WEST VIRGINIA CODE: §16-19-11

§16-19-11. Persons who may receive anatomical gift; purpose of anatomical gift.

(a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) An individual designated by the person making the anatomical gift as the recipient of the part; or

(3) An eye bank or tissue bank.

(b) If an anatomical gift is made to an individual under subdivision (2), subsection (a) of this section and the donated body part cannot be transplanted into the named individual, in the absence of an express, contrary indication by the person making the anatomical gift, the part passes pursuant to subsection (g) of this section;

(c) If a document of gift makes an anatomical gift and identifies the purpose for which the gift may be used but does not designate a person described in subsection (a) of this section to receive the gift, the following rules apply:

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

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

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

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) If the document of gift states more than one purpose of an anatomical gift but does not specify the priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If the document of gift does not identify the purpose of the anatomical gift, the gift may be used only for transplantation or therapy and passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by using

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words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used for transplantation, research or therapy and passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e), and (f) of this section, and anatomical gift passes in the following manner:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

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

(h) An anatomical gift of an organ for transplantation or therapy, other than a gift to an individual described in subdivision (2), subsection (a) of this section, passes to an organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if he or she knows that:

(1) The gift was not effectively made pursuant to this article; or

(2) The decedent made a refusal under section seven of this article that was not revoked.

(k) For purposes of subsection (j), if a person knows that an anatomical gift was made in a document of gift, the person is presumed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift in the same document of gift.

(l) Except as provided in subdivision (2), subsection (a) of this section, nothing in this article affects the allocation of organs for transplantation or therapy.

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