

# WEST VIRGINIA CODE: §16-19-3

## §16-19-3. Definitions.

As used in this article:

"Adult" means an individual who is at least 18 years of age.

"Agent" means an individual:

(1) Authorized by a medical power of attorney to make health care decisions on behalf of a prospective donor; or

(2) Expressly authorized by any other record signed by the donor to make an anatomical gift on his or her behalf.

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

"Authorized person" means a person other than the donor who is authorized to make an anatomical gift of the donor's body or part by §16-19-4 or §16-19-9 of this code.

"Certification of death" means a written pronouncement of death by an attending physician. Certification is required before an attending physician can allow removal of any part from the decedent's body for transplant purposes.

"Decedent" means a deceased individual whose body is or may be the source of an anatomical gift. The term "decedent" includes a stillborn infant and, subject to restrictions imposed by law other than this article, a fetus.

"Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of, or another adult who exhibited special care and concern for, an individual who has made, amended, revoked, or refused to make an anatomical gift. The term "disinterested witness" does not include a person to whom an anatomical gift may pass pursuant to §16-19-11 of this code.

"Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, hunting or fishing license, or donor registry.

"Donor" means an individual whose body or part is the subject of an anatomical gift.

"Donor registry" means a database that contains records of anatomical gifts and amendments to, or revocations, of anatomical gifts.

"Driver's license" means a license or permit issued by the Division of Motor Vehicles to operate a vehicle.

"Eye bank" means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

"Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term "guardian" does not include guardian ad litem.

"Hunting or fishing license" means a license issued by the Division of Natural Resources pursuant to §20-2-1 et seq. of this code, for hunting and fishing in the state of West Virginia.

"Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

"Identification card" means an identification card issued by the Division of Motor Vehicles pursuant to §17B-2-1 of this code.

"Know" means to have actual knowledge. It does not include constructive notice and other forms of imputed knowledge.

"Medical examiner" means an individual appointed pursuant to §61-12-3 et seq. of this code to perform death investigations and to establish the cause and manner of death. The term "medical examiner" includes any person designated by the medical examiner to perform any duties required by this article.

"Minor" means an individual who is under 18 years of age.

"Organ procurement organization" means a nonprofit entity designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization pursuant to 42 U.S.C. §273(b).

"Parent" means another person's natural or adoptive mother or father whose parental rights have not been terminated by a court of law.

"Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Physician" means an individual authorized to practice medicine or osteopathy under the law

of any state.

"Physician assistant" has the meaning provided in §30-3E-1 of this code.

"Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

"Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term "prospective donor" does not include an individual who has made a refusal.

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

"Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Revocation" means the affirmative declaration of the potential donor's withdrawal of their decision to make or not make a document of gift. It does not have the same meaning as a refusal but only establishes that the potential donor chooses not to make an affirmative declaration of their wishes.

"Refusal" means a record created under §16-19-7 of this code that expressly states an individual's intent to bar other persons from making an anatomical gift of his or her body or part.

"Sign" means to execute or adopt a tangible symbol or attach to or logically associate with the record an electronic symbol, sound or process, with the present intent to authenticate or adopt a record.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Surrogate" means an individual 18 years of age or older who is reasonably available, is willing to make health care decisions on behalf of an incapacitated person, possesses the capacity to make health care decisions, and is identified or selected by the attending physician or advanced nurse practitioner in accordance with §16-30-1 et seq. of this code as the person who is to make those decisions in accordance with the provisions of this article.

"Technician" means an individual qualified to remove or process parts by an organization

that is licensed, accredited, or regulated under federal or state law. The term "technician" includes an enucleator, i.e., an individual who removes or processes eyes or parts of eyes.

"Tissue" means a portion of the human body other than an organ or an eye. The term "tissue" does not include blood unless the blood is donated for the purpose of research or education.

"Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

"Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.