

Refer to
Legislative Secretary



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 8/17/98

Time: 11:15 AM

Rec'd by: [Signature]

Print Name: ANNE SPANGLER

AUG 14 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuattro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
NOTIFICATION RECEIPT	
Received By:	[Signature]
Time:	8:45 am
Date:	8/18/98

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 697 (COR), "AN ACT TO ADD CHAPTERS 83A, 83B AND 83C AND §57104 TO PART 2 OF TITLE 10, AND TO ADD §3115 TO ARTICLE 1, CHAPTER 3 OF TITLE 16, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY AND A UNIFORM DEFINITION OF CESSATION OF LIFE AND CALL THIS THE "ORGAN DONOR ACT OF 1998"", which I have signed into law today as **Public Law No. 24-249**.

This legislation allows the establishment of an organ donor program on Guam, and will enable the medical community to establish practices to accomplish this aim.

As preparatory, and in line with other jurisdictions, this legislation establishes a provision for the declaration of death on Guam in the uniform manner of declaring death throughout the states. This definition of when death occurs can be amended through the Administrative Adjudication Law, should medical science and ethical considerations progress so that any changes need to be made.

The legislation sets up 3 methods for individuals to choose whether or not they wish to be organ donors: 1) by indicating their choice on their driver's license; 2) by indicating their choice on a Guam identification card

00965

issued by the Guam Police Department; and 3) by executing a separate document indicating their intent.

The only way that an individual can revoke his or her choice to be an organ donor, as stated on either their driver's license or identification card is to get a new driver's license or identification card.

There are several protections for the patient contained in this statute. Whenever death is declared while a person is still under artificial means of life support so that a determination of cerebral or brain death is needed, a consulting physician needs to confirm the death as well as the attending physician. Also, whenever an organ is donated, neither the physician who pronounces the death, nor the consulting physician who confirms the death, may participate in the procedures for removing or transplanting an organ that is donated.

There are items in the legislation which still need to be addressed:

a) Page 3, lines 17-18 state that the Guam Memorial Hospital Authority has **90 days** to promulgate rules and regulations to implement the organ donor program. However, on Page 8, line 25 and Page 9, lines 1-4, it is required that Department of Revenue and Taxation, Guam Police Department, and Guam Memorial Hospital Authority produce rules and regulations to jointly effectuate the program within **120 days**.

b) Page 3, line 20, the word "establish" should be "established".

c) Page 4, line 4, the sentence should start with the word "If" before the words "a person" in order to make the sentence complete.

d) Page 4, line 5, the word "a" at the end of the line should be deleted.

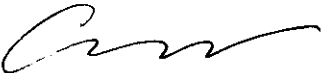
e) Page 4, line 11, it is unclear what happens when a person under the age of 18 chooses to be a donor on their driver's license or ID card, even though on Page 5, lines 11 and 25 indicate that when a person is under the age of 18 that parental consent is necessary.

f) Page 4, line 15, the word "shall" should be changed to "may" to indicate that when a person has not indicated their choice to be a donor on

their driver's license or ID card, that they can still do so by a separate consent agreement. It should be stated that the consent should be in writing or otherwise verified.

g) Page 5, line 13 and Page 6, line 3, the phrase: "words affix 'Organ Donor'" should be changed to: "words 'Organ Donor' affixed".

Very truly yours,


Carl T. C. Gutierrez
I Maga'lahaen Guåhan
Governor of Guam

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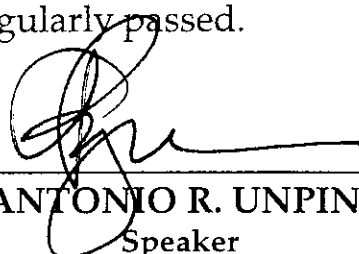
Attachment: copy attached for signed bill
 original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN


This is to certify that Substitute Bill No. 697 (COR), "AN ACT TO ADD CHAPTERS 83A, 83B AND 83C AND §57104 TO PART 2 OF TITLE 10, AND TO ADD §3115 TO ARTICLE 1, CHAPTER 3 OF TITLE 16, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY AND A UNIFORM DEFINITION OF CESSATION OF LIFE AND CALL THIS THE "ORGAN DONOR ACT OF 1998," was on the 3rd day of August, 1998, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

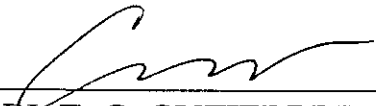
Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 6th day of August, 1998,
at 3:35 o'clock P.M.


Assistant Staff Officer
Maga'laha'i's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 8-14-98

Public Law No. 24-249

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

Bill No. 697 (COR)

As amended by the Author,
Substituted on the Floor
and amended.

Introduced by:

E. J. Cruz
J. C. Salas
F. B. Aguon, Jr.
W. B.S.M. Flores
Francisco P. Camacho
T. C. Ada
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO ADD CHAPTERS 83A, 83B AND 83C
AND §57104 TO PART 2 OF TITLE 10, AND TO
ADD §3115 TO ARTICLE 1, CHAPTER 3 OF TITLE
16, ALL OF THE GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING AN ORGAN
DONOR PROGRAM, ORGAN DONOR REGISTRY
AND A UNIFORM DEFINITION OF CESSATION

OF LIFE AND CALL THIS THE "ORGAN DONOR
ACT OF 1998."

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Chapter 83A is hereby *added* to Part 2, Division 4 of Title 10
3 of the Guam Code Annotated to read as follows:

4 "CHAPTER 83A.

5 ARTICLE 1.

6 GUAM ORGAN DONOR REGISTRY PROGRAM.

7 Section 83A101. Title. This Act may be cited or referred to
8 as the '*Guam Organ Donor Act of 1998.*'

9 Section 83A102. Declaration of Death (Cessation of Life).

10 For purposes of this Chapter the following phrase, '*declaration of death,*'
11 shall mean that a physician declared a person dead in accordance to
12 Chapter 83B of Part 2, Division 4 of Title 10 of the Guam Code
13 Annotated. The physician declaring the death of a person shall be a
14 Guam licensed physician.

15 Section 83A103. Confirmation by Another Physician.

16 When a physician has pronounced a person dead by determining that
17 the individual has sustained an irreversible cessation of all functions of
18 the entire brain, including the brain stem, there shall be independent
19 confirmation by another physician.

20 Section 83A104. Confirmation of Death of a Donor for
21 Transplantation. When a part of the donor is used for direct
22 transplantation pursuant to Chapter 83 of Title 10 of the Guam Code

1 Annotated, *Guam Uniform Anatomical Gift Act*, and the death of the
2 donor is determined by determining that the individual has suffered an
3 irreversible cessation of all functions of the entire brain, including the
4 brain stem, there shall be an independent confirmation of the death by
5 another physician. Neither the physician making the determination of
6 death under Section 83A102, nor the physician making the independent
7 confirmation shall participate in the procedures for removing or
8 transplanting a part of the donor.

9 **Section 83A105. Organ Donor Registries. (a) Registry at**
10 **GMHA.** There is hereby established within the Guam Memorial
11 Hospital Authority ('GMHA') an island-wide Organ Donor Registry
12 ('Registry'). The Registry shall be in accordance to §83102 of Chapter
13 83 of Title 10 of the Guam Code Annotated, *Uniform Anatomical Gift Act*.
14 The Registry shall serve as a legal authorization document and
15 conclusive evidence of a statement of anatomical gift declaration and
16 that organ procurement may proceed without further verification.
17 Within ninety (90) days after enactment, GMHA shall promulgate rules
18 and regulations to effectuate the intent of this Act.

19 **(b) Driver's License and Guam Identification Card Organ**
20 **Donor Registries.** There is hereby establish a Guam Driver's
21 License ('License') Organ Donor Registry by the Department of
22 Revenue and Taxation. There is hereby established a Guam
23 Identification Card ('I.D. Card') Organ Donor Registry by the Guam
24 Police Department. The required signature for the License or I.D. Card,
25 the signature of the government of Guam official and the affixing of the

1 words '*Organ Donor*' on the License or I.D. Card shall suffice for a legal
2 document and authorization to proceed with the organ procurement
3 process by GMHA or any hospital with an organ donor program.

4 A person involved in a traffic accident or trauma situation has
5 executed a statement of a organ donor gift on a License or I.D. Card a
6 pursuant to §3115 of Chapter 3 of Title 16 of the Guam Code Annotated
7 or §57104 of Chapter 57, Division 3, Part 2 of Title 10 of the Guam Code
8 Annotated, the License or the I.D. Card shall accompany the individual
9 to the hospital. The License or the I.D. Card shall be conclusive
10 evidence of a statement of anatomical gift and that if the person is
11 eighteen (18) years or older, the statement of anatomical gift shall be
12 honored without obtaining approval or consent of any person and
13 authorizes GMHA or any hospital with an organ donor program to
14 remove organs or tissues.

15 (c) **Living Donor.** A living donor shall execute a
16 consent agreement for the removal of organ(s) without the
17 requirements of Subparagraphs (a) and (b) above; provided, that the
18 donor is of legal age to execute a consent.

19 **Section 83A106. Uniformity of Interpretation.** This Article
20 shall be so construed as to effectuate its general purpose and to make
21 uniform the laws of Guam with respect to the states and other
22 territories of the United States.

23 **Section 83A107. Severability.** If any of the provisions of this
24 Act or the application thereof to any person or circumstance are held
25 invalid, such invalidity shall not affect any other provision or

1 application of this Act, which can be given effect without the invalid
2 provision or application, and to this end the provisions of this Act are
3 severable.”

4 **Section 2. Driver’s License.** Section 3115 is hereby *added* to
5 Article 1, Chapter 3 of Title 16 of the Guam Code Annotated to read as
6 follows:

7 **“Section 3115. Licenses Issued to Organ Donors.** All
8 applicants to Guam Driver’s License shall indicate whether he or she
9 wishes and consents to be an organ donor under the Uniform
10 Anatomical Gift Act and shall be a part of the application form. For
11 those under eighteen (18) years of age, a parental consent shall be
12 required prior to organ donor procurement. For those licenses issued
13 to persons agreeing to organ donor shall have the words affix “Organ
14 Donor” on the lower segment of the picture portion of the license, or
15 other section of the license that the Director of Revenue and Taxation
16 deems appropriate. A driver’s license with the organ donor
17 designation is only revocable by obtaining a new driver’s license
18 without the organ donor designation.”

19 **Section 3.** Section 57104 is hereby *added* to Chapter 57, Division 3, Part
20 2 of Title 10 of the Guam Code Annotated to read as follows:

21 **“Section 57104. Guam Identification Card Issued to Organ**
22 **Donors.** All applicants to Guam Identification Card shall indicate
23 whether he or she wishes and consents to be an organ donor under the
24 Uniform Anatomical Gift Act and shall be a part of the application
25 form. For those under eighteen (18) years of age, a parental consent

1 shall be required prior to organ donor procurement. For those Guam
2 Identification Card issued to persons agreeing to organ donation shall
3 have the words affix '*Organ Donor*' on the lower segment of the picture
4 portion of the Guam Identification Card or other section of the card that
5 the Chief of Police deems appropriate. A Guam Identification Card
6 with the organ donor designation is only revocable by obtaining a new
7 Guam Identification Card without the organ donor designation."

8 **Section 4.** Chapter 83B is hereby *added* to Division 4, Part 2 of Title 10
9 of the Guam Code Annotated to read as follows:

10 **"CHAPTER 83B.**

11 **UNIFORM DETERMINATION OF DEATH.**

12 **(Cessation of Life).**

13 **Section 83B101. Declaration of Death.** The declaration of
14 death shall be of the following:

15 (a) a person shall be considered legally dead if there is
16 irreversible cessation of spontaneous respiratory and circulatory
17 functions; or

18 (b) if artificial means of support preclude a determination that
19 spontaneous respiratory and circulatory functions have ceased, a
20 person will be considered legally dead if in the announced opinion of a
21 licensed physician, based on accepted medical standards, there is
22 irreversible cessation of all spontaneous brain function. Death will
23 have occurred at the time when the relevant functions ceased. Death is
24 to be pronounced before artificial means of supporting respiratory and
25 circulatory functions are terminated.

1 **Section 83B102.** A licensed physician who determines death in
2 accordance with the provisions of §83B101 of this Act is not liable to
3 damages in any civil action or subject in any criminal proceeding for his
4 or her acts, or the actions of others based on that determination.

5 **Section 83B103.** A person who acts in good faith in reliance on a
6 determination of death by a licensed physician is not liable for damages
7 in any civil action or subject to prosecution in any criminal procedures
8 for his or her actions.”

9 **Section 5.** Chapter 83C is hereby *added* to Division 4, Part 2 of Title 10
10 of the Guam Code Annotated to read as follows:

11 **“CHAPTER 83C.**

12 **MEDICAL STANDARD FOR DETERMINATION**
13 **OF CEREBRAL DEATH (BRAIN DEAD).**

14 **Section 83C101. Cerebral Death Determination.** A person
15 shall be declared dead if it is determined that there is irreversible
16 cessation of all functions of the brain, including the brainstem by a
17 licensed attending physician and confirmed independently by a
18 licensed consulting physician. Neurological criteria for establishing
19 death and cessation of brain function (brain dead) shall include the
20 following clinical conditions:

- 21 (a) cerebral function must be absent; and
22 (b) brainstem functions must be absent;

23 Irreversibility of loss of brain function is declared if the following
24 are satisfied:

1 (a) the cause of coma should be established and sufficient
2 to account for the loss of brain function (Examples might include
3 documented structural disease (massive intracranial hemorrhage
4 or head trauma), or an irreversible systemic metabolic cause, such
5 as severe anoxia resulting from cardiopulmonary arrest);

6 (b) reversible conditions (specifically hypothermia, [core
7 temperature less than 32 Celsius degrees]) and drug intoxication
8 must be excluded; (If sufficient cause for the coma cannot be
9 established, excluding these reversible conditions, further
10 laboratory testing for drug intoxication may be required as well
11 as a more extended period of observation.);

12 (c) loss of brain function should persist for a period of
13 twenty-four (24) hours; and

14 (d) an EEG confirmation of neocortical death is optional.

15 **Section 83C102. Amendability.** Section 83C101 shall be
16 amendable through the Administrative Adjudication Law, Rule
17 Making Procedures, pursuant to Article 3, Chapter 9 of Title 5 of the
18 Guam Code Annotated."

19 **Section 6. Chapter Reserved.** Chapter 83D Division 4, Part 2 of
20 Title 10 of the Guam Code Annotated is reserved for the provisions regarding
21 the application of, and the promulgation of the rules and regulations by the
22 Guam Memorial Hospital Authority pursuant to Article 3, Chapter 9 of Title
23 5 of the Guam Code Annotated, or as otherwise provided by law.

24 **Section 7. Enforcement of this Act.** The Director of Revenue and
25 Taxation, Chief of Police and the Administrator of GMHA shall incorporate

1 as part of the Agencies' operation and work co-operatively with each other to
2 implement the full intent of this Act and the Uniform Anatomical Gift Act of
3 Chapter 83 of Title 10 of the Guam Code Annotated within one hundred
4 twenty (120) days after enactment.

5 **Section 8. Submission of Rules.** GMHA shall promulgate
6 rules and regulations within one hundred twenty (120) days after enactment
7 pursuant to Article 3, Chapter 9 of Title 5 of the Guam Code Annotated,
8 through the *Administrative Adjudication Law, Rule Making Procedures* to
9 establish a Guam Organ Donor Program ('Program') including the
10 establishment of a Registry to effectuate the intent of this Act. GMHA shall
11 also conduct a community-wide educational program regarding the Organ
12 Donor Program.

13 **Section 9.** In the event of a conflict in authorizations by a donor,
14 said conflict in terms of License, I.D. Card and the Registry of which shall be
15 determined by the Administrator of GMHA, all authorizations by said donor
16 shall be voided.

PL 24-249

Committee on Health and Human Services
Mina'Bente Kuattro Na Liheslaturan Guahan

155 Hesler Street
Agana, Guam 96910
Tel: (671) 472-3581 • Fax: (671) 472-3582

✓

July 24, 1998

Honorable Antonio R. Unpingco
Speaker
Twenty Fourth Guam Legislature
155 Hesler Street
Agana, Guam 96910

VIA: Chairperson, Committee on Rules, Government Reform and Federal Affairs

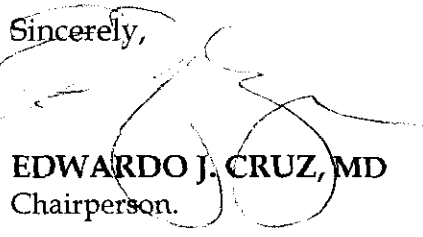
Dear Mr. Speaker:

The Committee on Health and Human Services, to which was referred Bill No. 697, (COR) "AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998," has had the same under consideration and now wishes to report back the same with the recommendation to do pass as amended.

The Committee votes are as follows:

- To Do Pass
- Not to Pass
- Abstain
- Inactive File

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.


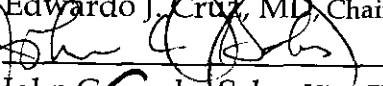
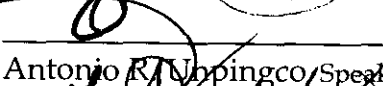
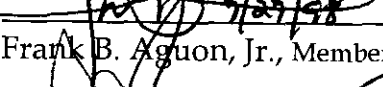

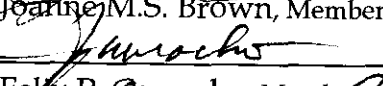
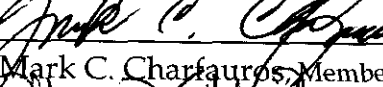
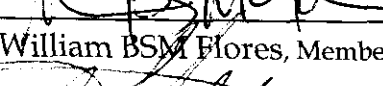
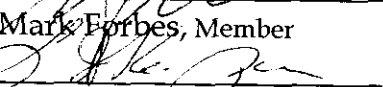
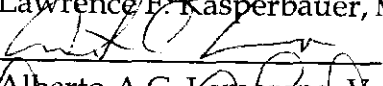
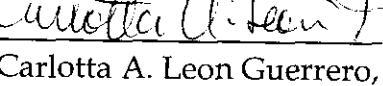
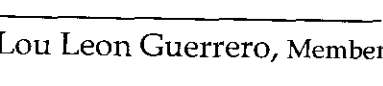
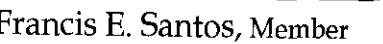
Sincerely,

EDUARDO J. CRUZ, MD
Chairperson.

Enclosure:

Committee Health and Human Services
Vote Sheet on
Bill No. 697 (COR)

AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998."

COMMITTEE MEMBER	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
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	✓			
Edwardo J. Cruz, MD, Chairperson	✓			
	✓			
John Camacho Salas, Vice Chairperson	✓			
	✓			
Antonio R. Unpingco, Speaker & Ex-Officio	✓			
	✓			
Frank B. Aguon, Jr., Member	✓			
	✓			
Anthony C. Blaz, Member	✓			
	✓			
Joanne M.S. Brown, Member	✓			
	✓			
Felix P. Camacho, Member	✓			
	X			
Mark C. Charfauros, Member	X			
	✓			
William BSM Flores, Member	✓			
	✓			
Mark Forbes, Member	✓			
	X			
Lawrence E. Kasperbauer, Member	X			
	✓			
Alberto A.C. Lamorena, V., Member	✓			
	✓			
Carlotta A. Leon Guerrero, Member	✓			
_____ Lou Leon Guerrero, Member	_____	_____	_____	_____
_____ Francis E. Santos, Member	_____	_____	_____	_____

Committee on Health and Human Services
Report On
Bill No. 697 (COR)

AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998."

Introduced by Senators
E. J. Cruz, J. C. Salas, F. B. Aguon, Jr.,
W. B.S.M. Flores and Francisco P. Camacho

PUBLIC HEARING:

The Committee on Health and Human Services, to which was referred Bill No. 697 (COR), "AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998," conducted a public hearing on Wednesday, July 22, 1998 at 10:00 a.m. in the Legislative Public Hearing Room.

MEMBERS PRESENT:

Senator Edwardo J. Cruz, Chairperson of the Committee on Health and Human Services convened the hearing promptly at 10:00 a.m. Committee members and other Senators present were John C. Salas, Vice-Chairperson, Frank B. Aguon, Jr.

TESTIMONY:

Appearing before the Committee was Fr. Daniel J. Mulhauser, S.J., Secretary to and representing the Archbishop Anthony S. Apuron. At the outset, Fr. Mulhauser, informed the Committee that the Archbishop supports Bill No. 697 with modifications. Concluding his remarks, Fr. Mulhauser stated that the program will be useful to the community, and we should have one. During questioning by the Committee, Fr. Mulhauser also stated that Bill No. 697 is a product of the author and the Archbishop concerns addressed through a series of meetings.

There being no further witnesses, the Chairperson adjourned the Committee's hearing on Bill No. 697.

FINDINGS:

The Committee finds that:

1. Written testimony was received from Fr. Daniel J. Mulhauser, S.J., Secretary to and representing the Archbishop Anthony S. Apuron, who informed the Committee that with modification, supports the passage and intent of Bill No. 697.
2. Tyrone J. Taitano, the Administrator of the Guam Memorial Hospital, submitted written testimony saying that as medical technology changes, so do the challenges that are progressively presented to the Hospital. Mr. Taitano went on to say that the Hospital welcomes the introduction of Bill No. 697 as a means to empower the Hospital to establish a responsible Organ Donor Registry Program.
3. Drs. Saied Safa, and PC Raguram, Internal Medicine, both from Guam Renal Care Corporation, A Total Renal Care Facility, submitted written testimony, as physicians caring for dialysis and transplant patients strongly recommend prompt passage of Bill No. 697. The passage of Bill No., 697 will be an important step in the organization of a successful renal transplantation program on island.
4. That there exists a need to establish an Organ Donor Registry Program within the geographic area to serve the Pacific Island Community as evidenced by the passage of PL 12-61, "The Uniform Anatomical Gift Act" in 1973.
5. An Organ Donor Registry is to be established within the Guam Memorial Hospital. The Islandwide Registry shall include supporting documents duly executed with the signature of the donor witnessed by at least two (2) other persons. In addition to the Islandwide Registry, applicants to Guam Driver's License or Guam Identification Card shall indicate whether the person wishes to be an organ donor under the Uniform Anatomical Gift Act.
6. With the advances of medicine and modern technology, researchers have found a way to prevent organ transplant patients from rejecting their new organs - - even if the organs are compatible with the system. This advance could help thousands of people waiting for compatible organ donors.
7. Absent this program, patients from Guam in need of a transplant must wait for an organ from a suitably matched donor, which can take months. After the transplant, the patient must take anti-rejection medications to prevent the immune system from attacking and destroying the new organ.

RECOMMENDATION:

The Committee, having reviewed the testimonies presented at the public hearing, does hereby recommend to the Legislature that "Bill No. 697 (COR) AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998," be passed as amended.

07/26/98 10:20

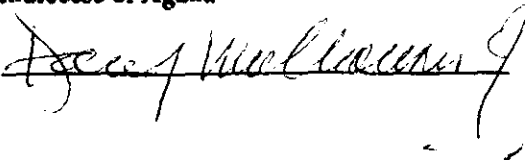
COMMENTS UPON GILL 697 (COR)
AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, etc.

In behalf of the Archdiocese of Agaña, I hereby submit recommendations for changes as follows:

- a. ✓ Section 83A102 adopts the language of the Uniform Determination of Death Act, however, it leaves out a crucial sentence which sets the standard for making the important determination. The following sentence should be added to the section: "A determination of death must be made in accordance with accepted medical standards".
- b. ✓ The last sentence of Section 83A104 should be modified to make it clear that the doctor determining death, or verifying death, must have nothing to do with the selection of the donee. This is crucial to assure no conflict of interest whereby a physician might be influenced by the crucial needs of a patient in quickly determining the death. The modified sentence should read as follows: "Neither the physician making the determination of death under Section 83A101, nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part of the donor, nor, directly or indirectly, in the selection or recommendation of the donee of the part.
- c. ✓ Section 83A105 states the donation with the hospital registry is irrevocable without a written and notarized revocation (see the next-to-the-last sentence in the section). This may be very harsh when a dying patient decides to revoke, but cannot quickly find a person to prepare for him the revocation form, or find a notary public. The law should allow a verbal revocation of a patient in the hospital. The said sentence should be deleted.
- d. ✓ There is a typographical error in the first sentence of Section 83A105(b). The word "establishing" should be "established".
- e. ✓ The first sentence in Section 83A105(c) makes no sense.
- f. The second sentence of Section 83A105(c) should be changed to make it clear that no anatomical gift is valid unless the donor was 18 years of age, or older, at the time the donation document was executed. Under Guam law, a minor has no capacity to make such a contract.
- g. ✓ Sections 83B101(a) and (b) use the term "ordinary standards of medical practice". The word "ordinary" is very poor and vague. All such legislation uses the term "accepted medical standards".
- h. Sections 83B102, 83103, and 83C101 all refer to "licensed physician". Such legislation should properly refer instead to "qualified physician". A physician may be licensed, but not qualified to make a death determination. Not all licensed doctors have neurological qualifications.

Thank you for the opportunity to assist in this important legislation.

Archdiocese of Agaña

By 



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



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OKA, TAMUNING, GUAM 96911
TEL: 647-2444 or 647-2330
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July 27, 1998

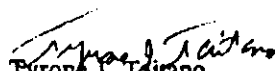
Senator Edwardo J. Cruz
Chairman,
Committee on Health and Human Services
Sinajana Shopping Mall, Phase II
Suite 1-A, Route 4
Sinajana, Guam 96926

Dear Mr. Chairman,

Thank you for the opportunity to testify on Bill No. 697: AN ACT RELATIVE TO ESTABLISHING AN ORGAN DONOR PROGRAM, ORGAN DONOR REGISTRY, AND UNIFORM DEFINITION OF CESSATION OF LIFE BY ADDING A NEW CHAPTER 83A, PART 2, DIVISION 4 OF 10 GCA AND OTHERS AND CALL THIS THE "ORGAN DONOR ACT OF 1998."

As medical technology changes, so do the challenges that are progressively presented to the Hospital. In this regard, I do believe that attention is warranted in the area identified by Bill No. 697. GMHA welcomes the introduction of this measure as a means to empower the Hospital to promulgate the appropriate regulations as they relate to establishing a responsible organ donor policy. By utilizing the expertise of the Medical Staff and other sources, I am confident of the Hospital's ability to carry out this responsibility in a manner that protects the interests of patients and that serves the long term needs of the Hospital and the community at large.

Sincerely,


Fyron J. Taitano
Hospital Administrator





GUAM RENAL CARE CORPORATION
A Total Renal Care Facility

July 27, 1998

The Honorable Eduardo Cruz, MD
Guam Legislature
155 Hessler Place
Agana, Guam 96910

VIA FAX: 472-3582

Dear Senator:

After careful review of the draft of the organ donation bill, we as physicians caring for dialysis and transplant patients strongly recommend prompt attention and passage of the bill. This will be an important first step in the organization of a successful renal transplantation program on island.

Thank you.

Saied Safa, MD, FACP
Internal Medicine
Hypertension & Nephrology
Transplant Nephrology

PC Raguram, MD, FACP
Internal Medicine
Hypertension & Nephrology
Transplant Nephrology

TESTIMONY:

Appearing before the Committee was Tyrone J. Taitano, Administrator, Guam Memorial Hospital Authority. [Attachment 3] Mr. Taitano testified that as medical technology changes, so do the challenges that are progressively presented to the Hospital. Mr. Taitano went on to say that the Hospital welcomes the introduction of Bill No. 246 as a means to empower the Hospital to promulgate the appropriate regulations as they relate to establishing a responsible organ donor policy.

According to Mr. Taitano, by utilizing the expertise of the Medical Staff and the Hospital's other resources, he is confident of the Hospital's ability to carry out the responsibility in a manner that protects the interests of patients and that serves the long term needs of the Hospital and the community at large.

There being no further witnesses, the Chairperson called on the Committee members to query the witness. Senator Frank B. Aguon, Jr. related his experience and participatory involvement on a workshop dealing with the establishment of an organ donor program. At this time, Senator Aguon questioned the Hospital Administrator whether it would be feasible to establish an organ donor program at the Hospital.

Mr. Taitano responded, saying that Bill No. 246 is designed to set up the administrative legal structure for an organ donor policy. Whether the work is actually done at GMH or off-island, Mr. Taitano stated that this is something that must be dealt with on a practical level. The Hospital Administrator elaborated saying that this would not only have to do with the acquisition of organs but more importantly, the disposition of them.

When asked what other alternatives or option the Hospital has, Mr. Taitano responded saying that any intent for an organ donor program would be purely defined in the interest of the community here. There are other ways of doing this besides actually building the whole center within the Hospital. For example, on a as needed basis, we could bring in requisite skills and equipment for those times that we would need an actual organ transplant. These are some of the issues that if the bill passes, I intend to work fully with the Medical Staff so that we take our time before we establish the proper framework to conduct this service. We take the view that it's best to prepare for it and create that structure and then time will tell whether it proves to be either feasible for financial or whatever technical reasons.

At this time the Chairperson called on Senator Felix P. Camacho. Senator Camacho stated that there is no harm in establishing this program at this point and time, and that he fully supports the program.

At the outset, Senator Lou Leon Guerrero informed the Chairperson that she will support the legislation. She also expressed the importance of GMH becoming a part of the organ donor program data or institute banking community.

The Chairperson then called on Senator Elizabeth Barrett-Anderson. Senator Barrett-Anderson stated that she supports the program and the concept fully, but the legislation needs to protect the Hospital from liability.

The Hospital's approach to this issue according to Mr. Taitano would be a holistic approach, wherein rules and regulations as well as statutes would be submitted to the Legislature for consideration.

There being no further witnesses, the Chairperson adjourned the Committee hearing on Bill No. 246 at 10:05 a.m.

FINDINGS:

The Committee finds the following:

1. That there exists a need to establish an Organ Donor Program within the territory to serve the Pacific Island Community as evidenced by the passage of PL 12-61, "The Uniform Anatomical Gift Act" in 1973.
2. That individuals of sound mind may give all or any part of his body for any purpose upon death, and that persons may effectuate this gift of life through the Organ Donor Program.
3. The Medical Director and Staff of the Guam Memorial Hospital requested that clarification be made and that the term "death" be appropriately defined. After consultation with the sponsor of the legislation, a definition was agreed to. Once the program is established, other government agencies could be involved in furthering the objectives of the Program.
4. With the advances of medicine and modern technology, researchers have found a way to prevent organ transplant patients from rejecting their new organs - - even if the organs are compatible with the system. This advance could help thousands of people waiting for compatible organ donors.
5. Absent this program, patients from Guam in need of a transplant must wait for an organ from a suitably matched donor, which can take months. After the transplant, the patient must take anti-rejection medications got lift to prevent the immune system from attacking and destroying the new organ.

6. Therefore, in its efforts to establish such a Center, the Committee on Health and Human Services recommends that the Guam Legislature mandate the Guam Memorial Hospital Authority to submit rules and regulations through the Administrative Adjudication Law establishing an Organ Donor Program.

RECOMMENDATION:

The Committee, having reviewed the testimonies presented at the hearing, does hereby recommend to the Guam Legislature the following:

That Bill 246, "AN ACT TO ADD NEW SECTIONS 83101.1 AND 83101.2 TO TITLE 10 OF THE GUAM CODE ANNOTATED, TO ESTABLISH AN ORGAN DONOR PROGRAM; TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO PROMULGATE RULES AND REGULATIONS ESTABLISHING AN ORGAN DONOR PROGRAM; AND TO CITE THE ACT AS THE GIFT OF LIFE ACT OF 1997," be passed as substituted by the Author.

Profile on Substitute Bill No. 246

Short Title:	"The Gift of Life Act of 1997."
Date Introduced:	Submitted to the Legislature for introduction on May 2, 1997 and officially ratified during the May legislative session.
Main Sponsors:	Senators Edwardo J. Cruz, John C. Salas, and Lawrence F. Kasperbauer.
Committee Referral:	Referred by the Committee on Rules to the Committee on Health and Human Services dated May 13, 1997.
Public Hearing:	Monday, May 19, 1997, Guam Legislature Public Hearing Room.
Official Title:	AN ACT TO ADD NEW SECTIONS 83101.1 AND 83101.2 TO TITLE 10 OF THE GUAM CODE ANNOTATED, TO ESTABLISH AN ORGAN DONOR PROGRAM; TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO PROMULGATE RULES AND REGULATIONS ESTABLISHING AN ORGAN

DONOR PROGRAM; AND TO CITE THE ACT AS THE GIFT OF LIFE ACT OF 1997.

Co-Sponsors: Senator Felix P. Camacho
Mark-up Meeting: Wednesday, August 20, 1997.
Recommendation: To do pass as substituted by the Author.

General Overview

The Committee on Health and Human Services finds that as medical technology changes, so do the challenges that are progressively presented to the Hospital. With regards to Bill No. 246, the Hospital welcomes the introduction and passage of Bill No. 246, as a means of empowering the Hospital to promulgate the appropriate rules and regulations concerning the establishment of a responsible organ donor policy.

The Committee on Health and Human Services through the Guam Legislature is of the opinion that there exists a need to establish an Organ Donor Program within the territory to serve the Pacific Island Community as evidence of the passage of PL 12-16, "*The Uniform Anatomical Gift Act*". Furthermore, the Guam Legislature is of the opinion that individuals of sound mind may give all or any part of his body for any purpose upon death, and that persons may effectuate this gift of life through the Organ Donor Program.

Therefore, in its efforts to establish such a Program, the Committee on Health and Human Services urges the members of the Guam Legislature to mandate the Guam Memorial Hospital Authority to submit rules and regulations through the Administrative Adjudication Law establishing an Organ Donor Program.

Analysis

A closer look reveals the following:

Section 1. Outlines the Guam Legislature's position on the need to establish an Organ Donor Program.

Section 2. Cites and makes reference to the legislation as "The Gift of Life Act of 1997."

Section 3. Adds a new Section 83101.1 to Title 10 of the Guam Code Annotated. It is the intent of this Section to include the definition of "death". A request to clarify this definition was made by the Medical Staff. As contained in substitute Bill No. 246, the term is defined to mean:

- (1) Death may be declared in an individual who has sustained either:
 - (a) irreversible cessation of circulatory and respiratory functions; or
 - (b) irreversible cessation of all functions of the entire brain including the brainstem.

The essential requirements of this definition, whether applied to the cardiorespiratory system or brain, are both cessation of function and irreversibility.

- (2) Determination of death shall mean
 - (a) A person may be pronounced dead by a physician who determines that there is irreversible cessation of circulatory and respiratory functions; or
 - (b) A person may also be determined dead if it is determined that there is irreversible cessation of all functions of the entire brain including the brainstem by an attending physician and confirmed independently by a consulting physician.

(3) Neurological criteria for establishing death and cessation of brain function, shall include the following clinical conditions which must be met:

- (a) cerebral function must be absent.
- (b) brainstem functions must be absent.

(4) Irreversibility of loss of brain function is declared if the following are satisfied:

(a) The cause of coma should be established and sufficient to account for the loss of brain function. Examples might include documented structural disease (massive intracranial hemorrhage or head trauma), or an irreversible systemic metabolic cause such as severe anoxia resulting from cardiopulmonary arrest;

(b) Reversible conditions (specifically hypothermia, [core temperature less than 32 C degrees]) and drug intoxication must be excluded. If sufficient cause for the coma cannot be established, excluding these reversible conditions, further laboratory testing for drug intoxication may be required as well as a more extended period of observation;

(c) Loss of brain function should persist for a period of 24 hours; and

(b) An EEG confirmation of neocortical death which may be optional.

Section 4. Adds a new Section 83101.2 to Title 10 of the Guam Code Annotated. This new Section provides that all patients admitted to the Guam Memorial Hospital for in-patient service shall be potential organ donors unless specifically refused by the patient.

Section 5. Authorizes the Guam Memorial Hospital Authority to establish an Organ Donor Program and to promulgate the rules and regulations through the Administrative Adjudication Law to effectuate the intent of Bill No. 246.



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



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May 19, 1997


Senator Edwardo Cruz
Chairman
Committee on Health & Human Services
24th Guam Legislature
Agana, Guam

Dear Mr. Chairman,

Thank you for the opportunity to testify on Bill No. 246: "AN ACT TO AUTHORIZE THE GUAM MEMORIAL HOSPITAL AUTHORITY TO ESTABLISH AN ORGAN DONOR CENTER; TO PROMULGATE RULES AND REGULATIONS THROUGH THE ADMINISTRATIVE ADJUDICATION LAW AND TO CITE THE ACT AS THE GIFT OF LIFE ACT OF 1997."

As medical technology changes, so do the challenges that are progressively presented to the Hospital. In this regard, I do believe that attention is warranted in the area identified by Bill No. 246. GMHA welcomes the introduction of this measure as a means to empower the Hospital to promulgate the appropriate regulations as they relate to establishing a responsible organ donor policy. By utilizing the expertise of the Medical Staff and other sources, I am confident of the Hospital's ability to carry out this responsibility in a manner that protects the interests of patients and that serves the long term needs of the Hospital and the community at large.

Sincerely,


TYRONE O. TAITANO



COMMONWEALTH NOW!

Bill 246
Bill 255

RECEIVED 07-24-97
24TH GUAM LEGISLATURE
COM. HEALTH & HUMAN SVCS.
DATE: 7/14/97

MEMORANDUM

To: Senator E. Cruz, MD
CC: Hospital Administrator, Medical Director, Medical Executive Committee,
President Guam Medical Society
Date: July 10, 1997
From: President of the Medical Staff *[Signature]*
Subject: comments re: bills 246, 255, and peer review

Dear Senator;

Included are the requested comments on the aforementioned bills.

Peer review legislation:

By now you should have received my suggested new "working" version for a peer review bill. It basically combines elements of the Guam, Hawaii, and Oregon bills. I believe this version simplifies the language and content, as well as preserves the most vital elements that need to be included. These elements include: 1). protection from discoverability of peer review and quality assurance activities by hospitals, clinics, and professional societies; 2). immunity from liability for participating in these activities, as long as it is done in good faith; 3). prohibits disclosure or examination of peer review proceedings; and 4). protects the rights of individuals being reviewed.

Other items present in the current bill were left out because they are either *not pertinent to peer review*, superfluous, or are covered by superceding law (i.e., federal law). The section that mandates reporting, based on guidelines of the National Practitioner Data Bank are mandated by federal law. Other reporting such as for substance abuse, incapacity, or ethical considerations is addressed or should be addressed elsewhere.

Bill 246 (Organ Donor Program):

Comments:

- 1). Section 83101.1 Declaration of Death is excellent, very practical, and much needed. It provides an expanded definition for death that includes cardiovascular and brain death. The definitions and procedures established are practical and consistent with current medical practice.
- 2). I agree with and applaud the establishment of a functioning Organ Donor Program on island. However my concerns lie with practical aspects. How will it be funded? Who will administer the program? As you probably know, Dr. Livingston Wong who is a renal transplant surgeon from Hawaii and a long time friend of this island, tried to establish such a program here 2-3 years ago. It was my understanding that policies and procedures were established, a nurse coordinator was identified (Ruth Whedbee/Gurusamy), and participating local surgeons were also identified. Funding was to be out of Hawaii. Guam

patients awaiting organ transplant were to have the highest priority for Guam harvested organs. For some reason the program never became functional. Perhaps it could be restarted.

3). The section that mandates GMH to submit rules and regulations for establishing this program within 120 days may be an added burden for the hospital at a time that it is overwhelmed with many problems. However, if the previously established policies and procedures can be found and easily adapted then this may be a moot point.

Bill 255 (Max. Limit of Liability for Health Professionals):

Comment:

Since hospital-contracted physicians and House-call physicians are indeed agents of the hospital (an extension of the government itself), they should be covered for liability by whatever means the government wishes. They could do this by securing private liability insurance or through protective legislation. In the past, the government has chosen the latter tack. However, since the current statute is around 20 years old it has become outdated. The current limits of \$100,000 for wrongful death and \$300,000 for other tort, are not realistic or fair sums with respect to what awards are presently. If the limits were raised to reflect fair compensation for severe damages in the present era, then I believe that your bill would be fair and acceptable to the community at large and to the physicians affected.

PHILIPPINES / PACIFIC

PACIFIC DAILY NEWS, Wednesday, June 18, 1997

Japan OKs organ transplant law

TOKYO (AP) — After years of emotional debate on whether doctors can be entrusted with defining death, Japan's parliament passed a law Tuesday to allow heart and other organ transplants in a country where they are virtually banned.

The law, which will take effect in three months, will pave the way for the nation's first heart transplant in nearly 30 years. Japan's only heart transplant, in 1968, resulted in two criminal investigations against the chief surgeon and left the nation one of the few without such operations.

"This is a big step forward for transplants," Health Minister Junichiro Koizumi said in an interview after the voting.

Many remain wary of letting doctors define the moment of death — which is required when key organs are donated —

and that stalled the bill, proposed three years ago.

Cultural beliefs against cutting open corpses, for fear that may hurt the person after death, also have discouraged transplants.

Up to now, hundreds of patients needing heart, lung and other organ transplants have had no choice but to go abroad for the lifesaving operations. Only a handful of patients have been able to afford the trip.

'I feel so relieved'

"I've been struggling for so many years to get this bill passed, I feel so relieved now," Hiroshi Takamori, a 34-year-old patient awaiting a heart-lung transplant, said in a telephone interview from the central city of Nagoya.

The main sticking point in the dispute has been Japan's strict definition of death.

Under Japanese law, death comes at the moment when the heart stops beating. At that point, corneas and kidneys can still be used for transplants, but the heart, lung, liver and other organs deteriorate so much they can't be used.

The United States and other nations where organ transplants are routine recognize brain death, in which the brain ceases activity but the heart and other organs can be kept working with machines.

Transplants are not illegal in Japan but those from brain-dead donors are almost never performed.

"Japanese thinking has finally come closer to international standards," said Taro Nakayama, a doctor and lawmaker

who proposed the initial bill.

Major revisions

Given the deeply divided public opinion on transplants, Nakayama's bill, which recognized brain death across the board, had to undergo major revisions to win Tuesday's 181-62 approval in the upper house and the 323-144 lower house vote.

Under the revised law, brain death will be recognized only for transplants. That means brain-dead people who don't agree to transplants would still be considered alive and continue to receive treatment.

The law also specifies that transplants be allowed only from donors who have left written consent. Family members will also be able to overrule a doctor's diagnosis of brain death.

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New therapy may prevent rejection of transplanted organs

August 5, 1997
Web posted at: 10:36 p.m. EDT (0236 GMT)



(CNN)

WASHINGTON (CNN) -- Navy researchers said Tuesday they may have found a way to prevent organ-transplant patients from rejecting their new organs -- even if the organs are incompatible with their bodies' systems.

In an advance that could help tens of thousands of people waiting for compatible organ donors, the doctors tested a therapy that seemed to turn off any immune-system attack, even on transplanted organs that were completely mismatched.

Currently, patients in need of a transplant must wait for an organ from a suitably matched donor, which can take months. After a transplant, the patient must take anti-rejection medications for life to prevent the immune system from attacking and destroying the new organ.

Anti-rejection drugs can have unpleasant side effects and increase a patient's susceptibility to infections and tumors. The drugs are expensive, and about 20 percent of patients suffer episodes of acute rejection.

The findings of the team, led by Capt. David Harlan and Lt. Cmdr. Allan Kirk of the U.S. Naval Medical Research Institute in Bethesda, Maryland, suggest that with the new therapy, the immune system can be "reeducated" to leave the transplanted organ alone.

A summary of the research is published in the August 5 issue of Proceedings of the National Academy of Science.

Monkeys used to test the treatment

The research team -- which worked with transplant surgeon Stuart Knechtle of the University of Wisconsin -- transplanted "very mismatched" kidneys into rhesus monkeys and treated them with the new therapy for 28 days after the operation.

No other therapy and no anti-rejection drugs were used, the Navy said.

"Six months later, the primates are robust and suffering no significant side effects," according to a Pentagon report.

It said the short course of the therapy appeared to be long-lasting, precluding the need for daily medication to prevent organ rejection.

The therapy apparently prevented the immune system from rejecting the organ by controlling the responses of T-cells, which help fight immunities.

The researchers believe their therapy also may help treat ailments such as hay fever, multiple sclerosis and lupus.

Findings could be 'very significant'

Joel Newman of the United Network for Organ Sharing, the Richmond, Virginia-based national organ allocation center, said any advance that cut or eliminated the need for immuno-suppressant drugs would be "very significant" for the tens of thousands of people living with transplanted organs.

The UNOS network, which tracks U.S. transplant data, said almost 4,000 Americans died in 1996 waiting for a compatible donor. As of July 30, there were more than 53,000 people awaiting transplants, mostly for a kidneys, liver or heart.

Military Affairs Producer Chris Plante and Reuters contributed to this report.

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- April 28, 1997

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Bill Number: 246(LS)
 Amendatory Bill: No

Date Received: 6/25/97
 Date Reviewed: 6/26/97

Department/Agency Affected: Guam Memorial Hospital Authority
 Department/Agency Head: Tyrone J. Taitano
 Total FY Appropriation to Date: Autonomous

Bill Title (preamble): *An act to authorize the Guam Memorial Hospital Authority to establish an Organ Donor Center; to promulgate rules and regulations through the Administrative Adjudication Law and to cite the Act as the Gift of Life Act of 1997.*

Change in Law: No

Bill's Impact on Present Program Funding:
 Increase _____ Decrease _____ Reallocation _____ No Change x
 Bill is for:
 Operations _____ Capital Improvement _____ Other x

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Health and Welfare			11

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? --- - IF NO, ADD'L AMOUNT REQUIRED \$ 11
 AGENCY/PERSON/DATE CONTACTED: GMHA / Jeff Moylan / 6/25/97

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Orilda Guerrero DATE 6/26/97 DIRECTOR Joseph E. Rivera DATE JUN 27 1997
 Orilda Guerrero 6/27/97 Joseph E. Rivera, Acting

FOOTNOTES: 11 The intent of the Bill would have a positive fiscal impact although such costs cannot be ascertained due to the unavailability of data (i.e. personnel requirements, supplies, equipment, facility, etc.) and further information on the resources that would also be needed from the Division of Motor Vehicle License and Registration and the Guam Police Department Identification Bureau in order to operate the Center.