

February 4, 2010

Rep Ryan Yamane, Chair

Rep Scott Nishimoto, Vice Chair

Members:

Rep Della Au Belatti

Rep Joe Bertram

Rep Tom Brower

Rep Mele Carroll

Rep John Mizuno

Rep Maile Shimabukuro

Rep Lynne Finnegan

**LATE**

Testifier: Katharine Kickertz, R.N.

Re: HB 2661 – Relating to Anatomical Gifts

Position: Oppose

It is my opinion that although the initial intent of this bill may have been to increase the number of organs available for transplant, it will instead have a very negative impact on organ donation and transplantation for the following reasons.

1. Fear of prosecution and loss of licensure as outlined in the bill will discourage professionals such as surgeons, critical care nurses, and organ procurement professionals from participating in this life saving process.
2. Federal regulation on this matter already exists and is monitored by the Center for Medicare and Medicaid Services (CMS).
  - a. Section Z150 of the Interpretive Guidelines for OPOs outlines the requirements for donation rates in order to maintain CMS certification
  - b. Section ZZ153, 154, and 155 outline the requirements for the number of organs recovered for transplantation or research.
3. Logistical constraints out of anyone's control such as a natural disaster may prohibit organ donation and as a result of this bill could result in suit.
4. The bill requires the defendant to pay all attorney's fees and legal costs regardless of the outcome of the suit. This appears to encourage frivolous lawsuits as it affords no risk on behalf of the complainant.

I appreciate your consideration of my testimony and encourage you not to pass this out of committee.

Sincerely,  
Katharine Kickertz

In opposition to HB 2661 - Relating to Anatomical Gifts  
Name: Julie Keana'aina, LSW submitted as an individual  
Committee: House Committee on Health  
Hearing: Friday, Feb 5, 2010 at 9:30 AM

**LATE**

Although the intent of the bill sounds as though it would increase the number of life-saving organs available to countless grateful recipients, I am concerned that the actual measure will *decrease* the chances of successfully transplanting these much needed organs and tissues.

First, by mounting a hefty fine against professionals who already do their very best in these circumstances, you discourage these individuals (individuals like myself, or surgeons, or hospital professionals) from continuing to work in or support an already challenging field.

In addition, the bill states that individuals could file suit at any time and the organization or individual in question would have to pay all legal fees. This would not only allow unfair litigation, it would encourage these suits because the individuals suing could do so without any consequence or forethought.

The bill also makes no provisions for circumstances where donation is simply not feasible. There are numerous generous individuals who put "organ donor" on their license that never meet the criteria for organ donation, whether by age, organ function, or even the basic mechanism of how they die (since organ donation requires supportive medical equipment at the time of death).

Finally, I feel this bill imposes a vague, unenforceable consequence where numerous well-thought and enforceable regulations *already exist*. Centers for Medicare & Medicaid Services already audits and controls the specific policies, procedures, and actions of organ procurement groups, transplant centers, hospitals, and related groups.

Instead of crippling the very organizations who are working hard to save lives, perhaps we could focus on supporting them?! We have seen what a poor economy and lack of money does to our local businesses; let's not create that same situation and bleed the transplant community to death.

Personal Testimony re:

HB 2661

Albert Newmann  
Organ Donor Center of Hawaii  
Hospital Services Director

LATE

Position: I oppose the proposed bill

Statement:

I believe the intent of this bill is to increase the number of people transplanted in Hawaii. I support the intent, but oppose the method. As an eleven year veteran of the organ procurement field, I have seen federal legislation passed with similar intent that unfortunately served to lower donation rates. These measures were ultimately repealed, but not until thousands of lives were lost due to ineffective practice. Such is the potential impact of this bill.

What do I anticipate as the effect of this bill if passed? It will:

1. Discourage both transplant and procurement professionals from practicing in donation-related fields of medicine. Organ procurement coordinators are directly responsible for recovery of organs for transplant. Hiring rates are low and turnover rates are high due to the 24/7 on-call requirement of the work. Discouraging the hire of this category of professional would have a direct downward impact on donation.
2. Discourage hospital critical care staff from participating in organ recovery. Their cooperation is critical to the mission.
3. Encourage liability and litigation in healthcare, where current medical malpractice costs have a crippling effect on our ability to provide healthcare to our community.
4. Because potential donors occur on four of the Hawaiian Islands, logistical constraints play a significant part in the recovery effort. To be fined for the occasional inability to recover organs due to logistics, places yet another roadblock in the way of donation.

Additionally, there exists significant federal and state guidelines to which our industry is held accountable. The federal guidelines alone may shut down operations if we do not perform. There is no need to heap additional penalties on top of these.

Question: what does this bill hope to achieve besides discouraging donation and transplant? The ineffective legislation of the past were based on what seemed like a good idea at the time, yet in practice had the opposite effect. Please resist the temptation to repeat history at the cost of lives on Hawaii's waiting list. Do not pass this bill out of committee.

Testimony  
of  
**Tony L. Sagayadoro**  
Kidney Transplant Recipient, May 2000

**LATE**

Before  
Honorable Ryan Yamane, Chair; Honorable Scott Nishimoto, Vice Chair  
and the Honorable Members of the HOUSE COMMITTEE ON HEALTH

Public Hearing  
9:30A.M. Friday, February 5, 2010 Conference Room 329

**RE: Testimony in strong opposition to HB 2661** – Relating to Anatomical Gifts

**Hon. Ryan Yamane, Chair; Hon. Scott Nishimoto, Vice chair and members of the House Committee on Health:**

I am Tony L. Sagayadoro, a kidney transplant recipient, 2000. I appreciate the opportunity to express my views regarding HB 2661 which requires OPO and transplant hospitals to procure and transplant medically suitable organs. Imposes administrative fees and loss of accreditation for failure to comply

**I strongly opposed the passage of HB 2661 for the following reasons:**

- I honestly believe that Organ Procurement Organizations, Transplant Centers, medical facilities and transplant professionals are heavily regulated and strictly administered by government agencies for strict compliance
- HB 2661 will only discourage transplant professionals to practice related to organ transplantation and will add to the shortage in an already limited pool of transplant professionals in this very stressful field

I applaud the introduction of HB 2661, if the intent were to increase the number of organ for transplant, however, by implementing HB 2661 and for the reasons stated above will only hurt OPO's, medical facilities and transplant professionals in the long term that will have an adverse effect to the patient waiting for transplant.

**I therefore, humbly ask you not to pass HB 2661. Thank you.**

Respectfully,  
Tony L. Sagayadoro  
Kidney Recipient, 2000

(808) 368-8753

**LATE**

**CHARLES K.Y. KHIM**  
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January 4, 2010

**Testimony in Favor of HB 2661**  
(Relating to Anatomical Gifts)

To: Chair: Ryan I. Yamane

Vice-Chair: Scott Y. Nishimoto

Members: House Committee on Health

From: Charles K.Y. Khim, Esq. – Attorney at Law, Diabetic,  
Former Kidney Dialysis Patient and Kidney Transplant  
Recipient

My name is Charles K.Y. Khim, Esq. and I am an attorney who is, and has been licensed to practice law in Hawaii for the last thirty years. However, I come before you today not as an attorney but as a Type II diabetic who suffered total kidney failure as a complication of diabetes, and who had a second chance at life due to a kidney transplant.

Thank you for this opportunity to present testimony in favor of HB 2830. This bill provides for the enforcement of the organ donor gifts procedure set forth in HRS, Chapter 327. It is unfortunate that currently the organ donor provisions in HRS, Chapter 327 are being disregarded, especially as it applies to the good persons of our State who designate on their driver's license that they are organ donors.

As it stands now, it is meaningless for an individual to designate on his or her driver's license that he or she is an organ donor because that last will and testament to be an organ donor is

being totally ignored by the organ transplant procurement organizations.

**LATE**

This failure to follow the law by failing to follow the donor's last will and testament concerning his or her transplantable organs, as most often expressed on his or her driver's license, results in many individuals' last wishes being ignored and many deaths of individuals who die because their internal organs fail due to diseases such as diabetes, while waiting for a transplant of an organ.

This bill remediates that problem of organ transplant procurement organizations failing to follow the law by placing enforcement provisions in HRS, Chapter 327.

This bill will save lives inasmuch as currently one out of seven people will become diabetic and one of the most common medical complications which result from diabetes is kidney disease which ultimately results in Kidney failure, and the need of that person to be placed on dialysis. Many such patients who are on dialysis die while waiting for an organ transplant.

Due to the failure of organ donor donation receiver organizations in Hawaii to obey the law concerning organ donations and retrieve all of the organ donations which are made, I had to resort to going to San Francisco, California in order to obtain an organ donation in order to receive a life saving kidney transplant.

Fortunately, I was of the financial wherewithal to be able to afford to stay in a hotel in San Francisco for one month to undergo the kidney transplant operation, the subsequent medical procedures which were necessary because of complications which resulted from the transplant (because of the serious nature of kidney transplant operations, often complications arise from the transplant operation) and the recuperation period which was necessary to recover from this serious operation.

However, I am aware that most persons, through no fault of their own, are unable to financially afford to take off a whole month from work to go through the organ transplant procedure, and the cost of staying in a hotel in a mainland city. This is why I am volunteering

to pursue this bill – for the average person, the “little guy” who has the bad luck to suffer from a debilitating disease which requires an organ transplant.

There is no good reason for the organ donation recipient organizations' failure to follow the law. The fundamental reason why they violate the law is that refuse to do their jobs properly, because if they do it might involve performing unpleasant emotional tasks *vis-à-vis* the next of kin of the organ donor.

Thank you for this opportunity to present testimony before this honorable committee. If any of committee member has any questions, I will be more than glad to answer them at this time.

CKYK:rwd

Health Committee

2/4/2010

**LATE**

Dear Representatives,

H.B. No. 2661, A Bill for an Act, Relating to Anatomical Gifts, while well intended could have disastrous unintended consequences for organ donors, recipients, and organ professionals for the following reasons:

1. The bill does not take into account the fact that some organs from willing donors are not 'medically suitable' for transplant or the fact that the weather on the outer islands might preclude the transfer of a willing donor to the transplant center in Honolulu in a timely manner. The term medically suitable is written in the summary but not within the text.
2. Organ transplantation is tightly governed by stringent national ethical guidelines and federal laws. State regulations and laws should be coordinated with transplant professionals both locally and on a national level. The national network of transplant professionals and the high level of coordination between the state organizations are threatened when states act independently.
3. The United network for Organ Sharing (UNOS) and Centers for Medicare and Medicaid Services both have regulations in place to ensure that transplants are performed at an optimal level.
4. Transplant professionals are motivated by a desire to save lives. The threat of an onerous fine or loss of accreditation will certainly serve to discourage those who would otherwise wish to serve.
5. The survival of the organ transplant network in Hawaii, as with many other non-profit organizations, is dependent on private gifts and grants. Defending itself against frivolous or misdirected litigation could be disastrous financially and devastating to the public image which it has cultivated among organ donors and private financial supporters as well.

I urgently ask that you consider the stymieing effect that this bill will have on organ donation and the consequent reduction in the number of life saving organs available for transplant.

Sincerely,

Dustin Wright (Concerned Citizen)