

HOUSE BILL No. 4479

March 27, 2003, Introduced by Reps. Gleason, Condino, O'Neil, Milosch, Gielegthem, Zelenko, Hager, Brown, Sheltroun, Bieda, Sak, Williams, Meisner, Spade, Clack, Vagnozzi, Dennis, Hood, Accavitti, Tobocman, Paletko, Elkins, Rocca, Ehardt, Murphy and Hune and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 10102 and 10102a (MCL 333.10102 and
333.10102a), section 10102a as added by 1986 PA 186.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10102. (1) An individual of sound mind and 18 years of
2 age or more may ~~give~~ **make a gift of** all or any physical part of
3 ~~the individual's~~ **his or her** body for any purpose specified in
4 section 10103. ~~—, the~~ **The gift** ~~to take effect~~ **is effective**
5 upon **that individual's** death. **A gift made under this subsection**
6 **that has taken effect is not revocable by an individual listed in**
7 **subsection (2) or any other individual.**

8 (2) ~~Any of the following persons, in order of priority~~
9 ~~stated, when persons in prior classes are not available at the~~
10 ~~time of death, and in the absence of actual notice of contrary~~

1 ~~indications by the decedent or actual notice of opposition by a~~
 2 ~~member of the same or a prior class,~~ Upon or immediately before
 3 the death of an individual who has not made a gift of all or any
 4 physical part of his or her body under subsection (1), an
 5 individual having the following relationship to that individual
 6 may, ~~give~~ in the following order of priority and subject to
 7 subsection (3), make a gift of all or any physical part of ~~the~~
 8 ~~decedent's~~ the deceased individual's body for any purpose
 9 specified in section 10103:

- 10 (a) The spouse.
- 11 (b) An adult son or daughter.
- 12 (d) Either parent.
- 13 (d) An adult brother or sister.
- 14 (e) A guardian of the person of the decedent at the time of
 15 ~~the~~ his or her death.

- 16 (f) ~~Any other person~~ An individual, other than an
 17 individual described in subdivisions (a) to (e), who is
 18 authorized or under obligation to dispose of the body.

19 (3) An individual described in subsection (2) may make a gift
 20 of all or any physical part of a decedent's body in accordance
 21 with this section if each of the following circumstances exists:

- 22 (a) An individual having a higher priority under subsection
 23 (2) to make the gift is not available or is not capable of making
 24 the decision at the time of the decedent's death.

- 25 (b) The individual making the gift has not received actual
 26 notice that the decedent had expressed an unwillingness to make
 27 the gift.

1 (c) The individual making the gift has not received actual
 2 notice that an individual having equal or greater priority under
 3 subsection (2) opposes the making of the gift.

4 (4) A gift made by an individual described in subsection (2)
 5 is not revocable by an individual having a lower priority under
 6 subsection (2).

7 (5) ~~-(3)-~~ If the donee has actual notice ~~of contrary~~
 8 ~~indications by~~ that the decedent **had expressed an unwillingness**
 9 **to make the gift,** or actual notice that ~~a gift by a member of a~~
 10 ~~class is opposed by a member of the same or a prior class, the~~
 11 ~~donee~~ an individual having a higher priority under subsection
 12 (2) than that of the individual making the gift under
 13 subsection (2) opposes the making of the gift, the donee shall
 14 not accept the gift. ~~The persons authorized by subsection (2)~~
 15 ~~may make the gift after or immediately before death.~~

16 (6) ~~-(4)-~~ A gift of all or ~~a~~ **any** physical part of a body
 17 **under this section** authorizes any examination necessary to assure
 18 medical acceptability of the gift for the purposes intended.

19 (7) ~~-(5)-~~ The rights of the donee created by the gift are
 20 paramount to the rights of others except as provided by section
 21 10108(4).

22 Sec. 10102a. (1) Subject to section ~~10102(3)-~~ **10102** and
 23 subsections (2) to ~~-(7)-~~ **(8),** ~~the person~~ **an individual**
 24 designated ~~pursuant to~~ **under** subsection (7) shall, at or near
 25 the death of a patient whose body, according to accepted medical
 26 standards, is suitable for donation or for the donation of
 27 physical parts, request 1 of the ~~persons~~ **individuals** listed in

1 section 10102(2), in the order of priority stated, to consent to
2 the gift of all or any physical part of the decedent's body.

3 (2) The ~~person~~ **individual** designated ~~pursuant to~~ **under**
4 subsection (7) shall not make a request for consent pursuant to
5 subsection (1) if 1 or more of the following conditions exist:

6 (a) The ~~person~~ **individual** designated ~~pursuant to~~ **under**
7 subsection (7) has actual notice ~~of contrary indications by~~
8 **that** the patient or decedent **had expressed an unwillingness to**
9 **make the gift.**

10 (b) The ~~person~~ **individual** designated ~~pursuant to~~ **under**
11 subsection (7) has actual notice ~~of opposition by a person that~~
12 **an individual with the highest priority or equal priority** listed
13 in section 10102(2) ~~unless a person in a prior class under that~~
14 ~~section is available for a request to be made~~ **opposes the making**
15 **of a gift.**

16 (c) The ~~person~~ **individual** designated ~~pursuant to~~ **under**
17 subsection (7) has knowledge that the gift of all or ~~a~~ **any**
18 physical part of a body is contrary to the religious beliefs of
19 the decedent.

20 (3) Each hospital shall maintain a hospital organ donation
21 log sheet on a form provided by the department. The organ
22 donation log sheet shall include all of the following
23 information:

24 (a) The name and age of the patient or decedent for whom a
25 request is made ~~pursuant to~~ **under** this section.

26 (b) A list of patients or decedents for whom a request was
27 not made pursuant to this section and the reason for not making

1 the request, as set forth in subsection (2) **or (8)**.

2 (c) An indication that a request for consent to a gift of all
3 or ~~a~~ **any** physical part of a body has been made.

4 (d) An indication of whether or not consent was granted.

5 (e) If consent was granted, an indication of which physical
6 parts of the body were donated ~~—~~ or whether the entire body was
7 donated.

8 (f) The name and signature of the ~~person~~ **individual** making
9 the request.

10 (4) After making a request for a gift ~~pursuant to~~ **under**
11 subsection (1) **or after the death of a patient or decedent who**
12 **made a gift under section 10102(1)**, the ~~person~~ **individual**
13 designated ~~pursuant to~~ **under** subsection (7) shall complete the
14 hospital's organ donation log sheet.

15 (5) A summary of the information contained in the organ
16 donation log sheets annually shall be transmitted by each
17 hospital to the department. The summary shall include all of the
18 following:

19 (a) The number of deaths.

20 (b) The number of requests made.

21 (c) The number of consents granted.

22 (d) The number of bodies or physical parts donated in each
23 category as specified on the organ donation log sheet.

24 (6) A gift made pursuant to a request required by this
25 section shall be executed pursuant to this part.

26 (7) The chief executive officer of each hospital shall
27 develop and implement a policy regarding requests made ~~pursuant~~

1 ~~to~~ **under** this section. The policy shall provide, at a minimum,
2 for all of the following:

3 (a) The designation of ~~persons~~ **individuals** who shall make
4 requests under this section.

5 (b) That if a patient's religious preference is known, a
6 clergy of that denomination shall, if possible, be made available
7 upon request to the ~~persons~~ **individuals** to whom a request under
8 this section is made.

9 (c) The development of a support system ~~which~~ **that**
10 facilitates the making of requests under this section.

11 (d) The maintenance of the organ donation log sheet required
12 by subsection (3).

13 **(8) If an individual has made a gift under section 10102(1),**
14 **no further consent or request for a gift is required under this**
15 **section unless the decedent revoked the gift under section 10107.**

16 **(9) —(8)—** The director may promulgate rules to establish
17 minimum training standards for persons required to make requests
18 pursuant to this section and to revise the organ donation log
19 sheet required by subsection (3).

20 **(10) —(9)—** This section shall not be construed to authorize
21 the withdrawal or withholding of medical care for a patient who
22 is a possible donor and who is near death.