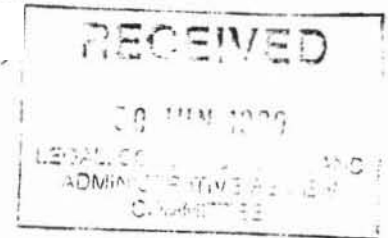


Submission No 44

Mr Gary Fenlon MLA  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
Brisbane, Qld. 4000



Dear Mr Fenlon

**INQUIRY INTO THE TRANSPLANTATION AND ANATOMY AMENDMENT  
BILL 1998**

Thank you for the opportunity to comment on the proposed Bill.

The critical issue that the proposed amendment addresses is the need to obtain informed and conclusive consent from those who elect to be organ donors. I wish to make some comments on a more enlightened educational campaign for potential donors and the means by which they may register their consent. Firstly, however, I would like to comment on the Bill itself.

The proposed section 25A clarifies that the signed consent of a deceased adult on their driver's licence will be effective consent for the removal of the deceased's body tissue **provided** the person relying on the consent has no reason to believe that the consent is incorrect or has been withdrawn.

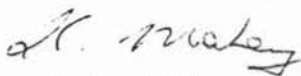
My concern lies with the latter proviso which is inserted in subsection 25A(3). It appears to place an onus on those who would be relying on the consent given in the licence to make some sort of enquiry into evidence of a contrary intention by the donor. Given the need to act quickly, it could be extremely difficult to obtain this sort of evidence. For example, if the relative of a consenting donor mentions that the donor made a will or an advanced health directive in which he or she refers to the issue of organ donation – is it necessary to obtain a copy of the will or directive and be satisfied that it is consistent with the consent in the licence before that consent can be acted on? Would it be possible for a relative to simply assert that the potential donor had a recent change of attitude to organ donation in order that the consent on the licence is nullified? I suggest that the amendment provide that the consent in the licence is to be final and effective unless a party relying on the consent is given documentary evidence that the donor withdrew the consent or made an informed decision in writing the effect of which is to revoke the consent. It would be necessary to place a time limit (48 hours?) on the production of this sort of evidence.

I am totally in agreement with the object of the Bill in promoting organ donation and a more effective way of ensuring that the donor's expressed wishes are honoured. However the Bill highlights the inadequacy of the driver's licence as a medium of achieving a higher incidence of donations. Those who are minors, those who do not drive or those who have a licence that is not in force at the time of death, are, of course, outside the ambit of the Bill. Even those persons in a position to record their consent on their licence may defer this decision, while not necessarily disagreeing in principle. A more effective measure is urgently needed to capture national commitment to organ donation by means of an organ database or register.

Persons like myself feel competent to make a contribution to this subject simply because the death of a relative, in my case my ten year old son, compels us to confront the finality of death. While it is inconceivably painful, the sense of making good use of organs no longer needed by the one you love is inescapable. But surviving relatives come to this point much more readily if the issue of organ donation has been discussed and a decision made, if possible, by the person who dies. I am not suggesting that young children should be requested to consent to organ donation. However I believe that all children need to understand that their death is inevitable and their early accidental death is possible. I suspect that as a society that has learned to conquer so much, we keep pretending that we can defy our own mortality. Our children need to know that this is not so and that if vibrant life is snatched from them they may generously pass it on to others. Even young children can embrace the rationale for organ donation if death is discussed intelligently and organ transfer explained sensitively. If we are to dispel some of the negative attitudes to organ donation we need to start with education and particularly education of the young.

This Bill represents an important step in educating the community about the need for organ donors and the importance of consent being informed and unequivocal. I support it wholeheartedly.

Yours faithfully



Kathryn Mahoney