

Legislation Text

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Calling on Secretary Xavier Becerra and the U.S. Department of Health & Human Services to reconsider the implementation of a rule instituted by the prior administration that could upend our nation's system of organ procurement, particularly in communities of color, and to include the vast, specific needs of the organ transplant system in analyzing and improving the metrics and outcomes of organ procurement organizations.

WHEREAS In 2021, the organ procurement and the transplant system set an all-time record of over 40,000 transplants, which represents yearly increases for over a decade in procurement and transplants in our nation; and

WHEREAS, On December 2, 2020, the Centers for Medicare & Medicaid Services (CMS) adopted a final rule entitled, "Medicare and Medicaid Programs; Organ Procurement Organizations Conditions for Coverage: Revisions to the Outcome Measure Requirements for Organ Procurement Organizations"; and

WHEREAS, After amendments following a public comment period, the regulations under this rule went into effect on February 21, 2021, except for amendment number 3, which goes into effect on July 31, 2022. The regulations will begin to be implemented on August 1, 2022; and

WHEREAS, According to the Federal Register, this rule "revises the Organ Procurement Organizations (OPOs) Conditions for Coverage (CfCs) to increase donation rates and organ transplantation rates by replacing the current outcome measures with new transparent, reliable, and objective outcome measures and increasing competition for open donation service areas (DSAs)"; and

WHEREAS, OPOs were created in 1984 under the National Organ Transplant Act (NOTA) to facilitate the national organ procurement and transplantation process. There are currently 57 OPOs nationwide, each with a DSA that can include part of a state, one state, or multiple states; and

WHEREAS, According to the Association of Organ Procurement Organizations, OPOs provide services that assist multiple stakeholders in the organ donation and transplantation process. These services include clinical management of organ donors and assessment of medical suitability, donor family support, public education about organ donation, community engagement, tissue donation and research, and professional education for healthcare workers, medical examiners, and funeral directors; and

WHEREAS, While the system of 57 OPOs could benefit from evidence-based improvements, over the last half dozen years, the U.S. organ procurement system has been considered the "gold standard" for the world; and

WHEREAS, According to the United Network for Organ Sharing (UNOS), the nonprofit organization contracted by the federal government to oversee the national procurement and transplant network, more than 40,000 organ/tissue transplants were performed in 2021; and

WHEREAS, As of September 2021, more than 106,000 men, women, and children remain on the national transplant lists across the United States; and

WHEREAS, One person can donate up to 8 lifesaving organs, but only 3 in 1,000 people die in a manner that allows for organ donation; and

WHEREAS, According to the U.S. Department of Health & Human Services' Office of Minority Health, "the number of organ transplants performed on Black/African Americans in 2019 was 25.8 percent of the number of Black/African Americans currently waiting for a transplant. The number of transplants performed on white Americans was 47.6 percent of the number currently waiting"; and

WHEREAS, While the new rule purports to create "transparent, reliable, and objective outcome measures," it actually threatens to upend the nation's existing organ procurement network by requiring the majority of OPOs to compete to continue serving their DSA or undergo decertification based on the new blanket performance metrics; and

WHEREAS, Rather than providing OPOs who do not meet the new standards with guidance, support, and information about best practices, the rule prescribes closure. Decertifying the bottom 25 percent is the wrong way to treat OPOs who do not outperform their counterparts; and

WHEREAS, Moreover, the new rule does not provide direction on what happens when an OPO is closed. Whole service areas will potentially be left in disarray for years while the DSA is being reorganized by another OPO; and

WHEREAS, Any disruption to the national donation and transplant system will likely mean less organs procured and transplanted for our citizens, and especially for those in communities of color who already face lower rates of transplantation; and

WHEREAS, Furthermore, the new rule rejects any attempt to measure discrimination that is not based on "biology." Race in America is not about "biology." More than forty years of research explores the basis for racial disparities in both donation and transplantation, as well as in healthcare equity itself. While the findings are startling, they can be overcome through policymaking that understands the unique needs of every community. Our shared goal among all stakeholders in this critical component of our nation's healthcare system should be to find ways to remove racial barriers, not establish new ones; and

WHEREAS, While racial and ethnic inequities in our healthcare system have finally come to the forefront of policymaking, this rule turns this awareness on its head by suggesting that attitudes, population health, disease rates, and access to transplant are the same in Omaha, Nebraska, in the Bronx, or in Columbia, South Carolina. The vast, specific needs of the organ transplant system must be considered in analyzing and improving the metrics of organ procurement organizations; and

WHEREAS, It is important to acknowledge that there is a crisis in the transplantation process, and transplantation is something that OPOs do not control, which is a leading reason why many healthcare experts, including doctors, researchers, and patients themselves, are calling for increased alignment between organ procurement and transplantation systems. This rule only drives further division among the various efforts to save lives through donation and transplant; and

WHEREAS, At least a dozen members of Congress have been convinced to expedite the implementation of the competition and decertification processes from 2026 to 2024, making this a potentially more imminent threat to our national organ donor infrastructure; now, therefore, be it

RESOLVED, BY COUNCIL OF THE CITY OF PHILADELPHIA, That it hereby calls on Secretary Xavier Becerra and the U.S. Department of Health & Human Services to reconsider the implementation of a rule instituted by the prior administration that could upend our nation's system of organ procurement, particularly in communities of color, and to include the vast, specific needs of the organ transplant system in analyzing and improving the metrics and outcomes of organ procurement organizations.