM
To: Kennedy, Debora
Subject: LRB s0409 Redraft Request

Debora,

I went over the draft of the sub with Dick Sweet today. Our office has the following request for changes:

- ✓ 1. Page 3, lines 6 and 7--this definition can be deleted since the term "health care provider" is no longer used in the draft.
- ✓ 2. Page 3, lines 3 to 5 and lines 8 to 10--these lines should be deleted. The narrow definition of "for-profit corporation" was a problem for a lot of people during the hearing. Since the new statement required in the document of gift is more advisory than substantive, I don't think definitions are needed.
- ✓ 3. Page 4, line 6, page 5, line 24, page 6, lines 8 and 9--substitute "statement" for "statements" since it is only one statement. Also delete "2nd" on page 6, line 5.
4. Page 6, lines 5 to 15--the intent is that they just have to be provided the notice and sign off that they have received the notice. Failure to sign off that they have received the notice is refusal do donate. I think that can be accomplished by consolidating those lines as follows:
 - ✓ (b) The document of gift under par. (a) shall include, following the statement required in par. (a), 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 statement specified in par. (a) or that the statement has 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.

Please feel free to let me know if you have any questions.

Thank you very much!

Erin

Erin Ruby
Research Assistant
Clerk, Assembly Committee on Agriculture
Office of State Representative Al Ott
608.266.5831
erin.ruby@legis.state.wi.us

✓ 12/22 : From Erin:
ok to use "sentence"
+ "sentences," rather
than "statement"