

SUBJECT: Availability of donated organs for transplant centers in Texas

COMMITTEE: Public Health — favorable, without amendment

VOTE: 6 ayes — Gray, Capelo, Glaze, Hilderbran, Maxey, Uresti

0 nays

3 absent — Coleman, Delisi, McClendon

SENATE VOTE: On final passage, April 23 — 29-0

WITNESSES: None

BACKGROUND: The U. S. Department of Health and Human Services (DHHS) recently adopted a final rule (63 FR 16295 et seq.) governing the creation of the Organ Procurement and Transportation Network (OPTN). The OPTN would establish a national list of organs available for transplant and prioritize transplant recipients nationally based on medical need. However, in the federal Omnibus Appropriations bill (Public Law 105-277), the U.S. Congress delayed the effective date of the DHHS rule until October 1999 and also ordered a review of the OPTN proposal.

Chapter 692 of the Health and Safety Code, known as the “Texas Anatomical Gift Act,” governs organ donations in Texas. Organ availability in Texas currently is based on three organ procurement regions.

DIGEST: **Priority for Texas transplant centers.** SB 862 would require a Texas organ procurement organization to distribute organs to individuals on a waiting list at a transplant center in Texas. The organ could be transferred out of state if no suitable recipient could be found in Texas within a reasonable time or if the transfer was made according to a reciprocal agreement with an out-of-state organ procurement organization.

Under SB 862, a Texas organ procurement organization would be the specified recipient for organs donated when no other recipient was specified. The bill would require an organ procurement organization to be federally certified before it could accept an organ as a recipient.

**Optimum organ allocation policy task force.** The bill would require the Texas Department of Health to appoint a task force on optimum organ allocation policy by July 1, 1999, composed of the following 13 members:

- ! three members, each representing one of the three organ procurement organizations;
- ! three medical experts in organ transplants nominated by a statewide medical association, each representing one of the three organ procurement regions;
- ! three organ transplant experts nominated by the transplant centers in Texas, each representing one of the three organ procurement regions;
- ! three members from the patient community, including patients waiting on transplant lists in Texas, each representing one of the three organ procurement regions; and
- ! one advisory member representing the operator of the Organ Procurement and Transportation Network and scientific registry of transplant recipients.

The health department would provide administrative support to the task force, accepting grants or donations for its support.

**Policy implementation.** By October 1, 2000, the task force would develop and implement an optimum organ allocation policy, to include the following criteria:

- ! federal organ allocation guidelines;
- ! the utility of each organ recovered, including organ types, patient survival rates, retransplantation rates, transportation issues, and medical urgency;
- ! the efficiency and productivity of each organ procurement region, including import and export ratios;
- ! waiting times at Texas transplant centers;
- ! standardized listing criteria for transplant candidates;
- ! the role of local transplant centers and referral patterns in providing access to care in Texas;
- ! community efforts to encourage organ procurement; and
- ! the need to encourage organ sharing within each region of the state.

By December 1, 2000, the task force would report to the governor and the Legislature on components of an optimum organ allocation policy and

recommendations for needed legislation. The task force would be abolished on December 31, 2000.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS  
SAY:**

Federal regulations drafted by the U.S. Department of Human Services are scheduled to take effect in October and would require that organs donated nationwide be provided to the sickest patients first. Although the federal regulations are under review, SB 862 is needed because it would give official state priority to use by its own transplant centers for organs donated in this state. Otherwise, many organs donated by Texans could be sent out of state based on medical need, while eligible Texas recipients would be left on waiting lists.

Texas should protect itself because there is a great risk that a federal plan would be both cumbersome and unfair to this state. Because Texas has a large population and successful programs in place to encourage organ donation, there already is a disparity between the number of organs sent out of state from Texas versus the number received in return. Under the system in current law, 222 organs are sent out of Texas every year, and only 77 organs are sent into the state.

Unless the Legislature takes action, the new federal plan could make this disparity worse, leave more ill Texans waiting for transplants, and complicate the organ transplant success rate. The most urgent cases are not necessarily the best candidates for survival.

Under the federal plan, states with smaller populations, fewer organ donations, or less well-developed organ donation programs would have just as much right to organs donated by families in this state as Texas would itself. This also could complicate the willingness of family members to donate organs, since they may want to donate the organs of loved ones to people as close to their local communities.

SB 862 would continue to allow organs to be transported out of state, but only if no recipient could be found first in Texas or on a list that was part of a Texas reciprocal agreement with another state.

The three organ procurement regions should not be replaced with a statewide network until their effectiveness can be examined carefully. The task force on optimum organ allocation policy would be able to consider all the available alternatives and to implement a consistent and well-reasoned policy.

Texans who go out of state to seek organ transplants still would have priority since most of the major transplant centers have reciprocal agreements with Texas already in place.

OPPONENTS  
SAY:

Organ allocation should be based on medical necessity rather than geography. Texas should not construct barriers that prevent organs from going to the most needy recipients regardless of where in the United States those recipients may live.

OTHER  
OPPONENTS  
SAY:

The current system involving three Texas organ procurement regions is not working. The regions were haphazardly drawn. For example, Dallas has been placed in the same region as El Paso. Fort Worth is in the same region as Houston. If a recipient in urgent need of a transplant is close to a location where an organ has been donated, but the location is in a separate region, that patient will remain on a waiting list. The needed organ will be transported many miles away to a recipient who may be in less urgent need.

A statewide organ procurement network would greatly improve this situation. But a task force composed of representatives from the three regions would serve to reinforce the current, inefficient three-region system.

SB 862 would give priority only to Texas transplant centers, not necessarily Texas transplant recipients. Many people seeking transplant operations come from out of state to Texas transplant centers to wait for available organs. Meanwhile, many Texans needing transplants go out of state to wait for available organs there. Some provision should be made in the bill to give priority to Texas organ recipients regardless of where they have traveled to seek their operations.