



Bioethics Notes

a newsletter from the Bioethics Review & Advisory Committee



September 2005

"Death is nothing to us."

Epicurus (341-270 BCE)

Consult Services

We would like to remind you that the Bioethics Review and Advisory Committee in Danville provides ethics consultation services. We have an alphanumeric pager (2229). Anyone can request an ethics consultation. Page directly by phone, or leave a text message using the Infoweb Phone Directory. Enter "2229" in the Directory Search and then click on the "Quick Page" button.

Bioethics Committee

Co-chairs

Joel J. Berberich, MD, PhD
Robert B. Shabanowitz, PhD

Membership

Karen Adams, RN
Kristen Beech, JD
J. Brian Benestad, PhD
Gregory F. Burke, MD
Leann Crabb, RN, CCRN, TC
Lisa Eggleston, MD
Nancy Eisenhauer, MS, PA-C
Neil M. Ellison, MD
James R. Elmore, MD
Rev Stephen D. Engelhardt
Jill M. Gotoff, MD
Jane Hartman
John M. Hinson
Dona Leskuski, DO
Richard A. Martz
Rev MacKenzie Scott
Don Shifflett
Debbie Ulrich, RN
Jeffrey Whitman, PhD

Case Study

Mr. and Mrs. Thomas are the parents of an 18 year old man who struck his head when he was thrown from his motorcycle. He is now in the Intensive Care Unit on a ventilator with a massive brain injury. His Pennsylvania driver's license registers him as an organ donor. They have been approached to discuss organ donation by their son and ask you about the ethical implications of this practice and standards for declaring him dead.

The Geisinger Health System recently has re-emphasized as an area of excellence its transplantation program. The number of kidney transplants has increased dramatically and Geisinger Medical Center is the third largest combined kidney-pancreas transplant center in the state of Pennsylvania. Moreover, a liver transplant program is planned beginning in 2006. Improved immunologic therapy has improved transplant recipient survival, with a major limiting factor now being the disparity between the demand for organ transplantation and the supply of organ donors.

In 2004, there were about 27,000 solid organ transplants in the United States—nearly 1,600 more than in 2003. Yet as of July 2005, there were 89,000 people on transplant waiting lists, including 62,500 for kidneys.

Recently, bioethicists have begun to re-examine several ethical issues relating to organ supply, especially a reconsideration of the definition of death, potentially enhancing the donor pool, and a reconsideration of the ethics of individuals selling their organs.

The concept of "brain death" was first introduced in the United States in 1968 (Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death, *JAMA* 205: 337-340, 1968). Brain death is defined clinically as irreversible loss of all brain function, including the brainstem, in patients whose hearts continue to beat and who are maintained on mechanical ventilation in the intensive care unit (Bernat JL et al *Ann Int Med* 94: 389-394, 1981). Norman Fost lists several reasons the "dead donor rule" is under attack: First, all three of the assumptions of the Harvard committee have been criticized: (1) that patients who meet the "Harvard criteria" have in fact lost all brain function (2) that patients who have lost all brain function are in fact dead (3) that death is a necessary condition for removing vital organs. (*Kennedy Institute of Ethics Journal* 14: 249-260, 2004). Fost argues that since in fact live donors are more common than dead donors, what is legally or morally wrong in expanding the pool of live donors? Competent patients should be able to make decisions about organ donation when they are alive and also to provide advance directives for organ donation when they become incompetent. Thus, such an individual who develops a persistent vegetative state would be an organ donor. Veatch has extended this argument and suggested that the definition of death should be expanded to include individuals in an irreversible coma and persistent vegetative state as dead (*Kennedy Institute of Ethics Journal* 14: 261-276, 2004).

Steinbrook recently summarized the current status on public solicitation of organ donors, including the June 2005 United Network for Organ Sharing announcement

**Learn
More**

Go to

The American Journal of Bioethics

**Examining the Potential Exploitation
of UNOS Policies**

[Click here](#)

e-mail

**The Bioethics Review and Advisory
Committee's address is:**

bioethics@geisinger.edu

Visit

**The Bioethics Review and
Advisory Committee Homepage**



**Please visit our new web page, which
includes frequent updates on ethical
topics, links to selected bioethics
websites, Geisinger ethics policies
(under Bioethics Committee
Resources), and past issues of
Bioethics Notes**

that it “will not participate in efforts to solicit living donors for specific transplant candidates.” (*N Engl J Med* 353:442-449, 2005). Likewise, Truog reviewed the distinct ethical concerns of directed donations to loved one/friend, non-directed donations to the general donor pool and directed donations to strangers (*N Engl J Med* 353: 444-446, 2005). He emphasized potential practical and ethical consequences with the emergence of MatchingDonors.com under the medical direction of Dr. Jeremiah Lowery, which currently has 2,100 registered potential donors and claims to have brokered 12 transplantations.

On the other hand, while the buying and selling of organs is currently prohibited by law, Mark Cherry has elaborated on ethical arguments *supporting the sale* of human organs, bringing his academic arguments to the public (Cherry MJ [Kidney for Sale by Owner: Human Organs, Transplantation and the Market, 2005](#)). Cherry concludes that a market in human organs for transplantation appreciates the embodied nature of the human person and respects the body and its parts as personal, rather than as mere things. Such a market creates significant opportunities charitably to help others, to enhance human dignity and to protect against the dehumanization of current national bureaucratic procedures for organ donation. Similar arguments have been made by Richards (Richards JR, Nephrology goings on. Kidney sales and moral arguments, *Journal of Medicine and Philosophy* 21: 375-416, 1996).

However, these ethical discussions may have neglected the reality of the impact of a decision to sell a kidney. Madhav Goyal has demonstrated that such a sale has resulted in a lower quality of life for donors (Goyal M et al Economic and health consequences of selling a kidney in India, *JAMA* 288: 1589-1593, 2002).

A parallel initiative to increase the number of organ donors and to preserve the autonomy of organ donors was recently enacted into law in the state of Illinois. Effective January 1, 2006, a person’s decision to become an organ donor will be binding, even if family members object. Thus, in Illinois families will not be able to refuse organ donation for individual’s listing themselves as donors on their driver’s licenses. (<http://www.belleville.com/mld/belleville/news/local/11991816.htm>)

In summary, you ought to tell Mr. and Mrs. Thomas that there are no changes in current policies or practices for organ donation in the state of Pennsylvania. However, there is increasing discussion whether such practices ought to be changed. It is important for all citizens to be informed about potential changes in public policy related to definitions of death, selling organs and eliminating family consent for organ donation. Changes are being discussed to improve the supply of organs for donation (beneficence) without confounding society values at end of life (nonmaleficence).

Respectfully submitted,

Joel Berberich