

10. ORGAN DONATION AND TRANSPLANT

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Organ transplants are governed by the Human Tissue Act 1974. With the advancement of new Technology and the participation of private hospitals in organ procurement and transplants, it was felt that the old Act has to be amended to suite today's needs. The old Act was adequate as long as the transplants were carried out at the government Hospitals. These hospitals were governed by guidelines set up by the Ministry of Health, further, most of the transplants were cadaver. Live transplants and the participation of private hospitals, has brought the need to review the old Act and amend the law and also look at the ethical issues.

Our concern is regarding a few issues.

- a). Opt in or informed concern
- b). Opt out or presumed consent
- c). Next of Kin
- d). Live Donors
- e). Fetal Tissue Transplants
- f). Future Transplants using cloned human or animal tissue/organs.
- g). Confidentiality

Opt in or informed consent

The donor gives in writing his/her wish to donate his/her tissue or organs. In the event that he/she is not able to do so the next of kin gives the consent. In case of minors and children the legal guardian. This should also apply to dead bodies that are sent for post mortem unless the organ or tissue is removed for diagnosis or therapeutic purpose.

Next of Kin

To follow the law of the country.

The next of kin is the spouse or the children where there is no spouse and in case of those not married it would be the parents. In case of minor or children it would be the legal guardian.

Live Donors

More and more live transplants are taking place with the advancement of medical technology i.e. kidney and liver which are the usual transplants. Life donation of organs or tissue from one living person to another should be encouraged; however there should be strict regulation in order to prevent the sale of other organ and other irregularities.

1. Doctor should ensure that donors undergo minimum risk in this act of organ donation.
2. Medical check up of potential donors should be thorough and comprehensive as possible and where any doubt exist that the potential donor may under go more than the minimum risk the surgery should not be carried out.
3. The transplant procedure of body organs should be undertaken.
 - a. Only by physician who process special medical knowledge and technical competence, through special training, study and practice.
 - b. Such procedures should be carried out only in accredited hospitals.

4. Special effort should be made to ensure that the choice about donation is free of coercion, financial incentives for providing or obtaining organs and tissues for transplantation can be coercive and should be prohibited.
5. Individuals who are incapable of making informed decisions for example minors, mentally incompetent persons should not be considered as potential living donor except in very limited circumstances in accordance with Ethic's Committee review of protocol.
6. The fullest possible discussion of the proposed procedure with the donor and the recipient or responsible relative or legal representative is mandatory. The physician should be objective in discussing the procedure, in disclosing known risks and possible hazards and in advising of alternative procedure available. The physician should not encourage expectation beyond those, which the circumstances justify. The physician's interest in advancing scientific knowledge must be always being secondary to his primary concern for the patient.
7. Live donation of organ or tissues should be allowed for blood relatives and if there is a voluntary donation, then it should follow the protocol of waiting list in the national register and not to the person chosen by the donor.

Fetal Tissue and Xenographs

This is in an early stage of development and we may have to consider regulation and laws at a later stage as it is only in experimental stage.

- a). Fetal tissue should not be provided in a manner consistent with live organ trade and that such tissue not be provided in exchange for financial remuneration above that which is necessary to cover reasonable expenses.
- b). The recipient of the tissue is not the designated by the donor.
- c). A final decision regarding abortion is made before initiating discussion of transplantation use of fetal tissue. Absolute independence is established and guaranteed between medical team performing the abortion and the team using the fetus for therapeutic purpose.
- d). Decision concerning the timing of the abortion on the health of the mother, and that of the fetus. Decisions regarding the technique used to induce abortion, as well as the timing of the abortion in relation to the gestational age of the fetus, are based on concern for the safety of the pregnant women.
- e). Health care personnel involved in the termination of a particular pregnancy do not participate in or receive any benefits from the transplantation of tissue from the abortus of the same pregnancy.
- f). Informed consent on behalf of both the donor and the recipient is obtained in accordance with applicable law.
- g). Animal to human transplantations raises additional issues, especially that of transmitting virus and pathogens should not be encouraged until guidelines have been established.
- h). Any transplantation of brain or reproductive tissue should be opposed unless and until there has been a public, ethical and scientific review of the development of guidelines and their approval by competent authorities.

Confidentiality

Confidentiality should be maintained at all times. This is to enable the patient (recipient) and the family of the donor to have privacy. This should be enacted into the law.