

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Brian E. Frosh, Chairman  
Members, Senate Judicial Proceedings Committee  
The Honorable Ronald N. Young

FROM: Joseph A. Schwartz, III  
Pamela Metz Kasemeyer  
J. Steven Wise

DATE: January 29, 2013

RE: **OPPOSE** – Senate Bill 40 – *Motor Vehicle Administration – Organ Donation – Presumed Consent (Patricia Hanberry Gift of Life Act)*

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The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, opposes Senate Bill 40.

Senate Bill 40 changes the current provisions for an individual to designate themselves as an organ donor through the driver license and identification application process. Under current law, the Motor Vehicle Administration (MVA) must provide a method for an applicant to designate that he or she consents to the gift of all body organs or parts for the purposes of transplantation, therapy, or medical research and education. An applicant must affirmatively choose to become a donor, it is not presumed. Once designated as a donor, the designation is noted on the driver's license or identification card and the designation can only be removed upon written notice to the MVA. Senate Bill 40 deems all applicants to have consented to organ donation without affirmative consent unless the applicant expressly chooses not to consent.

MedChi clearly recognizes the importance of organ donation. It is strongly supportive of efforts to increase the number of donors to address the shortage of donated organs and resulting waiting list of patients in need of organ transplants. However, eliminating affirmative consent to be a donor through an automatic presumption is counter to the medical community's belief that informed consent should be obtained prior to the provision of medical treatment and that the right to consent should include authorization for post-mortem procedures such as organ donation. "Presumed consent" or "opt out" policies fail to

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recognize that an individual may have religious, ethical or other personal reasons for choosing not to be an organ donor and may not understand that he or she must affirmatively rescind the presumed authorization to donate. Their choice would essentially be abrogated.

No other State has adopted a “presumed consent” or “opt-out” law with respect to organ donation. MedChi does not believe Maryland should be the first State to take this action and requests an unfavorable report.

**For more information call:**

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