

LEGISLATIVE BILL 74

Approved by the Governor April 29, 1987

Introduced by Nelson, 35; Hannibal, 4; Ashford, 6

AN ACT relating to public health and welfare; to provide duties regarding organ and tissue donation; and to provide an exemption from liability.
Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds that the availability of donor organs and tissue can save the lives and restore the health and productivity of many Nebraskans. Every hospital in the state shall develop a protocol, appropriate to the hospital's capability, for identifying and referring potential donor organ and tissue availability. The protocol shall require utmost care and sensitivity to the family's circumstances, views, and beliefs in all discussions regarding donation of organs or tissue. Hospitals shall be required to consult with existing organ and tissue agencies preparatory to establishing a staff training and education program in the protocol. Sections 1 to 5 of this act are for the immediate preservation of the public health and welfare.

Sec. 2. (1) Except as otherwise provided by subsection (2) of this section, the chief administrator of a hospital, the attending physician, or a designee, trained in the protocol, of either shall, according to the established protocol, upon the death of a patient whose body, according to accepted medical standards, is suitable for the donation of organs or tissue, offer the opportunity to one of the persons listed in subsection (2) of section 71-4802, in the order of priority stated, to consent to organ or tissue donation or to decline to consent to such donation.

(2) The chief administrator of a hospital, the attending physician, or a designee of either shall not be required to offer such opportunity to consent or decline if one or more of the following conditions exist:

(a) He or she has notice of contrary indications by the decedent;

(b) He or she has notice of opposition by a person listed in subsection (2) of section 71-4802;

(c) He or she believes or has reason to believe that organ or tissue donation is contrary to the

religious beliefs of the decedent or is objectionable for any other reason; or

(d) He or she believes that the patient's body is not suitable for organ or tissue donation.

Sec. 3. (1) On or after July 1, 1989, the physician responsible for the completion and signing of the portion of the certificate of death entitled medical certificate of death or, if there is no such physician, the person responsible for signing the certificate of death shall attest on the death certificate whether organ or tissue donation was considered and whether consent was granted.

(2) After July 1, 1988, the Department of Health shall make available the number of organ and tissue donors in Nebraska for statistical purposes.

Sec. 4. No civil or criminal proceedings may be instituted in any court in this state against any hospital or chief administrator of a hospital, the attending physician, or a designee of either when, in such administrator's, physician's, or designee's best judgment, he or she deems a request for consent to organ or tissue donation to be inappropriate according to the protocol of the hospital or when he or she has made every reasonable effort to comply with section 2 of this act.

Sec. 5. A gift made pursuant to a request for consent under section 2 of this act shall be executed pursuant to the Uniform Anatomical Gift Act.