HB 30 HEARING

BEFORE THE HOUSE JUDICIARY COMMITTEE

May 13, 2014

Testimony on behalf of the Pennsylvania State Coroners Association

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Chairman Cutler, Chairman White and Members of the House Judiciary Subcommittee on Family Law.

My name is Susan M. Shanaman and I have represented the Pennsylvania State Coroners Association for nearly 20 years and in addition to my other educational accomplishments (BA and JD), I have successfully completed education for and maintain through continuing education my Coroner's Certification.

Thank you for permitting me to appear here today on behalf of the Pennsylvania State Coroners Association to discuss this very important bill proposing to amend Pennsylvania's Organ Donation Act, which, if enacted as proposed, will make major changes to how organs are procured or harvested in this Commonwealth. In making those changes HB 30 violates ethical principles and tramples over legal rights.

Since the first kidney transplant in 1933 the procedure of transplanting organs/tissues has shown great successes. The average life span of a recipient after transplant is now 5 years and major beneficial effects have been seen with skin grafts to help heal, tendon repair and replacement, valve replacements and the like.

Both CORE and GOL have won awards recently for their successes in procuring organs.

But these successes are only a small part of the issues that you are called upon to deal with today.

HB 30 seeks to substantially expand the "who" can grant permission for organ/tissue donation decisions beyond the individual and his or her family. HB 30 seeks to strip people of the rights to their bodies and organs, and also strips next of kin to the rights of their loved ones. Persons with less personal involvement with the individual will make these decisions, sometimes without any consideration of what the individual would desire or without any knowledge of the individual's wishes, religious beliefs, personal or medical history. In the first instance, HB 30 will allow county children and youth agencies, ambulance drivers, the Secretary of DPW, an official with meals on wheels, the OPO, and the recipient to make the determination on donation. The Administrator of a hospital will be required to donate your organs/tissues. In the second instance, your advance directive or DNR designation may be disregarded if it interferes with the harvesting of your organs/tissues. And there is no restriction on persons who may have a vested interest in seeing a body and its evidence destroyed, i.e., persons with an outstanding PFA against them, persons accused or suspected of perpetrating physical violence against another, from donating that other person's organs/tissues. People who have committed homicide or abuse now have an accomplice, however unwitting, in covering up evidence to their crimes.

Let me state now and more fully discuss later. CORONERS SUPPORT SAVING LIVES AND CORONERS SUPPORT ORGAN DONATION! Maybe it is a function of all the death they see every day, but Coroners are a dedicated group of people who consistent with the law help save lives – by providing evidence of what happened to the deceased and how they died, Coroners provide a vital role in assisting DAs and police in bringing to justice those who have intentionally, primarily by violence, taken the life of another, by finding genetic diseases during the course of an autopsy, by providing documentary evidence that can show someone's innocence. Coroners now permit organ/tissue donation where it will not compromise a death investigation and where the next of kin have no objection. According to the most recent national figures, denials of donations by Coroners amount to 0.00005% of the organs procured or harvested. Coroners have not been an obstruction to organ donation.

By implication, in specifying that wardens may agree to organ donation for prisoners, the legislation has determined that prisoners are a valuable source of organ donations. Let's take a very brief look at that.

Should the prisoners that we consider donors be limited to those who may be executed?

The main prison advocate for allowing prisoners to donate organs is Christian Longo who is currently an inmate on death row in Oregon. He argues that he should be allowed to repay his debt to society by donating his organs after his execution.

What debt to society is he paying by being on death row?

> He killed his wife Mary Jane, 34 and children Zachery, 4, Sadie, 3, and Madison, 2. He strangled his wife and Madison and stuffed their bodies into suitcases and threw them into the bay. Then he drove his other two children to a nearby bridge, tied rock-filled pillowcases to their legs and threw them into the water where they drowned. At his trial the evidence showed that he felt his family was hindering his lifestyle.

"Execution makes it hard to obtain organs. Some forms of killing – electrocution, poisoning – ruin organs. Some forms of lethal injection might not, but organs do not last long. What would have to happen is an execution followed immediately by doctors running into the execution chamber to saw them out. ... death row prisoners are often in lousy shape. ... many are infected with HIV, hepatitis and other diseases. ... Using executed prisoners as organ donors is an idea that ought to be dead on arrival." Arthur Caplan, Ph.D., Director of the Center for Bioethics at the University of Pennsylvania, *Organs from inmates? That idea should be DOA. NBC News April 9, 2014.*

What about other prisoners in the general population? There is a coalition of prisoners who support allowing them to be a future donor. (Gifts of Anatomical Value from Everyone--GAVE) Putting aside any medical questions, their generosity is conditional. If the prisoner agrees to donate at some future time and signs a document to that effect, then the prisoner has expectations of early release. Is that a fair trade off for society?

This discussion on prisoners reminds me of the history of autopsies during the Renaissance when medical doctors were first allowed to perform autopsies on prisoners and "out-of-towners" for the purpose of educating their medical students. These autopsy theaters were a great source of entertainment for prominent citizens held at Universities and which, later in the 16th Century, developed into theatrical events attracting enthusiastic and often raucous crowds until the Catholic Church intervened on the basis that the state had no more right to our bodies than it did to our souls. Is our zeal taking us back in time?

Autopsies were first considered to be a means of determining the cause of death in the 18th Century. Coroners were established by 1194 to be death investigators. As part of the Coroners investigative tools, there is the autopsy. While the jurisdiction of Coroners has not significantly changed over the years, Medical Examiners have also been established in some jurisdictions and the Coroner no longer has any general arrest powers.

Why have an autopsy conducted? Autopsies are performed for several reasons:

- To establish the cause of death when no reasonable diagnosis can be made from recent medical history, physical examination and/or circumstances surrounding the death;
- To document internal injuries as well as external injuries;
- To collect medical and physical evidence such as tissue biopsies, body fluids, bullets, bullet fragments, wound trajectory and trace evidence;
- To reconstruct how the injury or injuries occurred.

HB 30 is premised on a determination that organs/tissues can be harvested first and it will not interfere with an autopsy or the duties of the Coroner or law enforcement. That is incorrect! That premise will not withstand scrutiny.

In five recent cases reported by the Houston Medical Examiner, the ME found that after organ donation/harvesting he was unable to determine the cause of death and the manner of death had to be listed as Undetermined. Four of these cases involved children and one was a person 36 years of age. The ME also stated that in these cases he had requested that certain organs not be donated and the OPO ignored his request.

"However, the inability to determine the cause of death in a child who has died suddenly and unexpectedly has a number of potentially serious ramifications. These include: (1) lack of closure for the grieving family, (2) inability to diagnose a condition with familial implications, and (3) inadvertent transmission of undiagnosed infectious or neoplastic disease to the recipients. These are apart from the more often cited consequences such as interference with the me/c legal responsibility to determine cause and manner of death, or interference with prosecution of cases where autopsy evidence is crucial (even negative autopsy evidence in

some cases). The lack of a concrete reason for the death of an infant can also be emotionally devastating for the parents. In our experience, families of potential donors are not told that o/t donation may interfere with determination of cause or manner of death." Wolf and Derrick, *Undetermined Cause and Manner of Death After Organ/Tissue Donation*, Am J Forensic Med Pathol, Vol. 31, No. 2, June 2010

I am aware of several instances in Pennsylvania where the OPO did not follow the Coroner's request to not take certain organs, where the organ harvesting has resulted in the inability to determine cause and manner of death, and where the harvesting has interfered with a criminal investigation. In Clearfield County earlier this year a 2 year old girl died of physical trauma, apparent intentional shaking, inflicted on her by another – in this case the father and the stepmother were prime suspects. Both the Coroner and the DA requested that there be no donation. The OPO got authorization from the suspects to proceed to harvest. UPMC, where the child had been taken, indicated that because of the controversy, it would give Baby Sophia's body to the first person who could secure a court order. Clearfield County Children and Youth Services obtained an order from the Clearfield County Judge granting temporary physical and legal custody to the agency. CORE ignored that order and proceeded to get an order, based upon a telephonic hearing at night with no written record, allowing the harvest. Subsequently, no determination has been made on the cause of that beautiful little girl's death, but I feel confident that she did not cause her own traumatic death. No charges have been filed, no conviction and sadly no justice for this 2 year old's traumatic unnatural death.

Now, in case you think the Clearfield County case was an aberration, let me inform you of a case that has just been filed by Michigan Gift Of Life against the ME of Saginaw County. A 6 year old boy died from extensive and severe traumatic brain injury, injury to numerous other organs, as well as burns to 49% of his skin. The parents were charged with First Degree child abuse and homicide. Prior to incarceration the mother was allowed to see the child for a final good bye at which time GOL sought and received consent for donation. This was even though GOL was aware of the circumstances. The police sought and received an order to block this and to secure the remains of the boy. GOL then sued the Medical Examiner complaining that he interfered with their right to harvest organs/tissues first under the UAGA.

I know that you care about child abuse. You just spent 2 years investigating and passing 24 laws to date to strengthen Pennsylvania's child abuse laws. Let me suggest that the ultimate child abuse is that child's death caused by another. Passage of HB 30 will gravely diminish all your great efforts.

Before leaving the autopsy, HB 30 suggests that the OPO will collect blood and take photographs for the Coroner. That simply is as unworkable as is the suggestion that if the OPO allows the Coroner to watch the harvesting, that is a satisfactory alternative to an autopsy. Coroners have told me of times when they have asked for certain blood and not gotten what they asked for or have gotten several tubes with no markings in a plastic baggie – that is useless for evidence. Coroners are ultimately responsible for chain of custody or evidence collection. Photographs I have seen from the OPOs are equally useless – they may be taken with a cell phone, they have no identification, they have no depth, no measurement, no overall, medium,

or close-up views of the organ, no anomalies are documented and there are no indications as to the organ in written form – they have no evidentiary value. OPOs are not forensically trained, they do not follow scientifically-approved forensic standards. OPOs can say they will do "forensic extras" while harvesting a body, but the simple truth is that they have no qualifications to do so. These are skills exercised by the Coroner/ME, the forensic pathologist, the DA or the police. Please remember that these physicians or technicians, who are not even required to be recognized by the State, or to have a current license in another State, are not forensically trained. They could not be qualified as a forensic expert to testify in a court under the standards of Frye or Daubert, even if they would volunteer to do so.

In our zeal to get more organs/tissues, do you really want to place impediments, which cannot be overcome, in the legal justice system? It is much more difficult for the prosecution to convince a jury "beyond a reasonable doubt", than it is to convince one juror that some evidence is missing.

We have no legal right to be born and we begin the process of dying from the moment we take our first breath. As John Maynard Keyes once said, "In the end we are all dead." Life and death are philosophical, moral, or religious ideas reflective of passionately held beliefs in a pluralistic society. HB 30 attempts to homogenize all these beliefs into a single belief.

Most of us think of death as something anyone can recognize. A body that is non-breathing, cold and lifeless is surely dead. It was on that basis that organ procurement was originally initiated. This was known as the "dead donor rule". **This rule refers to two widely accepted ethical norms to govern the practices of organ procurement for transplantation: vital organs should be taken only from dead patients and living patients should not be killed for or by organ procurement.** It was generally presumed that a violation of these norms would constitute euthanasia and have legal consequences.

Many medical advances occurred in the 1900's. To respond to these medical advances, a group of physicians met in 1968. They formed the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death. The mission of the Committee was to redefine how the public viewed death in order to foster organ transplants. The Committee published its report, "A Definition of Irreversible Coma" in the *Journal of the American Medical Association* on August 5, 1968.

The Committee listed four criteria for finding an irreversible coma (brain death) and indicated that they should be repeated in 24 hours. Those four criteria have been changed about forty times. What this means in practical terms is that one practitioner, one institution, may declare you dead but another considers you still alive. The 24 hour testing period was first reduced to 6 and then 2 hours. The time for breathing on your own after removal of support was reduced from 10 minutes, to 2 – 5 minutes, to 75 seconds. "Basically the brain death exam is flash – splash – gasp: a flashlight in the eyes, ice water in the ears, and then an attempt to gasp for air." *The Undead"* by Dick Teresi.

In the case of Jahi McGrath who was declared brain dead by 2 different practitioners, had food and medications withheld, she was still breathing, her heart was beating and she was warm to the touch. Her parents refused to donate her organs/tissues. Finally after a long battle she was released to go to another facility to receive medical care. Do you know where her parents were allowed to pick her up for the transfer? From the Coroner.

Imminent death and death have changed many times to meet the needs of organ procurement. And they continue to change. Besides brain death, there are what are commonly known as DCD and UDCD.

DCD or donation after cardiac death is a patient who is not brain dead, but who is taken off life support, which leads to cardiac arrest. While Courts have supported an individual's right to refuse further medical treatment, the question remains as to the speed with which harvesting is begun. Arthur Caplan refers to DCD as "snatch and grab". *Organ Retrieval Methods Spark Debate,* LA Times July 4, 1992.

Uncontrolled donation after cardiac death (UDCD) seeks to capture organs from those dying outside the hospital setting – heart attacks, automobile accidents, gunshot wounds and the like. In fact, in New York City there are now special recovery vehicles established to follow regular ambulances around the City to begin harvesting procedures the minute resuscitation efforts fail. These are called organ recovery ambulances.

Again this is important, not only from a timing aspect – should you wait 75 seconds, 2 minutes, 5 minutes, or 10 minutes to see whether auto resuscitation will occur, but also, because HB 30 provides that all decisions other than that of the OPO are precluded once they (the OPO) have performed any measure to secure harvesting. The definition of irreversibility and death varies from institution or physician to institution or physician. Studies have shown that cardiopulmonary death is normally reversible within 15 minutes.

HB 30 requires the Coroner to report all deaths to the OPO. The OPO takes possession of the deceased in order to do any harvesting (skin, tissues, corneas, bones, kidneys). Now both CORE and GOL have spent millions to construct harvesting facilities – CORE in Pittsburgh and GOL in Philadelphia. The live, breathing individual will be transported by CORE or GOL to their facility from any county within their territory. These individuals will then be pronounced dead in either Pittsburgh or Philadelphia. This means that the county responsible for investigating the death – should it be a homicide, a suicide, an accident – becomes Allegheny or Philadelphia. Does anyone really think that either county can handle these investigations for the entire state? Put another way, does anyone think that the other 65 counties want their death investigations handled by Allegheny or Philadelphia?

HB 30 furthers the concept that the government owns you. Government will support organ donation through the Education Department, through the Department of Public Welfare, through PennDOT, through the Department of State and through a State established advisory

committee consisting solely of persons supporting the message of "DONATE". The State has yet to audit the millions given by drivers to the Robert P. Casey Memorial Fund. I am sure that every other multi-billion dollar industry would like such support.

HB 30 further jeopardizes informed consent, a guiding principle in medicine, by expanding the number of persons who may donate your organs/tissues to the exclusion of your family. HB 30 asks you and, in some cases, requires you to donate, but makes it extremely hard to change your mind. It takes away your First Amendment Right to Free Speech – the right to say yes, the right to say no and the right to say nothing at all. It does not require that you be informed about what you are giving when you sign that driver's license. Do you really think that the personnel at PennDOT take time to describe the fact that by agreeing to check the box means you have given permission to take all your organs and all your tissues, which may then be used for transplants, therapy, education and research? Do you think you are told that the education and research may be medical experimentation, which requires legal informed consent? Do you think you are told that your generosity may result in further profits to multi-billion dollar companies? You cannot make money off your altruistic gift but others do. Many donor families are left with bills and funeral costs that they cannot pay. In fact, a recent article pointed out that the mother of the son who had donated organs to Governor Robert P. Casey still owed nearly $6,000 in bills for the funeral of her son.

HB 30 perpetuates the campaign that we need more and more donors and any means to get them is justified. Do you know:

- How many on the waiting list are multiple listings for the same individual;
- How many on the list are awaiting kidneys;
- How many people may have left the list did so because they changed their mind;
- How many died of old age and not the lack of a transplant;
- How many people died of some other underlying disease;
- How many died from another cause such as homicide, suicide, accident;
- How many organs are thrown away as medical waste?

I have seen estimates that passage of legislation such as HB 30 will increase donations by 30%. Before we celebrate, it must be pointed out that on average OPOs throw away 30% of donated organs as medical waste. It was reported recently that CORE threw away 40% of the kidneys harvested in 2011. In 2012 it had reduced that figure to 22%. Why? My theory is that the fact that we do not match organs to a specific need before harvesting may have something to do with it. My other suspicion is that it may be related to the fact that Medicare pays for the harvested organ whether it is used or not. Any penalty is placed on the hospital if the organs they transplant do not result in an extended life of a year.

What happens to this medical waste? It can be incinerated and qualifies as green energy or it can be thrown into a landfill in North Carolina as happened in the Gosnell case. In cases of a Coroner's autopsy it is placed back in the body for disposition by the family.

By placing all of the emphasis on donation are we making a determination that alternatives should not be pursued? What about sustained long term emphasis on disease and injury prevention; what about improved diagnostic and surgical procedures that have been shown to produce ventricular remodeling and PET scans that have shown that bypass surgery can reduce the number of needed heart transplants? What about bioengineered cells from a patient's own body to produce replacement organs that solve all functional and rejection problems?

The one PERSON that is ignored in this process, the one PERSON who is marginalized, exploited and who gets nothing is the organ donor, who we call a beating heart cadaver. Everyone else ostensibly profits well from organ donation. Organ/tissue donation is a multi-billion dollar industry to those who harvest the organs and sell the tissue for use as cosmetic implants, penile implants, Botox, mesh implants, wrinkle creams and the like. Passage of HB 30 will benefit the winners and increasingly take rights away from the PEOPLE who donate the essential components, the organs/tissues. The donors get nothing and we disenfranchise them and exploit them. And we pervert/jeopardize the justice system so that no one pays for the wrongful taking of their life.

Let me ask you to do one thing after you leave this hearing, please consider if you or your loved ones were involved in a tragic event, who would you want making the decision whether you were dead, almost dead or alive and worth trying to save – some multi-billion dollar industry who only sees you as body parts worth $1-2 million or your family? And if you want to feel what a donor family goes through please read the portion of a complaint filed in Erie County that CORE settled in 2012 for $1.2 million which follows.

In a few minutes we will all leave this hearing room, you can choose to forget about Coroners, about DAs, about law enforcement, about the victims, about the criminal justice system. What we cannot forget is that your determinations here will affect life and death decisions. Giving the gift of life is a great goal for someone who would otherwise be prematurely dead without a life extending transplant. But can we afford to tip the balance as is done in HB 30 against someone who may be meeting their death as a result of harm they have received from another? Can we truly say that we have given respect and dignity to that person if we are unwilling to listen to their voices? Without a voice, Without a choice.

Thank you and I will try to answer any questions you may have.

"Show me the manner in which a nation cares for its dead, and I will measure with mathematical exactness the tender mercies of its people, their respect for the laws of the land and their loyalty to high deeds." William E. Gladstone, former British PM

Perhaps the realities of the current continuing controversies surrounding determining death can be best illustrated by the following which occurred in Erie County.

"37. Gregory's mother, Teresa A. Jacobs, was opposed to a DNR order and indicated that it was her strong desire to have physicians use all means necessary to save Gregory, regardless of the potential for long term disability.

38. Notwithstanding Mrs. Jacob's indications, [redacted], a nurse employed by Hamot and who was acting in accordance with Hamot's policies, procedures and/or protocol, approached Michael B. Jacobs, Gregory's father, on March 10, 2007. She did so outside his wife's presence due to her knowledge of Mrs. Jacobs' objections to a DNR and asked him to agree to a DNR anyway.

39. At the time Gregory's father was pressured into agreeing to a DNR, he believed it to be a routine hospital requirement. He was not told by Nurse [redacted] or anyone else that the DNR would alter or change the treatment that Hamot and the other Defendants were providing to Gregory. He was also not told that CORE would be advised of Gregory's availability for organ donation, or that plans would be made for Gregory's demise.

40. Once the DNR order was in place, the hospital started the process of preparing Gregory to be an organ donor in accordance with its protocols. Again,

neither Mr. or Mrs. Jacobs were told of these protocols or the change in the treatment

and care provided.

41. At the time that Nurse [redacted] approached Mr. Jacobs, Gregory still

demonstrated both cardiac activity and brain activity. In fact, cardiac activity and

brain activity continued until he was wheeled into an operating room for organ

harvesting procedures.

42[redacted], Psy.D. met with Gregory's father on March 10, 2007, and

discussed Gregory's prognosis, "brain death" protocols, and "end of life issues."

43. Dr[redacted] stated that it would be "better" for Gregory to die rather than

survive with the injuries he had sustained. He informed the parents that he interacts

with numerous brain injury survivors, who, though they cannot talk, communicate

that they wanted to be dead.

44. Both Mr. and Mrs. Jacobs indicated, however, that they did not want

Gregory to die. To the contrary, they wanted him to live.

45. On March 11, 2007, Gregory moved when stimulated by the family.

Medical personnel thereafter prescribed medications for Gregory to prevent him from

waking. They also undertook actions to cool Gregory's body temperature.

46. On the morning of March 11, 2007, the hospital contacted CORE

regarding donating Gregory's organs, without the knowledge or consent of Gregory's

parents. In fact, at this time, Gregory's parents were still planning on Gregory's

survival.

47. Gregory's intra-cranial pressure returned to the normal range on the

morning of March 11, 2007.

48. Around lunch time, Gregory's mother was informed that Gregory's head was to be rewrapped. Mrs. Jacobs stated to a physician's assistant employed by Hamot, and to nurse [redacted], that she wanted to talk with Dr. [redacted] before anything was done to rewrap her son's head.

49. However, when Gregory's mother went to lunch and before she spoke to the doctor, Gregory's head was rewrapped extremely tight. It is significant that at this time, Gregory's skull had been partially removed, and the wrapping was applied directly to the brain.

50. Immediately after Gregory's head was rewrapped, his face swelled.

51. Due to the pressure caused by rewrapping his head, Gregory's intra-cranial pressure increased.

52. Despite the swelling, medical personnel took no action to reduce the intra-cranial pressure. Instead, they increased fluids at 2:35 p.m. causing additional swelling.

53. At around 11:15 a.m. on March 12, 2007, Dr. [redacted] wrote in the notes that Gregory had bilateral strokes. He also wrote that arrangements should be made to discuss with family organ donation and withdrawal of support.

54. Dr[redacted] met with Mr. and Mrs. Jacobs and showed them a CT scan, telling them that oval spots were strokes.

55. Neither the CT scan nor the report of the CT scan indicated that a stroke or strokes occurred. Nevertheless, Dr[redacted] told them that there was no hope for

Gregory, but that he would have herniation and "brain death."

56. Around 2:00 p.m., Dr. [redacted] and CORE representative [redacted], spoke to Mr. Jacobs about organ donation.

57. Both Dr[redacted] and Mr. [redacted] told Mr. Jacobs that Gregory was "brain dead" and that all bodily function would cease within 12 hours.

58. Neither Drs. [redacted] and [redacted] nor any other medical personnel sought a consultation with a neurologist to determine prognosis or whether brain death criteria had been met.

59. At 4:00 p.m., Mr. Jacobs signed a form based on false information given by Dr. [redacted] and Mr. [redacted], namely repeated claims that Gregory was "brain dead."

60. The form with which Mr. Jacobs was presented stated that "death has been determined and its time recorded in the medical records."

61. In fact, the form presented to Mr. Jacobs was false in that death had not occurred or been recorded in the medical records at the time the consent was signed.

There had been no tests conducted to determine whether brain activities had ceased, and all information available indicated that brain activity was continuing. Gregory was alive and his heart and brain were functioning.

62. Mr. Jacobs did not give consent for organ donation after cardiac death, or ever state a wish that artificial support of respiration be withdrawn.

63. Mrs. Jacobs communicated her opposition to donation but was ignored.

64. Mrs. Jacobs further indicated that Gregory stated at the time that he got

his driver's license, that he did not want to be an organ donor because his organs may

be taken too soon.

65. Mr. and Mrs. Jacobs never consented to withdrawing treatment or

hastening Gregory's death.

66. Nevertheless, Mr [redacted] started giving orders and administering

"treatment" and "care."

67. He asked Mr. and Mrs. Jacobs to leave, indicating that "most families

would now leave."

68. Soon afterwards, Mr [redacted] and Dr. [redacted] acknowledged that

Gregory did not have a condition that would cause "brain death", but that he would

die anyway from a bad heart.

69. At 6:45 p.m., the tubefeeds and treatment for blood oxygen and intra-

cranial pressure were to be discontinued per doctor's orders.

70. At 8:47 p.m., all medications were to be discontinued except for fluid.

Nevertheless, medications were continued for some time.

71. Mr. and Mrs. Jacobs did not realize that treatment of their son's

condition would cease before he had actually died.

72. At 10:11 p.m., Mr. [redacted] and Hamot respiratory therapist [redacted]

gave Gregory a treatment. Immediately Gregory moved all four limbs, moved his

head to the side, and opened his mouth wide. He was also no longer able to breath

above the vent.

73. Mr [redacted] scheduled the operating room and requested medications

consistent with harvesting Gregory's organs, although Gregory's heart and his brain

continued functioning.

74. By early morning on March 13, 2007, Mr [redacted] took over the case and called for medications for harvesting Gregory's organs.

75. No consent was given for any medications for purposes of harvesting Gregory's organs. However at 3:49 a.m. he was given Ampicillin, Cefazolin, Fluconazole, Matronidazole, and Vanomycin. At 3:52 a.m. Betadine was administered. These medications were given for the sake of harvesting Gregory's

organs, not for the benefit of Gregory.

76. Gregory's blood pressure dropped after being given these medications.

77. Gregory was taken to the operating room at 5:05 a.m. that morning.

78. Surgery to remove Gregory's organs started at 5:50 a.m. However, there was neither cessation of cardiac activity nor cessation of brain function.

79. Mr. [redacted] and Hamot employees and agents removed Gregory's breathing tube at 6:03 a.m. causing Gregory to suffocate.

80. Mr. and Mrs. Jacobs were not informed that the breathing tube would be removed, nor were they permitted to be with him during his final hours.

81. Mrs. and Mrs. Jacobs never consented to the intentional suffocation of their son.

82. Drs. [redacted] and [redacted], together with nurses and other staff from Hamot, were present and participated in his suffocation.

83. Gregory's heart rate at first increased after Defendants deprived him of oxygen.

84. Gregory's heart rate eventually dropped after Defendants deprived

Gregory of oxygen, and further sedated him.

85. His last recorded heart rate was at 6:17 a.m., 14 minutes after Defendants caused Gregory to stop breathing.

86. According to a post-dated entry, Dr [redacted] pronounced Gregory dead at 6:19 a.m., even though this was only two minutes from his last recorded heart rate.

87. Defendants did not record Gregory's death in his medical records before Drs [redacted] and [redacted] harvested his organs.

88. Dr [redacted] removed Gregory's heart at 8:00 a.m. Drs. [redacted] and [redacted] removed other organs including his kidneys and liver.

89. Gregory was alive before Defendants started surgery and suffocated him in order to harvest his organs.

90. Had Gregory been properly treated rather than been killed for his organs, he would have had a significant chance of a substantial recovery.

91. CORE, Mr. [redacted] Hamot, Dr. [redacted], Dr [redacted], and the doctors and staff at Hamot killed Gregory in order to harvest his organs."[1]

Jacobs v. CORE, Complaint filed 2009. Settlement with CORE for $1.2 million approved by Federal Judge 2012.