Remove Barriers to Living Organ Donation

Recommendation: RPA urges Congress to enact The Living Donor Protection Act of 2021 (S. 377, H.R. 1255), to facilitate living organ donation.

It is estimated that more than 20 million Americans suffer from chronic kidney disease (CKD), including 400,000 individuals with end-stage renal disease (ESRD) or kidney failure, who must undergo kidney replacement therapy, known as dialysis, to sustain life. Most commonly caused by diabetes or high blood pressure, kidney failure is expected to claim more than 2 million lives by 2030. Without dialysis or a kidney transplant, patients suffering from kidney failure will not survive. Since transplant organs are in short supply, most patients undergo dialysis which mechanically filters body wastes and excess fluids from the bloodstream three to four times per week, but does not provide the physiologic equivalent of the native kidneys.

The challenges associated with dialysis are far-reaching and make a compelling argument that barriers to organ donation, which are formidable and negatively impact the availability of transplantable organs, should be removed. Complexities relating to life and health insurance, and a definitional gap in the Family and Medical Leave Act (FMLA) have served as disincentives to potential donors. Specifically, published literature indicates that a significant percentage of potential living organ donors experience difficulty obtaining or paying for health insurance after their procedures due to unfair policies. Further, the FMLA does not stipulate that living organ donors can take unpaid leave to recover from their surgical procedures, nor does it provide assurance that donors will have their jobs waiting for them after the transplant surgery.

S. 377 and H.R. 1255 address these concerns by: (1) prohibiting the denial of coverage or an increase in insurance premiums for living organ donors; (2) designating organ donation surgery as a serious health condition for the purposes of the FMLA; and (3) requiring the Department of Health and Human Services (HHS) to update educational materials on living organ donation to reflect these changes.

Given the insufficient supply of transplant organs, it is imperative that policymakers take all necessary steps to facilitate organ donation to the maximum extent practicable. Positive change in this area is also likely to provide considerable cost-savings to the Medicare program by reducing the need for dialysis and other costly medical interventions associated with ESRD care.

To promote living organ donation in the U.S., Congress should enact S. 377 and H.R. 1255, the Living Donor Protection Act of 2021, legislation that would eliminate barriers to donation.