



May 4, 2020

Congressman Roger Marshall, MD
312 Cannon House Office Bldg.
Washington, D.C. 20510

Dear Congressman Marshall,

On behalf of Midwest Transplant Network (MTN), the federally designated Organ Procurement Organizations (OPO) in Kansas, I write to inform you of counterproductive legislation, which stands in the way of increasing access to organ transplants for Kansans. MTN is committed to saving the lives Kansans by facilitating the organ donation process as mandated under Federal law. In order to improve outcomes for transplant patients, increase the average number of organs recovered from each donor, and reduce the overall costs associate with organ recover, many OPOs have constructed organ recovery centers which are comprised of operating rooms for organ and tissue recovery, diagnostic testing facilities, and donor intensive care units.

Mid-America Transplant (MAT) in St. Louis, Missouri was the first OPO to open a surgical recovery center for organ recovery in 1999; MAT's center has been a major success. MTN is planning to open an organ recovery center in 2021, which will similarly allow braindead donors to be transferred from the hospital setting to a private center for organ recovery. Unfortunately, because of outdated CMS guidance, Medicare Certified Transplant Centers (CTCs) are reluctant to transfer donors to an OPO's donor care unit or organ recovery center. This is because CTCs are financially disincentivized from transferring donors to OPOs due to outdated cost report language in Medicare Guidelines. These Guidelines provide that CTCs only receive Medicare reimbursement for organs recovered at the CTC and not for organs recovered at an organ recovery center of an OPO. CTCs remain willing and able to work with OPOs and are supportive of OPO organ recovery centers; however, CTCs can be hesitant to transfer potential donors for fear that the hospital may be financially penalized after its Medicare cost report is submitted. This remains true although Medicare guidelines provide that "usable organs" include "organs sent to OPOs," without any reference to where the organs were recovered. 42 U.S.C. § 273.

Considering the COVID-19 pandemic, it is especially critical to revise this outdated CMS guidance to relieve pressure from Kansas' heroic, but overwhelmed hospitals. Moving braindead donors to OPOs for care and recovery will free up ICU beds, ventilators and hospital critical care staff who manage medially complex potential donors, so that these resources can be used for COVID-19 patients and other critically ill patients. Additionally, OPOs with organ recovery centers can drastically minimize the number of essential workers who report to local hospitals to monitor potential donors. Minimizing OPO staff in hospitals is safer for both OPO and hospital staff members and hospitalized Kansans. Although Kansas hospitals that function as CTCs have been greatly impacted by the COVID-19 pandemic, and yet some of these same CTCs in Kansas and Western Missouri have expressed opposition to the opportunity to transfer braindead donors to organ recovery centers which would free up hospital resources because of the current CMS guidance which financially disincentives transferring a donor's care to an OPO.

As a Congressman serving Kansas, you are in unique position to propose changes to the language in federal regulations, specifically Section 371(b)(3) of the Public Health Act, which unnecessarily complicates the organ transplantation process and increases health risks during this pandemic. I have enclosed suggested

legislative language with this letter, and I am requesting that the proposed language is included in the next COVID-19 approval package for Congress. In order to assist you as you advocate on behalf of Kansans, I am providing you with proposed legislative revisions; a letter drafted by OPO leaders and sent to CMS Administrator, Seema Verma, in September of 2019; and a one-page fact sheet with additional background on the benefits of OPO organ recovery centers.

I thank you in advance for bringing this important issue to the attention of House Leadership and including revisions to The Public Health Act in the next comprehensive legislative package.

By supporting changes to current federal regulations, you will be taking significant steps to improve and enhance the efficiency and safety of organ donation and transplantation for Kansans, not only during this current COVID-19 crisis, but also for Kansas citizens who will rely on lifesaving transplants in the future. Please do not hesitate to email me if you have additional questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jan Finn".

Jan Finn, RN, MSN
President & CEO
Midwest Transplant Network

Encls.