

## **Report From Agency**

### **ADMINISTRATIVE RULES DEPARTMENT OF HEALTH SERVICES REPORT TO THE LEGISLATURE CLEARINGHOUSE RULE 10-137 CH. DHS 137: ANATOMICAL GIFTS**

#### **Basis and Purpose of Proposed Rule**

Section 157.06 (20), Stats., authorizes the department to establish an organ and tissue donor registry and directs the department to promulgate administrative rules to govern any registry it establishes.

The rules proposed by the department, as authorized under s. 157.06 (20), Stats., establish and govern the Wisconsin Donor Registry (Donor Registry). The rules in this order prescribe:

- The conditions under which individuals may have a record of gift or record of intent to make an anatomical gift included in the Donor Registry.
- The conditions under which an individual can amend or revoke his or her record of gift recorded in the Donor Registry.
- The conditions under which procurement organizations and their employees can receive department authorization to access the Donor Registry.
- The conditions of use of Donor Registry information.

Under emergency rules adopted by the department effective March 29, 2010, the Donor Registry became operational.

#### **Responses to Legislative Council Rules Clearinghouse Recommendations**

The department accepted the comment(s) made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested except as follows:

#### **Clearinghouse Comment 5.b.:**

Section DHS 137.04 refers to donation of organs, tissue, and eyes. Since s. 157.06, Stats., refers to the gift of a donor's body or part, should the rule instead refer to the donation of organs, tissue, or eyes? Also, s. DHS 137.04 (1) (a) refers to "transportation or therapy" while par. (b) refers to "transportation, therapy, research or education." Unless there is a difference in the purpose of an anatomical gift, consistent terms should be used.

#### **Department Response:**

The definition of "anatomical gift" in s. 157.06 (2) (h), Stats., indicates that an anatomical gift may be a donation of "all of a human body," which implies that an anatomical gift may be a gift of multiple body parts. The use of "and" is consistent with this interpretation of the

statute and the department's understanding that organ and tissue donors generally intend to donate all parts of their bodies that may be useful for transplantation or therapy. Under ss. DHS 137.04 (1) (d) and DHS 137.05 of the proposed rule, an individual who makes an inclusive anatomical gift through the Wisconsin donor registry, may limit the gift to a specific organ.

**Final Regulatory Flexibility Analysis**

The rules do not affect small businesses.

**Changes to the Analysis or Fiscal Estimate**

**Analysis**

No changes were made to the rule's analysis.

**Fiscal Estimate**

No changes were made to the fiscal estimate.

**Public Hearing Summary**

The department began accepting public comments on the proposed rule via the Wisconsin Administrative Rules website on March 29, 2010. A public hearing was held on May 5, 2010 in Madison, WI. One person attended the hearing. Public comments on the proposed rule were accepted until May 12, 2010.

### List of Public Hearing Attendees and Commenters

The following is a complete list of the persons who attended the public hearing or submitted comments on the proposed rule, the position taken by the commenter and whether or not the individual provided written or oral comments.

	<b>Name and Address</b>	<b>Position Taken</b> (Support or Opposed)	<b>Action</b> (Oral or Written)
1.	Peggy Irwin MTF	None given	Observer
2.	The University of Wisconsin Hospital and Clinics Organ Procurement Organization	Support	Written

**Public Comments and Department Responses**

The number(s) following each comment corresponds to the number assigned to the individual listed in the Public Hearing Attendees and Commenters section of this document.

<b>Rule Provision</b>	<b>Public Comment</b>	<b>Department Response</b>
General	<p>The University of Wisconsin Hospital and Clinics Organ Procurement Organization strongly supports the proposed changes to DHS 137. The development of these rules is a result of over a four year collaboration between all the Wisconsin organ, tissue and eye recovery organizations, the Department of Transportation, Department of Health Services, and the Wisconsin State Legislature. The foundation for the organ, tissue and eye donor registry was laid by the passage of the Revised Uniform Anatomical Gift Act (Wisconsin Act 106) in 2007. This paved the way for Donate Life Wisconsin, a consortium of organizations committed to saving lives through organ, tissue and eye donation and transplantation, to receive a federal grant in 2008 to develop an online registry. The culmination of this collaborative work allows Wisconsin citizens to legally consent to organ, tissue and eye donation, leaving a life-saving legacy and giving hope to the 1500 Wisconsinites on the transplant waitlist.</p> <p align="right"><b>2</b></p>	No comment necessary.