

**REPORT OF UAGA STUDY COMMITTEE**  
**April 2004**

**Recommendation:** The Study Committee for the Uniform Anatomical Gift Act recommends the appointment of a Drafting Committee to consider amendments to update and improve the Act.

**Charge:**

A motion was made and adopted approving a study committee as recommended in the following resolution by the Committee on Scope and Program:

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee the formation for a study committee to investigate the feasibility of amending the Uniform Anatomical Gift Act (1987). The study committee should identify potential obstacles to enactment of an amended act and define the relationship between federal and state law in this area.

**Status:**

There is a substantial lack of uniformity in the adoptions by the various states. The "Yellow Book" reports that 26 jurisdictions have enacted the 1987 revision of UAGA and 26 jurisdictions have retained the original 1968 version of the Act. There have been substantial non-uniform amendments to the Act or supplemental laws adopted that impact uniformity.

The Federal Government has also enacted legislation that impacts the state legislation. UAGA needs to be harmonized with the federal legislation.

Technology has also improved and that change has resulted in the need for legislative revisions.

**Need for Revisions to Act:**

The demand for organs and tissue far exceeds the availability from donors. The most recent figures for organ transplants are:

Waiting List as of April 2004:	84,742
Transplants for year April to April	2,206
Donors for year April to April	1,148

A major part of the shortage results from the need for better promotion and coordination among the interested agencies.

However, appropriate amendments to the Act can assist in increasing availability to better match the demand.

### **Uniformity Desirable:**

As recognized by the adoption of the 1968 Act by all jurisdictions, uniformity of law is highly desirable. There is substantial movement of donors around the country, and death can occur anywhere. Thus common standards for execution of a donor gift and its implementation are most necessary. The federal law preemptions further demonstrates the recognition of the need for uniformity.

### **Process:**

The Study Committee has solicited input from a wide variety of interested groups and has received substantial specific proposals for amendments from:

AOPO: suggested amendments, letter dated December 30 (received January 30, 2002)

Eye Bank Association of America: suggested amendments in letter dated January 21, 2004

ACOT: suggested two amendments

The Study Committee has also contacted but received only limited input from the following groups:

Funeral Consumers Alliance  
American Medical Association  
American Lung Association  
American Association of Tissue Banks  
American Hospital Association

The Study Committee has held two conference calls on November 10, 2003 and April 5, 2004, to formulate its recommendation based on the input received. While this input is available from the NCCUSL Chicago Office or the Chair, it is not attached to this report because of its substantial volume.

### **Guidance suggested by Study Committee to the Drafting Committee:**

If uniformity is to be achieved for an amended UAGA Act, a consensus will be essential among the major interested groups. There are some suggested amendments that all interested groups would appear to welcome. Other suggestions have potential for consensus. There are differences of views on still other suggestions particularly between the tissue groups and the organ groups. Perhaps these differences can be compromised and resolved; perhaps not. Some suggestions are inherently controversial (mentioned below) upon which it is unlikely the Drafting committee can find a resolution that can be adopted on a uniform basis.

The Study Committee recommends that the Drafting Committee not include amendments that remain controversial and upon which a consensus cannot be achieved.

To achieve consensus on amendments, it will be essential to get all interested groups to participate in the spirit of resolution of differences in the public interest. A strong effort early to solicit interest with observers who represent all the various interests is important with clear explanation of the role of observers to find solutions that are in the public interest.

The Study Committee would caution the Drafting Committee that the following subjects may be too controversial to hope to achieve any consensus:

1. Ethical issues related to non-heart beating donors;
2. Incentive arrangement for donors (S.B. 573 in U.S. Senate);
3. Generally broadening the scope of the act; and
4. Assumed assent of donor.

Respectfully submitted,

**Study Committee for UAGA**

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Dated: \_\_\_\_\_