

OKLAHOMA UNIFORM ANATOMICAL GIFT ACT
TITLE 63 OF THE OKLAHOMA STATUTES
As Amended Through 2001

§63-2201. Citation.

This act shall be known and may be cited as the Uniform Anatomical Gift Act.
Amended by Laws 1989, c. 163, § 3, emerg. eff. May 8, 1989.

§63-2202. Definitions.

1. "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;
2. "Decedent" means a deceased individual and includes a stillborn infant or fetus;
3. "Donor" means an individual who makes a gift of all or part of his body;
4. "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; including a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws;
5. "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body;
6. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
7. "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state;
8. "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America;
9. "Designated organ procurement organization" means an organization that is designated by the United States Department of Health and Human Services, or its successor, to perform or coordinate the surgical recovery, preservation, and transportation of organs and that allocates organs to prospective recipients;
10. "Reciprocal agreement" means an agreement to return to the recipient pool in Oklahoma an organ that is deemed locally acceptable for transplantation; and
11. "Vascular organ" means the heart, lungs, kidneys, liver, pancreas, or any other organ that requires continuous circulation of blood to remain useful for transplantation purposes. As used in Section 2 of this act, the term "vascular organ" does not include human tissue, bones, or corneas.

Added by Laws 1969, c. 13, § 2. Amended by Laws 1998, c. 112, § 1, emerg. eff. April 13, 1998.

§63-2203. Persons who may execute an anatomical gift

1. Any adult of sound mind may give all or any part of his body for any purpose specified in Section 2204 of this title, the gift to take effect upon death.
2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in Section 2204 of this title:
 - a. the spouse,
 - b. an adult son or daughter,
 - c. either parent,
 - d. an adult brother or sister,

e. a guardian of the person of the decedent at the time of his death, or
f. any other person authorized or under obligation to dispose of the body.

3. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection 2 may make the gift after or immediately before the decedent's death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

5. The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 2208(d) of this title.

Laws 1969, c. 13, Section 3; Laws 1976, Chapter 126, Section 8. Emerg. eff. May 18, 1976.

Laws 1969, c. 13, § 3; Laws 1976, c. 126, § 8, emerg. eff. May 18, 1976.

§63-2204. Persons who may become donees - Purposes for which anatomical gifts may be made - Anatomical Board approval to donees.

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

1. Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;
2. Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy;
3. The designated Oklahoma organ procurement organization;
4. Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;
5. Any specified individual for therapy or transplantation needed by him; or
6. The Anatomical Board of the State of Oklahoma.

B. Any donee receiving a whole body donation from any source shall have approval from the Anatomical Board of the State of Oklahoma prior to receiving such donation.

1. Subject to the provisions of paragraph 2 of this subsection, if, in the judgment of the designated Oklahoma organ procurement organization, it is appropriate to allocate a vascular organ to a patient awaiting transplantation outside of the State of Oklahoma, that the organization shall have the authority to enter into such vascular organ sharing arrangements as may be deemed advisable, necessary or expedient. The terms of such vascular organ sharing agreement shall provide that a vascular organ recovered in Oklahoma shall not be transferred to an out-of-state organ procurement organization and transplanted there into a suitable recipient before such vascular organ is offered and placed into a suitable recipient located in Oklahoma, unless there is a reciprocal agreement by which the recipient pool of patients awaiting transplantation in Oklahoma receive an organ deemed locally acceptable for transplantation in return for the organ sent out of the state.

2. The designated Oklahoma organ procurement organization may only transfer a vascular organ to an out-of-state organ procurement organization or suitable out-of-state recipient for transplantation if one of the following requirements is met:

- a. a suitable recipient in the State of Oklahoma is not known to the designated Oklahoma organ procurement organization within the amount of time necessary to preserve the organ, or
- b. the designated Oklahoma organ procurement organization has a reciprocal agreement as provided by paragraph 1 of this subsection.

Added by Laws 1969, c. 13, § 4. Amended by Laws 1976, c. 126, § 9, emerg. eff. May 18, 1976; Laws 1998, c. 112, § 2, emerg. eff. April 13, 1998.

§63-2205. Manner of executing anatomical gifts.

(a) a gift of all or part of the body under Section 3(a) may be made by will. The gift becomes effective upon the 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 Section 3(a) may also be made by document other than a will. The gift becomes effective upon the 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 gift may be accepted by the attending physician as donee upon or following 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 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.

(d) Notwithstanding Section 8(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 3(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message. Laws 1969 C. 13, Sec. 5.

Laws 1969, c. 13, § 5.

§63-2206. Delivery of document of gift.

If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

Laws 1969 C. 13, Sec. 6.

Laws 1969, c. 13, § 6.

§63-2207. Revocation or amendment of gift.

(a) If the will, card, or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) the execution and delivery to the donee of a signed statement,
- (2) an oral statement made in the presence of two persons and communicated to the donee,

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or

(4) a signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) or by destruction, cancellation, or mutilation of the original document.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

Laws 1969 C. 13, Sec. 7.

Laws 1969, c. 13, § 7.

§63-2208. Rights and duties at death.

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the decedent and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this Act or the anatomical gift laws of another state or of a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Act are subject to the laws of this state prescribing powers and duties with respect to autopsies. Laws 1969 C. 13, Sec. 8.

Laws 1969, c. 13, § 8.

§63-2209. Uniformity of interpretation.

This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Laws 1969, c. 13, § 9.

§63-2209.1. Permits - Rules.

A. On or after November 1, 1999, no person, corporation, partnership, association or other legal entity shall establish, operate or maintain a tissue bank that procures bone, skin, or connective tissue unless that entity has been issued a permit by the State Department of Health.

B. The State Board of Health shall promulgate rules necessary to implement the provisions of this section which shall include, but not be limited to:

1. Requirements for the tissue banks to submit an initial permit application that identifies the proposed service area, the tissue transplantation patient needs in the service area, the probable impact of the establishment and operation of the entity on other tissue banks currently servicing the area, and whether the tissue bank is a for profit or not for profit entity;

2. A requirement that tissue banks, within one (1) year after receipt of a permit, be accredited by the American Association of Tissue Banks or another nationally recognized accreditation organization for tissue agencies;

3. Provisions that all tissue banks employ a procurement technician or other technical operations personnel certified as a Certified Tissue Bank Specialist by the American Association of Tissue Banks or another nationally recognized accreditation or certification organization for tissue agencies and personnel;

4. A requirement that each tissue bank maintain compliance with federal Food and Drug Administration regulations;

5. A provision that each tissue bank have a medical director who is a physician licensed to practice medicine in this state;

6. Requirements for tissue banks to give priority in tissue distribution to the Oklahoma medical community and Oklahoma patients; and

7. A requirement that each tissue bank submit an annual report to the Department which shall provide the accreditation status of the entity, report of regulatory or internal inspections that affect quality, the certification status of personnel employed by the tissue agency, identity and qualification of the current medical director, type and geographic origins of donor tissue obtained, and units of processed tissue used for patients in the service area of the tissue bank.

C. A permit application or renewal thereof, shall be accompanied by a non-refundable fee established by the Board of Health not to exceed One Thousand Dollars (\$1,000.00).

D. Upon receipt of a complete initial permit application, the Department shall cause a public notice of the proposed tissue bank to be published in a newspaper with the greatest circulation. The Department shall also provide written notice of the permit application to existing tissue banks in the state. Any person or organization may submit written comments regarding the proposed tissue bank to the Department.

E. The Department shall issue or deny an initial permit within seventy-five (75) days after publication of the notice. All permits shall be issued for a period not to exceed thirty-six (36) months and shall automatically expire unless renewed.

F. The Department may deny, revoke, suspend or not renew a permit for failure of a tissue bank to comply with the provisions of this section or rules promulgated pursuant thereto. Any tissue bank that has been determined by the Department to have violated any provision of this section or rule promulgated pursuant thereto, is liable for an administrative penalty of no more than One Hundred Dollars (\$100.00) for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

G. The issuance, denial, suspension, non-renewal or revocation of a permit may be appealed under the provisions of Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

H. The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain any entity from providing tissue bank services without a valid permit. Said court shall have jurisdiction to determine said action, and to grant the necessary appropriate relief, including but not limited to, mandatory or prohibitive injunctive relief or interim equitable relief.

Added by Laws 1999, c. 278, § 4, eff. July 1, 1999. Amended by Laws 2001, c. 353, § 5, eff. Nov. 1, 2001.

§63-2210. Eye enucleation - Eye Banks.

A. 1. With respect to a gift of an eye as provided for in this chapter, a licensed embalmer, as defined by the Funeral Services Licensing Act, Section 396 et seq. of Title 59 of the Oklahoma Statutes, or other persons who have successfully completed a course in eye enucleation in the State of Oklahoma or elsewhere and have received a certificate of competence from the Eye Bank Association of America, may enucleate eyes for such gift after proper certification of death by a physician and compliance with the extent of such gift as required by the Uniform Anatomical Gift Act, Section 2201 et seq. of this title.

2. No such properly certified embalmer or other person acting in accordance with the terms of this chapter shall have any liability, civil or criminal, for such eye enucleation.

B. No eye bank shall operate in Oklahoma unless the eye bank:

1. Within one (1) year after beginning operation, is accredited by the Eye Bank Association of America or other nationally recognized accrediting association for eye banks;

2. Employs an eye bank technician certified by the Eye Bank Association of America or other nationally recognized accrediting or certifying association for eye banks;

3. Has as its medical director a board-certified ophthalmic surgeon licensed to practice in this state; and

4. Gives priority to the needs of patients being treated in Oklahoma.

C. Before developing a new eye bank, the person proposing to operate the eye bank shall apply to the State Commissioner of Health for a permit. The permit application shall be in such form as the Commissioner shall prescribe and shall include a demonstration of the eye bank's probable impact on existing eye banks serving the area where the new eye bank is to be located. The permit application shall be accompanied by a filing fee equal to one quarter of one percent (.25%) of the capital cost of the proposed eye bank, with a minimum fee of Five Hundred Dollars (\$500.00).

D. Upon receipt of a completed permit application, the Commissioner shall cause public notice to be published in a newspaper of general circulation in the area where the eye bank is to be located and in a newspaper of general circulation in the area where the application is available for inspection. Any person may submit written comments regarding the proposed eye bank to the Commissioner.

E. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the notice. A permit shall expire thirty-six (36) months from the date of issue. If construction is not completed on or before the permit's expiration date, the permit shall be null and void.

F. Any issuance or denial of a permit may be appealed under Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

G. Each eye bank operating in this state shall report annually to the Commissioner on a form prescribed by the Commissioner. The form shall include information on the following:

1. The accreditation status of the eye bank;
2. The certification status of the eye bank technician;
3. The identity and qualifications of the medical director;
4. The numbers and geographic origins of donor corneas and whole eyes; and
5. The numbers and geographic destinations of corneas and other parts of

eyes.

Added by Laws 1971, c. 147, § 1, emerg. eff. May 21, 1971, Amended by Laws 1978, c. 137, § 1; Laws 1997, c. 281, § 3, eff. July 1, 1997.

§63-2210.1. Removal and release of corneal eye tissue during autopsy - Conditions - Liability.

A. Notwithstanding any other provision of law, the Chief Medical Examiner, any County Medical Examiner, or any other person authorized by law to conduct an autopsy may, in the course of an autopsy, remove and release or authorize the removal or release of corneal eye tissue from a body within the custody of such person, if all the following conditions are met:

1. The autopsy is authorized by law;

2. The person performing the autopsy has made a reasonable attempt to contact the next of kin and has no knowledge of any objection to the removal or release of corneal tissue having been made by the decedent, or the next of kin of the decedent; provided, as used in this paragraph, "reasonable attempt" means reaching or attempting to reach the next of kin by telephone and documenting such in the records of the autopsy;

3. The removal or release of such tissue will not interfere with the autopsy;

4. The tissue will be removed by a person qualified under, and as specified by, Section 2210 of Title 63 of the Oklahoma Statutes; and

5. The tissue will be released to a public or nonprofit facility for transplant, therapeutic or scientific purposes.

B. Under such circumstances, neither the person removing or releasing the corneal tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order or direction of such person in the removal or release of the corneal tissue pursuant to this section, shall incur civil liability for such removal or release in an action brought by any person who did not object prior to the removal or release of the corneal tissue, or be subject to criminal prosecution for the removal or release of such corneal tissue pursuant to the provisions of this section.

Added by Laws 1991, c. 76, § 1. Amended by Laws 1997, c. 281, § 4, eff. July 1, 1997.

§63-2211. Donor notation on driver's license.

In order to provide an expeditious procedure for a person to make a gift of all or part of his body pursuant to the provisions of the Uniform Anatomical Gift Act, the Department of Public Safety and all motor license agents shall make space available on the front side of the driver's license and the identification license for an organ donor notation. The donor notation shall identify the licensee or cardholder as a donor of specified body organs or of his entire body or parts of said body for the purposes of transplantation, therapy, medical research, or education pursuant to the provisions of the Uniform Anatomical Gift Act.

Added by Laws 1983, c. 173, § 1, eff. Jan. 1, 1984. Amended by Laws 1987, c. 2, § 1, eff. Nov. 1, 1987; Laws 1992, c. 217, § 18, eff. July 1, 1992.

§63-2212. Removal of organs - Consent - Legislative intent.

In any death that the Office of the Chief Medical Examiner of the State of Oklahoma is required by law to investigate, a medical examiner may authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title. It is the intent of the Oklahoma Legislature that, if the removal of an organ or organs for transplant will not interfere with the subsequent course of an investigation or autopsy, and if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title, the Chief Medical Examiner, county medical examiner or any person authorized by law to conduct an autopsy shall authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act. In such cases where the deceased has an organ donor card, the consent from next of kin shall not be required.

Added by Laws 1983, c. 173, § 2, eff. Jan. 1, 1984. Amended by Laws 1991, c. 187, § 1, eff. July 1, 1991.

§63-2213. Accidental deaths, homicides and suicides - Organ donors.

Law enforcement and medical personnel involved with the investigation of accidental deaths, homicides, and suicides shall make reasonable efforts to ascertain if the victims are organ donors and, if so, to pass that information on to the proper officials. Said law enforcement and medical personnel shall not be subject to criminal or civil liability for complying with the provisions of this section.

Added by Laws 1983, c. 173, § 3, eff. Jan. 1, 1984.

§63-2214. Request for consent to anatomical gift.

A. When death occurs in a general hospital as defined by Section 1-701 of Title 63 of the Oklahoma Statutes, to a person determined to be a suitable candidate for organ or tissue donation based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described in paragraph 2 of Section 2203 of Title 63 of the Oklahoma Statutes to consent to the gift of any part of the body of the decedent as an anatomical gift.

B. No request shall be required, pursuant to this section, when the hospital administrator or designated representative has actual notice of contrary intention by the decedent or those persons described in paragraph 2 of Section 2203 of Title 63 of the Oklahoma Statutes according to the order of priority stated therein, or reason to believe that an anatomical gift is contrary to the religious beliefs of the decedent.

C. Upon consent of the appropriate person specified in paragraph 2 of Section 2203 of Title 63 of the Oklahoma Statutes, the hospital administrator or designated representative shall notify an appropriate organ or tissue bank, or retrieval organization and cooperate in the procurement of the anatomical gift pursuant to the Uniform Anatomical Gift Act.

D. The person consenting to the request for the anatomical gift may give such consent in person or by telephone, telegraph or other appropriate means pursuant to procedures established by rules and regulations of the State Board of Health.

Added by Laws 1987, c. 143, § 1, eff. Nov. 1, 1987.

§63-2215. Certificate of request for anatomical gift.

A. When a request is made, pursuant to Section 1 of this act, the person making the request shall complete a certificate of request for an anatomical gift, on a form to be supplied by the State Board of Health. The certificate shall include the following: 1. A statement indicating that a request for an anatomical gift was made;

2. The name and affiliation of the person making the request;

3. An indication of whether consent was granted and, if so, what organs and tissues were donated;

4. The name of the person granting or refusing the request, and his relationship to the decedent; and

5. Whether the consent was given in person, by telephone, telegraph or other appropriate means.

B. A copy of the certificate required by subsection A of this section shall be included in the medical records of the decedent.

Added by Laws 1987, c. 143, § 2, eff. Nov. 1, 1987.

§63-2216. Rules and regulations.

A. The State Board of Health shall promulgate rules and regulations, concerning but not limited to:

1. The training and qualification of hospital personnel or designated representatives who perform the request; and

2. The procedures to be employed in making the request.

B. The State Board of Health shall promulgate such rules and regulations as are necessary to implement appropriate procedures to facilitate proper coordination among hospitals, organ and tissue banks and retrieval organizations.

Added by Laws 1987, c. 143, § 3, eff. Nov. 1, 1987.

§63-2217. Civil liability - Limitations.

No additional civil liability shall be created as a result of the duties imposed by this act.

Added by Laws 1987, c. 143, § 4, eff. Nov. 1, 1987.

§63-2218. Exemptions.

All hospitals with a capacity of fewer than fifty (50) beds shall be exempt from the mandatory provisions of this act, but may elect to voluntarily comply with the provisions of this act and the rules and regulations promulgated by the State Board of Health, and to participate in any training program established or required by the State Board of Health.

Added by Laws 1987, c. 143, § 5, eff. Nov. 1, 1987.