

## ORGAN DONATIONS

**House Bill 4125 and 4126**  
**Sponsor: Rep. Michael C. Murphy**  
**Committee: Health Policy**

**Complete to 3-17-03**

### A SUMMARY OF HOUSE BILLS 4125 AND 4126 AS INTRODUCED 1-30-03

The bills would amend the Public Health Code and the Estates and Protected Individuals Code to add patient advocates to the list of those authorized to make organ donations on behalf of deceased individuals. House Bill 4125 would also add driver's licenses and state identification cards to the list of allowable "documents of gift."

House Bill 4125 would amend the Public Health Code (MCL 333.10102 and 333.10104) to add patient advocates to the prioritized list of people allowed to donate by proxy the cadavers or parts of cadavers of people who during their lifetime had not indicated in their wills or by means of donor cards their intent to donate their bodies after death for medical or scientific purposes. The bill also would add driver's or chauffeur's licenses and state personal identification cards--in addition to wills and donor cards, which are currently included--to the list of acceptable "documents of gift" of an individual's body or body parts.

Proxy donations: prioritized list. The health code currently allows individuals "of sound mind and 18 years of age or more" to give all or any part of their bodies for a variety of purposes specified in the code--including medical or dental education, research, or therapy--with the gift to take effect upon death. The health code also lists other people who can donate (in descending order of priority and when people in prior classes are not available at the time of death) a dead person's body or parts (after or immediately before death), if that person had not indicated an objection to such a donation while he or she was still alive, and if none of the people in the same or earlier category on the list object. Currently, the list names the following people in the following order who can act as proxy donors:

- the dead person's spouse,
- (his or her) adult son or daughter,
- either parent,
- an adult brother or sister,
- a guardian at the time of the person's death, or
- any other person authorized or under obligation to dispose of the body.

The bill would amend this section of the code to give a patient advocate priority over all persons on the list except for the dead person's spouse. The bill would do this by adding to the prioritized list, between "spouse" and "adult son or daughter", a patient advocate designated under the Estates and Protected Individuals Code who was authorized to make such a gift.

The bill also would amend this section of the health code to specify that individuals authorized to make a gift of a dead person's body or parts could do so only if each of three conditions was met: (1) an individual with higher priority on the list was not available or was not capable of making the decision at the time of the decedent's death; (2) the individual making the gift had not received actual notice that the dead person had expressed an unwillingness to make the gift; and (3) the individual making the gift had not received actual notice that someone having equal or higher priority on the list opposed the making of the gift. Also, the bill would explicitly state that a gift made by someone on the list of authorized individuals would not be revocable by someone having a lower priority on the list. Finally, the bill would permit a gift by a proxy donor to be made by electronic message; currently such gifts must be made either by signing a document or by a telegraphic, a recorded telephonic, or another recorded message.

Direct donation: "document of gift." Currently, the code allows people during their lifetime to donate all or a part of their bodies when they die, either through their wills or by means of a "uniform donor card" that has been signed by the donor--or, if he or she can't sign, then at his or her direction--in the presence of two witnesses, who also must sign the card in the donor's presence. The health code specifies a form for a uniform donor card and does not require that a donor card be delivered during the donor's lifetime to make the gift valid.

The bill would amend this section of the health code to add to the allowable "documents of gift" both a personal identification card and a motor vehicle operator's (or chauffeur's) license issued to the donor by the secretary of state that contained a statement that the card or license holder was an organ and tissue donor, along with the holder's signature and that of at least one witness. If a donor did not specify a gift of his or her entire body on his or her state personal identification card or state driver's or chauffeur's license, then the "gift" would be limited to parts of the donor's body and would not include the donor's entire body. A donor could still donate all or part of his or her body by means of a uniform donor card but would need the signature of just one witness instead of two.

A donor who was unable to sign a "document of gift" could direct someone else to sign on his or her behalf if the signature of the other individual and at least one witness were made in the donor's presence. Finally, the bill would expressly prohibit the revocation of a donation that had been made by means of a "document of gift" once the donor died.

House Bill 4126 would amend the Estates and Protected Individuals Code (MCL 700.1106 et al.) to do all of the following:

- amend the act's definition of "patient advocate" to include an individual authorized to make an anatomical gift on behalf of another individual" (in addition to a patient advocate's current authority "to exercise powers concerning another individual's care, custody, and medical treatment");
- allow someone making a patient advocate designation to include in the designation (a) the authority for the designated patient advocate to make an anatomical gift of all or part of the designating individual's body and (b) a statement of the patient's desires on the making of an anatomical gift;

- require patient advocate designations authorizing the making of an anatomical gift to include a statement that this authority would be exercisable only when the patient was dead or when the patient's death was, "within reasonable medical judgment, imminent and inevitable" (and require acknowledgement of this condition when someone accepts a designation as a patient advocate); and
- clarify that the part of a patient advocate designation that authorized the patient advocate to make an anatomical gift of all or part of the deceased patient's body would not be revoked upon the patient's death.

Tie-bar. House Bills 4125 and 4126 are tie-barred so that neither bill could take effect unless both bills took effect.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.