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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

SENATE BILL NO. 15

(By Mr. Spears)



PASSED March 2, 1983

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 15
(BY MRS. SPEARS)

[Passed March 2, 1983; in effect ninety days from passage.]

AN ACT to repeal sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three and four, article nineteen, chapter sixteen of said code; and to amend article twenty-six of said chapter eighteen by adding thereto a new section, designated section eight-d, all relating to transferring the powers and duties of the West Virginia anatomical board to the board of regents; authorizing the appointment of a board by the board of regents to perform the duties formerly performed by the West Virginia anatomical board; and specifying offenses and civil and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three and four, article nineteen, chapter sixteen of said code be amended and reenacted; and that said article twenty-six of said chapter eighteen be amended by adding thereto a new section, designated section eight-d, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 19. UNIFORM ANATOMICAL GIFT ACT.

§16-19-3. Persons who may become donees; purposes for which anatomical gifts may be made; compliance with rules and regulations of board.

1. The following persons may become donees of gifts of
2. bodies or parts thereof for the purposes stated:

3 (1) The West Virginia board of regents for the scien-
4 tific purposes of educational institutions for which it may
5 receive or requisition dead bodies; or

6 (2) Any hospital, surgeon or physician, for medical or
7 dental education, research, advancement of medical or
8 dental science, therapy or transplantation; or

9 (3) Any accredited medical or dental school, college
10 or university for education, research, advancement of
11 medical or dental science or therapy; or

12 (4) Any person operating a bank or storage facility
13 for blood, arteries, eyes, pituitaries, or other human parts,
14 for use in medical or dental education, advancement of
15 medical or dental science, research, therapy or trans-
16 plantation to individuals; or

17 (5) Any specified individual for therapy or trans-
18 plantation needed by him.

19 The use, disposition and control of any such donated
20 bodies or parts thereof by any such donee shall be in
21 accordance with rules and regulations prescribed by the
22 West Virginia board of regents.

§16-19-4. Manner of executing anatomical gifts.

1 (a) A gift of all or part of the body under subsection
2 (a), section two of this article may be made by will. The
3 gift becomes effective upon certification of death of the
4 testator without waiting for probate. If the will is not
5 probated, or if it is declared invalid for testamentary
6 purposes, the gift, to the extent that it has been acted
7 upon in good faith, is nevertheless valid and effective.

8 (b) A gift of all or part of the body under subsection
9 (a), section two of this article may also be made by
10 document other than a will. The gift becomes effective
11 upon certification of death of the donor. The document,
12 which may be a card designed to be carried on the
13 person, must be signed by the donor in the presence of
14 two witnesses who must sign the document in his pres-
15 ence. If the donor cannot sign, the document may be
16 signed for him at his direction and in his presence in the
17 presence of two witnesses who must sign the document
18 in his presence. Delivery of the document of gift during

19 the donor's lifetime is not necessary to make the gift
20 valid.

21 (c) The gift may be made to a specified donee or with-
22 out specifying a donee. If the latter, the West Virginia
23 board of regents will be considered to be the donee unless
24 it declines to accept the gift, or unless there is urgent
25 immediate need for a part of the body for transplant or
26 other purposes in which case the gift may be accepted
27 by the attending physician as donee upon or following
28 certification of death. In case the board of regents is
29 considered the donee it shall be the duty of the person
30 who has charge or control of the body, if he or she has
31 knowledge of the gift, to give notice thereof to the board
32 of regents within twenty-four hours after such body
33 comes under his or her control. Thereafter, he or
34 she shall hold the body subject to the order of the
35 board of regents for at least twenty-four hours after
36 the sending of such notice. If the board of regents
37 makes a requisition for the body within the twenty-
38 four-hour period, it shall be delivered, pursuant to the
39 order of the board, to the board or its authorized
40 agent for transportation to an educational institu-
41 tion which the board deems to be in bona fide need
42 thereof and able to adequately control, use and dispose of
43 the body. If the board of regents shall not so act within
44 the twenty-four-hour period, the gift may be accepted by
45 the attending physician as donee upon or following cer-
46 tification of death. If the gift is made to a specified donee
47 who is not available at the time and place of death, the
48 attending physician upon or following certification of
49 death, in the absence of any expressed indication that the
50 donor desired otherwise, may accept the gift as donee.
51 The physician who becomes a donee under this subsec-
52 tion shall not participate in the procedures for removing
53 or transplanting a part, except that this prohibition shall
54 not apply to the removing or transplanting of an eye or
55 eyes.

56 (d) Notwithstanding subsection (b), section seven of
57 this article, the donor may designate in his will, card or
58 other document of gift, the surgeon or physician to carry
59 out the appropriate procedures, or in the case of a gift of

60 an eye or eyes, the surgeon or physician or the technician
61 properly trained in the surgical removal of eyes to carry
62 out the appropriate procedures. In the event of the non-
63 availability of such designee, or in the absence of a
64 designation, the donee or other person authorized to ac-
65 cept the gift may employ or authorize for the purpose
66 any surgeon or physician or in the case of a gift of an eye
67 or eyes, any surgeon or physician or technician properly
68 trained in the surgical removal of eyes or also in case of
69 a gift of an eye or eyes, the donee or other person au-
70 thorized to accept the gift may employ or authorize a
71 licensed funeral director or embalmer licensed pursuant
72 to article six, chapter thirty of this code who has suc-
73 cessfully completed a course in enucleation approved by
74 the medical licensing board of West Virginia to enucleate
75 the eye or eyes for the gift after certification of death by
76 a physician. The qualified funeral director or embalmer
77 shall properly care for the enucleated eye or eyes and
78 promptly deliver the eye or eyes to the donee or other
79 person authorized to accept the gift. A qualified funeral
80 director or embalmer acting in accordance with the terms
81 of this subsection shall not be liable, civilly or criminally
82 for the eye enucleation.

83 (e) Any gift by a person designated in subsection (b),
84 section two of this article shall be made by a document
85 signed by him or made by his telegraphic, recorded tele-
86 phonic or other recorded message.

87 (f) No particular words shall be necessary for donation
88 of all or part of a body, but the following words, in
89 substance, properly signed and witnessed, shall be legally
90 valid for donations made pursuant to subsection (b) of
91 this section:

92 "UNIFORM DONOR CARD

93 of

94 _____
95 Print or type name of donor

96 In the hope that I may help others, I hereby make this
97 anatomical gift, if medically acceptable, to take effect
98 upon certification of my death. The words and marks
99 below indicate my desires.

100 I give: (a)any needed organs or parts;
 101 (b)only the following organs or parts

102 _____
 103 Specify the organ(s) or part(s)

104 for the purposes of transplantation, therapy, medical
 105 research or education;

106 (c)my body for anatomical study if needed.

107 Limitation or special wishes, if any: _____

108 Signed by the donor and the following two witnesses in
 109 the presence of each other:

110 _____	_____
111 Signature of Donor	Date of Birth of Donor

112 _____	_____
113 Date Signed	City and State

114 _____	_____
115 Witness	Witness

116 This is a legal document under the Uniform Anatomical
 117 Gift Act or similar laws.”

CHAPTER 18. EDUCATION.

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-8d. Powers and duties relating to anatomical gifts;
 requisition of body; autopsies; transportation of
 bodies; expenses of preservation; bond required;
 offenses and penalties.

1 (a) The board of regents may appoint one dean of a
 2 school of medicine, one dean of a school of dentistry and
 3 two chairmen of departments of anatomy of schools of
 4 medicine, all of whom shall constitute a board for
 5 the purpose of performing the duties of the board, which
 6 is hereby abolished, formerly known as the “West Vir-
 7 ginia Anatomical Board.” This new board shall be known
 8 as the “Board of Regents Anatomical Board,” and shall
 9 hereinafter be referred to as the “board” for the purposes
 10 of this section. No more than one member of this board
 11 shall be from the same school. The board shall be respon-
 12 sible for making requisition for, receiving, and making
 13 disposition of the dead human bodies for the scientific
 14 uses and purposes of reputable educational institutions,

15 within the state and elsewhere, having medical, osteop-
16 athy, dentistry or nursing schools. The board shall have
17 full power to establish rules and regulations for its own
18 government, and for the requisition, use disposition and
19 control of such bodies as may come under its authority
20 by way of gift, pursuant to this article or pursuant to
21 section four, article nineteen, chapter sixteen of this code.
22 The board shall have authority to appoint such officers,
23 employees, and agents as may be necessary to carry out
24 the purposes for which the board is organized. It shall
25 keep a full and complete record of its transactions, show-
26 ing, among other things, every dead human body coming
27 under its authority, giving name, sex, age, date of death,
28 place from which received, when and from whom re-
29 ceived, which record shall be open at all times to the in-
30 spection of the attorney general and any prosecuting
31 attorney in the state.

32 If the board of regents does not appoint a "board
33 of regents anatomical board" as herein authorized,
34 then the board of regents itself shall perform
35 the duties of the anatomical board as set forth
36 herein.

37 (b) All dead human bodies which may come under the
38 charge or control of any mortician, any officer or agent of
39 the department of welfare or of any county commission
40 or municipality, or any superintendent, officer or agent
41 having the supervision of any prison, morgue, hospital,
42 or other public institution in this state, and which may
43 be required to be buried at public expense, shall be sub-
44 ject to the requisition of the board as provided in this
45 section. No such body shall be delivered to the board if
46 any person related to the deceased by blood or marriage
47 shall make a statement in writing to that effect, and shall
48 claim such body for burial, or shall make affidavit that he
49 is unable to bear the expense of burial and desires that
50 the deceased be buried at public expense. This statement
51 and affidavit may be filed by any such relative with the
52 person having charge and control of the body of the
53 person so claimed, either before or after the death of
54 such person.

55 No autopsy shall be performed on any unclaimed body
56 without the written permission of the board, except upon
57 the proper order of a duly authorized law-enforcement
58 officer.

59 (c) It shall be the duty of any person who has charge
60 or control of any unclaimed body, subject to requisition
61 by the board, to give notice to the board of that fact by
62 telephone or telegraph within twenty-four hours after such
63 body comes under his control. Thereafter he shall hold the
64 body subject to the order of the board for at least twenty-
65 four hours after the sending of such notice. If
66 the board makes requisition for the body within
67 the twenty-four-hour period, it shall be delivered,
68 pursuant to the order of the board, to the board
69 or its authorized agent for transportation to any
70 educational institution described in section twelve
71 of this article which the board deems to be in bona fide
72 need thereof and able to adequately control, use and dis-
73 pose of the body.

74 (d) The board shall make suitable arrangements
75 for the transportation of any body, or part or
76 parts thereof, which may come under its authority
77 to any educational institution as described in sub-
78 section (c).

79 (e) All expenses incurred in connection with the
80 preservation, delivery and transportation of any such
81 body delivered pursuant to the order of the board shall be
82 paid by the educational institution receiving the body.

83 (f) No dead body shall be received or requisitioned by
84 the board until the members of the board have filed a
85 bond with the clerk of the circuit court of Kanawha
86 County in a penalty of one thousand dollars, with good
87 security, signed by a responsible person or persons, or by
88 some surety company authorized to do business in this
89 state, or have proved to such clerk that they are covered
90 by a suitable bond in at least that amount, conditioned
91 for the faithful performance of their duties.

92 (g) Any person who shall neglect, refuse, or fail to
93 perform any duty required of him by this section relating
94 to the board shall be guilty of a misdemeanor, and, upon

95 conviction thereof, shall be punished by a fine of not more
96 than one hundred dollars or by imprisonment in the
97 county jail for not more than ten days, or by both such
98 fine and imprisonment. Any person who fails to give the
99 required notice that he has charge of an unclaimed body,
100 subject to requisition by the board, shall also be person-
101 ally liable for all burial expenses, if such body was
102 buried at public expense, to the public agency that paid
103 for the burial.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

James C. [unclear]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

Donald L. [unclear]
Clerk of the House of Delegates

Walter R. McAnaw
President of the Senate

[unclear]
Speaker House of Delegates

The within is approved this the 17
day of March, 1983.

[Signature]
Governor

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