

Appendix 'C'

(I) MARYLAND ANATOMICAL GIFT ACT, U.S.A (Effective July 1, 1975)

When Chief Medical Examiner or his deputy or assistant may provide cornea for transplant.

(a) **Requirements**— In any case where a patient is in need of corneal tissue for a transplant, the Chief Medical Examiner, the deputy Chief, or an assistant medical examiner may provide the cornea upon the request the Medical Eye Bank of Maryland, Incorporated under the following conditions :

- (1) A decedent who may provide a suitable cornea for the transplant is under his jurisdiction and an autopsy will be required in accordance with the Article 22 of the Code;
- (2) No objection by the next of kin is known by the medical examiner; and
- (3) The cornea for transplant will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance.

Author's comments :-

The reader will observe and appreciate the positive way of wording especially clause (2) as compared to similar provisions in our present Transplantation of Human Organs Act (Clause 6, page 51-52).

(b) **Liability of medical examiner**— Neither the Chief Medical Examiner, the deputy chief, an assistant medical examiner, nor the Medical Eye Bank of Maryland, Incorporated is liable for civil action if the next of kin subsequently contends that his authorization was required.

(II) MARYLAND REQUIRES REQUEST LAW, U.S.A

Sec. 19 – 310. [Hospitals – Requests for Consent for Anatomical Donations].

[Effective July 1, 1986]

(a) As part of a hospital's standard, nonemergency admission procedures for a patient who needs inpatient or outpatient care, the hospital administrator or a designed representative of the administrator shall:

- (1) ascertain whether the patient is currently an organ or tissue donor; and
- (2) include the information under item (1) of this sub-section on the admission form of the patients.

Legal Comment : Section 19 - 310

As a routine part of non compensatory intake procedures, sub-section (a) (1) requires a hospital to determine whether a patient is currently an organ or tissue donor. However, if the patient is not a donor, the hospital is not required to request that the patient become an organ donor. Rather, when a patient, dies in the hospital, a request must be made to the patient's next-of-kin or representative.

- (b) (1) In accordance with Secs. 5 – 202 and 5-203 of this article, when a minor patient dies in a hospital, the hospital administrator or a designee of the hospital administrator shall request, with sensitivity, in the order of stated priority, that the patient's representative consent to the donation of all or any of the decedent's organs or tissues as an anatomical donation if suitable.
- (2) For the purposes of paragraph (1) of the sub-section, the representative of the deceased patient is one of the following persons listed in the following order of priority ;
 - (i) a spouse, but, if not alive and competent then;
 - (ii) a parent, but, if not alive and competent, then;
 - (iii) a brother or sister who is atleast 18 years old, but, if not alive and competent, then;
 - (iv) a guardian.
- (3) This sub-section does not apply if the decedent has given actual notice of any objection.
- (4) Notice of an objection under this sub-section shall be recorded in the decedent's medical record.
 - (c) In all discussions concerning donations of organs and tissues, the hospital administrator or a designee of the administrator shall show reasonable discretion and sensitivity:
 - (1) to the circumstances of the family of the decedent;
 - (2) to the religious beliefs of the decedent; and
 - (3) to the nonsuitability for organ or tissue donation of the decedent.

- (d) If a hospital administrator or a designee of the administrator makes a request under sub-section (b) (1) of this section, the administrator or representative shall:
 - (i) document the request and its disposition by having the persons described in sub-section (b) (1) of this section sign a consent form or give a witnessed telegraphic, witnessed telephonic, or recorded consent to the donation;
 - (ii) note the request and its disposition in the decedent's medical record or death certificate.

- (e) After consultation with the Maryland Hospital Association, the Maryland Organ Procurement Center, the Medical and Chirurgical Faculty of the State of Maryland, and Maryland Tissue Bank Inc., the Health Facilities Association of Maryland, and Tissue Banks International, the Secretary shall publish guidelines designed to facilitate implementation of this section, including guidelines for recording objections under sub-section (b) of this section.

- (f) The provisions of this section shall in no way interfere with the duties of the Office of the Chief Medical Examiner. In sudden deaths under the jurisdiction of the office of the Chief Medical Examiner as provided in Sec. 5 -309 of this article, notification will be made to the Office of the Chief Medical Examiner prior to organ removal.