EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 4, 2000
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 2418 - Organ Procurement and Transplantation Network Amendments of 2000
(Rep. Bilirakis (R) FL and 86 cosponsors)

The Administration strongly opposes House passage of H.R. 2418, which would reauthorize the National Organ Transplantation Act (NOTA). H.R. 2418 raises serious Constitutional issues, would preserve existing inequities in the organ transplantation system, and could result in potential harm to patients. If H.R. 2418 were presented to the President in its current form, his senior advisers would recommend that he veto the bill.

The effects of the current organ allocation policies established by the Organ Procurement and Transplantation Network (OPTN) are inequitable because patients with similar severities of illness are treated differently, depending on where they may live or at which transplant center they may be listed. For this reason, the Department of Health and Human Services issued regulations, which became effective March 16th, that establish a framework for organ allocation policies, to be developed by the network, that are based on sound medical judgment, and that are fairer and more equitable for all parties. Unfortunately, H.R. 2418 would not result in a fairer system for all patients in this country. Rather, it is seriously flawed legislation because it:

- Does not require the standardization of patient listing practices and broader sharing of organs, two items that the Administration and the Institute of Medicine consider essential to ensuring fairness in the system and optimal outcomes for patients.

- Reduces the appropriate Federal role in overseeing the OPTN, despite the recommendation from an independent study required by Congress and conducted by the prestigious Institute of Medicine, that HHS should have the oversight responsibility "to manage the system of organ procurement and transplantation in the public interest, and to ensure public accountability of the system."

- Inappropriately grants extraordinary powers to the private sector to approve the Federal contractor that manages the OPTN.

- Raises serious constitutional concerns. It is a core constitutional value that politically accountable Executive Branch officers should make the important policy judgments necessary to implement a Federal regulatory scheme. For this reason, the bill's delegation of authority to a private party to establish standards governing organ transplants and transplant providers raises serious separation of powers concerns and would create a significant risk that a court might declare the bill unconstitutional.

The Administration supports the amendment to be offered by Representatives LaHood, Moakley, Rush, Peterson (John) and others. Similar to the current regulation, it reflects the recommendations made by the Institute of Medicine in its Congressionally mandated study of organ allocation policies and it strikes the proper balance between medical judgments being made by transplant professionals and the need for public accountability for tax payer funds. It articulates clear principles to guide organ allocation policy, designed to protect the interests of patients. It assures that data necessary to evaluate and improve the organ transplant system are provided to the public. It avoids the serious constitutional problems that are raised with H.R. 2418. Further, it promotes organ donation, the single most important factor in dealing with the shortage of transplantable organs. In sum, if Congress determines that legislation to update the National Organ Transplant Act is desirable, the amendment to be offered by Representatives LaHood, Moakley, Rush, Peterson (John) and others represents a thoughtful legislative response.

The Administration urges the Congress to develop NOTA reauthorization legislation that better reflects the recommendations of the Institute of Medicine and that results in a fairer transplantation system for all patients in this country and their families.

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