

Report and Recommendations
on
Uniform Anatomical Gift Act (1987)

New Jersey Law Revision Commission
15 Washington Street
Room 1302
Newark, New Jersey 07102
201-648-4575
March 1989

INTRODUCTION

The New Jersey Law Revision Commission hereby refers to the Legislature the 1987 Uniform Anatomical Gift Act promulgated by the National Conference of Commissioners on Uniform State Laws ("N.C.C.U.S.L."). C. 1:12A-8 provides that it is the duty of the Commission to receive and consider suggestions and recommendations from the N.C.C.U.S.L., among others, for the improvement and modification of the laws of this State.

The 1987 Uniform Anatomical Gift Act is a successor to the 1968 Uniform Anatomical Gift Act ("1968 U.A.G.A.") which has been enacted in all 50 states and the District of Columbia. The 1968 U.A.G.A. was adopted in New Jersey in 1969, L. 1969, c.161 (C. 26:6-57 to -65) and has been amended three times since then in this State, in 1974 (L. 1974, c. 108), 1985 (L. 1985, c. 284) and 1987 (L. 1987, c. 244). The 1968 U.A.G.A. was originally adopted with only one minor change in the text of the Uniform Act, to clarify a point regarding the ultimate disposition of certain anatomical gifts. The 1974 amendment added to the list of medical technicians authorized to perform eye enucleations. L. 1974, c. 108, § 1. The 1985 and 1987 amendments added provisions intended to increase the number of organ donations for transplant by requiring hospitals to seek out information concerning the organ donor status of hospital admittees and to request organ donations from the families of decedents. (The 1985 and 1987 amendments will be referred to in this Report as the "routine inquiry law" and the "required request law.")

While the Commission recommends the adoption of the 1987 U.A.G.A., it believes that the Legislature should consider in particular several sections of the 1987 U.A.G.A. which differ from the approach of this State's 1985 routine inquiry law and 1987 required request law. Because these laws involve recent legislative policy judgments, the Commission takes no position on whether the 1987 U.A.G.A. provisions should be enacted in their place.

This report describes the provisions of the present New Jersey version of the 1968 U.A.G.A. and of the 1987 U.A.G.A., and analyzes the differences between them. The alternative provisions formulated by the Commission with respect to certain of the disputed issues are also set forth.

The Appendix to this report includes the full text of the 1987 U.A.G.A. as proposed by the N.C.C.U.S.L. (Appendix B). For convenient comparison Appendix A consists of a side by side comparison of the 1987 U.A.G.A. and the present New Jersey law where the two differ.

THE 1968 UNIFORM ANATOMICAL GIFT ACT

The purpose of the 1968 U.A.G.A., adopted in New Jersey in 1969, was to facilitate the making of anatomical gifts by resolving a number of legal issues surrounding such gifts. The 1968 Act succeeded in its purpose by, among other things, simplifying the making of anatomical gifts through the recognition of the universal donor card, and by clarifying the procedure for the making of such gifts by a decedent's family members in the absence of a gift made during the donor's lifetime.

Since the promulgation of the 1968 Act, medical science has advanced in many areas relating to organ transplantation, creating a larger pool of people who could benefit from various transplantation procedures. Apparently, however, the number of donors has not kept pace with the need for organs, a problem which has concerned professionals involved in organ transplantation. The limited supply of organs available for transplantation has created competition among transplantation programs and has encouraged the phenomenon of televised pleas for organ donations for specific cases.

THE NEW JERSEY ROUTINE INQUIRY AND REQUIRED REQUEST LAWS

Both the 1985 and 1987 amendments to the New Jersey version of the 1968 U.A.G.A. were enacted in response to the increased need for organs for transplantation. The 1985 New Jersey amendment (the routine inquiry law) directs hospitals to ascertain routinely whether hospital admittees have agreed to be organ donors, and to retain information concerning anatomical gifts in order to facilitate the discharge of organ donors' intentions upon death. The 1987 New Jersey amendment (the required request law) directs hospitals to inform the families of decedents of the option to make an anatomical gift and requires a certification to that effect to be entered on all death certificates. The 1987 New Jersey required request law also directs the Department of Health to develop programs for increasing public awareness of the need for organ donations and for facilitating the distribution of donated organs.

THE 1987 UNIFORM ANATOMICAL GIFT ACT

The 1987 U.A.G.A. was proposed by the N.C.C.U.S.L. in response to the same impetus which prompted the 1985 and 1987 New Jersey enactments--the increased need for organ donations. In addition to making technical and organizational changes in the text of the 1968 U.A.G.A., the 1987 version simplifies the manner of making an anatomical gift and requires that the intentions of a donor be followed. For example, no witnesses are required on the document of gift (section 2(b)) and consent of next of kin after death is not required if the donor has made an anatomical gift (section 2(h)).

Under the new Uniform Act the identification of actual donors is facilitated by the imposition of a duty to search for a document of gift (section 5(c)). The identification of potential donors is facilitated by the provisions for routine inquiry (section 5(a)) and required request (section 5(b)). With respect to distribution of donated organs, hospitals

have been substituted for attending physicians as donees of anatomical gifts (section 6(b)), and they are required to establish agreements or affiliations with other hospitals and procurement organizations in the region to coordinate the procurement and use of anatomical gifts (section 9).

Provisions of the old Act which may have been interpreted as limitations on anatomical gifts have been revised. Under the new Act, for example, a gift of one organ, e.g., eyes, is not a limitation on the gift of other organs after death, in the absence of a contrary indication by the decedent (section 2(j)). If a request for an anatomical gift has been made for transplant or therapy by a person specified in the Act and if there is no contrary indication by the decedent or known objection by the next of kin to an anatomical gift, the medical examiner may authorize release and removal of a part subject to specific requirements (section 4(a) and (b)). The provisions governing decisions not to donate have also been clarified. The right to refuse to make an anatomical gift and the manner of expressing the refusal are specified (section 2(i)), and revocation by a donor of an anatomical gift that has been made is effective without communication of the revocation to a specified donee (section 2(f)).

The categories of persons that may remove anatomical parts are expanded to include eye enucleators and certain technicians (section 8(c)). The sale or purchase of parts is prohibited (section 10). Persons who act, or attempt to act, in good faith in accordance with the terms of the Act are not liable in any civil action or criminal proceeding. The categories of persons covered by this exemption are specified (section 11(c)).

DIFFERENCES BETWEEN THE 1987 ANATOMICAL GIFT ACT AND THE 1985 AND 1987 NEW JERSEY AMENDMENTS TO THE 1968 ANATOMICAL GIFT ACT

The 1987 Anatomical Gift Act and the 1985 and 1987 amendments to the 1968 Anatomical Gift Act differ in their treatment of issues in several areas: routine inquiry and required request provisions, limitation of liability provisions, and coordination of procurement and use provisions.

a. Routine Inquiry

L. 1985, c. 284, the "routine inquiry" law, added two sections to the New Jersey version of the 1968 Uniform Anatomical Gift Act. The first section of the enactment, C. 26:6-60.1, requires hospitals, "if possible," to "ascertain from a patient upon admission whether or not the patient has made a gift of all or part of the patient's body...." The hospital is also required to ascertain the name of the donee of any anatomical gift and to keep all information relevant to such gifts "as part of a patient's permanent record." The second section of the enactment, C. 26:6-60.2, provides that upon the death of a patient who has made an anatomical gift the hospital is obligated to "make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made."

The 1987 U.A.G.A., like the 1985 routine inquiry law, also mandates routine inquiry concerning organ donor status upon hospital admission in a provision that is both more explicit and more directive than the New Jersey routine inquiry law. Section 5(a) of the 1987 U.A.G.A. specifies that routine inquiry concerning a patient's status as an organ donor shall be made either at the time of admission to the hospital, "or before, or as soon as possible thereafter." Unlike the 1985 New Jersey routine inquiry law the mandate to inquire is not tempered by language such as the phrase "if possible." The U.A.G.A. specifies the precise text of the question to be asked: "Are you an organ or tissue donor?" The 1987 U.A.G.A. also directs the hospital to follow up if the hospital admittee is not an organ donor, specifying that if the answer to the inquiry concerning organ donor status is negative "and the attending physician consents," the hospital shall "discuss with the patient the option to make or refuse to make an anatomical gift." Last, Section 5(a) directs the hospital to place a copy of any document of gift or refusal to make a gift in the patient's medical chart.

The adoption of Section 5(a) of the 1987 U.A.G.A. in place of the 1985 routine inquiry law would, therefore, accomplish the following: (1) Remove the qualifying language that routine inquiry upon hospital admission shall be made "if possible"; (2) make clear that routine inquiry concerning organ donor status may be made before or after, as well as at the time of hospital admission; (3) require that in cases where the routine inquiry yields a negative answer, and the attending physician consents, the hospital also make a required request, that is, ask whether the hospital admittee is willing to become an organ donor. With respect to the record-keeping requirements of the respective provisions, although their texts differ there is no material difference between them; therefore, the adoption of the 1987 U.A.G.A. in place of the 1985 routine inquiry law would have no practical effect.

b. Facilitation of Donors' Wishes Upon Death

The second sentence of the second section added by the 1985 New Jersey routine inquiry law is concerned with facilitation of donors' wishes upon death. C. 26:6-60.2, provides that "[u]pon the death of a patient who has made an anatomical gift, a hospital shall make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made." The comparable provision in the 1987 U.A.G.A., Section 5(c), uses slightly more flexible language concerning the timing of the notification, specifying that the notification of the donee should take place "at or near the time of death" of a donor. It also provides that if no specific donee has been named, that the appropriate "procurement organization" should be notified of the availability of an organ. Last, the Uniform Act provides that the hospital "shall cooperate" in the removal and transfer to the donee of a donated organ.

C. 26:6-60.2 and the comparable provisions of the 1987 U.A.G.A. are not materially different. While the Uniform Act does not include the "good faith" language used in the 1985 New Jersey amendment, it is probably fairly implied both in the express language "shall cooperate" as well as in the context of the entire Uniform Act.

Conversely, although the New Jersey version does not, like the Uniform Act, specify that the hospital should "cooperate" in the removal of a donated part, such a requirement is probably fairly implied. The only element contained in the 1987 U.A.G.A. which does not have a close parallel in present New Jersey law is the requirement that when an organ becomes available and no specific donee has been named, that the "appropriate procurement organization" should be notified.

The adoption of Section 5(c) of the 1987 U.A.G.A. in place of the 1987 routine inquiry law would accomplish the following: (1) The notification to a donee could take place earlier than at the time of death of the donor, i.e., "at or near death"; and (2) if an organ donation has been made but no specific donee has been named, the hospital is obligated to notify an "appropriate procurement organization."

c. Required Request

L. 1987, c. 244 added a "required request" provision to the New Jersey version of the 1968 U.A.G.A. As was the case with the 1985 "routine inquiry" provision, the 1987 required request provision was added to encourage increased organ donations. While the routine inquiry provision focuses on potential donors at the point of hospital admission, the required request provision is directed at the families of potential donors at the time of death in situations where the potential donors themselves have not agreed prior to death to make an anatomical gift.

The first section added in 1987 is C. 26:6-58.1, which provides that "[w]hen the decision has been made in a hospital to pronounce the death" of a person who is a potential organ donor, a designated hospital representative shall, with limited exceptions, "make known to" the next of kin of the potential organ donor "that the person has the option to consent" to an anatomical gift upon the death of the potential donor. The exceptions to the hospital's obligation to make a request for an organ donation are first, when the hospital has "actual notice of contrary indications" either by the decedent or next-of-kin, to the idea of organ donation, and second, "when there is any other reason to believe that an anatomical gift is contrary to the decedent's religious beliefs." C. 26:6-58.1(a). The New Jersey required request law also lists the next of kin to whom the request must be made.

The New Jersey required request legislation also contains two additional provisions which are in the nature of enforcement provisions. Subsection 1(b) of L. 1987, c.244, (C. 26:6-58.1(b)), requires hospitals to complete an "organ donation option certificate" to be attached to every death certificate, stating that the required request law has been satisfied. The subsection provides that the death certificate is not considered complete unless the organ donation option certificate has been completed. This provision effectively prevents the issuance of a burial permit if the organ donation option certificate is not completed, and thus it is a powerful inducement to hospitals to comply with the required request law. Also, section 3 of L. 1987, c. 244, mentioned above, directs the Commissioner of Health to adopt appropriate rules and regulations to effectuate the

required request law, including rules concerning training of hospital employees in making requests for organ donations, and rules permitting exceptions to the required request law in situations where "the request would not yield a donation which would be suitable for use."

The comparable provision of the 1987 U.A.G.A., Section 5(b), requires hospital administrators, "at or near the time of death" of a patient who is a potential organ donor, to "discuss" with next of kin "the option to make or refuse to make an anatomical gift and request the making of an anatomical gift." The request must be made "with reasonable discretion and sensitivity to the circumstances of the family." No request need be made "if the gift is not suitable, based upon accepted medical standards" for a purpose specified in the Act. An entry must be made concerning the request on the patient's medical chart, and rulemaking authority is provided for the appropriate governmental entity to implement the request requirement.

There are several differences between the 1987 New Jersey required request law and the 1987 U.A.G.A. First, the 1987 U.A.G.A. language concerning timing of the request to next of kin specifies that a request should be made "at or near the time of death." In contrast, the 1987 New Jersey required request law provides that the request should be made "when the decision has been made ... to pronounce ... death." The legislative history of this provision shows that language concerning the timing of the request that would have been more similar to the Uniform Act language was rejected during the passage of this amendment through the Legislature. See L. 1987, c. 244, 1987 N.J. Sess. Law Serv. 35 (West)(deleting the language "on or before the declaration of death" and substituting "when the decision has been made ... to pronounce ... death").

In addition, the 1987 New Jersey required request law provides that a request should not be made of next of kin where there is "actual notice of contrary indications by the decedent or actual notice of opposition by [next-of-kin] or when there is any other reason to believe that an anatomical gift is contrary to the decedent's religious beliefs." L. 1987, c. 244, § 1. These exceptions have no direct counterpart in the 1987 Uniform Act.

Both the 1987 U.A.G.A. and the 1987 New Jersey required request law have provisions which recognize that requests for organ donation upon death are a sensitive subject, although the two deal with the issue somewhat differently. The 1987 U.A.G.A. expressly states that requests must be made "with reasonable discretion and sensitivity to the circumstances of the family." The New Jersey required request law does not specify that requests must be made in that manner although clearly the Legislature expects that this will be done. Thus, section 4 of L. 1987, c. 244 (C. 26:6-58.3) directs the Commissioner of Health to adopt regulations concerning the training of hospital employees in "the procedure to be employed in making the request." Presumably the stipulated training will include using "discretion and sensitivity" in making requests for organ donations.

The adoption of Section 5(b) 1987 U.A.G.A. in place of the 1987 required request law would accomplish the following: (1) a request of next of kin for organ donation could be made earlier than the point at which the decision is made to declare death; (2) the specific exceptions to the required request of next of kin in cases of religious objections and notice of contrary indications by the decedent or next of kin would be eliminated; (3) the present directive that rules be adopted concerning the training of hospital employees making requests of next of kin would be eliminated; (4) a statutory standard that requests be made "with discretion and sensitivity" would be added; (5) the present provisions requiring the completion of a required request certificate on the death certificate would be eliminated.

d. Limitation of Liability for Omissions

Both the present New Jersey law and the 1987 Uniform Anatomical Gift Act contain provisions limiting the civil and criminal liability of persons acting in accordance with their provisions. Present New Jersey law contains a general liability limitation provision which was contained in the 1968 Uniform Anatomical Gift Act, and a specific liability limitation provision which was added by the 1987 New Jersey required request law. The 1987 Uniform Anatomical Gift Act also contains a general liability limitation provision as well as a specific liability limitation section which covers both the required request provisions and a number of other affirmative obligations imposed by the Act. It is only in these specific liability limitation provisions that the current New Jersey law and the 1987 Uniform Anatomical Gift Act differ.

C. 26:6-63(c), part of the 1968 Uniform Anatomical Gift Act, is a general liability limitation provision which provides as follows: "A person who acts in good faith in accord with the terms of this act ... is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act." The 1987 Uniform Anatomical Gift Act contains a virtually identical provision. (Section 11(c)). Note that both of these general provisions protect actions only, and no mention is made of omissions to act.

As to omissions to act, under present New Jersey law certain omissions are protected by L. 1987, c. 244, § 1(d) (C. 26:6-58.3(d)), a subsection of the required request law. Subsection d provides that "a person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person." The phrase "provisions of this act" presumably refers only to the required request provisions enacted as L. 1987, c. 244, and thus only to this particular section. To the extent that this provision limits liability for actions as opposed to omissions it is duplicative of the general provision in C. 26:6-63(c). It added to existing law only to the extent that it covers omissions to act under the required request law. Thus, for example, a hospital administrator who fails to make the required request imposed by C. 26:6-58.1 is neither civilly nor criminally liable for that failure.

The parallel liability provision in the 1987 Anatomical Gift Act is section 5(f). Section 5(f) provides that "a person who fails to discharge the duties imposed by this section" is protected from criminal and civil liability but may be "subject to appropriate administrative sanctions." The phrase "this section" in the Uniform Law refers to all of section 5, which contains not only the required request provisions of the act, but also the routine inquiry provisions, the provisions imposing a responsibility on various health care and emergency personnel to search for a donor card, and the provisions requiring hospitals to facilitate the implementation of anatomical gifts. Thus, a failure to fulfill any of these affirmative obligations imposed by Section 5 is protected from civil and criminal, but not administrative, sanctions.

The major difference between the Uniform Act and the present New Jersey law on this issue is one of scope, and may have arisen only inadvertently, given the history of the 1985 and 1987 New Jersey enactments. The 1985 routine inquiry law imposed affirmative obligations on hospitals, i.e., the obligation to request information from hospital admittees, and the obligation to make a "good faith effort" to contact donees of anatomical gift upon the death of the donor. The 1985 law did not add any provision limiting liability for failures to act, however. The 1987 required request law imposed additional affirmative obligations on hospitals, i.e., to request next of kin of a decedent to consent to an organ donation and to complete a certificate of organ donation. The 1987 law did, however, add a special provision limiting liability for omissions. The 1987 U.A.G.A. goes further than both these enactments and imposes new affirmative obligations on health care and emergency personnel which have no antecedents in prior New Jersey law. The drafters of the Act saw fit to include a provision insulating such individuals from liability for omissions to act with respect to all of these affirmative obligations.

The New Jersey and 1987 U.A.G.A. liability provisions also differ in that the 1987 New Jersey amendment makes no mention of preserving administrative sanctions for omissions to act. It appears likely, however, that the New Jersey liability limitation provisions would be interpreted not to preclude imposition of administrative sanctions in cases of omissions to act.

The adoption of the 1987 U.A.G.A. in place of the present New Jersey liability provision would accomplish the following: (1) Health care and emergency personnel who fail to carry out any of the affirmative obligations of the U.A.G.A. would be protected from criminal and civil liability; (2) it would be made explicit that such personnel would continue to be liable for administrative sanctions for such failures to meet the affirmative obligations of the Act.

e. Coordination of Procurement and Use

The 1987 New Jersey required request law includes a provision delegating to the Commissioner of Health the obligation to establish a program to "investigate" the "methods used by other states for the acquisition and distributions of human tissues and human organs" as well as reciprocity agreements for such distribution with other states.

L. 1987, c. 244, § 2(a) (C. 26:6-58.2(a)). This section of the 1987 New Jersey required request law also directs the Commissioner of Health to establish a public awareness program concerning "the provisions of this act regarding the acquisition and distribution of human tissue and human organs." An appropriation was provided to implement the provisions of the law. L. 1987, c. 244, §3 (not compiled).

The comparable provision in the 1987 U.A.G.A. is Section 9, which directs hospitals to enter into agreements for the coordination of procurement and use of human bodies and parts. It contains no provision for investigating distribution systems nor does it place responsibility for the implementation of a system of such agreements in any administrative body.

The adoption of the 1987 U.A.G.A. provision concerning procurement and use in place of the 1987 New Jersey required request law would accomplish the following: (1) impose an affirmative obligation on hospitals to enter into agreements to coordinate procurement and use of anatomical gifts; and (2) eliminate the regulatory responsibility for investigating the implementation of a system of procurement and distribution now delegated to the Commissioner of Health; and (3) eliminate the regulatory responsibility for educational programs now delegated to the Commissioner of Health.

f. Disposition of Anatomical Gifts

Section 7(a) was the only section of the 1968 Act U.A.G.A. which was amended when it was adopted in this State. See C. 26:6-63(a). This section deals with acceptance and rejection of anatomical gifts and also makes provision for burial in the case of a gift of an entire body. Section 7(a) as adopted in New Jersey provides as follows, the underlined language having been added: "If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, and after it has served its scientific purposes, provide for its disposal by burial or cremation." Section 8(a) of the 1987 Uniform Anatomical Gift corresponds to Section 7(a) of the 1968 Act; the relevant language is identical. The Legislature may wish to add the same qualifying language to Section 8(a) of the 1987 U.A.G.A. as was added to the 1968 U.A.G.A.

APPENDIX A

The following comparison sets forth on the left side certain provisions of the 1987 U.A.G.A., and on the right side the corresponding provisions of New Jersey law.

1987 UNIFORM ANATOMICAL GIFT ACT PRESENT NEW JERSEY LAW

1987 U.A.G.A., Section 5(a)

C. 26:6-60.1 (L. 1985, c. 284, § 1) and C. 26:6-60.2 (L. 1985, c. 284, § 2)

(a) On or before admission to a hospital, or as soon as possible thereafter, a person designated by the hospital shall ask each patient who is at least 18 years of age: "Are you an organ or tissue donor?" If the answer is affirmative the person shall request a copy of the document of gift. If the answer is negative or there is no answer and the attending physician consents, the person designated shall discuss with the patient the option to make or refuse to make an anatomical gift. The answer to the question, an available copy of any document of gift or refusal to make an anatomical gift, and any other relevant information, must be placed in the patient's medical record.

A hospital shall, if possible, ascertain from a patient upon admission whether or not the patient has made a gift of all or part of the patient's body pursuant to section 4 of P.L. 1969, c. 161 (C.26:6-60), and the donee, if any, to whom the gift has been made.

A hospital shall maintain, as part of a patient's permanent record, the information required under this act and any other pertinent information concerning the anatomical gift which will facilitate the discharge of the patient's wishes in the event of the patient's death. Upon the death of a patient who has made an anatomical gift, a hospital shall make every good faith effort to contact, without delay, the donee, if any, to whom the gift has been made.

1987 UNIFORM ANATOMICAL GIFT ACT PRESENT NEW JERSEY LAW

1987 U.A.G.A., Section 5(b)

C. 26:6-58.1(a) (L.1987, c. 244, § 1(a))

(b) 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 Section 3(a). The request must be made with reasonable discretion and sensitivity to the

circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in Section 6. An entry must be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The Commissioner of Health shall adopt regulations to implement this subsection.

(a) When the decision has been made in a hospital to pronounce the death of a person who, based on accepted medical standards, is a suitable candidate for organ donation, the person in charge of the hospital, or that person's designated representative, other than a person connected with the determination of death, shall make known to 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 specified in paragraph (1),(2),(3),(4),(5) or (6) of this subsection, or when there is any other reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, that the person has the option to consent to the gift of all or any part of the decedent's body for any purpose specified in section 6 of this act:

(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 the decedent's death or, (6) any other person authorized or under the obligation to dispose of the body. Consent or refusal need only be obtained from a person in the highest priority class available.

No corresponding provision

C. 26:6-58.1(b) (L. 1987, c. 244, § 1(b))

(b) The person in charge of the hospital or that person's designated representative shall complete a certificate of organ donation option for an anatomical gift, on a form supplied by the Commissioner of Health. The certificate shall include a statement that the option for consent to an anatomical gift has been made known, and shall further indicate thereupon whether or not consent was granted, the name of the person granting or refusing the consent, and that person's relationship to the decedent. The death certificate required by R.S. 26:6-5.1 shall not be deemed complete unless a completed organ donation option certificate is attached thereto.

1987 U.A.G.A.,Section 5(f)

C. 26:6-58.1(d) (L. 1987, c. 244, § 1(d))

(f) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

(d) A person who acts in good faith in accordance with the provisions of this act is not liable for any damages in any civil action or subject to prosecution in any criminal proceeding for any act or omission of the person.

C. 26:6-58.3 (L. 1987, c. 244, § 3)

No corresponding provision

In accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) the commissioner, in consultation with professionals involved in organ transplants, shall adopt such rules and regulations as are necessary to effectuate the purposes of this section including, but not limited to, regulations concerning the training of hospital employees who may be designated to perform the request, the procedure to be employed in making the request, and where, based on medical criteria, the request would not yield a donation which would be suitable for use, the commissioner may, by regulation, authorize an exception to the request required by this section.

1987 U.A.G.A., Section 9.

C. 26:6-58.2 (L. 1987, c. 244, § 2)

Each hospital in this State, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

The Commissioner of Health shall establish a program to be administered by hospitals and other public and private agencies that are involved in the acquisition and distribution of human tissue and human organs to:

- (a) Increase public awareness of the provisions of this act regarding the acquisition and distribution of human tissue and human organs; and
- (b) Investigate the methods used by other states for the acquisition and distribution of human tissue and human organs, reciprocity agreements established between other states, and the development of similar agreements between New Jersey and other states.

SECTION 8(a)

C. 26:6-63(a)

(a) ... A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services.

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in

funeral services, and after it has served its scientific purposes, provide for its disposal by burial or cremation.

