

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House Committee on Finance

HB0029, HD1, RELATING TO DEAD HUMAN BODIES

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 3, 2009
2:00 PM

1 **Department's Position:** The Department of Health (DOH) cannot support this measure as written and
2 would like to offer comments on continuing the conversation to address the ethical procurement and use
3 of non-transplantable anatomic donations as well as dealing with commercial displays of dead human
4 bodies.

5 **Fiscal Implications:** Absorbing a new function into existing staff resources.

6 **Purpose and Justification:** This measure asks the Department of Health to issue permits for
7 exhibitions involving the commercial display of dead human bodies, to promulgate administrative rules
8 governing the permit process, and creates a human remains exhibit permit fund to hold permit fees
9 collected in order to fund the administration of this new duty. The Department respectfully suggests that
10 instead of creating a permitting process with administrative rules and a special fund, perhaps the
11 legislature would consider banning outright such for profit commercial displays of human bodies.
12 Exceptions to this ban would need to be thoughtfully crafted, e.g., for museum displays of historical
13 value, but such a ban would be a straightforward approach.

1 The DOH has also been in conversation with the University of Hawaii John A. Burns School of
2 Medicine (JABSOM) regarding the ethical procurement and use of donated bodies for medical research
3 and teaching. We would like to further explore this issue with JABSOM and with the legislature.

4 Thank you for the opportunity to provide testimony on this measure.

UNIVERSITY OF HAWAI'I AT MANOA

John A. Burns School of Medicine
Department of Anatomy, Biochemistry & Physiology

March 2, 2009

Rep. Marcus Oshiro, Chair
Committee on Finance
Conference Room 308
State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: HB 28 & 29, House Committee on Finance, Hearings on Tuesday, March 3, 2009, 2:00 PM, Conference Room, 308

Dear Rep. Oshiro:

I provide this letter in strong support of HB 28 and 29 aimed at limiting commercial exploitation of human body remains. I am Chairman of the Department of Anatomy, Biochemistry & Physiology and I supervise the Willed Body Program at the John A. Burns School of Medicine (JABSOM). This Program is responsible for the procurement and use of human remains for the purpose of medical and allied medical education and research.

Anatomical dissection is indispensable for the proper understanding of the human body in medical treatment. It is an indispensable tool for educating allied medical and medical professionals and students. The availability of cadavers is critical for the advancement of the health status of an entire community. Numerous altruistic community members and their families have unselfishly donated their bodies to JABSOM for the purpose of medical and allied medical education and training.

Under current Hawaii State statutes, business people could benefit financially from the procurement, display, and sale of human remains, particularly, unclaimed bodies. The indigent population especially is at risk since they have no financial means to ensure proper handling of their bodies after death. Commercial exploitation has the potential to negatively impact our Willed Body Program at JABSOM since the public associates exploitative commercial activities with our program, even though absolutely no relationship exists. We frequently see a downturn in body donations when negative activities concerning unethical procurement, display, and body disposition occur in Hawaii diminishing the credibility of our own program and sustaining a negative impact on our educational activities as well as community health in general.

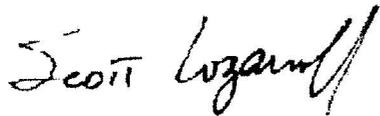
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The problem of commercial display and distribution of human remains is not unique to Hawaii. Numerous states, including California, Pennsylvania and New York, have enacted laws to prohibit commercial display of human remains, particularly plastinated material. Minnesota, in particular, has enumerated several problems associated with human remains related to a lack of reporting to the Department of Health that also apply to Hawaii. Serology testing is not required and human remains can leave the state through commercial carriers theoretically packed in the same containers as food packaging. These remains could harbor disease that would be almost impossible to track. Human remains are used in displays or seminars in the same facilities as banquets. Plastinated human remains have been used in commercial displays and can 'leak' liquefied fat if not cured (hardened) properly. The "Bodies Exhibit" recently shown at Ala Moana is an example a commercial display that poses potential risk in terms of the origin of material, transportation, and handling. Commercial distribution of unclaimed human bodies and parts presents a significantly greater risk if used in commercially related activities involving anatomical dissection.

An argument frequently presented by the operators of commercial displays of human remains is that an educational objective is achieved. This contention is weak, at best, and several ethical issues arise irrespective of any individual concept of death. Commercialization of postmortem remains reduces the human body to a commodity potentially ignoring donor rights on one hand, particularly in the case of an unclaimed body, and a procurer's ethical responsibilities to a donor's family and society, in general. A government must ensure proper respect and final disposition of human remains otherwise it is a small step to objectifying and commodifying human body parts prior to death.

Overall, the distribution and display of human remains has the potential to cause a significant public health issue. House Bills 28 & 29 will go a long way to ensure safe and ethical treatment of human remains thus promoting human health and individual respect within our community.

Aloha,

A handwritten signature in black ink that reads "Scott Lozanoff". The signature is written in a cursive, slightly slanted style.

Scott Lozanoff, PhD
Professor and Chair

Testimony of Harry Wu
Executive Director, Laogai Research Foundation

State of Hawaii, House of Representatives
Hearing of the Committee on Finance
2:00 pm, Tuesday, March 3, 2009

Comments in Support of HB 28 and HB 29

The Laogai Research Foundation (LRF) remains highly concerned about the provenance of human remains which are on display in several popular exhibits appearing throughout the U.S. and the world, including "Bodies... the Exhibition," which was previously hosted by the Ala Moana Center in Hawaii and is owned by Atlanta-based Premier Exhibitions Inc. ("Premier"). It has become clear over the past few years, and Premier has acknowledged, that the company has not identified the decedents whose remains appear in its exhibits and that no consent was given by the decedents or their next of kin for their remains to be used in this manner. Moreover, our analysis of Premier's business practices leads us to believe that there is a distinct possibility that some of the remains on display in its exhibits could be those of executed Chinese prisoners.

Our assessment is informed by our extensive knowledge of China's penal system. Since founding the Laogai Research Foundation in 1992, I have been investigating human rights abuses in China and, in particular, abuses relating to the Laogai—China's extensive network of forced-labor prison camps. Having been incarcerated in twelve different Laogai camps as a political prisoner from 1960 to 1979, I also have first-hand insight into the way these camps operate. Prisoners in China are exploited by the State in every possible way, primarily for their labor, which generates tremendous profits for the repressive Chinese regime. Even after death, though, the exploitation of prisoners does not stop. In order to comprehend how the bodies of executed Chinese prisoners could essentially be sold to private corporations, it helps to first understand another atrocious practice that is widespread throughout Chinese prison camps and more firmly established—the harvesting of organs from executed prisoners.

Chinese medical practices developed significantly during the 1980's, and with the introduction of the drug cyclosporine-A in 1985, medical expertise was sufficient enough to allow for regular organ transplantations. However, the supply of donated organs in China is very limited. There simply is no culture of organ donation in China, and the practice remains very uncommon. Public campaigns to foster such a culture are frustrated by a traditional preference among Chinese to have their bodies buried intact. With demand for the procedure growing, however, Chinese hospitals and government agencies decided to look elsewhere for a supply of healthy organs, which they found in the Laogai.

In China, there are currently 68 capital offenses, including non-violent crimes and political crimes. With throngs of poor economic migrants traveling from the Chinese countryside to its cities each year, and China's public security agencies responding to the resulting increases in crime with so-called "strike hard" (*yanda*) campaigns, the number of prisoners on China's death row has been immense. While the exact number of executions carried out each year is closely guarded as a State secret, several human rights groups estimate the annual figures to be in

the thousands, more than all the other nations in the world combined. In recent years, China has switched from executing prisoners with a bullet in the back of the head to using lethal injection, a method that facilitates the extraction of organs by medical personnel after death.

My investigations, dating back to the early 1990's, have shown that Chinese hospitals regularly broker deals to supply privileged Chinese and foreign citizens with needed organs harvested from executed Chinese prisoners. Just last month, reports emerged of 17 Japanese citizens traveling to China to illegally undergo organ transplants.¹ It is completely ordinary in China for an ambulance to be standing by at the site of an execution, with medical personnel ready to quickly remove needed organs and hurry them off to the waiting hospital. In 1994 I assisted the BBC in producing a major report on the subject, which showed the practice to be a matter of national policy. In 2001 my Foundation released an in-depth report, entitled *Communist Charity*, detailing the irrefutable evidence on the practice. Still, the Chinese continued to deny these allegations until confirmation finally came in 2006, when China's Vice-Minister of Health, Mr. Huang Jiefu, publicly admitted that more than 95% of the organs used in medical transplants in the country come from executed prisoners. Such an assertion is astounding, considering that China is now second only to the U.S. in the number of transplants performed each year.

Given how willing the Chinese government is to sell the organs of its executed prisoners to ill patients, it is not too difficult to believe that the trafficking of human organs in China has now expanded to include entire human bodies, some of which appear in the popular anatomical exhibits that are on tour right here in the U.S. Employing a technique known as *plastination*, wherein human tissue is preserved by removing it of liquids and fats and then injecting it with a plastic polymer, exhibits such as "Bodies... The Exhibition" display neatly dissected cadavers and individual organs to the public for a price of \$20-\$30 per person. Premier's exhibits are supplied plastinated specimens by the Dalian Hoffen Bio Technique Company Lmt. ("DHBTC") in Dalian, China, which is owned by Dr. Sui Hongjin. The contract between Premier and DHBTC is reported to be worth \$25 million.

At first, Premier was very vague in describing the provenance of its specimens, claiming that they were "acquired by legal means with the highest of ethical standards." Later, Premier revealed that it was using "unclaimed" bodies, which it said were obtained from Dalian Medical University, though it offered no official explanation of what exactly that term meant or how said bodies came to be "unclaimed." It may indeed be the case that those bodies were unclaimed, but I know that in China, this is a category which can include the bodies of executed prisoners. Typically, the families of executed prisoners are not even notified that the execution has taken place until after the fact, and while they may receive cremated remains of the executed prisoner, they cannot claim the bodies, which are essentially the property of the prison.

Last year, new evidence surfaced that reaffirmed my suspicions about the specimens in Premier's exhibits. An ABC News "20/20" investigation which aired in February provided evidence of this illicit body trade when they tracked down a broker who claimed to have bought more than 100 bodies from the police in China and sold them to the DHBTC. He even provided

¹ See "China probes illegal transplants for 17 Japanese." *Reuters*. 16 Feb. 2009. <http://www.reuters.com/article/latestCrisis/idUSPEK114582>.

pictures of some of the blood stained corpses, hands still bound, which he saw during his first such transaction. This story prompted New York State Attorney General Andrew Cuomo to launch a probe of Premier's exhibits. Mr. Cuomo's investigation found that the bodies displayed by Premier in New York were "originally received by the Chinese Bureau of Police." Moreover, the investigation found that Premier's prior assertions that it could independently confirm that the body parts in its exhibits did not belong to executed Chinese prisoners were false. Subsequently, Premier agreed to disclose these findings on its website and in the lobbies of its New York exhibits.

Premier continues to deny that the bodies it displays could be those of executed Chinese prisoners. The evidence to the contrary, though, is very convincing. That Premier has relied so readily on the assurances of its Chinese partners is, in my opinion, grossly negligent. Corruption and exploitation are pervasive in China, and had Premier exercised a proper degree of due diligence, it would know that China has gone to great lengths to cover up the scale of its human rights violations, including its forced labor practices, mass executions, and organ harvesting. Any human rights expert could have told Premier about the many obvious causes for concern in obtaining cadavers from China.

In any case, it is now undisputed that Premier is displaying the bodies and body parts of individuals who did not consent for them to be used in that way and profiting from it greatly. Such a form of corporate exploitation is far from ethical, and it should also be illegal. But I do strongly believe that some of the bodies for which Premier holds a "lease," could be those of executed Chinese prisoners. For a group of people who have suffered so much during life to be subject to such an indignity after life is reprehensible to say the least. I hope that the State of Hawaii will enact House Bills 28 and 29, which I believe will place adequate and ethical restrictions on the buying, selling, and commercial display of human bodies, so that in the future Premier and companies like it will not find a partner complicit in these opprobrious practices in Hawaii.

March 2, 2009

Representative Marcus R. Oshiro:

I am writing in strong support of House Bills 28 and 29 designed to prevent commercial use of human bodies. I served as the Director of the Willed Body Program of the John A. Burns School of Medicine for 25 years. This program is essential to the training of physicians as well as other allied health professionals and any misuse of human remains seriously jeopardizes its success. In order for potential donors to feel secure in their decision to donate their bodies for medical education purposes, they need to know that the bodies will be treated with respect. Permitting commercial use of human bodies undermines any respect and thereby damages the possibility of donations.

We have recently had an example of the commercial use of human remains at Ala Moana. That company, Premier Exhibitions, has been forced out of several states because they could not identify the bodies and it now appears that they were purchasing bodies of executed Chinese prisoners. Such commercial use of the human body offends our conscience as anatomists and medical professionals. In our Willed Body Program, we have held to the principle that donations would only be accepted if they were the donor's expressed wishes. These are the same principles espoused by the American Assoc. of Clinical Anatomists which has denounced the misuse of human remains by Premier Exhibitions and others hoping to profit from the commercial display of cadaveric specimens.

I understand there has been a recent advertisement soliciting body donations for a fee for use both here in Hawaii and abroad by an unnamed group. This is another example of how essential it is to prevent the improper acquisition and commercial use of human remains by enacting legislation now. I urge you to support both House Bills 28 and 29.

Marita L. Nelson, Ph.D.
Emerita Professor of Clinical Anatomy
Dept. of Pathology
John A. Burns School of Medicine

Phone: (808)395-3552

March 2, 2009

Testimony: House Committee on Finance
House Bill #29
RELATING TO DEAD HUMAN BODIES
John M. Corboy, M.D.

Dear House Finance Committee:

My name is Dr. John Corboy. I am a retired Associate Clinical Professor of Surgery at the John A. Burns School of Medicine. I live on Molokai, and regret that I am unable to address you in person today.

I spent four months recently as an unpaid volunteer at Bodies...The Exhibition in the Ala Moana Center. Along with other University faculty (active and retired) and other physicians and nurses, I taught thousands of Hawaii's people the beauty and complexity of human anatomy and physiology in this marvelous setting.

We teachers donated our valuable time because of the profound impact this exhibition had upon a fascinated public! We taught art students, dental students, and nursing students. We enjoyed the questions of school teachers, elementary and middle school students, and high schoolers. We taught human anatomy to medical students, nutrition students, plumbers and mechanics.

The dissections were far better than those available in our J.A. Burns medical school. The presentations were tasteful and respectful. Students and visitors usually remained in awed silence. The cadavers were certified by a pathologist to be unclaimed persons who displayed no evidence of trauma.

In short, this presentation had a valuable and powerful impact on tens of thousands of Hawaii's people, many of whom were inspired to pursue further educational endeavors or health careers, and to take better care of themselves!

To restrict, limit or require "approval" of such a display by the Department of Health is an unnecessary and meddlesome intrusion into a harmless and valuable educational opportunity not otherwise available to non-professionals. There is no public health or safety issue involved, and without clear criteria for approval this can lead to capricious and arbitrary limitation of commerce. The Health Department already struggles to barely manage its necessary activities!

To require permission for display by the decedent is impossible. Bodies for dissection at our medical and dental schools are all unclaimed bodies: street people who die from alcoholism, drug addiction, trauma, malnutrition and other diseases. They have no prior anticipation of their death, nor any family to provide authorization. This requirement is not placed on remains collected for our J.A. Burns School of Medicine because it is simply unworkable. (If we can't require this of people dying on Fort Street, how can we require this of people dying far from our shores?)

There has been an unsubstantiated rumor circulated, that these bodies are not those of China's unclaimed street people, but are those of political prisoners. After eight years, not a single proof has been presented, though the rumor persists.

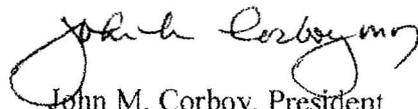
Frankly, this is an educational exhibit similar to those in the Bishop Museum. Persons who wish to pay admission may do so, and those who have no interest, or object to the exhibits, need not attend. It's that simple: if you don't like it, stay home. There is absolutely no reason to unfairly restrict such displays to a museum, and no reason to butt in to a person's opportunity to be educated in an appropriate manner.

On a personal level, I find this Bill a very meddlesome intrusion into a marvelous educational opportunity, for no clear public health or safety reasons. It unfairly affects one type of commercial exhibitor, and negatively impacts tens of thousands of Hawaii's interested citizens.

Unless a House Representative has actually attended this or similar educational exhibits, he or she has no knowledge upon which to base a decision and he/she should abstain from voting. If you don't understand the value, don't condemn it

There is no health, safety, or finance issue involved. Please leave education alone! Do not support the poorly-written, unenforceable, unnecessary, meddlesome HB #29.

Thank you!



John M. Corboy, President
Hawaiian Eye Foundation
www.hawaiianeyefoundation.org