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## A BILL FOR AN ACT

RELATING TO ANATOMICAL TRANSPLANTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1.   In December 2011, Hawaii Medical Center's two  
2 hospitals, one in Ewa Beach and one in Liliha, closed due to  
3 bankruptcy.   The closure of these two medical facilities  
4 resulted in the cessation of their hospital programs, emergency  
5 room services, and comprehensive medical services, as well as  
6 the State's only organ transplant program.

7           Act 1, Session Laws of Hawaii 2012, appropriated emergency  
8 funds, subject to dollar-for-dollar private matching funds, to  
9 support services by Queen's Medical Center to perform kidney and  
10 liver transplants in Hawaii, and by the National Kidney  
11 Foundation of Hawaii to maintain its chronic kidney disease  
12 management program.   The legislature recognizes that, since the  
13 closure of Hawaii Medical Center's facilities, organ transplant  
14 services in Hawaii have been transitioning to those critical  
15 kidney and liver transplant services provided by Queen's Medical  
16 Center.

17           The purpose of this Act is to ensure fair opportunity in  
18 the State to receive potentially life-saving organ transplants.



1 SECTION 2. Chapter 325, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VI to be appropriately  
3 designated and to read as follows:

4 "§325- Anatomical transplants. (a) No health care  
5 facility or health care provider shall discriminate against a  
6 person who has HIV, ARC, or AIDS and who is need of an organ  
7 transplantation, by refusing to perform the organ  
8 transplantation.

9 (b) As used in this section:

10 "Health care facility" means a facility as defined in  
11 section 323D-2.

12 "Health care provider" means a health care facility,  
13 physician licensed pursuant to chapter 453, or transplant  
14 hospital as defined in section 327-2.

15 "HIV", "ARC", and "AIDS" have the same meaning as used in  
16 section 325-101."

17 SECTION 3. Section 327-11, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§327-11[+] **Persons that may receive anatomical gift;**  
20 **purpose of anatomical gift. (a) An anatomical gift of a body**  
21 **or body part may be made to the following persons:**



1       (1) A named hospital, accredited medical school, dental  
2           school, college, university, or organ procurement  
3           organization, or other appropriate person for research  
4           or education;

5       (2) A named individual designated by the person making the  
6           anatomical gift if the individual is the recipient of  
7           the body part; or, if the body part for any reason  
8           cannot be transplanted into the individual, the body  
9           part shall pass in accordance with subsection (f) in  
10          the absence of an express, contrary indication by the  
11          person making the anatomical gift; or

12       (3) A named eye bank or tissue bank.

13       (b) If an anatomical gift of one or more specific body  
14 parts or of all body parts is made in a document of gift that  
15 does not name a person described in subsection (a) but  
16 identifies the purpose for which an anatomical gift may be used,  
17 the following rules shall apply:

18       (1) If the body part is an eye and the gift is for  
19           transplantation or therapy, the gift shall pass to the  
20           appropriate eye bank;



1           (2) If the body part is tissue and the gift is for  
2           transplantation or therapy, the gift shall pass to the  
3           appropriate tissue bank;

4           (3) If the body part is an organ and the gift is for  
5           transplantation or therapy, the gift shall pass to the  
6           appropriate organ procurement organization as  
7           custodian of the organ; and

8           (4) If the body part is an organ, an eye, or tissue and  
9           the gift is for research or education, the gift shall  
10          pass to the appropriate procurement organization.

11          (c) For the purpose of subsection (h), if there is more  
12          than one purpose of an anatomical gift set forth in the document  
13          of gift but the purposes are not set forth in any priority, the  
14          gift shall be used for transplantation or therapy if suitable  
15          for those purposes and, if the gift cannot be used for  
16          transplantation or therapy, the gift may be used for research or  
17          education.

18          (d) If an anatomical gift of one or more specific body  
19          parts is made in a document of gift that does not name a person  
20          described in subsection (a) and does not identify the purpose of  
21          the gift, the decedent's body parts may be used only for



1 transplantation or therapy, and the gift shall pass in  
2 accordance with subsection (f).

3 (e) If a document of gift specifies only a general intent  
4 to make an anatomical gift by words such as "donor", "organ  
5 donor", or "body donor", or by a symbol or statement of similar  
6 import, the decedent's body parts may be used only for  
7 transplantation or therapy, and the gift shall pass in  
8 accordance with subsection (f).

9 (f) For purposes of subsections (a)(2), (c), and (d), the  
10 following rules shall apply:

11 (1) If the body part is an eye, the gift shall pass to the  
12 appropriate eye bank;

13 (2) If the body part is tissue, the gift shall pass to the  
14 appropriate tissue bank; and

15 (3) If the body part is an organ, the gift shall pass to  
16 the appropriate organ procurement organization as  
17 custodian of the organ.

18 (g) An anatomical gift of an organ for transplantation or  
19 therapy, other than an anatomical gift under subsection (a)(2),  
20 shall pass to the organ procurement organization as custodian of  
21 the organ.



1 (h) If an anatomical gift does not pass pursuant to  
2 subsections (a) through (g), or the decedent's body or body part  
3 is not used for transplantation, therapy, research, or  
4 education, custody of the body or body part shall pass to the  
5 person under obligation to dispose of the body or body part.

6 (i) A person may not accept an anatomical gift if the  
7 person knows that the gift was not effectively made under  
8 section 327-5 or 327-10 or if the person knows that the decedent  
9 made a refusal under section 327-7 that was not revoked. For  
10 purposes of this subsection, if a person knows that an  
11 anatomical gift was made on a document of gift, the person is  
12 deemed to know of any amendment or revocation of the gift or any  
13 refusal to make an anatomical gift on the same document of gift.

14 (j) Except as otherwise provided in subsection (a)(2),  
15 nothing in this part shall affect the allocation of organs for  
16 transplantation or therapy.

17 (k) Nothing in this section shall be construed to prohibit  
18 a person with human immunodeficiency virus, acquired immune  
19 deficiency syndrome, or an AIDS related complex from receiving  
20 an anatomical gift."

21 SECTION 4. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



# H.B. NO. 1274

1 SECTION 5.. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

*Blumenthal*

*Ryan*

*John Lukowski*

JAN 24 2013



# H.B. NO. 1274

**Report Title:**

Anatomical Transplants; Human Immunodeficiency Virus; Acquired Immune Deficiency Syndrome; AIDS-Related Complex

**Description:**

Prohibits a health care facility or health care provider from discriminating against a person who has HIV, AIDS, or ARC, and who is in need of an organ transplantation by refusing to perform the organ transplantation. Establishes that persons with HIV, AIDS, or ARC shall not be prohibited from receiving an anatomical gift.

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