

**ORGAN DONATIONS: PROHIBIT
VETO BY FAMILY MEMBER**

House Bill 4479
Sponsor: Rep. John Gleason
Committee: Health Policy

Complete to 3-31-03

A SUMMARY OF HOUSE BILL 4479 AS INTRODUCED 3-27-03

The bill would amend the Public Health Code to prohibit a family member from overriding a person's gift of his or her body or organs for the purposes of education, research, therapy, or transplantation. A detailed summary of the bill's provisions are provided below.

Donations and proxy donations. 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, therapy, and transplantation--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. The prioritized list contains the following individuals, in descending order of priority: the dead person's spouse; adult son or daughter; either parent; adult brother or sister; guardian at the time of death; any other person authorized or under obligation to dispose of the body. Further, the code allows such proxy donors to make anatomical gifts after or immediately before the person has died.

The bill would explicitly state that if a person had made a gift of his or her body and the gift had taken effect, it would not be revocable by a proxy donor. Individuals on the list could make a gift of the dead person's body or body parts 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. The bill would explicitly state that a gift made by a person on the list would not be revocable by someone having a lower priority on the list. Finally, the bill would strike current language allowing a proxy donor to make an anatomical gift (immediately) before the person had died.

Procedures for requesting/recording donation. The code sets forth specific guidelines covering hospital representatives who request that proxy donors make donations on behalf of dying or dead persons. Further, each hospital must establish its own policy to provide for the designation of individuals who may make requests and for the maintenance of a required organ donation log, among other matters.

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The bill would specify that if an individual had made a gift of his or her own body or body parts, no further consent or request for the gift would be required, unless the dead person had revoked the gift. Also, the bill would require a hospital representative to record such a gift in the hospital's organ donation log. (Currently, the code specifies only that the representative must record gifts made by proxy.)

“Contrary indications”/ “express unwillingness”. Under the code, a donee may not accept an anatomical gift if the donee had actual notice of “contrary indications” by the dead person. Nor may a hospital representative request a gift if he or she had actual notice of “contrary indications” by the patient or dead person. The bill would change these prohibitions so that a donee could not accept a gift, and a hospital representative could not request a gift, if they had actual notice that the patient or dead person “had expressed an unwillingness to make the gift”.

(Note: House Bill 4125, reported by the Health Policy Committee earlier this session and passed by the House, would amend one of the sections that House Bill 4479 proposes to amend.)

MCL. 333.10102 and 333.10102a

Analyst: J. Caver

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