

ITU Consultant Feedback re Organ Donation White Paper

Wednesday, 20 May 2015

Organ donation from deceased donors in ITU is facilitated and made possible as a result of a relationship of trust that develops between the ITU Consultant, doctors and nurses and the family of the ITU patient. The focus of attention is around saving the patient's life and getting him/her back to normality. When all else fails one starts talking to the relatives about the eventuality that although everything is being done the patient is not improving and may die. In those cases where the brain is part of the main pathology eg severe head injury, hypoxaemic brain injury, stroke, raised intracranial pressure and CNS infections a protocol is followed that also involves the neurologists to make the diagnosis of brain death. The family is kept informed throughout this process including when there is the first suspicion that there might be brain death, before the first test, after the first test, before the second test and again after the second test. At this point it also becomes relevant to talk to the relatives about whether their relative had ever mentioned or expressed a wish to become an organ donor. Sometimes it is the relatives themselves that bring up the subject even before the second test. Written consent is sought from the relatives who are acting on behalf of the patient and are directed to decide on what they think would have been the wished of the patient had he/she was still alive. Having a donor card would obviously help in this situation. We are suggesting that since this system already works well we should not change it. Thus we are in favour of a soft opt-in.

Our first concern regarding the White paper is regarding the diagnosis of brain death. We do not use EEG to confirm brain death. Attached find the protocol followed at MDH. Also we think that the diagnosis of death should be a clinical one and any mention in the law should only say that "the diagnosis of brain death should be made by the doctors caring for the patient along established hospital protocols and guidelines". If they are entrenched in the law, then it would become very cumbersome and complicated to update them as may be required from time to time with any clinical activity as a result of scientific advances or new clinical practices.

The second concern is that as highlighted above organ donation is the result of a relationship built between the medical team and the relatives during a difficult time. This is a relationship built on a trust in a caring team that are doing their best to save the patient's life. As a result of this caring, the family feel they can trust the team to proceed with organ donation in the same way that they trusted them with the life of their loved one during the critical illness. Thus the law should not undermine this trust. Donation should remain voluntary and the declaration of any individual to be a donor should remain a spontaneous one and not as a result of direct questioning. Media campaigns can be used to encourage more people to voluntarily register as a donor.

Having a donor register that is recognized by law is a very positive move. When approaching relatives one can refer to this wish of the patient that the caring team feel they need to respect. The relatives would also find it easier to agree to this when they find out that the patient was on the donor register. However the consent or approval of the relatives should still be sought as failing to do so might become counterproductive and may lead to increased litigation and also may be harmful to good reputation that organ donation and ITU has in Malta.

Another aspect of the caring process leading to potential organ donation is the practical issue of when to actually start the process of characterization of the donor for suitability for transplantation. We have a set of tests that need to be done on the potential donor that include blood tests, ultrasound, x-rays, and Cardiac echo. Sometimes we need to perform a bronchoscopy and take biopsies. We need to balance the fact that the sooner these are done the more efficient and suitable the organs are for transplantation against the ethical issue of doing tests before the final brainstem test and consent from the family. It would be useful in this context if the law could be used as an opportunity to facilitate this process by allowing the transplant coordination team in conjunction with the ITU team to perform certain limited tests eg blood tests, after the first test and before consent/approval is sought from the relatives. This is only possible if the donor register is given the due legal recognition on which we can base our clinical activity. As mentioned above we still would seek approval from the relatives and having some baseline information on the potential donor might help guide the discussion (eg in cases where certain tests might make the donor unsuitable and hence no donation is possible).

One other comment that is more a question than a suggestion is in relation to seeking consent from relatives. If a brain dead patient is on the donor register what is the legal implication – can we proceed without consent? Do we seek family approval? Our opinion is that the donor register is given the due legal importance than would obviate the need for written consent from the relatives.

Finally please advise as to what happens when the case is a police case or is a foreigner.

Thank you

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