

GUEST ESSAY

# Let People Sell Their Kidneys. It Will Save Lives.

April 2, 2024

**By Dylan Walsh**

Mr. Walsh is a freelance journalist who focuses on science and the criminal justice system.

I owe the past 25 years of my life to my father, who dozed under general anesthesia as a surgeon cut eight inches from stomach to spine, removed one of his kidneys, placed it on ice and sent it to a nearby operating room, where it was fitted into my abdomen. My brother had a kidney transplant the same week, six days before I did. His new kidney came from a man we never knew who had died in a car accident in the mountains.

We were teenagers, afflicted with a congenital kidney disease. But we were lucky.

There are 100,000 people in the United States waiting for a kidney. More than half a million are on dialysis, which from my experience I know to be more of a means of survival than a form of living. About 4,000 people die each year while waiting for a kidney. Another 4,000 become too sick to undergo surgery — a gentler way of saying that they, too, die. The National Kidney Foundation estimates that without more investment in preventing diabetes and other ailments, more than one million people will be suffering from kidney failure by 2030, up from over 800,000 now.

These numbers illuminate a story of largely preventable suffering. Hundreds of millions of healthy people walk the streets quietly carrying two kidneys. They need only one. The head-scratcher is how to get kidneys from the people who have one to spare into the people who need one. Getting them from genetically modified pigs, as was recently found possible, won't be a widespread solution for a very long time.

There's a simpler and long overdue answer: Pay people for their kidneys.

Creating a market for kidneys is not a new concept, but it's historically been met with disgust: Sell what? To be fair, some of the ways to structure such a market would be irresponsible, coercive and deserving of that disgust.

But others are more thoughtful and prudent. One approach is to make the federal government the sole purchaser of kidneys. Donor and recipient would never meet. Compensation would be fixed, haggling impossible. After the kidney is acquired, the transplant process would unfold in the typical manner.

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This idea fits nicely within today's health economics. Through a quirk of a 50-year-old law, Medicare is the primary insurer for anyone of any age in need of dialysis or a transplant. This has extended the lives of hundreds of thousands of people. It has also been costly, with end-stage renal disease patients accounting for about 7 percent of Medicare's spending, despite constituting 1 percent of its users. Because transplants are ultimately cheaper than dialysis, if Medicare started paying people to donate kidneys, fewer people would need to survive on dialysis, and Medicare would need less taxpayer money to cover it.

Federal law presents the first and most significant hurdle to a market for kidneys. The 1984 National Organ Transplant Act, NOTA for short, makes it unlawful "to knowingly acquire, receive or otherwise transfer any human organ for valuable

consideration for use in human transplantation.” Though markets exist for human tissue, bone, amniotic stem cells and blood plasma and for the use of a woman’s womb and her eggs, organs cannot legally be bought and sold.

For several decades, efforts to persuade people to become kidney donors haven’t increased the number of volunteers. There were roughly 6,000 living kidney donors in 2000; there were roughly 6,000 in 2023. The only way to get more donors is to change the law.

One organization, the Coalition to Modify NOTA, hopes to legalize compensation and then pass a federal law it has titled the End Kidney Deaths Act. As it’s written, it would award living donors \$50,000 over five years — \$10,000 per year — through refundable tax credits. The coalition says it has held meetings with nearly 100 legislators from both parties and has been encouraged by the level of support for its idea (though the bill still has not been brought to the floor of Congress).

Other proposals meant to solve kidney donation shortages abound. Several bills have recently been introduced to Congress, including one that would prohibit life and disability insurance companies from denying coverage to or increasing premiums for donors, and another that would reimburse donors for expenses they incur during donation. Two Colorado state representatives, one Democratic and one Republican, have drafted their own proposal for a statewide tax credit of up to \$40,000 for organ donors; a representative in New Hampshire is trying to create an open market for organs in his state.

Some people who are opposed to the idea of selling organs argue that we should instead improve the process of capturing organs from people who have died. But even a flawlessly functioning system that recovered and transplanted 100 percent of available organs would not meet demand. And deceased-donor kidneys don’t last as long as those from living donors.

One of the most consistent and vociferous objections to a kidney market centers on the fear of coercion or exploitation: If you pay people to do something, particularly if you pay them a lot, then you will drive those who are most desperate and socially precarious to take steps they later will regret.

Ned Brooks, a co-founder of the Coalition to Modify NOTA, told me there are ways to mitigate “the concern that someone is going to donate a kidney because they have a gambling debt or they are losing their house to foreclosure or you name it.” His organization’s proposal, for example, would split the \$50,000 payment into installments arriving only around tax season to weaken donation as a get-rich-quick scheme. Even now, donation requires a weeks- to monthslong process of physical and psychological evaluation.

Compensating donors could also go a long way to reducing current inequities. Black patients are more than three times as likely to develop kidney failure as white patients. And under today’s system, white patients are about four times as likely as Black patients (and approximately two times as likely as Asian and Hispanic patients) to receive a living kidney donation within two years of needing one. While there are many reasons for this imbalance, one critical factor is that white people generally possess social networks saturated with volunteers who are able to make the kinds of accommodations needed for major surgery. Compensation would broaden the pool of available kidneys for those who lack these social networks.

Alongside the flurry of political activity surrounding organ donation, a shift in attitudes among the public seems to be underway, making this moment particularly ripe for legislative change. A 2019 study found that roughly 60 percent of Americans would favor compensation through a public agency — and this number, depending on the form of compensation, would increase to 70 percent to 80 percent if such a system eliminated kidney shortages. This is a rare nonpartisan idea at a highly polarized moment and could save the dozen people who die every day waiting for a kidney.

My kidney has been ticking along since August 1998, far longer than the average transplantation. It will give out sometime, maybe before my children graduate from high school. It will almost certainly fail before any children they may have are born. Still, I’ve lived 25 years I would not have had otherwise. I hope for a world in which others — many others — are given such an exquisite gift.

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A version of this article appears in print on , Section A, Page 20 of the New York edition with the headline: We Should Be Allowed to Sell Our Kidneys