

By: Senator(s) Walls, Dawkins

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2658

1 AN ACT TO AMEND SECTION 41-39-15, MISSISSIPPI CODE OF 1972,
 2 TO ESTABLISH A MISSISSIPPI ORGAN DONOR AND EDUCATION BOARD, TO
 3 EMPOWER THE BOARD TO IDENTIFY ALL POTENTIAL ORGAN AND TISSUE
 4 DONORS IN THE STATE, TO EMPOWER THE BOARD TO AUTHORIZE THE
 5 DONATION OF A PATIENT'S ORGANS OR TISSUE UNLESS THERE IS AN
 6 OBJECTION BY THE DONOR'S FAMILY OR NEXT OF KIN, TO PROVIDE THAT
 7 THE PROTOCOL FOR ORGAN OR TISSUE DONATION SHALL NOT REQUIRE A
 8 DONOR CARD, TO PROVIDE THAT NO PROTOCOL FOR POTENTIAL ORGAN DONORS
 9 SHALL SUPERCEDE A VALID ORGAN DONOR CARD, OR A GIFT OF AN ORGAN
 10 PURSUANT TO THE UNIFORM ANATOMICAL GIFT LAW OR THE UNIFORM HEALTH
 11 CARE DECISIONS ACT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 SECTION 1. Section 41-39-15, Mississippi Code of 1972, is
 14 amended as follows:

15 41-39-15. (1) For the purposes of this section:

16 (a) "Potential organ donor" means a patient with a
 17 severe neurological insult who exhibits loss of cranial nerve
 18 response or who has a Glasgow Coma Scale score of five (5) or
 19 less.

20 (b) "Potential tissue donor" means any patient who dies
 21 due to cardiac arrest.

22 (c) "Organ procurement organization" means the
 23 federally designated agency charged with coordinating the
 24 procurement of human organs in the State of Mississippi for the
 25 purpose of transplantation and research.

26 (d) "Tissue bank" or "tissue procurement organization"
 27 means a not-for-profit agency certified by the Mississippi State
 28 Department of Health to procure tissues, other than solid organs,
 29 in the State of Mississippi.

30 (e) "Board" means the Mississippi Organ Donation and
31 Education Board created under this section.

32 (2) There is hereby established a Mississippi Organ Donor
33 and Education Board appointed by the Governor, with the advice and
34 consent of the Senate, composed of the following members:

35 (a) One (1) representative from the Mississippi Organ
36 Recovery Association;

37 (b) One (1) representative from the Mississippi Chapter
38 of the American Red Cross involved with organ or tissue services;

39 (c) One (1) representative from the Mississippi Lions
40 Eye Bank;

41 (d) Three (3) licensed physicians, one (1) to be
42 appointed from each of the three (3) Mississippi Supreme Court
43 Districts, one (1) of whom shall be a forensic pathologist; and

44 (e) One (1) at-large member who has demonstrated an
45 interest in organ, tissue and eye donation, representing families
46 of recipients and families of donors who are residents of
47 Mississippi. Members shall serve terms of four (4) years and
48 until successors are appointed and qualified. Vacancies shall be
49 filled in the manner of the original appointment for the unexpired
50 portion of the term. Board members shall not be compensated for
51 their services but may be reimbursed for mileage and all necessary
52 and reasonable expenses incurred in the performance of their
53 duties as board members, as provided in Section 25-3-41,
54 Mississippi Code of 1972, from any funds appropriated by the
55 Legislature from the Health Care Expendable Trust Fund established
56 in Section 43-13-405, Mississippi Code of 1972, or other public or
57 private funds made available therefor. The board shall organize
58 and elect a chairman from among its members and shall adopt rules
59 for the governance of its operations. The board shall meet at
60 least quarterly, or upon the call of the chair.

61 (3) In administering this section, the board is authorized,
62 but not limited to, the following duties and responsibilities:

63 (a) Assess the needs of transplant recipients and
64 establish priorities and develop goals and objectives to assist
65 transplant recipients who are residents of Mississippi;

66 (b) Establish a protocol for the consent for organ or
67 tissue donation by suitable patients in Mississippi pursuant to
68 this Section, and to delegate any organ or tissue donation
69 responsibilities to an organ procurement organization;

70 (c) Develop and implement educational programs and
71 campaigns to increase organ donation in Mississippi;

72 (d) Utilize local resources including volunteers when
73 appropriate to carry out the responsibilities of the board.

74 (4) Before November 1, 2001, the Mississippi Organ Donor and
75 Education Board shall develop and promulgate to the appropriate
76 medical staff of each licensed acute care hospital in the
77 state * * *, a protocol for identifying all potential organ and
78 tissue donors. The protocol shall include a procedure for family
79 consultation.

80 (5) The protocol shall require each hospital to contact the
81 Mississippi Organ Donor and Education Board by telephone when a
82 patient in the hospital becomes either a potential organ donor or
83 potential tissue donor as defined in this section. The board
84 shall determine the suitability of the patient for organ or tissue
85 donation after a review of the patient's medical history and
86 present condition. The board shall notify the attending physician
87 or designee of its assessment. The hospital shall note in the
88 patient's chart the board's assessment of suitability for
89 donation. The board representative shall provide information
90 about donation options to the family or persons specified in
91 Section 41-39-35 when consent for donation is requested.

92 Provided, however, that this protocol shall not be applicable in
93 cases where a declaration by the organ donor affixed to the
94 driver's license of such person, or a declaration has been made by
95 the organ donor under the Uniform Anatomical Gift Law or the

96 Uniform Health-Care Decisions Act has been provided to the
97 attending physician.

98 (6) If the patient becomes brain dead and is still suitable
99 as a potential donor, the board representative shall approach the
100 deceased patient's legal next of kin or persons specified in
101 Section 41-39-35 for consent to donate the patient's organs. The
102 board representative shall initiate the consent process with
103 reasonable discretion and sensitivity to the family's
104 circumstances, values and beliefs. Provided, however, that this
105 protocol shall not be applicable in cases where a declaration by
106 the organ patient affixed to the driver's license of the person,
107 or a declaration by the patient under the Uniform Anatomical Gift
108 Law or the Uniform Health-Care Decisions Act has been provided to
109 the attending physician.

110 To discourage multiple requests for donation consent, the
111 board representative shall make a request for tissue donation
112 during the organ donation consent process. When the possibility
113 of tissue donation alone exists, a tissue bank representative or
114 their designee may request the donation.

115 (7) The option of organ donation shall be made to the
116 deceased patient's family upon the occurrence of brain death and
117 while mechanical ventilation of the patient is in progress.

118 The protocol shall require that the decision to donate be
119 noted in the patient's medical record. The board shall provide a
120 form to the hospital for the documentation. The form shall be
121 signed by the patient's family pursuant to Sections 41-39-31
122 through 41-39-51. The form shall be placed in each deceased
123 patient's chart documenting the family's decision regarding
124 donation of organs or tissues from the patient.

125 (8) Performance improvement record reviews of deceased
126 patients' medical records shall be conducted by the board for each
127 hospital having more than ninety-five (95) licensed acute care
128 beds and general surgical capability. These reviews must be

129 performed in the first four (4) months of a calendar year for the
130 previous calendar year. If the organ procurement organization and
131 hospital mutually agree, the performance improvement record
132 reviews may be performed more frequently. Aggregate data
133 concerning these reviews shall be submitted by the board to the
134 State Department of Health by July 1 of each year for the
135 preceding year.

136 (9) The Mississippi Organ Donor and Education Board shall
137 establish a protocol giving priority to Mississippi residents for
138 transplant of an organ or tissue donated under authority of this
139 section. No organ or tissue recovered in the State of Mississippi
140 may be shipped out of the state except through an approved
141 organ-sharing network or, at the family's request, to an approved
142 organ transplant program.

143 (10) Any board member, hospital, administrator, physician,
144 surgeon, nurse, technician, organ procurement organization, tissue
145 procurement organization or donee who acts in good faith to comply
146 with this section shall not be liable in any civil action to a
147 claimant who alleges that his consent for the donation was
148 required.

149 (11) Any person knowingly violating any rule, regulation or
150 protocol promulgated by the Mississippi Organ Donor and Education
151 Board under the authority of this section, shall be deemed guilty
152 of a felony and upon conviction, shall be punished by fine not
153 exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment for
154 not more than five (5) years, or both.

155 (12) Nothing in this section shall be construed to supersede
156 or revoke, by implication or otherwise, any valid gift of the
157 entire body to a medical school.

158 (13) Nothing in this section shall be construed to supersede
159 or revoke, by implication or otherwise, any valid gift of an organ
160 made pursuant to the Uniform Anatomical Gift Law, Section 41-39-31

161 et seq., or the Uniform Health-Care Decisions Act, Section
162 41-41-201 et seq.

163 SECTION 2. This act shall take effect and be in force from
164 and after July 1, 2001.