

## Sports & Money



Commentary

### Steve Jobs' Liver

Sally Satel, 06.21.09, 4:00 PM ET

Steve Jobs, the 54-year-old CEO of Apple, received a new liver two months ago. As the *Wall Street Journal* disclosed late Friday, Jobs' own liver had reportedly been invaded by a slow-growing pancreatic tumor that was first discovered in 2004. Thankfully, the Apple visionary is expected to return to work by the end of this month.

Jobs' recent health problems--which attracted attention last winter because of his striking weight loss--have been a matter of intense speculation in Silicon Valley and the tech world beyond.

News of his transplant was covered primarily in the business pages, but a handful of stories highlighted the agonizing wait that confronts many patients with pending liver failure.

Notably, Jobs received the liver in Tennessee, not in his home state of California. Perhaps he sought privacy in a distant state. My guess is that he registered for the transplant in several states at once in order to take advantage of the shorter waiting times in some locales, a perfectly legal option.

Considering the statistics, a person in need of a new organ would be crazy not to take advantage of the multiple-listing option.

The median waiting time for a new liver in Tennessee is six weeks compared to 10 months nationwide. A 10-month wait might not seem so long, but it is lethal for people who develop acute liver failure and can die within days unless transplanted.

In California, for example, 449 people awaiting livers were removed from the list last year because they died or were too sick to transplant, according to the United Network for Organ Sharing ([unos.org](http://unos.org)). Compare this to Tennessee where only 45 people were removed.

This is not to downplay the tragedy. After all, among those removed were many who could have been saved when first diagnosed with pending liver failure but, because of the liver shortage, were either pushed down on the list or told to come back until they got sicker, at which time they would go to the top of the list. Finally, they could be put off no longer.

The problem appears to be worsening. The number of liver donations has been declining since 2006. The kindness of strangers is a beautiful thing, but obviously it is not enough.

The only solution is more livers for transplantation--and more posthumous donors could make a huge impact on the demand. Today, 15,771 people await livers, a need that could probably be met through donation from deceased individuals alone (unlike the demand for kidneys which is about 80,000--too big to be met even if everyone who were healthy enough at death to bequeath organs signed his donor card while alive).

For a good start on a remedy, let's turn to Pennsylvania. In 1994, the state passed a law that would permit family members to receive a burial benefit of up to \$3,000, paid directly to the funeral home, if their deceased loved one became a donor.

But fearing that this reward ran afoul of the 1984 National Organ Transplant Act, which prohibits commercial exchange of organs, the health officials in Pennsylvania would not implement it. Did they really think the federal government intended to punish a widow in Scranton for accepting a funeral benefit from the state?

Not according to a 2007 opinion from the Office of Legal Counsel of the Department of Justice. It concluded that valuable consideration "refer[red] to the buying and selling of organs for monetary gain or to organ exchanges that are otherwise commercial."

In other words, Congress did not intend that an organ donor who has been rewarded for his sacrifice be made a felon in return. Yet no state has ever tested this interpretation by rewarding donors.

It is time for a state, perhaps California, to challenge the 1984 National Organ Transplant Act and offer funeral benefits or some other reward to the estate of those who will give their organs at death.

Jobs' vision is legendary in the business and tech worlds. Perhaps his story will inspire innovation in public health as well. Call it the iLiver initiative.

*Sally Satel is a resident scholar at the American Enterprise Institute and editor of When Altruism Isn't Enough: The Case for Compensating Kidney Donors (AEI Press, 2009).*