

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 28, 2007, in Room 123-S of the Capitol.

All members were present except:

Dwayne Umbarger arrived, 9:39 A.M.

Phil Journey arrived, 9:42 A.M.

David Haley- excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department

Bruce Kinzie, Office of Revisor of Statutes

Nobuko Folmsbee, Office of Revisor of Statutes

Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Kyle Smith, Deputy Director, Kansas Bureau of Investigation

Tom Williams, Sheriff, Allen County

Ed Klumpp, Kansas Association of Chiefs of Police

Jennifer Roth, Legislative Committee Chair, Kansas Association of Criminal Defense Lawyers

Ron Heim, Midwest Transplant Network & National Kidney Foundation

Rob Linderer, Chief Executive Officer, Midwest Transplant Network

Others attending:

See attached list.

The hearing on **SB 248-Additional months added to sentences for person felonies and certain drug felonies if using firearm** was opened.

Kyle Smith appeared in support, indicating this bill would enhanced penalties for felons who carry or use guns in the commission of a crime (Attachment 1). Mr. Smith stated there were several advantages to the bill such as:

- the threat of substantial additional prison time might deter some felons,
- the provisions will still incapacitate criminals who chose to endanger victims and law enforcement officers by carrying a gun,
- Kansas law would more closely follow federal law providing consistency in punishments, and
- is a powerful incentive to get criminals to plead to the underlying offense, thus avoiding jury trials thereby saving court, defense, and prosecutorial resources.

Tom Williams testified in support, stating this bill would send a strong message to any criminal that might use a firearm in connection with a crime (Attachment 2). Sheriff Williams indicated due to Federal law which makes possession or use of a firearm a separate crime with a mandatory sentence, he has often sought to have the Federal government take over prosecution of certain cases where a firearm is involved.

Ed Klumpp appeared as a proponent, indicating felons carrying a firearm while committing a crime, greatly increase the risk to victims and law enforcement officers (Attachment 3). The consequences of exposure to gunfire extends not only to the victim but to all innocent parties within range of a bullet. Enactment of this bill will help reduce the risk to those persons and to law enforcement protecting them.

Jennifer Roth appeared in opposition, stating portions of the bill providing for enhancements may be unconstitutional (Attachment 4). Ms. Roth continued, stating the enhancements are contrary to Kansas statutory law and are unprecedented as there is no place in the Kansas Sentencing Guidelines Act where additional time is proscribed for certain behavior. Ms. Roth stated there already exists statutes that can enhance penalties, prosecutors need only file for an upward departure. Another suggestion would be to create a separate charge similar to Federal law rather than attempt to tailor each individual statute.

There being no further conferees, the hearing on **SB 248** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:34 A.M. on February 28, 2007, in Room 123-S of the Capitol.

The Chairman opened the hearing on **HB 2010--Uniform anatomical gift act** .

Ron Heim appeared in support, relating that the National Conference of Commissioners of Uniform State Laws (NCCUSL) is a national effort to revise the Uniform Anatomical Gift Act (UAGA) to help facilitate the organ donation process (Attachment 5). Additionally, the act improves provisions which have raised issues or concerns for medical practitioners over the years. Adoption of this bill will ensure consistency in the process and procedure for this medical process which is truly interstate in nature.

Rob Linderer spoke in support, indicating **HB 2010** reflects updated language providing an opportunity to reestablish uniformity to state laws governing anatomical gifts bringing them into greater conformity with federal regulations and current transplant practice (Attachment 6). UAGA will strengthen an individual's right to make an anatomical gift and not have that wish denied after their death. Current practice often defers the decision to the next of kin.

Written testimony in support of **HB 2010** was submitted by:

National Conference of Commissioners on Uniform State Laws (Attachment 7).

There being no further conferees, the hearing on **HB 2010** was closed.

The meeting adjourned at 10:32 A.M. The next scheduled meeting is March 1, 2007.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/28/07

NAME	REPRESENTING
Chip Wheelen	As'n of Osteopathic Med.
Bob Keller	JCSO
Jeff Bottenbox	Ku Hospital Auth
Juliane Maslin	Gov office
JIM CLARK	KBA
Liam Walsh	OJA
Jennifer Roth	KACDL
Jeremiah ALLAN	OTTAWA UNIVERSITY
John Logan	Ottawa University
Drew Hess	Ottawa University
Charmeshica McPherson	Ottawa University
John Higginbotham	Ottawa University
Toni Reynolds	Ottawa University
Helen Pedigo	KSC
Brenda Nauman	KSC
TIM MADDEN	KDOC
JEREMY BARCLAY	KDOC
Stacy Dryden	Ottawa University

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-28-2007

NAME	REPRESENTING
Tonia Salvini	Ottawa University - Social Policy course
Heather Austin	Ottawa University
Margie Colby	Ottawa University
MARK P. MATCZ	VIA CANADIAN HEALTH SYSTEM
Rob LINDORFER	MIDWEST TRANSPLANT NETWORK



# Kansas Bureau of Investigation

Larry Welch  
*Director*

Paul Morrison  
*Attorney General*

Testimony in Support of SB 248  
Before the Senate Judiciary Committee  
Kyle Smith, Deputy Director  
Kansas Bureau of Investigation  
February 27, 2007

Chairman Vratil and Members of the Committee,

I appear today on behalf of the Kansas Bureau of Investigation and as legislative chair of the Kansas Peace Officers' Association in strong support of SB 248. This legislation would provide special sentencing rules to enhance the penalty for those felons who carry or use guns in the commission of serious felonies.

There are four obvious advantages to this bill:

First, the threat of substantial additional time might deter some felons from taking a gun along. Any reduction in the number of armed felons is a major benefit to both society and to law enforcement – neither of which wish to encounter any criminal, but especially not those carrying and using firearms.

Second, even if this bill fails to deter a specific criminal, the provisions will still incapacitate that criminal who chose to endanger victims and officers by carrying a firearm. These are by definition the criminals that pose the greatest threat to both the public and law enforcement, and therefore the ones that precious prison bed space should be reserved for their incarceration.

Third, Kansas law would more closely follow federal law providing for consistency in punishments, regardless of the jurisdiction involved. Federal law has long had an additional 60-month charge available whenever an offender uses a gun to commit a federal offense.

Fourth, experience in the federal system shows that the threat of seeking this additional, consecutive sentence, is a powerful incentive to get criminals to plead to the underlying offense, thus avoiding jury trials and saving court, defense and prosecutorial resources.

Kansas law enforcement is strongly in support of this bill. On behalf of the KBI, the KPOA and all the lives that might be saved, we urge passage of SB 248.

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Attachment 1



# Allen County Law Enforcement Center

Testimony of Sheriff Thomas R. Williams Allen County Kansas  
February 26, 2007

Mr. Chairman and Members of the Committee:

It is my pleasure to provide written testimony on behalf of SB 248. I have been involved in Kansas Law Enforcement for over 30 years. I have been a Patrol Officer, a Supervisor of Patrol, a Senior Special Agent of the KBI and now a Sheriff of Allen County Kansas.

Over those years I have often wondered and asked why there is no real impact on a person who carries or uses a firearm in the course of their criminal conduct. I have entered into homes and situations where firearms were present as part of the person's involvement in criminal activity. I am now tasked with commanding men and women who have to enter into homes and situations where those firearms are present. One only needs to look at recent history in Kansas to realize that doing our jobs can be even more dangerous when the criminal has possession of a firearm.

SB 248 sends a strong message to any criminal that might use a firearm in connection with his/her crime. The message is clear, doing the criminal offense is wrong, but if you chose to use a firearm in connection with it you will pay a heavy additional cost. In the late 1980's or early 1990's the Federal government passed a law (18 U.S.C. § 924(c)), that made the possession or use of a firearm a separate crime and it carried with it a mandatory 5 year sentence. Since the passage of that law, both as a KBI agent and a Sheriff I have sought to have the Federal government take over prosecution of certain cases where a Firearm had been involved. I also know that throughout the State of Kansas this has been done many times by local law enforcement and prosecutors. I should note that there have been times when because of other case loads the Federal system did not take cases when asked. Kansas law enforcement should have a similar statute to rely on and not have to rely on the Federal government accepting prosecution on a particular case.

As Sheriff I have supported the Concealed Carry law passed by the Kansas legislature and signed into law. Our department has done everything possible to ensure that the law is carried out. That law pertains to Kansas citizens having the right to carry concealed firearms in a legal manner. It gives our citizens the freedom to do so as long as they

comply with the law as written. This statute I believe provides a common sense contrast to that statute. The statute also sets out specific penalties for misusing the right or abusing the right of carrying concealed. SB 248 deals with criminals using or possessing firearms and provides for serious penalties for doing so. The message would seem clear, that we support our citizen's rights to firearms but we will heavily sanction those persons who use a firearm in the course of other illegal activities.

By passage of this statute you will make it clear that using or possessing a firearm in connection with other criminal activity will not be tolerated. For too long, criminals, especially those that deal in illegal narcotics or drugs have used firearms as part of doing business. I have interviewed a number of dealers and criminals who understood that carrying or using a firearm in connection with illegal activity made their job easier and safer. They also understood that in Kansas the possession of a firearm even concealed, presented to them no real additional cost. For example a person caught with Methamphetamine for distribution in his pocket and a handgun under his jacket would face the Charge of Possession of Methamphetamine for sale and Criminal Possession of a Firearm. The Methamphetamine charge would be a Felony but the Concealment of a Firearm would be a Class A nonperson misdemeanor. Although Methamphetamine is certainly a dangerous drug, its victims are a finite circle and tend to choose their own involvement. The firearm however in the hands of a person who has already chosen to ignore laws is a great danger to everyone that person comes into contact with. The firearm poses a constant danger to citizens, as well as law enforcement who might deal with this person.

This statute makes it clear that in Kansas there will be a cost to "doing business". I don't think for a minute that most persons who deal in criminal activity will do a cost benefit analysis of carrying or using a firearm. The goal of this statute will not in my belief be for deterrence. Instead it will be to set a boundary that we as Kansans say will not be crossed.

Respectfully,

*Thomas R. Williams*

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Thomas R. Williams  
Sheriff  
Allen County Kansas  
620-365-1400

**WRITTEN TESTIMONY TO THE SENATE JUDICIARY COMMITTEE  
IN SUPPORT OF SB 248  
Presented by Ed Klumpp  
On behalf of the  
Kansas Association of Chiefs of Police**

February 28, 2007

This testimony is in support of SB248 enhancing penalties for felons using firearms when committing person or drug felonies.

This bill addresses the worst and most dangerous of the criminals. Those who arm themselves with firearms while committing a felony are exposing everyone around them to the consequences of gunfire. This exposure not only extends to the victim of the crime, but to every innocent party within range of the bullet. While not an everyday occurrence, it is certainly too often that a shot fired by a person committing a person felony strikes an innocent third party, and too frequently it is a child.

The carrying of a firearm greatly increases the risk involved in the crime. Even if the criminal doesn't intend to fire it and just intends to use it to intimidate people into compliance, the chances of a shooting increase dramatically if things start not going as planned for the criminal. The open display (brandishing) of the firearm increases the risk even more. And if the firearm is discharged, we are clearly dealing with the most dangerous of criminals.

This is a practice that the Federal system has used for some time with a good outcome. In Topeka, we saw a marked decrease in felons carrying guns when we started prosecuting cases under the Federal provisions. The ability to do this same thing under the State system is almost as certain to be as effective when accompanied by a public awareness campaign such as occurred with the Federal prosecution.

Kansas has joined the many other states to allow qualified citizens to carry concealed weapons. This bill will help reduce the risk of those persons or of law enforcement to become involved in the use of their firearms to protect crime victims. This bill provides balance to the increased opportunity for a person using a legally possessed firearm to intervene in a violent crime involving a firearm.

In addition, these are the felons that greatly increase the risk for law enforcement officers. That risk is present during the apprehension of the persons committing person felonies, but also the investigation and intervention in drug trafficking.

There are many benefits to this bill including getting tough with the right segment of the criminals victimizing the people of our state. We believe this bill represents good law with a high probability of positive outcomes protecting the law abiding people of Kansas.

We strongly encourage the committee to recommend this bill to pass.



Ed Klumpp  
Chief of Police-Retired  
Topeka Police Department

Legislative Committee Chair  
Kansas Association of Chiefs of Police  
E-mail: [eklumpp@cox.net](mailto:eklumpp@cox.net); Phone: (785) 235-5619; Cell: (785) 640-1102

Senate Judiciary

2-28-07

Attachment 3



Senate Judiciary Committee  
February 28, 2007

Testimony prepared by  
Jennifer Roth, Legislative Committee Chairperson  
Kansas Association of Criminal Defense Lawyers  
**Opponent of Senate Bill 248**

The Kansas Association of Criminal Defense Lawyers (KACDL) is a 250-person non-profit organization dedicated to justice and due process for those accused of crimes. KACDL opposes **Senate Bill 248** because it is a violation of the Sixth and Fourteenth Amendments to the United States Constitution, as well as Sections 5 and 10 of the Kansas Bill of Rights. Furthermore, it is unnecessary and the potential costs are unknown.

SB 248 provides for sentence enhancements for offenders who “use or carry” or “possess” a firearm while committing or “in furtherance of” a person felony or most drug felonies. The enhancement starts at 60 months, but increases for “brandishing” (84 months) and “discharging” (120 months). This period of months is in addition to the applicable guideline sentence.

**This enhancement violates the U.S. and Kansas Constitutions and would result in immediate constitutional challenges.** (See U.S. Supreme Court cases: *Apprendi v. New Jersey*, 530 U.S. 466 (2000), *Blakely v. Washington*, 542 U.S. 296 (2004), *United States v. Booker*, 543 U.S. 220 (2005), and *Cunningham v. California*, 127 S.Ct. 856 (January 22, 2007). **This enhancement is also contrary to Kansas statutory law.** (See K.S.A. 21-4716(b): “. . . any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.”) **This enhancement is unprecedented** in that nowhere else in the Kansas Sentencing Guidelines Act (KSGA) is a specific number of additional months over the guideline sentence proscribed for certain behavior.

Furthermore, SB 248 is unnecessary. The KSGA already provides that crimes committed with a firearm are presumptive prison. The KSGA includes a procedure for upward durational departures. (See K.S.A. 21-4716(c)(2) for a nonexclusive list of aggravating factors that may be considered.) The Legislature already took many factors into account when setting guideline sentences (i.e. the numbers in the grid boxes).

Finally, there seems to be no fiscal note on this bill. We have no idea how many offenders would be subject to this bill. Obviously **increasing sentences by 5-10 years will have a substantial price tag.**

Respectfully submitted,

Jennifer Roth  
rothjennifer@yahoo.com  
(785) 832-9583

Senate Judiciary

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Attachment 4

**HEIN LAW FIRM, CHARTERED**

5845 SW 29<sup>th</sup> Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

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*Ronald R. Hein*

*Attorney-at-Law*

Email: rhein@heinlaw.com

**Testimony re: HB 2010, Uniform Anatomical Gift Act Revisions**

**Senate Judiciary**

**Presented by Ronald R. Hein**

**on behalf of the**

**Midwest Transplant Network**

**and the**

**National Kidney Foundation of Kansas and Western Missouri**

**February 28, 2007**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Midwest Transplant Network, formerly the Midwest Organ Bank, a not-for-profit corporation designated by the Centers for Medicare and Medicaid (CMS) for the purpose of providing organ procurement services to hospitals.

I also serve as pro bono legislative counsel for the National Kidney Foundation of Kansas and Western Missouri. NKF KS/MO is a regional office of the National Kidney Foundation with a service area of the entire state of Kansas and the western portion of the state of Missouri. Its mission is to assist patients with kidney disease.

I appear today on behalf of these two clients to support HB 2010, but I also appear today with a strong personal interest in this issue. As many of you know, my wife, Julie, gave me a kidney in September 1996 after I suffered kidney failure from end-stage renal disease (ESRD) caused by Type I (Juvenile) Diabetes. Diabetes is the leading cause of kidney failure.

I was fortunate that I had a live donor willing to donate this tremendous gift of life to me. Therefore, I was only forced to be on dialysis (in my case Continuous Ambulatory Peritoneal Dialysis (CAPD)) for 2 ½ months. Many victims of ESRD are required to be on either CAPD or hemodialysis treatment for extended periods of time, until a cadaver donor is available.

Unbeknownst to most people, many immuno-suppressant drugs are a double-edged sword. While they help the individual fight the rejection of the kidney by suppressing the body's own immunological system so that they can keep a foreign organ in their body, taking the immuno-suppressant drugs on a long term basis can also damage the donated organ. I have incurred some damage to my donated kidney as the result of the long term use of the immuno-suppressants, specifically a drug called Cyclosporin, and I will need

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another kidney transplant in the next couple of years. Just recently, I was placed on the organ donation list so I will be eligible to receive a cadaver kidney, and in this region, the average wait is 15-18 months.

Since I have had diabetes mellitus since 1964, instead of just undergoing another kidney transplant, I have decided to seek a combination kidney and pancreas transplant. Since I will obviously not be eligible for a living donor, I will be receiving an organ donated by an individual who has died, most probably as the result of a tragic accident, and the provisions of the Uniform Anatomical Gift Act (UAGA) will be applicable to the donation and recipient process which is utilized in our country to provide this life sustaining procedure.

Therefore, I have more than just a professional interest in this serious issue before you today.

As you have already heard, the UAGA was first enacted in Kansas in 1968 as what was then the Uniform Anatomical Gift Act which was proposed for uniformity for all the states. In 1987, another uniform amendment was proposed to the UAGA, but only 26 states adopted the UAGA amendments proposed at that time, and Kansas was not one of those states. Since 1987, many states have adopted additional non-uniform amendments to their statutes and this diversity of the law among states causes an impediment to transplantation.

At the hearing on this bill in the House, Michelle Clayton, legislative counsel for the National Conference of Commissioners of Uniform State Laws (NCCUSL), testified that a national effort is again being made to revise the UAGA with a new series of amendments which will help facilitate the organ donation process and also improve provisions of the law which have raised issues or concerns for medical practitioners or others over the years that the UAGA has been utilized in the various states. It is the desire of the NCCUSL that all the states adopt a uniform act, so that there is consistency in the process and procedure for this medical process which is truly interstate in nature. If you are not aware, organ donation is not just a local process, as organs are transported interstate, depending upon the needs of the organ recipient and the availability of the cadaver organs.

Attached to my testimony is an exhibit listing the organizations actively engaged in the working group that created this uniform language. A great deal of time and effort has gone into the development of the uniform law, so although I would never question the ability of the legislature to review and to make their own amendments to uniform laws that are proposed, I would urge the legislature to recognize the expertise that went into the

development of the terms of the UAGA revisions. I have also listed the Kansas members of the NCCUSL for your information.

Today, approximately 1,000 Kansans are waiting for an organ to be donated either by a live donor or under circumstances where a cadaver organ is available. Nationwide more than 83,000 men, women and children currently await life saving/enhancing transplants. An average of 17 people per day and 6,205 people per year die due to a lack of available organs for transplant.

The Kansas Legislature has an opportunity to help save lives with the passage of this legislation. On behalf of the Midwest Transplant Network, the National Kidney Foundation of Kansas and Western Missouri, and certainly on behalf of my family and me, I would strongly urge this committee to approve HB 2010.

Thank you very much for permitting me to testify and I will be happy to yield to questions.

This 2006 Revised UAGA is promulgated with the substantial and active participation of the major stakeholders representing donors, recipients, doctors, procurement organizations, regulators and others affected. The Drafting Committee held four meetings with the stakeholders. The following Stakeholders were actively engaged in the dialogue at the table working for a consensus that could and should be adopted on a uniform basis to facilitate the interstate allocation and transplantation of organs:

American Bar Association  
American Medical Association  
American Lung Association  
Association of Organ Procurement Organizations  
American Association of Tissue Banks  
Eye Bank Association of America  
Health Law Institute and Center for Race and Bioethics  
Life Alaska Donor Services  
Musculoskeletal Transplant Foundation  
National Association of Medical Examiners  
National Disease Research Interchange  
National Kidney Foundation  
North American Transplant Coordinators Organization  
RTI Donor Services  
United Network for Organ Sharing (UNOS)  
United States Department of Health & Human Services

In addition, there were many who contributed their views and comments by correspondence, including the Funeral Consumers Alliance, Inc. and Funeral Ethics Organization.

**Kansas Commissioners**

James M. Concannon  
John F. Hayes  
Richard C. Hite  
Rep. Michael R. O'Neal  
Elwaine F. Pomeroy  
Glee S. Smith  
Sen. John L. Vratil

**TESTIMONY OF THE MIDWEST TRANSPLANT NETWORK,  
BY ROB LINDERER, CHIEF EXECUTIVE OFFICER  
BEFORE THE SENATE JUDICIARY COMMITTEE**

**WEDNESDAY, FEBRUARY 28, 2007  
IN SUPPORT OF HB 2010  
REVISED UNIFORM ANATOMICAL GIFT ACT**

Mr. Chairman and members of the Judiciary Committee,

I am Rob Linderer, Chief Executive Officer of the Midwest Transplant Network based in Westwood, Kansas. My organization is a non-profit, federally certified organ procurement organization (OPO) designated to serve the state of Kansas and 62 counties in western Missouri. We provide organ and tissue procurement services to approximately 230 hospitals, 6 of which are organ transplant hospitals operating 13 approved organ transplant programs. We are members of United Network for Organ Donation (UNOS) which is the independent organization under federal contract to operate the National Organ Procurement and Transplant Network (OPTN). In addition, we provide tissue and eye recovery services under agreements with multiple processors and eye banks that are accredited by the American Association of Tissue Banks (AATB) or the Eye Bank Association of America (EBAA). These organizations were among the stakeholders that participated with the Drafting Committee to perfect the language in the revised act.

The Midwest Transplant Network and I support House Bill 2010, which reflects the updated language in the Revised Uniform Anatomical Gift Act, approved by the National Conference of Commissioners of Uniform State Laws in July of last year. After almost four decades since the passage of the 1968 UAGA, the revised language provides an opportunity to reestablish uniformity to state laws governing anatomical gifts and bring them into greater conformity with federal regulations and current transplant practice. This is important because federal regulations for organ allocations from deceased donors mandate transfer of recovered organs to patients on the waitlist, irrespective of their geographic location. In addition to national allocation, my organization routinely delivers organs across the Kansas and Missouri state line because of the location of the

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Attachment 6

transplant centers in our service area. Uniformity in state law governing these anatomical gifts is very important from an operational standpoint for Midwest Transplant Network and the transplant hospitals.

Several of the proposed revisions in HB 2010 strengthen an individual's right to make an anatomical gift and not have their wish denied by others after their death. Previous legislation supported the autonomy of the individual in this way, but concerns about potential litigation stemming from last minute verbal revocations and angry family members resulted in a practice of deferring to next of kin. By strengthening and clarifying when a gift is made or revoked, the true wishes of the individual are more likely to be carried out.

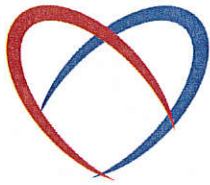
This is extremely important in light of the national shortage of transplantable organs which results in almost 18 waiting list deaths each day. The total number of people waiting exceeds 94,000 and continues to increase. Focused efforts to put an end to deaths on the waitlist have been underway since 2003, when the U.S. Department of Health and Human Services launched an Organ Donation and Transplant Collaborative and brought the nation's hospitals, 58 OPOs, and many other stakeholders together to improve transplant and donation-related practices. The goal is to increase the average rate of consent from 48% to 75% or higher and the results have been promising as the national rate is currently around 63%. (74% in Midwest Transplant Network's DSA) Thousands of lives have been saved as a result. The passage of HB 2010 will further improve those numbers by providing a stronger legal footing for hospitals and organ procurement organizations to act on the consent of a deceased person to make an anatomical gift. Current practice often defers the decision to the next of kin.

The bill's provision to encourage cooperation and support from medical examiners and coroners is also important in the overall effort to save lives. Although we are fortunate in Kansas to have medical examiners and coroners who are extremely supportive of donation, HB 2010 codifies this level of support to ensure that organ donation is never denied solely because of resources or the concern for preservation of evidence in a

criminal investigation. To my knowledge, there has never been a criminal prosecution that has been unsuccessful because of the donation of anatomical gifts.

In conclusion, there are many reasons that passage of HB 2010 is needed, but without a doubt, the most important is to help us end deaths on the waiting list. This bill will be an important part of that overall effort. I urge the Committee to support the bill and refer it to the Senate for passage. Thank you for the opportunity to testify before the Committee today. I would be happy to answer any questions.





# Uniform Anatomical Gift Act (2006)

## Why States Should Adopt the UAGA

The National Conference of Commissioners on Uniform State Laws (“NCCUSL”) promulgated the Uniform Anatomical Gift Act (“UAGA”) originally in 1968, and revised it in 1987.

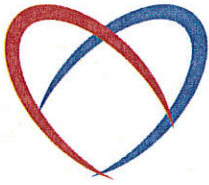
Although one or both of the versions were enacted in every state, the law on anatomical gifts is no longer uniform or harmonious with regard to organ, tissue, and eye donation. There are many reasons why every state should adopt the UAGA (2006) including:

- First person consent (i.e., an individual’s anatomical gift of the individual’s organs, eyes, and tissue, to take effect at death) is substantially strengthened to bar others from amending or revoking a gift (or refusal) made by the donor.
- Absent a first person consent, gifts by family and agents are facilitated if the deceased has not acted to make or refuse to make an anatomical gift by:
  - Expanding those that can act to include a health care agent, grandchildren, and persons exhibiting special care;
  - Easing consent by enabling a majority of a class to decide;
  - Eliminating the need for consent from individuals who are not “reasonably available”; and,
  - Clarifying the manner by which consent may be obtained.
- Specifically authorizes gifts on donor registries and state-issued identification cards.
- Registries are encouraged and standards are provided for their operations. Many states do not yet have donor registries.
- Provides for cooperation and coordination between procurement organizations and medical examiners, particularly with regard to procurement from potential donors under the jurisdiction of the medical examiner.
- Remedies for intentional acts in violation of the Act are provided while retaining immunity for good faith acts under the Act.
- Harmonizes the Uniform Anatomical Gift Act with federal law, current technology and practice, and Advance Medical Directives.

The Uniform Anatomical Gift Act (2006) is strongly supported by many organ, eye, and tissue procurement organizations because it will improve anatomical gift law in the states, thereby encouraging donations that save and improve lives. It should be enacted in every jurisdiction as quickly as possible.

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Attachment 7



# Uniform Anatomical Gift Act (2006)

## A Summary

Every hour another person dies waiting for an organ transplant. Despite significant technological improvements and numerous publicity campaigns over the past several decades, the substantial shortage for organs, tissues and eyes for life-saving or life-improving transplants continues. This shortage persists despite efforts by the federal government and every state legislature to improve the system. The National Conference of Commissioners on Uniform State Laws (NCCUSL) continues to be a leader in developing the law in the organ transplant arena, and it has promulgated the Uniform Anatomical Gift Act (2006) to further improve the system for allocating organs to transplant recipients.

The original Uniform Anatomical Gift Act was promulgated in 1968, shortly after Dr. Christian Barnard's successful transplant of a heart in November, 1967. It was promptly and uniformly enacted in every jurisdiction. The 1968 UAGA created the power, not yet recognized at common law, to donate organs, eyes and tissue, in an immediate gift to a known donee or to any donee that might need an organ to survive. In 1987, NCCUSL revised the 1968 UAGA to address changes in circumstances and in practice. Only 26 states enacted the 1987 UAGA, resulting in non-uniformity between those states and the states that retained the 1968 version. Subsequent changes in each state over the years have resulted in even less uniformity. In addition, neither the 1968 nor the 1987 UAGA recognizes the system of organ procurement that has developed partly under federal law. The 2006 UAGA is an effort to resolve any perceived inconsistencies thereby adding to the efficiency of the current system.

The scope of the 2006 UAGA is limited to donations from deceased donors as a result of gifts made before or after their deaths. Organ donation is a purely voluntary decision that must be clearly conveyed before an individual's organs are available for transplant.

The current mechanism for donating organs is a document of gift that an individual executes before death. The 2006 Act further simplifies the document of gift and accommodates the forms commonly found on the backs of driver's licenses in the United States. It also strengthens the power of an individual not to donate his or her parts by permitting the individual to sign a refusal that also bars others from making a gift of the individual's parts after the individual's death. Importantly, the 2006 UAGA strengthens prior language barring others from attempting to override an individual's decision to make or refuse to make an anatomical gift.

If an individual does not prepare a document of gift, organs may still be donated by those close to the individual. Another achievement of the 2006 UAGA is that it allows certain individuals to make an anatomical gift for another individual during that individual's lifetime. Health-care agents under a health-care power of attorney and, under certain circumstances, parents or a guardian, have this power. The donor must be incapacitated and the permission

giver has to be the individual in charge of making health-care decisions during the donor's life. Second, the 2006 UAGA adds several new classes of persons to the list of those who may make an anatomical gift for another individual after that individual's death. The adoption of clear rules and procedures, combined with the definition of "reasonably available," provide clarity to the decision-making process. If more than one member of a class is reasonably available, the donation is made only if a majority of members support the donation. Minors, if eligible under other law to apply for a driver's license, are empowered to be a donor. These seemingly minor changes will provide more opportunities for donation than currently exist today.

The 2006 UAGA encourages and establishes standards for donor registries and better enables procurement organizations to gain access to documents of gift in donor registries, medical records, and records of a state motor vehicle department. This access will make it much easier for procurement organizations to quickly determine whether an individual is a donor. And, under Section 8 of the 2006 UAGA, which strengthens the language regarding the finality of a donor's anatomical gift, there is no reason to seek consent from the donor's family because the family has no legal right to revoke the gift. The practice of procurement organizations seeking affirmation even when the donor has clearly made a gift results in unnecessary delays in procuring organs and the occasional reversal of the donor's wishes. One exception is if the donor is a minor and the parents wish to revoke the gift. The 2006 UAGA acknowledges that the decision to donate organs, tissues and eyes is highly personal and deserves respect from the law.

The tension between a health-care directive requesting the withholding or withdrawal of life-support systems and a donor's wish to make an anatomical gift is resolved by permitting, prior to the removal of life-support systems, the administration of measures necessary to ensure the medical suitability of the donor's organs. The 2006 UAGA provides that a general direction in a power of attorney or health-care directive that the patient does not wish to have life prolonged by the administration of life-support systems should not be construed as a refusal to donate.

The 2006 UAGA provides numerous default rules for interpreting a document of gift if it lacks specificity regarding the persons to receive the gift or the purposes of the gift. One important rule, not present in the prior acts, is the prioritization of transplantation or therapy over research or education, when a document of gift sets forth all four purposes but fails to establish a priority.

Another improvement that the 2006 UAGA achieves is the clarification and expansion of rules relating to cooperation and coordination between procurement organizations on the one hand and coroners and medical examiners on the other. Unlike prior law, the 2006 UAGA prohibits coroners and medical examiners from making anatomical gifts except in the rare instance when the coroner or medical examiner is the person with the authority to dispose of the decedent's body. The 2006 UAGA complies with the policy guidelines articulated by the National Association of Medical Examiners.

The 2006 UAGA also addresses widely reported abuses involving the intentional falsification of a document of gift or refusal, to obtain a financial gain by selling a decedent's

parts to a research institution. A person who falsifies a document of gift for such a purpose is guilty of a felony. Alternatively, the 2006 UAGA provides that a person acting in accordance with the act or with the applicable anatomical gift law of another state, or that attempts to do so in good faith, is not liable for his or her actions in a civil action, criminal prosecution or administrative proceeding.

Finally, the last section provides for repeal of the prior UAGA, whether it is the 1968 or 1987 version. Many states, however, have related laws on anatomical gifts that should be retained, such as donor awareness programs, Transplant Councils, and licensing provisions for procurement organizations and health care providers. However, it is highly desirable that the core provisions of the 2006 UAGA be uniform among the states. Little time is available to prepare, transport across state lines, and transplant life-saving organs, let alone to assess and comply with significant variations in state law.

The anatomical gift law of the states is no longer uniform, and diversity of law is an impediment to transplantation. Harmonious law through every state's enactment of the 2006 UAGA will help save and improve lives. It should be enacted in every state as quickly as possible.

A Few Facts About  
THE REVISED UNIFORM ANATOMICAL GIFT ACT (2006)

**PURPOSE:** This act revises the earlier 1968 and 1987 Uniform Acts, which are the basis for organ donation throughout the United States. UAGA 2006 is an important update to reflect the current system of allocations of organ for transplant purposes. Without changing the basic concept that an individual may execute a document of gift to donate organs, UAGA 2006 makes the act more usable than the earlier acts are currently.

**ORIGIN:** Completed by the Uniform Law Commission in 2006.

**APPROVED BY:** American Bar Association

**ENDORSED BY:** American Medical Association; American Academy of Ophthalmology; American Association of Tissue Banks; American Society of Cataract and Refractive Surgery; Association of Organ Procurement Organizations; Cornea Society; Eye Bank Association of America; National Kidney Foundation; United Network for Organ Sharing

**STATE  
ADOPTIONS:**

<b>2007 INTRODUCTIONS:</b>	Arizona	New Mexico
	Colorado	North Dakota
	District of Columbia	Rhode Island
	Idaho	South Dakota
	Indiana	Tennessee
	Kansas	Utah
	Minnesota	U.S. Virgin Islands
	Montana	Vermont
	New Jersey	Virginia
		Washington

For any further information regarding the Revised Uniform Anatomical Gift Act (2006), please contact Michelle Clayton, John McCabe or Katie Robinson at 312-915-0195.

(2/22/07)

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7-4\*

National Conference of Commissioners on Uniform State Laws  
211 E. Ontario Street, Suite 1300, Chicago, IL 60611  
312/915-0195, Fax 312/915-0187, [www.nccusl.org](http://www.nccusl.org)

Contact: Michelle Clayton, NCCUSL Legislative Counsel: [michelle.clayton@nccusl.org](mailto:michelle.clayton@nccusl.org)  
Katie Robinson, NCCUSL Communications Officer: [katie.robinson@nccusl.org](mailto:katie.robinson@nccusl.org)

For Immediate Release:

**AMA ENDORSES NEW UNIFORM ANATOMICAL GIFT ACT DESIGNED TO INCREASE  
AVAILABILITY OF ORGANS FOR TRANSPLANT**

*Revised Act, Drafted by National Conference of Commissioners on Uniform State Laws  
(NCCUSL), Is Now Being Introduced in State Legislatures Across the Country*

January 31, 2007 – The **Uniform Anatomical Gift Act (UAGA)**, a comprehensive revision to previous Acts that is designed to increase the number of organs available for transplant and improve the system for allocating organs to recipients, has been endorsed by the American Medical Association (AMA). The new UAGA has already been introduced in 11 states; more than 25 introductions are expected this year.

The AMA joins the United Network for Organ Sharing, the National Kidney Foundation, the Eye Bank Association of America, the American Association of Tissue Banks, the American Academy of Ophthalmology, the Cornea Society, and the Association of Organ Procurement Organizations in endorsing the new UAGA. The new Act makes it easier to document the desire to donate, particularly as provided on drivers' licenses; specifies an expanded list of persons who may make an anatomical gift on behalf of the deceased, such as agents with healthcare power-of-attorney, adult grandchildren or close friends; more clearly provides for a document of refusal if an individual does not wish to donate; allows for registering gifts on existing donor registries; and encourages the creation of donor registries, whether by states or by other entities.

"The AMA's endorsement is a very important voice added to the chorus of national transplant and medical organizations and state officials clamoring for a clear, up-to-date law on organ transplantation that is consistent from state to state," said Carlyle C. Ring, Jr., Chair of the UAGA Drafting Committee. "NCCUSL will work aggressively with all of these organizations and with each state legislature to make sure this lifesaving legislation becomes the law of the land."

After more than two years of exhaustive study, NCCUSL promulgated the Revised UAGA of 2006 to address serious national discrepancies and shortages surrounding anatomical gifts. About every hour, a patient in the United States dies for lack of an available organ transplant – more than 7,000 patients every year. According to the United Network for Organ Sharing (UNOS), today there are more than 94,000 people on the waiting list for organ transplantation. Despite significant technological improvements, numerous publicity campaigns and efforts by the federal government and the states to improve the system, the substantial shortage of organs, tissues, and eyes for life-saving or life-improving transplants continues.

The original and unprecedented 1968 UAGA, which was adopted in every state, was revised in 1987. However, the 1987 revision was adopted in only 26 states. Consequently, there is significant non-uniformity between the states. Also, over the years, donation practices and federal regulation have changed significantly, so much so that existing legislation is not only inconsistent but outmoded.

7-~~5~~<sup>6</sup>

NCCUSL has been at the forefront of organ donation law since it drafted the 1968 UAGA, which stipulated that an individual, upon death, could irrevocably donate his or her organs for medical purposes by signing a simple document before witnesses.

The Uniform Anatomical Gift Act has been introduced in Arizona, the District of Columbia, Idaho, Indiana, Kansas, Montana, New Jersey, Utah, the U.S. Virgin Islands, Virginia, and Washington. The complete text of the UAGA, along with other supporting materials, can be found at a new website devoted to this Act: [www.anatomicalgiftact.org](http://www.anatomicalgiftact.org).

#### **About The American Medical Association**

Founded in 1847, the AMA is the largest association of medical doctors in the United States. The AMA advances the interests of physicians, promotes public health, lobbies for legislation favorable to physicians and patients, and raises money for medical education. The AMA also publishes the Journal of the American Medical Association, which has the largest circulation of any weekly medical journal in the world. The AMA Resolution endorsing the UAGA can be found here.

#### **About The National Conference of Commissioners on Uniform State Laws**

The National Conference of Commissioners on Uniform State Laws is now in its 116th year. The organization comprises more than 300 lawyers, judges, and law professors appointed by the states, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, to draft proposals for uniform and model laws and work toward their enactment in their legislatures. Since its inception in 1892, the group has promulgated more than 200 acts, among them such bulwarks of state statutory law as the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Partnership Act.



**AMERICAN ACADEMY  
OF OPHTHALMOLOGY**

*The Eye M.D. Association*

December 14, 2006

Commissioner Carlyle C. Ring, Jr.  
Chairman  
Drafting Committee on the Uniform Anatomical Gift Act (2006)  
National Conference of Commissioners on Uniform State Laws  
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Chicago, IL 60611

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<http://www.aao.org>

FEDERAL AFFAIRS DEPARTMENT

RE: Revised Uniform Anatomical Gift Act of 2006

Dear Commissioner Ring:

The American Academy of Ophthalmology is pleased to endorse the 2006 Revised Uniform Anatomical Gift Act as promulgated by the National Conference of Commissioners on Uniform State Laws. The Revised Act will greatly enhance the opportunity for the donation and transplantation of precious life giving and life enhancing anatomical gifts. One of these precious gifts, is the gift of sight. The gifting of human eyes can allow another the opportunity to see. It can also provide the opportunity for research into diseases of eye and vision deterioration, resulting in new treatments, rehabilitation, and hope for the future.

Many individuals can be donors of eye and tissue gifts. The need is great and will continue to increase as the population ages and grows. The Revised Act will make it easier to express one's desire to donate and will help ensure that donation wishes are respected wherever the donor may be when death occurs.

Uniformity among the states is critical to ensure that a donor's wishes will be honored to the greatest possible extent. We appeal to state legislatures to undertake a thorough review of their state anatomical gift laws and to include the provisions in the revised model act so that the benefits of the Revised Act are realized.

We thank the Conference for their work in the area. The Academy will work with state-based organizations to get the message of support out to State legislatures.

Sincerely,

Michael X. Repka, M.D.  
Secretary of Federal Affairs





## *American Association of Tissue Banks*

July 3, 2006

**TO: National Conference of Commissioners on Uniform State Laws (NCCUSL)**

The American Association of Tissue Banks (AATB) is pleased to add our endorsement to the proposed 2006 revision of the Uniform Anatomical Gift Act (UAGA), and we respectfully request that the NCCUSL do the same.

Every year, the AATB's more than 1,100 individual members and 95 accredited tissue banks recover tissue from more than 25,000 donors and distribute in excess of 1.5 million allografts for transplant. More than a million Americans annually depend on these transplants to relieve their pain, regain their mobility, restore their limbs, and save their lives. In a very real sense, therefore, what you do at this meeting will save and improve the lives of millions of Americans.

For almost two decades, the UAGA has provided the legal framework and the fundamental law for anatomical donation. Over those years, however, donation practices and federal regulation have changed significantly. To make the UAGA consistent with modern-day practices, and to cure discrepancies and lack of uniformity between the states, the UAGA needs to be revised.

At the invitation of the NCCUSL Drafting Committee, the AATB has been privileged to join its fellow donation organizations for the past several years and work with the committee throughout the drafting process. We are extremely appreciative for that opportunity, and we commend NCCUSL and the committee for your consideration and the foresight to ensure a workable draft. As a result, the committee has produced a model bill that will be supported by the donation community, and one that is worthy of your approval for enactment in all the states.

The AATB thanks you for your service as a NCCUSL Commissioner and for your thoughtful consideration of this important legislation. You have the support of the AATB for passage of this act and our commitment to work with you for its enactment in every state.

With best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Robert Rigney, Jr.', is written over a horizontal line.

P. Robert Rigney, Jr., Esq.  
Chief Executive Officer

PRRJr/br

1320 Old Chain Bridge Road, Suite 450, McLean, VA 22101  
Telephone: 703-827-9582 Fax: 703-356-2198  
E-mail: [aatb@aatb.org](mailto:aatb@aatb.org) Website: [www.aatb.org](http://www.aatb.org)



7-89



AMERICAN SOCIETY OF CATARACT AND REFRACTIVE SURGERY

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December 15, 2006

Commissioner Carlyle C. Ring, Jr.
Chairman
Drafting Committee on the Uniform Anatomical Gift Act (2006)
National Conference of Commissioners on Uniform State Laws
211 E. Ontario Street, Suite 1300
Chicago, IL 60611

RE: Revised Uniform Anatomical Gift Act of 2006

Dear Commissioner Ring:

The American Society of Cataract and Refractive Surgery (ASCRS) is a medical specialty society representing more than 9,500 ophthalmologists in the United States and abroad who share a particular interest in cataract and refractive surgical care. In addition, the ASCRS membership is composed of ophthalmologists who transplant ocular gifts to allow vision restoration, correction, and treatment for vision deficiency.

As an organization in ophthalmology, it has always been our goal to ensure the maximum in quality of eye care, both from a technical and surgical standpoint. Our mission is to advance the art and science of ophthalmic surgery and the knowledge and skills of ophthalmic surgeons. We do this by providing clinical and practice management education and by working with patients, the government, and the medical community to promote the delivery of quality eye care.

The opportunity to have one's vision restored is an invaluable gift most often made possible through anatomical donation. The adoption of the 1968 Uniform Anatomical Gift Act established the right of Americans to donate eyes, tissues, and organs -- life saving and life enhancing anatomical gifts. The concept of donation quickly took hold and has helped save the lives of many Americans, restored their sight, and opportunity for a normal life.

Over time, technological developments and changes in federal and state laws have made it necessary to update the older versions of the Act. This was accomplished this summer, as the National Conference of Commissioners on Uniform State Laws promulgated a Revised Uniform Anatomical Gift Act which will soon be circulated to the legislatures of each of the fifty states for their consideration. The American Society of Cataract and Refractive Surgery congratulates the Commissioners on this initiative and wholeheartedly supports the Revised Act. The Revised Act will strengthen

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www.ascrs.org

Handwritten number 7-9 with a 10 above it



AMERICAN SOCIETY OF CATARACT  
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Elizabeth Davis, MD

and continue the anatomical gifting process which will provide the opportunity for the restoration of sight and research into diseases of the eye and vision deterioration.

We are hopeful that the state legislatures across the country expeditiously consider and enact the provisions in the Revised Act as promulgated by the Commissioners. It is imperative that provisions in the Revised Act are uniformly adopted to ensure benefits across state lines and that a donor's wishes are respected wherever the donor may be when death occurs.

Should you have any questions or comments, please contact Nancey K. McCann, ASCRS' Director of Government Relations at [nmccann@ascrs.org](mailto:nmccann@ascrs.org) or 703-591-2220, or Emily L. Graham, RHIT, CCS-P, CPC, ASCRS' Manager of Regulatory Affairs at [egramham@ascrs.org](mailto:egramham@ascrs.org) or 703-591-2220.

Again, thank you for your attention to this matter.

Best,

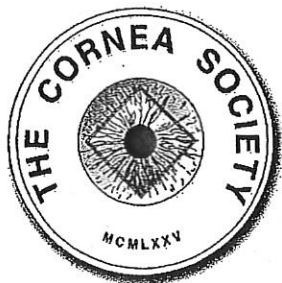
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# The Cornea Society

Founded 1975

December 13, 2006

Commissioner Carlyle C. Ring, Jr., Chairman  
Drafting Committee on the Uniform Anatomical Gift Act (2006)  
National Conference of Commissioners on Uniform State Laws  
211 E. Ontario Street, Suite 1300  
Chicago, IL 60611

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R. Doyle Stulting, MD  
Editor-in-Chief, CORNEA

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info@corneasociety.org  
www.corneasociety.org

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703-434-3000 Fax

Address Changes Requested

## RE: Revised Uniform Anatomical Gift Act of 2006

Dear Commissioner Ring:

The Cornea Society ([www.corneasociety.org](http://www.corneasociety.org)) is pleased to add our endorsement to the Revised Uniform Anatomical Gift Act of 2006.

The first cornea transplant occurred in 1905, and the first eye bank opened in New York in 1944. The eye bank marked the first organized attempt to facilitate the transfer of tissue from donor to patient. Following this successful model, other eye banks were opened across the United States. Through the years, medical technological innovation has developed procedures which have resulted in the successful transplantation of organs and other tissues.

In 1968, a model Uniform Anatomical Gift Act established the right of Americans to donate eyes, tissues and organs -- life saving and life enhancing anatomical gifts. This model act was adopted by the states and serves as the framework for the gifting process that exists today. The anatomical gifting process has provided precious gifts to millions of Americans over the years allowing the gift of life, restored vision, and physical function that would otherwise have been lost.

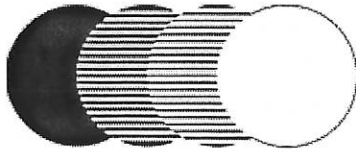
The member physicians of this Society have first hand experience in witnessing the invaluable gift of sight restoration resulting from ocular donation. The Cornea Society is the largest Professional Physician Organization solely representing Corneal Surgeons. We also appreciate of the donation of ocular gifts for research into diseases that destroy sight and the opportunity for vision correction and repair.

The Act must be updated to keep pace with medical technological advances and federal and state regulatory changes to continue to provide optimal donation opportunity wherever one resides. This summer, the National Conference of Commissioners on Uniform State Laws promulgated a Revised Uniform Anatomical Gift Act for circulation to each of the fifty states. The Society congratulates you on this initiative and will help support enactment at the state level.

Sincerely,

Michael W. Belin, MD,  
Professor of Ophthalmology – Albany Medical College  
President – Cornea Society

7-12



**EYE BANK  
ASSOCIATION  
of AMERICA**

October 19, 2006

Commissioner Carlyle C. Ring, Jr.  
Chairman  
Drafting Committee on the Uniform Anatomical Gift Act (2006)  
National Conference of Commissioners on Uniform State Laws  
211 E. Ontario Street, Suite 1300  
Chicago, IL 60611

Dear Commissioner Ring:

The Eye Bank Association of America (EBAA) is pleased to endorse the 2006 Revised Uniform Anatomical Gift Act as promulgated by the National Conference of Commissioners on Uniform State Laws. The Revised Act will greatly enhance the opportunity for the donation and transplantation of precious life giving and life enhancing anatomical gifts. There is no greater gift one may offer another after one is deceased; the EBAA respects that the facilitation of this humanitarian act must be supported within the confines of law.

The EBAA was founded in 1961, under the auspices of the American Academy of Ophthalmology to support a network of not-for-profit eye banks to recover and provide ocular tissue for sight restoring transplantation procedures, medical education, and research to address blindness and other debilitating eye diseases. The gift of donation allows the Association's 83 member eye bank organizations to facilitate approximately 46,000 sight restoring transplants each year. As a result, transplant recipients have the opportunity to regain their vision and enjoy the privilege that so many of us take for granted -- that of seeing the world around us. The provision of ocular tissue for education and research has contributed to significant advances in the medical research of ocular disease. As our Nation's seniors live longer and vision issues confront the baby boom generation in record numbers, the challenge will be to meet an even greater demand for restoring sight and finding solutions to vision problems. The importance of anatomical gifting is paramount to meeting this challenge.


The Revised Uniform Anatomical Gift Act reflects updated donation practices and is harmonized with provisions in federal law and regulation. Uniformity among the states is critical to ensure that a donor's wishes will be honored to the greatest possible extent. Accordingly, we appeal to state legislatures to undertake a thorough review of their

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7-12

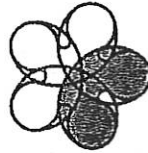
respective states' anatomical gift laws and to make necessary changes to such laws pursuant the 2006 Revised Uniform Anatomical Gift Act.

The Revised Act was created with the active assistance of many stakeholders representing the donor community and the transplant field, including the EBAA. The final document represents the culmination of the best recommendations for the future of donation and greatly strengthens an individual's right to make anatomical gifts. The EBAA wholeheartedly supports the 2006 Revised Act and will work diligently with legislatures in the various states for final passage.

Sincerely,



Patricia Aiken-O'Neill  
President



# National Kidney Foundation

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June 28, 2006

Carlyle C. Ring, Jr., Esq.  
 Ober, Kaler, Grimes, Shriver  
 1401 H Street, NW  
 Suite 500  
 Washington, DC 20005-3324

Dear Connie:

I have been pleased to represent the National Kidney Foundation (NKF) as an observer during the four meetings of the drafting committee that is revising the Uniform Anatomical Gift Act (UAGA). The NKF is a voluntary health organization whose 50,000 members, from around the country, include 7,260 transplant candidates and recipients, as well as 10,910 families that have donated the organs of a deceased loved one for transplantation. I appreciated the willingness of the commissioners to consider the views of the observers during their deliberations and will be interested in seeing the new UAGA move toward enactment since it addresses many of the concerns that have been raised in the transplant community.

Sincerely,

*Dolph Chianchiano*

Dolph Chianchiano, JD, MPA  
 Vice President for Health Policy and Research

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National Conference of Commissioners on  
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211 East Ontario Street  
Suite 1300  
Chicago, IL 60611

Ober, Kaler, Grimes & Shriver  
1401 H. Street, NW, Suite 500  
Washington, DC 20005

December 5, 2006

Dear Mr. Ring,

The United Network for Organ Sharing (UNOS) is a Virginia, non-stock, non-profit, membership corporation that is involved in a number of organ donation and transplantation initiatives. Among these initiatives, UNOS operates the Organ Procurement and Transplantation Network (OPTN) under Federal contract with the Health Resources and Services Administration (HRSA). The OPTN is the unified transplant network established by the National Organ Transplant Act (NOTA) of 1984 to be operated by a private, non-profit organization under federal contract. Presently, over 93,000 people are registered on the national waiting list hoping to receive a life-saving organ.

The OPTN is a unique public-private partnership that links all of the professionals involved in the organ donation and transplantation system. The primary goals of the OPTN are to increase and ensure the effectiveness, efficiency and equity of organ sharing in the national system of organ allocation and increase the supply of donated organs available for transplantation. Improvements to the organ donation consent and recovery process will have a positive and substantial impact on the number of organ transplants performed.

The Association of Organ Procurement Organizations (AOPO) sought support from UNOS and other interested organizations in 2004 to assist in the development of proposed amendments to the Uniform Anatomical Gift Act of 1987 to reflect current donation and transplantation policies and practices. The OPTN/UNOS Organ Availability Committee in conjunction with its Ethics Committee and Organ Procurement Organization (OPO) Committee provided input to the

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Carlyle C. Ring, Jr.  
December 5, 2006  
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proposed amendments to the UAGA. In addition, UNOS staff attended the UAGA drafting Committee meetings throughout the amendment process.

On March 22, 2006, the OPTN/UNOS Board of Directors unanimously voted in support of the RUAGA which was ultimately approved by NCCUSL in July 2006.

As such, we would like this letter to serve as an endorsement from UNOS of the RUAGA 2006, and thank the commissioners for their service to improve this vital piece of model legislation.

Sincerely,



Walter K. Graham

c: Kim Johnson  
Jason Livingston

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