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CHAPTER 83
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§ 83101. Definitions.

(a) *Bank or storage facility* means a facility licensed, accredited or approved under the laws of Guam for storage of human bodies or parts thereof.

(b) *Decedent* means a deceased individual and includes a stillborn infant or fetus.

(c) *Donor* means an individual who makes a gift of all or part of his body.

(d) *Hospital* means a hospital licensed, accredited or approved under the laws of any state or territory of the United States, including a hospital operated by the United States Government or the territory of Guam or any state or territory of the United States, although not required to be licensed under the laws of the territory or state.

(e) *Part* means organs, tissues, eyes, bones, arteries, blood, other fluids and any portions of a human body.

(f) *Person* means an individual, corporation, government or governmental subdivision or agency, business, trust, estate, trust, partnership or association, or any other legal entity.

(g) *Physician or surgeon* means a physician or surgeon licensed or authorized to practice under the laws of Guam.

SOURCE: GC § 49240.

§ 83102. Persons Who May Execute an Anatomical Gift.

(a) Any individual of sound mind and eighteen (18) years of age or more may give all or any part of his body for any purpose specified in §83103 the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by the member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in §83103:

- (1) The spouse;
- (2) An adult son or daughter;
- (3) Either parent;
- (4) An adult brother or sister;
- (5) A guardian of the person of the decedent at the time of his death; and
- (6) Any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by Subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided for by §83107(d).

SOURCE: GC § 49241.

§ 83103. Persons Who May Become Donees; Purpose for Which Anatomical Gifts May Be Made.

The following persons may become donees of gifts of bodies or parts thereof for the purpose stated:

- (a) Any hospital, surgeon or physician, for medical or dental

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education, research, advancement of medical or dental science, therapy or transplantation; or

(b) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy; or

(c) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or

d) Any specified individual for therapy or transplantation needed by him.

SOURCE: GC § 49242.

§ 83104. Manner of Executing Anatomical Gifts.

(a) A gift of all or part of the body under §83102(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under §83102(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two (2) witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two (2) witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this Subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding §83107(b), the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the

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appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for this purpose.

(e) Any gift by a person designated in §83102(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

SOURCE: GC § 49243.

§ 83105. Delivery of Document of Gift.

If the gift is made by the donor to a specified donee, the will, card or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death the person in possession shall produce the document for examination.

SOURCE: GC § 49244.

§ 83106. Amendment or Revocation of the Gift.

(a) If the will, card or other document or executed copy thereof has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) The execution and delivery to the donee of a signed statement;
or
- (2) An oral statement made in the presence of two (2) persons and communicated to the donee; or
- (3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or
- (4) A signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in Subsection (a) or by destruction, cancellation or mutilation of the document and all executed copies thereof.

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(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided by Subsection (a).

SOURCE: GC § 49245.

§ 83107. Rights and Duties at Death.

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accordance with the terms of this Chapter or the anatomical gift laws of a state of the United States or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Chapter are subject to the laws of this Territory prescribing powers and duties with respect to autopsies.

SOURCE: GC § 49246.

§ 83108. Uniformity of Interpretation.

This Chapter shall be so construed as to effectuate its general purpose to make uniform the law of the states and territories of the United States which enact it.

SOURCE: GC § 49247.

§ 83109. Short Title.

This Chapter may be cited as the *Guam Uniform Anatomical Gift Act*.

SOURCE: GC § 49248.
