WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

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ENROLLED
SENATE BILL NO. 15

(By Mr. ................. Spears .................)

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PASSED ................ March 2, 1983
In Effect sixty days from Passage

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-17-83

RECEIVED
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OFFICE OF THE GOVERNOR
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article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three and four, article nineteen, chapter sixteen of said code be amended and reenacted; and that said article twenty-six of said chapter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 bodies or parts thereof for the purposes stated:
(1) The West Virginia board of regents for the scientific purposes of educational institutions for which it may receive or requisition dead bodies; or

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

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

(4) Any person operating a bank or storage facility for blood, arteries, eyes, pituitaries, or other human parts, for use in medical or dental education, advancement of medical or dental science, research, therapy or transplantation to individuals; or

(5) Any specified individual for therapy or transplantation needed by him.

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


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

(b) A gift of all or part of the body under subsection (a), section two of this article may also be made by document other than a will. The gift becomes effective upon certification of death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during
the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the West Virginia board of regents will be considered to be the donee unless it declines to accept the gift, or unless there is urgent immediate need for a part of the body for transplant or other purposes in which case the gift may be accepted by the attending physician as donee upon or following certification of death. In case the board of regents is considered the donee it shall be the duty of the person who has charge or control of the body, if he or she has knowledge of the gift, to give notice thereof to the board of regents within twenty-four hours after such body comes under his or her control. Thereafter, he or she shall hold the body subject to the order of the board of regents for at least twenty-four hours after the sending of such notice. If the board of regents makes a requisition for the body within the twenty-four-hour period, it shall be delivered, pursuant to the order of the board, to the board or its authorized agent for transportation to an educational institution which the board deems to be in bona fide need thereof and able to adequately control, use and dispose of the body. If the board of regents shall not so act within the twenty-four-hour period, the gift may be accepted by the attending physician as donee upon or following certification of death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following certification of death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part, except that this prohibition shall not apply to the removing or transplanting of an eye or eyes.

(d) Notwithstanding subsection (b), section seven of this article, the donor may designate in his will, card or other document of gift, the surgeon or physician to carry out the appropriate procedures, or in the case of a gift of
an eye or eyes, the surgeon or physician or the technician properly trained in the surgical removal of eyes to carry out the appropriate procedures. In the event of the non-availability of such designee, or in the absence of a designation, the donee or other person authorized to accept the gift may employ or authorize for the purpose any surgeon or physician or in the case of a gift of an eye or eyes, any surgeon or physician or technician properly trained in the surgical removal of eyes or also in case of a gift of an eye or eyes, the donee or other person authorized to accept the gift may employ or authorize a licensed funeral director or embalmer licensed pursuant to article six, chapter thirty of this code who has successfully completed a course in enucleation approved by the medical licensing board of West Virginia to enucleate the eye or eyes for the gift after certification of death by a physician. The qualified funeral director or embalmer shall properly care for the enucleated eye or eyes and promptly deliver the eye or eyes to the donee or other person authorized to accept the gift. A qualified funeral director or embalmer acting in accordance with the terms of this subsection shall not be liable, civilly or criminally for the eye enucleation.

(e) Any gift by a person designated in subsection (b), section two of this article shall be made by a document signed by him or made by his telegraphic, recorded telephonic or other recorded message.

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

"UNIFORM DONOR CARD

of

Print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon certification of my death. The words and marks below indicate my desires.
I give: (a) any needed organs or parts;
(b) only the following organs or parts

Specify the organ(s) or part(s) for the purposes of transplantation, therapy, medical research or education;
(c) my body for anatomical study if needed.

Limitation or special wishes, if any:

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

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<tr>
<th>Signature of Donor</th>
<th>Date of Birth of Donor</th>
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<tr>
<th>Date Signed</th>
<th>City and State</th>
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<th>Witness</th>
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This is a legal document under the Uniform Anatomical 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.

(a) The board of regents may appoint one dean of a school of medicine, one dean of a school of dentistry and two chairmen of departments of anatomy of schools of medicine, all of whom shall constitute a board for the purpose of performing the duties of the board, which is hereby abolished, formerly known as the "West Virginia Anatomical Board." This new board shall be known as the "Board of Regents Anatomical Board," and shall hereinafter be referred to as the "board" for the purposes of this section. No more than one member of this board shall be from the same school. The board shall be responsible for making requisition for, receiving, and making disposition of the dead human bodies for the scientific uses and purposes of reputable educational institutions,
within the state and elsewhere, having medical, osteopathy, dentistry or nursing schools. The board shall have full power to establish rules and regulations for its own government, and for the requisition, use disposition and control of such bodies as may come under its authority by way of gift, pursuant to this article or pursuant to section four, article nineteen, chapter sixteen of this code. The board shall have authority to appoint such officers, employees, and agents as may be necessary to carry out the purposes for which the board is organized. It shall keep a full and complete record of its transactions, showing, among other things, every dead human body coming under its authority, giving name, sex, age, date of death, place from which received, when and from whom received, which record shall be open at all times to the inspection of the attorney general and any prosecuting attorney in the state.

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

(b) All dead human bodies which may come under the charge or control of any mortician, any officer or agent of the department of welfare or of any county commission or municipality, or any superintendent, officer or agent having the supervision of any prison, morgue, hospital, or other public institution in this state, and which may be required to be buried at public expense, shall be subject to the requisition of the board as provided in this section. No such body shall be delivered to the board if any person related to the deceased by blood or marriage shall make a statement in writing to that effect, and shall claim such body for burial, or shall make affidavit that he is unable to bear the expense of burial and desires that the deceased be buried at public expense. This statement and affidavit may be filed by any such relative with the person having charge and control of the body of the person so claimed, either before or after the death of such person.
No autopsy shall be performed on any unclaimed body without the written permission of the board, except upon the proper order of a duly authorized law-enforcement officer.

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

(d) The board shall make suitable arrangements for the transportation of any body, or part or parts thereof, which may come under its authority to any educational institution as described in subsection (c).

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

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

(g) Any person who shall neglect, refuse, or fail to perform any duty required of him by this section relating to the board shall be guilty of a misdemeanor, and, upon
conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. Any person who fails to give the required notice that he has charge of an unclaimed body, subject to requisition by the board, shall also be personally liable for all burial expenses, if such body was buried at public expense, to the public agency that paid 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 E. Gentry
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. D. Willis
Clerk of the Senate

David L. Foy
Clerk of the House of Delegates

Walter K. McAlile
President of the Senate

W. M. Lee, Jr.
Speaker House of Delegates

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

James D. Robb
Governor