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Transplant debate

Bill raises conflicts among Orthodox on permissibility of organ donation



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A bill that would require New Jersey driver's license applicants to declare whether they wish to become

organ donors is triggering a debate in some sectors of the Jewish community.

At issue is whether a proposed state law aimed at saving lives might conflict with Halacha — Jewish law — which prohibits taking one person's life in order to save another's.

Mix in the bioethical question of when death occurs and you have the ingredients for opposition in some quarters of the Orthodox rabbinate.

State Senate President Richard Codey (D-Dist. 27), author of the bill, calls it the "NJ Hero Act."

The legislation would require that within five years, all applicants for a driver's license or identification card must first answer whether they want to become an organ donor. If they choose "yes," their donor status would appear on their license and would be kept on file with the Motor Vehicle Commission.

If undecided, applicants would be asked to name another person to make that decision on their behalf. Those who say "no" would have to check a box certifying they understand the gravity of making that decision.

The bill would also require public high schools to provide mandatory courses in organ donation.

"The point of this legislation is to move the discussion out of the emergency room and into the living room," said Codey as he announced the proposal, pointing out that some 4,200 New Jerseyans are currently on waiting lists for organ transplants, and since 1997, some 2,500 have died while waiting.

"We are mandating a discussion, one that can and will save lives and make everyone a hero," he said.

But within the Orthodox community, debate over transplantation can be a theological minefield.

Eddie Reichman is an Orthodox rabbi who doubles as an associate professor of emergency medicine at Albert Einstein College of Medicine in the Bronx, and works with transplant teams to harvest organs.

He is a past board member of the Halachic Organ Donor Society, "whose purpose is to raise awareness of the issues that relate to organ donation and Halacha," he said. "Within the Orthodox tradition, there are varying opinions on organ donation, and a person would consult their rabbinic figure about whether they should sign a 'yes' or a 'no.'"

Reichman said he believes "the determination of brain death is the linchpin to determine whether someone accepts organ donations from a halachic point of view. The rabbis who do not accept the brain death criteria would not be willing to allow organ donations." The opinions vary, he said, "rabbi to rabbi."

"Even for those who sign a 'yes,' the harvesting provision might be more closely supervised than for others," said Reichman. "There is tremendous attention to how the harvesting takes place to make sure there is no desecration of the body in the process."



Rabbi J. David Bleich

J. David Bleich, an Orthodox rabbi and a professor of Jewish law and ethics, is one opponent of using brain death as a criterion for harvesting organs.

“It’s against halachic law,” he said from his office at the Benjamin N. Cardozo School of Law in New York. “Death occurs when a patient stops breathing and a heart stops beating, not before then. You cannot take one life in order to save another.”

In regard to seeking guidance from chaplains, Cecille Asekoff, director of the Joint Chaplaincy Committee of Metro West and coordinator of the National Association of Jewish Chaplains, said, “Professional chaplains help individuals determine what they would like to do themselves. It is not the professional chaplain’s job to give medical or halachic advice.

“Part of being a professional chaplain is helping the patient and her or his family find out where they are and enable them to reach a conclusion themselves,” said Asekoff. “Of course, if families are affiliated with a synagogue, then the chaplain will involve the congregational rabbi, but it is not a professional chaplain’s job to render halachic decisions.”

William Horn, rabbi emeritus at the Summit Jewish Community Center, is chaplain at Overlook Hospital in Summit and a strong supporter of organ donation. “Sometimes people feel a body has to be buried whole, not for the organs to be separated from it,” he said. “You cannot stop them from feeling that way. But the appropriate thing is to give the organs to benefit someone in getting a new life.”

Rabbi Shalom Lubin at Congregation Shaya Ahavat Torah in Parsippany offered the concept of a “halachic living will,” which, he said, “is a wonderful idea — a person appoints someone who is able to make these life-and-death decisions, either a rabbinic proxy or a rabbinic organization. It is very important for people to make sure that if they are not in a position to make decisions for themselves, they are in proper halachic hands to make sure everything is done properly.”

Rabbi Pinchas Klein said he is “not in principle opposed to Sen. Codey’s legislation to have people make that choice in advance, rather than have their families be asked at a very difficult time.”

“There are two ethical imperatives that sometimes conflict with one another,” said the religious leader at Mount Freedom Jewish Center. “One is to prolong and sustain life, and the other is to do everything to minimize pain and create comfort. The issue comes when the two start colliding with one another — when the effort to sustain life causes pain. That is a place where the family benefits greatly from working with a rabbi they know and a medical team.”



Alisa Flatow

Stephen Flatow of West Orange, a former chair of the Community Relations Committee of the United Jewish Communities of MetroWest NJ, has a close and tragic connection to the issue. When his 20-year-old daughter, Alisa, lay brain dead in an Israeli hospital after a 1995 bus bombing in the Gaza Strip, he and his wife, Roz, opted to remove her from life support and bequeath her organs to others.

The Flatows are Orthodox Jews who believe that “organ donations are permitted under Jewish law. The modern approach takes brain stem death. In Alisa’s case, her brain was not functioning but her heart was beating away,” he said.

“I am very glad we did what we did.”

Citing a saying from the Mishna, Flatow added, “If you save one life you save the entire world, and the ability to transplant six organs is really the ability to save six worlds.”

Flatow said he has met with three of the six people who received Alisa’s organs, including her heart, one of her kidneys, and one of her lungs. “The fellow who got Alisa’s heart was able to attend his daughter’s wedding. The person who got her kidney had problems with anti-rejection drugs but eventually recovered and got to see his child get married. The people were just so gracious. Alisa was more concerned with the other person than with herself. This is a fine tribute. I have no regrets.”

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