

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1580

By: David

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6 AS INTRODUCED

7 An Act relating to anatomical gifts; amending 63 O.S.
8 2011, Section 91, which relates to the State
9 Anatomical Board; modifying membership of the State
10 Anatomical Board; modifying duties of Board; creating
11 the Anatomical Donor Program Registration Act;
12 providing short title; requiring the Board to
13 register certain entities; requiring certain entities
14 to register with the Board; requiring the Board to
15 specify certain eligibility requirements; requiring
16 the Board to prescribe certain rules of conduct;
17 providing for certain violations; directing the Board
18 to report certain violations; requiring the Board to
19 keep certain records; authorizing the Board to issue
20 temporary registrations in certain circumstances;
21 permitting the Board to maintain certain office;
22 directing the Board to promulgate certain rules;
23 amending 63 O.S. 2011, Section 2200.2A, which relates
24 to the Oklahoma Uniform Anatomical Gift Act;
modifying definitions; amending 63 O.S. 2011, Section
2200.11A, which relates to purpose of gift;
clarifying language; providing for codification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 91, is
amended to read as follows:

Section 91. A. There is hereby re-created, to continue until
July 1, 2012, in accordance with the provisions of the Oklahoma

1 Sunset Law, an oversight Board to be known as the State Anatomical
2 Board, to be composed of the following members:

3 1. The Deans or their designee of each accredited medical
4 school and osteopathic medical school within the State of Oklahoma,
5 ~~the~~;

6 2. The persons heading the Department of Anatomy, or comparable
7 department, in the medical and osteopathic medical schools or their
8 designee ~~and two (2)~~;

9 3. Two persons appointed jointly by the presidents of
10 institutions of higher education within the state which have
11 educational programs other than medical which require on a regular
12 basis human anatomical materials, provided that these programs have
13 been approved by the State Regents for Higher Education; and

14 4. One at-large member appointed by the Governor to represent
15 the interests of the citizens of this state.

16 B. It shall be the duty of the State Anatomical Board to
17 register all anatomical donor programs and non-transplant tissue
18 banks and to designate agents to provide for the collection,
19 preservation, storage, distribution, delivery, recovery from users,
20 cremation and final disposition of all dead human bodies used for
21 health science education and research in the State of Oklahoma.

22 C. The Board shall elect from its membership a chairperson who
23 shall perform such other duties as the Board may prescribe by rule.
24 The Board shall have full power to establish rules for its

1 government, to appoint and remove officers, and to appoint an
2 executive director who shall keep full and complete minutes of its
3 transactions and manage the affairs of the Board. The expenditures
4 authorized in this section shall not be a charge against the state,
5 but shall be paid by the agent designated by the Board to receive,
6 store, issue, and cremate human anatomical materials. Records shall
7 also be kept by the agent of all bodies received and distributed for
8 the period of time authorized by the Records Disposition Schedule.
9 The name of the oversight Board shall be the State Anatomical Board,
10 hereinafter called the Anatomical Board. The Anatomical Board may,
11 in its discretion, exempt any county, district, or institution from
12 the provisions of this act in any calendar year for any length of
13 time.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 109 of Title 63, unless there is
16 created a duplication in numbering, reads as follows:

17 A. This section shall be known and may be cited as the
18 "Anatomical Donor Program Registration Act".

19 B. The State Anatomical Board shall register all anatomical
20 donor programs and non-transplant tissue banks in the state which
21 meet the requirements of the Anatomical Donor Program Registration
22 Act.

23 C. Before an anatomical donor program or a non-transplant
24 tissue bank may receive whole body or partial body donations from

1 any person or entity inside or outside the state, the anatomical
2 donor program or non-transplant tissue bank shall register with the
3 Board.

4 D. The Board shall specify the eligibility requirements for
5 registration as an anatomical donor program or non-transplant tissue
6 bank which, at a minimum, shall require such entities to be non-
7 profit organizations.

8 E. The Board shall prescribe rules of conduct governing the
9 practice of anatomical donor programs or non-transplant tissue banks
10 registered pursuant to the Anatomical Donor Program Registration
11 Act.

12 F. In order to address persons or entities which violate the
13 provisions of the Anatomical Donor Program Registration Act or any
14 rules promulgated thereto, the Board may:

15 1. Deny the issuance of a registration or suspend, revoke, or
16 refuse to renew the registration of an anatomical donor program or
17 non-transplant tissue bank, provided, however, that the Board may
18 review, affirm, vacate, or modify a determination to deny, suspend,
19 revoke, or refuse registration if the anatomical donor program or
20 non-transplant tissue bank takes corrective actions;

21 2. Establish and administer administrative fines;

22 3. Initiate disciplinary or injunctive proceedings; and
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1 4. Report alleged violations to the Attorney General or a
2 district attorney as appropriate for further investigation or
3 prosecution.

4 G. The Board shall report any violation it observes of the
5 Oklahoma Uniform Anatomical Gift Act to the State Department of
6 Health for further investigation and appropriate action.

7 H. The Board shall keep accurate and complete records of any
8 proceedings initiated under the Anatomical Donor Program
9 Registration Act.

10 I. The Board may issue a temporary registration to an
11 anatomical donor program or non-transplant tissue bank which was
12 previously registered but whose facilities were destroyed or damaged
13 in order that, when appropriate safeguards are in place, the
14 anatomical donor program or non-transplant tissue bank may continue
15 to operate. During the effective period of the temporary
16 registration, the Board may waive certain requirements if the
17 anatomical donor program or non-transplant tissue bank is making a
18 good faith effort to rebuild and restore its operations in order to
19 meet all registration requirements.

20 J. The Board may maintain an office or secure facilities as
21 deemed necessary by the Board in order to implement the Anatomical
22 Donor Program Registration Act.

23 K. The Board shall promulgate rules as necessary to implement
24 the provisions of the Anatomical Donor Program Registration Act.

1 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2200.2A, is
2 amended to read as follows:

3 Section 2200.2A. As used in the Oklahoma Uniform Anatomical
4 Gift Act:

5 1. "Adult" means an individual who is at least eighteen (18)
6 years of age;

7 2. "Agent" means an individual:

8 a. authorized to make health care decisions on the
9 principal's behalf by a power of attorney for health
10 care, or

11 b. expressly authorized to make an anatomical gift on the
12 principal's behalf by any other record signed by the
13 principal;

14 3. "Anatomical donor program" means an entity that is
15 registered with the State Anatomical Board to receive and issue
16 bodies or body parts for education or research;

17 4. "Anatomical gift" means a donation of all or part of a human
18 body to take effect after the donor's death for the purpose of
19 transplantation, therapy, research, or education;

20 ~~4.~~ 5. "Decedent" means a deceased individual whose body or part
21 is or may be the source of an anatomical gift and includes a
22 stillborn infant and, subject to restrictions imposed by any other
23 provisions of law, a fetus;

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1 ~~5.~~ 6. "Disinterested witness" means a witness other than the
2 spouse, child, parent, sibling, grandchild, grandparent, or guardian
3 of the individual who makes, amends, revokes, or refuses to make an
4 anatomical gift, or another adult who exhibited special care and
5 concern for the individual and does not include a person to whom an
6 anatomical gift could pass under Section ~~11 of this act~~ 2200.11A of
7 this title;

8 ~~6.~~ 7. "Document of gift" means a donor card or other record
9 used to make an anatomical gift, including a statement or symbol on
10 a driver license, identification card, or donor registry;

11 ~~7.~~ 8. "Donor" means an individual whose body or part is the
12 subject of an anatomical gift;

13 ~~8.~~ 9. "Donor registry" means a database that contains records
14 of anatomical gifts and amendments to or revocations of anatomical
15 gifts;

16 ~~9.~~ 10. "Driver license" means a license or permit issued by the
17 Department of Public Safety to operate a vehicle, whether or not
18 conditions are attached to the license or permit;

19 ~~10.~~ 11. "Eye bank" means a person that is licensed, accredited,
20 or regulated under federal or state law to engage in the recovery,
21 screening, testing, processing, storage, or distribution of human
22 eyes or portions of human eyes;

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1 ~~11.~~ 12. "Guardian" means a person appointed by a court to make
2 decisions regarding the support, care, education, health, or welfare
3 of an individual and does not include a guardian ad litem;

4 ~~12.~~ 13. "Hospital" means a facility licensed as a hospital
5 under the law of any state or a facility operated as a hospital by
6 the United States, a state, or a subdivision of a state;

7 ~~13.~~ 14. "Identification card" means an identification card
8 issued by the Department of Public Safety;

9 ~~14.~~ 15. "Know" means to have actual knowledge;

10 ~~15.~~ 16. "Minor" means an individual who is under eighteen (18)
11 years of age;

12 ~~16.~~ 17. "Organ procurement organization" means a person
13 designated by the Secretary of the United States Department of
14 Health and Human Services as an organ procurement organization;

15 ~~17.~~ 18. "Non-transplant tissue bank" means an entity that is
16 registered with the State Anatomical Board to engage in the
17 recovery, screening, testing, processing, storage, or distribution
18 of tissue for education and research;

19 19. "Parent" means a parent whose parental rights have not been
20 terminated;

21 ~~18.~~ 20. "Part" means an organ, an eye, or tissue of a human
22 being and does not include the whole body;

23 ~~19.~~ 21. "Person" means an individual, corporation, business
24 trust, estate, trust, partnership, limited liability company,

1 association, joint venture, public corporation, government or
2 governmental subdivision, agency, or instrumentality, or any other
3 legal or commercial entity;

4 ~~20.~~ 22. "Physician" means an individual authorized to practice
5 medicine or osteopathy under the law of any state;

6 ~~21.~~ 23. "Procurement organization" means an eye bank, organ
7 procurement organization, or tissue bank;

8 ~~22.~~ 24. "Prospective donor" means an individual who is dead or
9 near death and who has been determined by a procurement organization
10 to have a part that could be medically suitable for transplantation,
11 therapy, research, or education and does not include an individual
12 who has made a refusal;

13 ~~23.~~ 25. "Reasonably available" means able to be contacted by a
14 procurement organization without undue effort and willing and able
15 to act in a timely manner consistent with existing medical criteria
16 necessary for the making of an anatomical gift;

17 ~~24.~~ 26. "Recipient" means an individual into whose body a
18 decedent's part has been or is intended to be transplanted;

19 ~~25.~~ 27. "Record" means information that is inscribed on a
20 tangible medium or that is stored in an electronic or other medium
21 and is retrievable in perceivable form;

22 ~~26.~~ 28. "Refusal" means a record created under Section ~~7 of~~
23 ~~this act~~ 2200.7A of this title that expressly states an intent to
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1 bar other persons from making an anatomical gift of an individual's
2 body or part;

3 ~~27.~~ 29. "Sign" means, with the present intent to authenticate
4 or adopt a record, to:

5 a. execute or adopt a tangible symbol, or

6 b. attach to or logically associate with the record an
7 electronic symbol, sound, or process;

8 ~~28.~~ 30. "State" means a state of the United States, the
9 District of Columbia, Puerto Rico, the United States Virgin Islands,
10 or any territory or insular possession subject to the jurisdiction
11 of the United States;

12 ~~29.~~ 31. "Technician" means an individual determined to be
13 qualified to remove or process parts by an appropriate organization
14 that is licensed, accredited, or regulated under federal or state
15 law, including an enucleator;

16 ~~30.~~ 32. "Tissue" means a portion of the human body other than
17 an organ or an eye and does not include blood unless the blood is
18 donated for the purpose of research or education;

19 ~~31.~~ 33. "Tissue bank" means a person that is licensed,
20 accredited, or regulated under federal or state law to engage in the
21 recovery, screening, testing, processing, storage, or distribution
22 of tissue; and

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1 ~~32.~~ 34. "Transplant hospital" means a hospital that furnishes
2 organ transplants and other medical and surgical specialty services
3 required for the care of transplant patients.

4 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2200.11A, is
5 amended to read as follows:

6 Section 2200.11A. A. An anatomical gift may be made to the
7 following persons named in the document of gift:

8 1. A hospital; accredited medical school, dental school,
9 college, or university; organ procurement organization; or other
10 appropriate person, for research or education as designated by the
11 State Anatomical Board;

12 2. Subject to subsection B of this section, an individual
13 designated by the person making the anatomical gift if the
14 individual is the recipient of the part; or

15 3. An eye bank or tissue bank.

16 B. If an anatomical gift to an individual under paragraph 2 of
17 subsection A of this section cannot be transplanted into the
18 individual, the part passes in accordance with subsection G of this
19 section in the absence of an express, contrary indication by the
20 person making the anatomical gift.

21 C. If an anatomical gift of one or more specific parts or of
22 all parts is made in a document of gift that does not name a person
23 described in subsection A of this section but identifies the purpose
24 for which an anatomical gift may be used, the following rules apply:

1 1. If the part is an eye and the gift is for the purpose of
2 transplantation or therapy, the gift passes to the appropriate eye
3 bank;

4 2. If the part is tissue and the gift is for the purpose of
5 transplantation or therapy, the gift passes to the appropriate
6 tissue bank;

7 3. If the part is an organ and the gift is for the purpose of
8 transplantation or therapy, the gift passes to the appropriate organ
9 procurement organization as custodian of the organ; and

10 4. If the part is an organ, an eye, or tissue and the gift is
11 for the purpose of research or education, the gift passes to the
12 appropriate ~~procurement organization~~ anatomical donor program or
13 non-transplant tissue bank registered with the State Anatomical
14 Board.

15 D. For the purpose of subsection C of this section, if there is
16 more than one purpose of an anatomical gift set forth in the
17 document of gift but the purposes are not set forth in any priority,
18 the gift must be used for transplantation or therapy, if suitable.
19 If the gift cannot be used for transplantation or therapy, the gift
20 may be used for research or education.

21 E. If an anatomical gift of one or more specific parts is made
22 in a document of gift that does not name a person described in
23 subsection A of this section and does not identify the purpose of
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1 the gift, the gift may be used only for transplantation or therapy,
2 and the gift passes in accordance with subsection G of this section.

3 F. If a document of gift specifies only a general intent to
4 make an anatomical gift by words such as "donor", "organ donor", or
5 "body donor", or by a symbol or statement of similar import, the
6 gift may be used for transplantation, research, or therapy, and the
7 gift passes in accordance with subsection G of this section.

8 G. For purposes of subsections B, E and F of this section, the
9 following rules apply:

10 1. If the part is an eye, the gift passes to the appropriate
11 eye bank;

12 2. If the part is tissue, the gift passes to the appropriate
13 tissue bank; and

14 3. If the part is an organ, the gift passes to the appropriate
15 organ procurement organization as custodian of the organ.

16 H. An anatomical gift of an organ for transplantation or
17 therapy, other than an anatomical gift under paragraph 2 of
18 subsection A of this section, passes to the organ procurement
19 organization as custodian of the organ.

20 I. If an anatomical gift does not pass pursuant to subsections
21 A through H of this section or the decedent's body or part is not
22 used for transplantation, therapy, research, or education, custody
23 of the body or part passes to the person under obligation to dispose
24 of the body or part.

1 J. A person may not accept an anatomical gift if the person
2 knows that the gift was not effectively made under ~~Section 5 or 10~~
3 ~~of this act~~ Sections 2200.5A or 2200.10A of this title or if the
4 person knows that the decedent made a refusal under Section ~~7 of~~
5 ~~this act~~ 2200.7A of this title that was not revoked. For purposes
6 of this subsection, if a person knows that an anatomical gift was
7 made on a document of gift, the person is deemed to know of any
8 amendment or revocation of the gift or any refusal to make an
9 anatomical gift on the same document of gift.

10 K. Except as otherwise provided in paragraph 2 of subsection A
11 of this section, nothing in ~~this act~~ the Oklahoma Uniform Anatomical
12 Gift Act affects the allocation of organs for transplantation or
13 therapy.

14 SECTION 5. This act shall become effective November 1, 2012.

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