

CHAPTER 49
(CORRECTED COPY)

AN ACT concerning anatomical gifts for educational and research use and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:6-68 Short title.

1. This act shall be known and may be cited as the "Anatomical Research Recovery Organization Act."

C.26:6-69 Standards for anatomical research recovery organization.

2. It is the public policy of this State to safeguard the health and well-being of its citizens, and to ensure the respectful and consensual disposition and use of human bodies and parts donated for education, research, and the advancement of medical, dental, or mortuary science. The need for and use of such anatomical gifts for education, research, and the advancement of medical, dental, or mortuary science is of sufficient frequency so as to require that minimum standards for anatomical research recovery organizations be established.

C.26:6-70 Definitions relative to anatomical gifts for educational and research use.

3. As used in this act:

"Anatomical research recovery organization" means a nonprofit corporation engaged in the recovery of a human body or part donated for education, research, or the advancement of medical, dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute adopted pursuant thereto, where part or all of the recovery takes place in this State. Anatomical research recovery organization shall not include an accredited institution of higher education in this State that uses an anatomical gift for its own educational or research purposes and is not engaged in the distribution of a human body or part to another person or entity.

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"Distribution" means the removal of a human body or part from a storage location to any other location for educational or research use, or the advancement of medical, dental, or mortuary science.

"Education" means the use of the whole body or parts for purposes of teaching or training individuals, including medical or dental professionals and students, with regard to the anatomy and characteristics of the human body.

"Human body part" or "part" means organs, tissues, eyes, bones, blood vessels, and any other portions of a deceased human body which are subject to an anatomical gift pursuant to P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute adopted pursuant thereto, but does not include blood collected pursuant to P.L.1945, c.301 (C.26:2A-1).

"Recovery" means the obtaining of a human body or part, including, but not limited to, determining or obtaining consent or authorization for donation of the human body or part, performing surgical or other technical procedures for recovering the body or part, and processing the body or part. Recovery does not include actions taken by a medical examiner or coroner as part of his professional duties.

“Research” means the conduct of scientific testing and observation designed to result in the acquisition of generalizable knowledge. Research does not include an autopsy or other investigation conducted for the purpose of obtaining information related to the decedent.

C.26:6-71 Registration as anatomical research recovery organization.

4. a. No person shall engage in the recovery of a human body or part donated in this State for education, research, or the advancement of medical, dental, or mortuary science pursuant to P.L.1969, c.161 (C.26:6-57 et seq.) or any subsequent statute adopted pursuant thereto, unless the person is registered as an anatomical research recovery organization with the Department of Health and Senior Services pursuant to this act.

The registration required pursuant to this act shall be in addition to any license or permit required by a local board of health, other local health agency, or any State or federal agency.

b. The registration shall be valid for a one-year period and may be renewed subject to compliance with the requirements of this act. The commissioner shall establish such registration and renewal fees as may be reasonable and necessary to carry out the purposes of this act.

c. The commissioner may enter and inspect the premises of any anatomical research recovery organization and the books and records as is reasonably necessary to carry out the provisions of this act.

C.26:6-72 Requirements for operating as an anatomical research recovery organization.

5. An anatomical research recovery organization operating in this State shall demonstrate compliance with the following requirements:

a. A physician licensed in this State or the state in which the organization is incorporated shall serve as medical director, and shall be responsible for ensuring compliance with the provisions of this act, the hiring of qualified personnel, and the maintenance of records required under this act.

b. The organization shall be a federally tax-exempt nonprofit corporation.

c. The organization shall create, compile, or maintain a complete record on each donor from which it recovers a human body or part for educational or research purposes or the advancement of medical, dental or mortuary science, which shall include, at a minimum:

(1) documentation that the donor has designated the anatomical gift for educational or research purposes or for the advancement of medical, dental, or mortuary science, as specified in section 3 of P.L.1969, c.161 (C.26:6-59) or any subsequent statute adopted pursuant thereto. The documentation may be in the form of a signed document of gift, or verifiable documentation that taped telephonic consent has been obtained;

(2) documentation of the identity and address of each entity which has been in possession of the human body or part prior to the organization, such as a funeral home, coroner, hospital, organ procurement organization, or tissue bank; and

(3) documentation of the use and disposition of each human body or part, including the name and address of each person who receives a human body or part directly from the organization.

C.26:6-73 Violation.

6. It shall be a violation of this act for any person to obstruct, hinder, delay or interfere, by force or otherwise, with the performance by the commissioner of any duty under the provisions of this act.

C.26:6-74 Powers of commissioner relative to violations.

7. If the commissioner has reason to believe that a condition exists or has occurred at an anatomical research recovery organization in violation of the provisions of this act, which is dangerous to the public health, he may order the organization to correct the violation and may immediately suspend the registration of the organization until the correction is completed. If a registrant denies that a violation exists or has occurred, the registrant shall have the right to apply to the commissioner for a hearing. The hearing shall be held and a decision rendered within 48 hours of the receipt of the request. If the commissioner rules against the registrant, the registrant may apply to a court of competent jurisdiction for injunctive relief against the commissioner's order.

C.26:6-75 Violations, penalties.

8. a. Any person who violates the provisions of this act or an order of the commissioner shall be liable for the first offense to a penalty of not more than \$1,000, and for the second and each succeeding offense for a penalty of not more than \$5,000. The penalties shall be sued for and collected in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. In addition to any civil penalties provided under this section, the commissioner may suspend or revoke a registration made pursuant to this act for a violation of any provision of this act.

c. Except as provided in section 7 of this act, before denying to grant or renew a registration, or suspending or revoking a registration, pursuant to this act, the commissioner shall provide notice of the denial, revocation, or suspension, together with a specification of charges to the applicant or registrant, personally or by certified mail to the address of record, and the notice shall set forth the particular reasons for the denial, suspension, or revocation. The denial, suspension, or revocation shall become effective 30 days after mailing, unless the applicant or registrant, within the 30-day period, meets the requirements of the department or files with the department a written answer to the charges and gives written notice to the department of its desire for a hearing, in which case the denial, suspension, or revocation may be held in abeyance until the hearing has been concluded and a final decision rendered by the commissioner.

The commissioner shall afford the applicant or registrant an opportunity for a prompt hearing on the question of the granting, suspension, or revocation of the registration. The procedure governing the hearing shall be in accordance with the rules and regulations of the department. Either party may be represented by counsel of its own choosing, and has the right to subpoena witnesses and to compel their attendance on forms furnished by the department. The commissioner shall render a written decision stating conclusions and reasons therefor.

C.26:6-76 Rules, regulations.

9. The commissioner shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act. The regulations may specify qualifications for personnel, including the medical director, employed at an anatomical research recovery organization and standards related to recovery of human bodies or parts.

10. This act shall take effect on the 180th day following enactment.

Approved July 22, 2008.