



# WYOMING LEGISLATIVE SERVICE OFFICE

## *Issue Brief*

**17 IB 001**

**Date:** April 13, 2017

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**Re:** Organ Donation and Transplantation in Wyoming

### **PURPOSE**

Prepare background information about organ donation and transplantation in Wyoming for the Joint Labor, Health and Social Services Interim Committee. Identify the current organ donation rates in Wyoming and determine how often donations are converted into successful patient transplants. To the extent possible, also determine where Wyoming patients are receiving their transplant-related services.

### **BACKGROUND**

There are many complex considerations related to organ donation and transplantation, which requires local, state, and federal coordination and cooperation. To provide model language for organ donation and transplantation legislation in the United States, Congress passed the Uniform Anatomical Gift Act in 1968, which was last updated in 2006. Wyoming adopted the Uniform Act in 1969, and in 2009, the Legislature enacted the Revised Anatomical Gift Act (repealed previous statute and created W.S. 35-5-201 through W.S. 35-5-225) to ensure that Wyoming law reflects the most up-to-date federal changes. The Revised Act defines relevant terminology and provides specifications and limitations on who may make, amend, rescind, or receive an anatomical gift. Please see **Attachment A** for the current Revised Act statutory provisions.

### ***National Organization***

While the national and state organ donation and transplantation policy was initially set in the late 1960s, the current structure was established in 1984 when Congress passed the National

Organ Transplant Act (NOTA) to standardize the administrative and organizational processes.

NOTA created a national registry for organ matching, known as the Organ Procurement and Transplantation Network (OPTN). Since the 1980s, the U.S. Department of Health and Human Services, Health Resources and Service Administration (HRSA) has contracted with the United Network of Organ Sharing (UNOS) to operate the OPTN. In 1999, UNOS developed and launched a secure online database that contains information about every organ donation and transplant event that has occurred in the United States since October 1, 1987.

NOTA also established a formal network of federally-designated nonprofit organ procurement organizations (OPOs) to oversee efforts to increase the number of registered donors and coordinate the donor-to-patient donation process at the local level. Currently there are fifty-eight OPOs operating in the United States in federally-designated service areas. Each OPO must be certified by the Centers for Medicare and Medicaid Services (CMS) and comply with all established CMS regulations. Additionally, all OPOs, as members of the OPTN, are responsible for reporting donor statistics for their service area to the national database.

### ***Wyoming's Organ Procurement Organizations***

Two out-of-state organizations are responsible for serving as the federally-designated OPOs in Wyoming. The majority of Wyoming is assigned to the Donor Alliance, which is based in Denver, Colorado. The Donor Alliance has had an office and at least one staff member in

Casper since 1987. The second OPO is the Intermountain Donor Services, which is based in Salt Lake City, Utah. The Intermountain Donor Services oversees all of Utah and parts of Southern Idaho, Nevada (Elko County), and three counties in Wyoming (Lincoln, Sweetwater, Uinta). The Intermountain Donor Services does not have an office in Wyoming.

According to the Intermountain Donor Services and Donor Alliance, they have a great working relationship with one another. As Donor Alliance serves the majority of the state, it does take the lead for most statewide efforts and initiatives. However, Intermountain Donor Services is kept informed and does provide support for these efforts in their three counties.

An example of these ongoing efforts is the education of students about organ donation and the science of transplantation. During the 2016-2017 school year combined both OPOs were able to hold approximately eighty classes, with several more anticipated, for students in middle, junior, and high schools statewide.

### **State Role in Organ Donation and Transplantation is Limited**

Wyoming has a limited role related to organ donation, because the majority of the process is federally regulated and managed. However, there are ongoing State efforts related to education and donor registration.

As provided for in W.S. 31-3-101(h), vehicle owners can donate funds to promote awareness and education efforts for organ donation and transplantation. These funds are sent directly to the Wyoming Cares/Wyoming Shares Program in the Wyoming Department of Health (Health). This program works in collaboration and cooperation with the Donor Alliance and the Rocky Mountain Eye Bank to provide education and outreach to individuals of all ages throughout Wyoming. Additionally, the Wyoming Department of Transportation (Transportation) is responsible for the donor status designation on state driver's licenses and identification cards, as well as reporting donor registration information. For more information regarding these efforts and organ donation in

Wyoming, please visit the Donate Life website: (<http://donatelifewyoming.org/register-now/>).

### **Organ Donation Rate in Wyoming**

All organ donations and transplants begin with a person deciding to become an organ and tissue donor who then signs up with his or her state registry. In Wyoming, there are currently three ways to become a registered donor.

- Sign up with Transportation when applying for or renewing a driver's license or state identification card.<sup>1</sup>
- Register online at <http://www.donatelifewyoming.org/>
- Request and return a mail-in registration form from Health's Wyoming Cares/Wyoming Shares Program.

Of these three methods, most Wyoming citizens register when applying for or renewing their driver's license or state identification card. Specifically, as shown in Figure 1 on the next page, on the Wyoming Driver License/State Identification Card Application, Question 6 asks the applicant to indicate whether he or she wishes to join the organ and tissue donor registry. As all questions on the application are required, if left blank, the individual will be asked to make a selection to ensure the application is considered complete.

Transportation generates a monthly donor designation report, which identifies the number of individuals who were asked if they wished to join the registry and the number who responded "yes." The data reported indicates individual monthly totals, and is not cumulative. Only those individuals seeking driver's license or state identification card related services (e.g. renewing a driver license or obtaining a learning permit for a minor) and are required to complete the Wyoming Driver License/State Identification Card Application, would be asked to respond to Question 6.

<sup>1</sup> A person's organ donation status is indicated by the heart symbol on his or her driver's license or state ID card in the upper right hand corner, below the gold star.

**Figure 1. Question 6 on the Wyoming Driver License/Identification Card Application**

6.  YES  NO Do you wish to join the organ and tissue donor registry? **\*\*If under 18 yrs. old, you must have your parent/guardian permission to be a donor.**  
**\*\*The above minor has my permission to register as a donor:** \_\_\_\_\_ **Parent/Guardian Signature**

**Source:** Wyoming Department of Transportation website.

In February 2017, there were 10,016 individuals who were asked if they wished to join the organ and tissue donor registry. Of these individuals, 5,791, or 57.8% said “yes.” See **Attachment B** for a breakdown of those asked Question 6 and those that said yes by each Driver Exam Station around the state.

When a person registers as an organ and tissue donor, the items that may be donated include:

- Solid organs: heart, intestines, kidneys (2), liver, lungs (2), and pancreas
- Cornea and eyes
- Tissue (e.g. heart valves, bone, etc.)

**Wyoming’s Conversion Rate**

The conversion rate of donations resulting in transplants is a calculation based on the number of eligible donors whose organs could be used *and* that were then accepted and transplanted. However, to understand the significance of this calculation, it is important to understand the donation and

transplant process. The following diagram, Figure 2 below, and narrative provides a simplified explanation for the process.

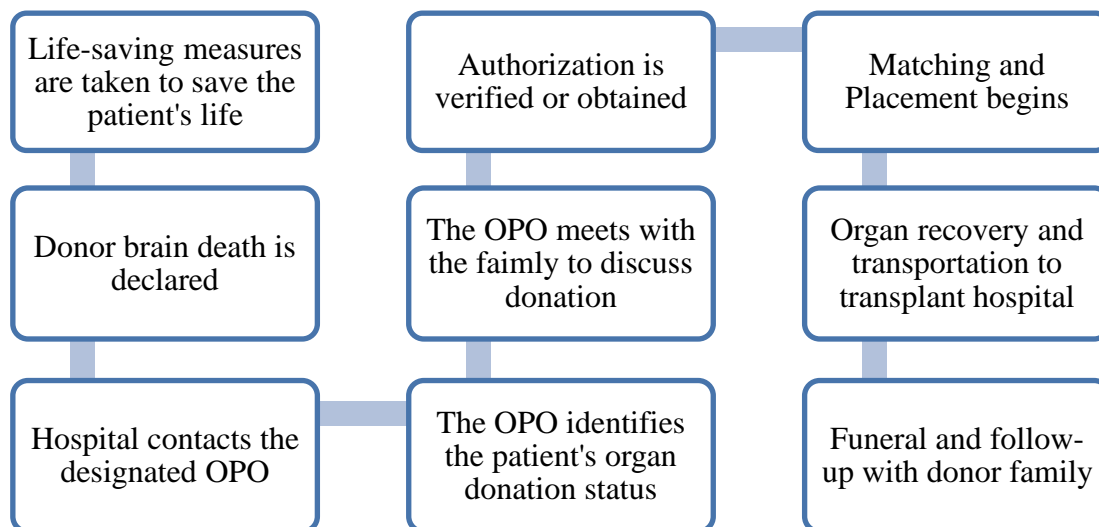
**From Organ Donation to Transplantation**

Circumstances transpire, such as a vehicle accident, and a person is transported to the nearest medical facility where all life-saving efforts are taken to save his or her life. If life-saving efforts are not successful, then brain death is declared by medical professionals in accordance with the requirements of the 1980 Uniform Determination of Death Act.

Hospitals are required to inform the designated OPO when an eligible donor has been declared dead or when death is imminent. Upon receiving notice, the OPO sends a trained professional to identify if the patient was a registered donor and determine if the patient is medically suitable for organ donation.

The OPO professional then speaks with the family. If the patient was a registered organ

**Figure 2. Diagram of the Donation and Transplantation Process.**



Source: Legislative Service Office summary of U.S. Department of Health and Human Services, United Network of Organ Sharing, and Donor Alliance information.

donor, the OPO professional discusses the information with the family and addresses all questions or concerns. If the patient was not a registered donor, then the OPO professional discusses the possibility of donation and seeks family authorization.

Once authorization has been verified or obtained, and the patient is identified as an eligible donor, the OPO takes over the medical management of the patient. The patient's information, hospital zip code, and other data is reported to the OPTN to begin the allocation process.

To ensure that donated organs are appropriately and quickly matched with patients in need, there are a number of factors considered on a case-by-case basis.

According to the OPTN, two overarching considerations are *justice* and *medical utility*. Justice refers to fair consideration of a candidate's circumstances and medical need. Medical utility focuses on trying to increase the number of transplants performed and the length of time patients and the organs will survive.

In addition to these two overarching considerations, there are several other considerations, some that are applicable to all donations and others that are organ specific. A few examples of general factors considered during matching include:

- Medical considerations, such as blood type, tissue match, size or organ(s)
- Physical characteristics of the deceased, such as height and weight
- Patient time on waiting list
- Other calculations, such as a Pediatric End-Stage Liver Disease (PELD) score
- Geography, such as the distance between the patient and organ donor

Geography is a critical consideration, due to the amount of time an organ can remain

viable outside the body, as shown below:

- Heart: 4 to 6 hours
- Intestines: 8 to 16 hours
- Kidneys: 24 to 48 hours
- Liver: 8 to 12 hours
- Lungs: 4 to 6 hours
- Pancreas: 12 to 18 hours

Additionally, to process organ donations, hospitals need to have certain equipment and facilities to keep organs viable (e.g. a ventilator) and facilitate surgical removal (i.e. an operating room). Rural and critical access hospitals rarely have the necessary equipment and facilities to accommodate organ donation. In Wyoming from July 1, 2015 through June 30, 2016, only the Wyoming Medical Center in Casper and the Cheyenne Regional Medical Center recovered organs from donors.

After evaluation of the various considerations, a list of possible candidates is generated for each available organ and work begins to make contact to determine where the organs will be allocated. Typically, organs are offered locally, then regionally, and lastly nationwide. Wyoming is a part of Region 8, which also includes Colorado, Iowa, Kansas, Missouri, and Nebraska.

Once a match has been confirmed, a surgical team removes the donated organs and tissues, ensuring that all incisions are surgically closed. The OPO representative arranges transportation of the organs to the recipients' hospitals where medical staff begins the necessary processes to perform the transplant.

The OPO works with the donor's family, as needed, for the funeral. The OPO also follows up with the donor family to provide information about the transplant and provide additional support, such as bereavement counseling.

Based on the preceding donor-to-transplant process explanation, the Wyoming conversation rates for brain dead donors are shown in Table 1, on the next page, for 2011 through February 2017.



**Table 1. Wyoming statistics for organ donation of donors declared brain dead (2011-2017).**

Year	Eligible Brain Dead Donors	Actual Brain Dead Donors	Brain Dead Conversion Rate	Organs Recovered and Transplanted
2011	7	6	86%	16
2012	8	6	75%	26
2013	4	3	75%	4
2014	9	7	78%	27
2015	9	8	89%	31
2016	7	7	100%	31
2017*	2	2	100%	7

**Source:** Information provided to the Legislative Service Office by the Donor Alliance.

\* Data for 2017 is year-to-date as of February 2017.

### Where do Wyoming patients receive their transplant-related services?

As of February 2017, there are 173 Wyoming patients waiting for organ transplants. For context, the waiting list for organ transplants in Colorado for February 2017 was 2,150 and in Utah it is 778. Nationally, there are 118,076 individuals waiting for organ transplants.

Although the centralized, national waiting list is managed by UNOS, transplant centers are responsible for identifying and then placing individuals on the waiting list. Each transplant center has its own criteria for accepting patients, as well as determining that patient's status on the waiting list once accepted. Currently, UNOS policy permits patients to be listed at more than one transplant center, a practice known as multiple listings. However, transplant center criteria and policy will determine if multiple listings is possible for a patient.

There are over 200 transplant centers in the United States. However, there are no transplant centers in the state. Therefore, all Wyoming patients must go out-of-state for transplant services and treatments. Certified

transplant centers in surrounding states include: Omaha, Nebraska (2); Aurora, Colorado (2); Denver, Colorado (2); Murray, Utah (1); and Salt Lake City, Utah (2).

Due to the complexities of operating and maintaining transplant centers, not all facilities provide every available transplant service. Therefore, if a specialized type of transplant is necessary (e.g. a particular pediatric heart transplant), then a Wyoming patient and his or her family may be required to seek treatment at a specific location.

Several additional considerations that impact a patient's decision about where to seek transplant-related treatments include his or her health insurance, financial situation, ability to travel, support network and services, as well as the availability of follow up care.

Given this context, gathering specific data about where Wyoming patients receive their services, while possible, does require significant time to compile. As of the writing of this brief, this information was not available, but the Donor Alliance has submitted a request to obtain more information from UNOS to address this question.

If you have any further questions, do not hesitate to contact me at 777-7881.

# Appendix A

**TITLE 35 - PUBLIC HEALTH AND SAFETY  
CHAPTER 5 - ANATOMICAL GIFTS  
ARTICLE 2 - REVISED UNIFORM ANATOMICAL GIFT ACT**

**35-5-201. Short title.**

This act may be cited as the "Revised Uniform Anatomical Gift Act".

**35-5-202. Definitions.**

(a) As used in this act:

(i) "Agent" means an individual:

(A) Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

(B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(ii) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education;

(iii) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this act, a fetus;

(iv) "Department" means the department of transportation;

(v) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under W.S. 35-5-211;

(vi) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card or donor registry;

(vii) "Donor" means an individual whose body or part is the subject of an anatomical gift;

(viii) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;

(ix) "Driver's license" means a license or permit issued by the department to operate a vehicle, whether or not conditions are attached to the license or permit;

- (x) "Eye bank" means a person who is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes;
- (xi) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. The term does not include a guardian ad litem;
- (xii) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state;
- (xiii) "Identification card" means an identification card issued by the department;
- (xiv) "Know" means to have actual knowledge;
- (xv) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization;
- (xvi) "Parent" means a parent whose parental rights have not been terminated;
- (xvii) "Part" means an organ, an eye or tissue of a human being. The term does not include the whole body;
- (xviii) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state;
- (xix) "Procurement organization" means an eye bank, organ procurement organization or tissue bank;
- (xx) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. The term does not include an individual who has made a refusal;
- (xxi) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;
- (xxii) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted;
- (xxiii) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (xxiv) "Refusal" means a record created under W.S. 35-5-207 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;
- (xxv) "Sign" means, with the present intent to authenticate or adopt a record:

- (A) To execute or adopt a tangible symbol; or
- (B) To attach to or logically associate with the record an electronic symbol, sound or process.

(xxvi) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

(xxvii) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. The term includes an enucleator;

(xxviii) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education;

(xxix) "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue;

(xxx) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients;

(xxxii) "This act" means W.S. 35-5-201 through 35-5-225.

### **35-5-203. Applicability.**

This act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made. All anatomical gifts deemed to be effective under W.S. 35-5-101 through 35-5-119, prior to its repeal by this enactment, shall continue to be deemed and regarded to be effective after the effective date of this act.

### **35-5-204. Who may make anatomical gift before donor's death.**

(a) Subject to W.S. 35-5-208, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in the manner provided in W.S. 35-5-205 by:

(i) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license because the donor is at least sixteen (16) years of age.

(ii) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;



(iii) A parent of the donor, if the donor is an unemancipated minor to whom subparagraph (i) (B) of this subsection does not apply; or

(iv) The donor's guardian, if the donor is an unemancipated minor to whom subparagraph (i) (B) of this subsection does not apply.

**35-5-205. Manner of making anatomical gift before donor's death.**

(a) A donor may make an anatomical gift:

(i) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(ii) In a will;

(iii) During a terminal illness or injury of the donor, by any form of communication addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or

(iv) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) Revocation, suspension, expiration or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

**35-5-206. Amending or revoking anatomical gift before donor's death.**

(a) Subject to W.S. 35-5-208, a donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may amend or revoke an anatomical gift by:

(i) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign.

(ii) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subparagraph (a) (i) (C) of this section shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) Subject to W.S. 35-5-208, a donor or other person authorized to make an anatomical gift under W.S. 35-5-204 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

**35-5-207. Refusal to make anatomical gift; effect of refusal.**

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(i) A record signed by:

(A) The individual; or

(B) Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign.

(ii) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(iii) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(b) A record signed pursuant to subparagraph (a) (i) (B) of this section shall:

(i) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the individual; and

(ii) State that it has been signed and witnessed as provided in paragraph (i) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(i) In the manner provided in subsection (a) of this section for making a refusal;

(ii) By subsequently making an anatomical gift pursuant to W.S. 35-5-205 that is inconsistent with the refusal; or

(iii) By destroying or cancelling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in W.S. 35-5-208(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

**35-5-208. Preclusive effect of anatomical gift, amendment or revocation.**

(a) Except as otherwise provided in subsection (g) and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under W.S. 35-5-205 or an amendment to an anatomical gift of the donor's body or part under W.S. 35-5-206.

(b) A donor's revocation of an anatomical gift of the donor's body or part under W.S. 35-5-206 is not a refusal and does not bar another person specified in W.S. 35-5-204 or 35-5-209 from making an anatomical gift of the donor's body or part under W.S. 35-5-205 or 35-5-210.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under W.S. 35-5-205 or an amendment to an anatomical gift of the donor's body or part under W.S. 35-5-206, another person may not make, amend or revoke the gift of the donor's body or part under W.S. 35-5-210.

(d) A revocation of an anatomical gift of a donor's body or part under W.S. 35-5-206 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under W.S. 35-5-205 or 35-5-210.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under W.S. 35-5-204, an anatomical gift of a part is neither a refusal to give another

part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under W.S. 35-5-204, an anatomical gift of a part for one (1) or more of the purposes set forth in W.S. 35-5-204 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under W.S. 35-5-205 or 35-5-210.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

**35-5-209. Who may make anatomical gift of decedent's body or part.**

(a) Subject to subsections (b) and (c) of this section and unless barred by W.S. 35-5-207 or 35-5-208, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(i) An agent of the decedent at the time of death who could have made an anatomical gift under W.S. 35-5-204(a)(ii) immediately before the decedent's death;

(ii) The spouse of the decedent;

(iii) Adult children of the decedent;

(iv) Parents of the decedent;

(v) Adult siblings of the decedent;

(vi) Adult grandchildren of the decedent;

(vii) Grandparents of the decedent;

(viii) An adult who exhibited special care and concern for the decedent;

(ix) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(x) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one (1) member of a class listed in paragraph (i), (iii), (iv), (v), (vi), (vii) or (ix) of subsection (a) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under W.S. 35-5-211 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

**35-5-210. Manner of making, amending or revoking anatomical gift of decedent's body or part.**

(a) A person authorized to make an anatomical gift under W.S. 35-5-209 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under W.S. 35-5-209 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under W.S. 35-5-209 may be:

(i) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(ii) Revoked only if a majority of the reasonably available members agree to the revocation of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital or physician or technician knows of the revocation.

**35-5-211. Persons that may receive anatomical gift; purpose of anatomical gift.**

(a) An anatomical gift may be made to the following persons named in the document of gift:

(i) For purposes of research or education, a hospital, accredited medical school, dental school, college or university, organ procurement organization or any appropriate person;

(ii) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(iii) A named eye bank or tissue bank;

(iv) A person certified by a state or local law enforcement agency to train search and rescue animals.

(b) If an anatomical gift to an individual under paragraph (a)(ii) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the

absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(i) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(ii) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(iii) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(iv) If the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e) and (f) of this section, the following rules apply:

(i) If the part is an eye, the gift passes to the appropriate eye bank;

(ii) If the part is tissue, the gift passes to the appropriate tissue bank;

(iii) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph (a)(ii) of this section,



passes to the organ procurement organization as custodian of the organ.

(j) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(k) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under W.S. 35-5-205 or 35-5-210 or if the person knows that the decedent made a refusal under W.S. 35-5-207 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(m) Except as otherwise provided in paragraph (a)(ii) of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

**35-5-212. Delivery of document of gift not required; right to examine.**

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under W.S. 35-5-211.

**35-5-213. Rights and duties of procurement organization and others.**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization shall be allowed reasonable access to information in the records of the department to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this act, at any time after a donor's death, the person to whom a part passes under W.S. 35-5-211 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this act, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in W.S. 35-5-209 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to W.S. 35-5-211(j) and 35-5-223, the rights of the person to whom a part passes under W.S. 35-5-211 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to whom the part passes under W.S. 35-5-211, upon the death of the donor and before embalming, burial or cremation, shall cause the part to be removed without unnecessary mutilation.

(j) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(k) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**35-5-214. Coordination of procurement and use.**

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**35-5-215. Sale or purchase of parts prohibited.**

(a) Except as otherwise provided in subsection (b) of this section, a person who for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a

felony punishable by imprisonment for not more than five (5) years, a fine of not more than fifty thousand dollars (\$50,000.00) or both.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

**35-5-216. Other prohibited acts.**

A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00) or both.

**35-5-217. Immunity.**

(a) A person who acts in accordance with this act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended or revoked under this act, a person may rely upon representations of an individual listed in W.S. 35-5-209(a)(ii), (iii), (iv), (v), (vi), (vii) or (viii) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**35-5-218. Law governing validity; choice of law as to execution of document of gift; presumption of validity.**

(a) A document of gift is valid if executed in accordance with:

(i) This act;

(ii) The laws of the state or country where it was executed; or

(iii) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

**35-5-219. Donor registry.**

(a) The department shall electronically transfer to a procurement organization the information that appears on the front of the driver's

license or identification card, to include the name, gender, date of birth, social security number if it appears on the license or card, driver's license or identification card number, issue date or renewal date and address of the individual identified as a donor. The department shall also electronically transfer any subsequent change in the donor's status, including revocation of the gift. The department shall submit to the department of health a statement of costs incurred to initially install and establish the electronic transfer of donor information. The department of health shall direct the state auditor to reimburse the department for the costs from the anatomical awareness account under W.S. 35-5-225 to the extent there are funds in that account. There shall be no charge to a procurement organization for the transfer of donor information.

(b) With the information obtained from the department and from other sources including donors and donors' agents pursuant to W.S. 35-5-205(b), the procurement organization shall establish and maintain a statewide organ and tissue donor registry to facilitate organ and tissue donations. The cost incurred to create and maintain the registry shall be paid by the procurement organization. Registry information shall be accessible to any procurement organization located in Wyoming and may be disseminated to a procurement organization in another state for the recovery or placement of organs and tissue. Registry information may also be disseminated to Wyoming eye banks under this section.

(c) A donor registry shall:

(i) Allow a donor or other person authorized under W.S. 35-5-204 to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(ii) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(iii) Be accessible for purposes of paragraphs (i) and (ii) of this subsection seven (7) days a week on a twenty-four (24) hour basis.

(d) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

(e) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry shall comply with subsections (c) and (d) of this section.

**35-5-220. Effect of anatomical gift on advance health care directive.**

(a) In this section:

(i) "Advance health-care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor;

(ii) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor;

(iii) "Health-care decision" means any decision regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this act to make health-care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict shall be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under W.S. 35-5-209. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

**35-5-221. Cooperation between coroner and procurement organization.**

(a) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.

(b) If a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is going to be performed, unless the coroner denies recovery in accordance with W.S. 35-5-222, the coroner or designee shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research or education unless the part is the subject of an anatomical gift. The

body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

**35-5-222. Facilitation of anatomical gift from decedent whose body is under jurisdiction of coroner.**

(a) Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the coroner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the coroner only if relevant to transplantation or therapy.

(b) The coroner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the coroner which the coroner determines may be relevant to the investigation.

(c) A person who has any information requested by a coroner pursuant to subsection (b) of this section shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is not required, or the coroner determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the coroner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner may deny the recovery.

(f) The coroner and procurement organization shall enter into an agreement establishing protocols and procedures governing relations between them when the coroner believes that the recovery of a part for



anatomical gift from a decedent whose body is under the jurisdiction of the coroner could interfere with the post-mortem investigation into the decedent's cause or manner of death or the documentation or preservation of evidence. Decisions regarding the recovery of a part from the decedent shall be made in accordance with the agreement.

(g) If the coroner or designee denies recovery under subsection (f) of this section, the coroner or designee shall:

(i) Explain in a record the specific reasons for not allowing recovery of the part;

(ii) Include the specific reasons in the records of the coroner; and

(iii) Provide a record with the specific reasons to the procurement organization.

(h) If the coroner or designee allows recovery of a part under subsection (d), (e) or (f) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner with a record describing the condition of the part, a biopsy, a photograph and any other information and observations that would assist in the post-mortem examination.

(j) If a coroner or designee is required to be present at a removal procedure under subsection (f) of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the coroner or designee for the additional costs incurred in complying with subsection (f) of this section.

### **35-5-223. Uniformity of application and construction.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

### **35-5-224. Relation to Electronic Signatures in Global and National Commerce Act.**

This act modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

### **35-5-225. Promotion of anatomical gifts.**

Any money received from donations by owners of vehicles under W.S. 31-3-101(h) shall be deposited into a separate anatomical awareness account to be used by the department of health and its advisory council to promote general public awareness and education for the procurement of organ and tissue donations for anatomical gifts pursuant to this act.

## Attachment B

**Table B1. Monthly Donor Designation Report for February 2017,  
by Wyoming Department of Transportation Exam Station**

	<b>Total (i.e. those who were asked)</b>	<b>Donor (i.e. the number that responded “yes”)</b>	<b>Percent</b>
Afton	181	109	60.2%
Baggs	15	7	46.7%
Basin	84	37	44.0%
Big Piney	38	17	44.7%
Buffalo	105	65	61.9%
Casper	1,477	873	59.1%
Cheyenne	1,804	1,086	60.2%
Cody	473	280	59.2%
Douglas	188	112	59.6%
Dubois	23	12	52.2%
Evanston	350	183	52.3%
Gillette	865	504	58.3%
Jackson	435	302	69.4%
Kemmerer	79	57	72.2%
Lander	234	115	49.1%
Laramie	625	380	60.8%
Lovell	101	50	49.5%
Lusk	33	18	54.5%
Newcastle	132	66	50.0%
Pinedale	99	59	59.6%
Rawlins	228	132	57.9%
Riverton	383	162	42.3%
Rock Springs	874	508	58.1%
Sheridan	514	281	54.7%
Sundance	90	60	66.7%
Thermopolis	61	30	49.2%
Torrington	231	123	53.2%
Wheatland	128	70	54.7%
Worland	166	93	56.0%
<b>Total</b>	<b>10,016</b>	<b>5,791</b>	<b>57.8%</b>

**Source:** Wyoming Department of Transportation Monthly Donor Designation Report, February 2017.