Ethics of Organ Donation & Transplantation

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"As they say, do the right thing."
U.S. LAWS & REGULATIONS

• National Organ Transplant Act (NOTA) 1984
• DHHS → Organ Procurement Transplant Network (OPTN)
  • → United Network for Organ Sharing (UNOS) 1986+
  • → 58 federally designated U.S. Organ Procurement Organizations (OPOs) in the U.S. & territories in 11 regions
NOTA’S FINAL RULE (2000)

Efficacy  Equity
WEIGHING OF ETHICAL PRINCIPLES

CLINICAL ETHICS

RESPECT FOR AUTONOMY & EFFICACY (EQUITY)

TRANSPLANT ETHICS

EFFICACY & EQUITY (RESPECT FOR AUTONOMY)
EQUITY, EFFICACY & AGE

• Rawl’s “Veil of Ignorance”
  • Equality of opportunity
  • Prioritize “least advantaged”

• Older persons do worse (statistically)

• Age Discrimination Act 1975
  • Age as proxy for other medical variables
  • Match organs based on age category?
  • Expanded Criteria Donors → older recipients?

• “Fair innings”
  • Share35 kidney allocation
OTHER PRIMA FACIE PRINCIPLES

• HONESTY
• FIDELITY
• AVOIDING KILLING
• ...
DETERMINATION OF DEATH

• DEATH OF ORGANISM
  • Circulation & breathing
  • Brain function

• DEATH OF PERSON
  • Religious/personal accommodation
DEATH OF A PERSON

SOMATIC
BREATHING + CIRCULATION

WHOLE BRAIN
UNAWARE & UNRESPONSIVE, NO MOV’T/BREATHE, NO REFLEXES

HIGHER BRAIN?
UNAWARE & UNRESPONSIVE W/ BRAIN STEM FXN ...
Definition of death, Harvard Committee

• ... the individual’s personality, his conscious life, his uniqueness, his capacity for remembering, judging, reasoning, acting, enjoying, worrying, and so on ...

• Irreversible loss of that which is essentially significant to its nature” - Henry Beecher, 1970
VEATCH & ROSS - ALLOW CHOICE?

SOMATIC
No organs procured if brain death confirmed

WHOLE BRAIN
DEFAULT

HIGHER BRAIN
Organs procured if PVS confirmed
DEATH, DONATION, & PROCUREMENT LAWS

• State laws & first person authorization:
  • ↑ UTILITY?
  • ↓ RESPECT FOR AUTONOMY?
The Ethics of Organ Donor Registration Policies: Nudges and Respect for Autonomy

Douglas MacKay, University of North Carolina at Chapel Hill
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Governments must determine the legal procedures by which their residents are registered, or can register, as organ donors. Provided that governments recognize that people have a right to determine what happens to their organs after they die, there are four feasible options to choose from: opt-in, opt-out, mandated active choice, and voluntary active choice. We investigate the ethics of these policies’ use of nudges to affect organ donor registration rates. We argue that the use of nudges in this context is morally problematic. It is disrespectful of people’s autonomy to take advantage of their cognitive biases since doing so involves bypassing, not engaging, their rational capacities. We conclude that while mandated active choice policies are not problem free—they are coercive, after all—voluntary active choice, opt-in, and opt-out policies are potentially less respectful of people’s autonomy since their use of nudges could significantly affect people’s decision making.

Keywords: end-of-life issues, health policy, organ transplantation, philosophy
CORE VALUES CONFLICTS

• Saving lives of those on wait lists
• Minimizing harm to grieving family members
• Telling the truth
• Respecting autonomous choices
FOX & SWAZEY, 1978, 2002

FASCINATING

UPLIFTING

DAUNTING

PERTURBING
GOALS OF (TRANSPLANT) MEDICINE

• SAVE LIVES
• IMPROVE QUALITY OF LIFE
  • ↑FREEDOM (LVAD, DIALYSIS)
  • TISSUES, VCA (limbs, face ...)

[Image 0x0 to 960x540]
Daniel Canal
Ethical questions

• Is it fair to:
  • give multiple organs to one person?
  • re-transplant someone with organs that could go to those on the wait list awaiting an initial transplant?

• What is the proper role of media appeals for those on the organ transplant list?
Ethical questions

• What constitutes informed consent (and assent) for organ transplant?

• What obligations do we owe post-transplant:
  • to donor families
  • to recipients
Daniel Canal
• “From everyone who has been given much, much will be demanded; and from the one who has been entrusted with much, much more will be asked”
Uncle Ben to Peter Parker

• “With great power comes great responsibility.”
Transplant recipient holding bar mitzvah for his liver

April 13, 2011

Theresa Boyle

Health Reporter

Every May 1, for the last 13 years, Frank Bialystok has celebrated the anniversary of an organ transplant that saved his life. This year, he’s marking the occasion with a special bar mitzvah.

"I am throwing a bar mitzvah for my liver," the 64-year-old Toronto man laughs. "We have had an amicable relationship for 13 years. It hasn’t been rejected by my body."

All kidding aside, Bialystok and his synagogue are holding the unusual bar mitzvah this Saturday and going public about it to challenge the belief held by some Jews that the religion prohibits organ transplantation.

Donating organs is a way to fulfill a "mitzvah," or duty, explains Bialystok, a history professor at the University of Toronto.

Some believe that traditional Jewish law requires the dead to be buried with all body parts intact and, therefore, prohibits organ donation.
HIGH STAKES
UNINTENDED CONSEQUENCES
PROACTIVE VS. REACTIVE ETHICS
LIVING DONOR SCREENING

• Truth-telling
• Respect privacy & confidentiality
• Informed consent
  • Non-paternity
  • Undue influence
LIVING DONATION

HARMS
• Physical
• Missed productivity
• Lost wages
• Emotional

BENEFITS
• Self-esteem
• Accomplishment
• Religious duty
• Personal growth
ROLE CONFLICT

• AVOID KILLING - DEAD DONOR RULE
• PRESERVE ORGAN QUALITY
• PROVIDE COMPASSIONATE EOL CARE
CONFLICTING DUTIES ➔ DIV OF LABOR

CLINICAL TEAM
DISCUSS IMPENDING DEATH OR INFORM OF DEATH

OPO STAFF
DISCUSS DONATION

PROCUREMENT TEAM
PROCURE ORGANS
OPO STAFF

• Deliver bad news
• Address profound grief & ↓ future regrets
• Reconcile conflicts
• Respond to requests for directed donation
• ↓ undue influence

• Inform about organ donation process
  • that donation may not be possible
  • procured organs may not be successfully transplanted or survive after transplant
  • process of “saying goodbye”
DONATION AFTER CARDIAC DEATH

http://www.bioedge.org/bioethics/bioethics_article/donation_after_cardiac_death_controversies_with_a_controversy
ACCOMMODATING PERSONAL BELIEFS
• “We are not convinced that it is irrational to spend more to save an identifiable life in crisis (the child in the well) than to save a statistical life in a cool hour.”

- Veatch & Ross, Transplantation Ethics, 2015
OPTN’s FINAL RULE (implemented 2000)

- Reduce listing criteria for wait list candidates
- Prioritize medical urgency
- Identify standardized objective medical criteria to assess medical urgency
EFFICACY IN ALLOCATION

• ECD, EPTS, HLA, HTLV-1/2, KDPI, LAS, MELD, PELD, PRA-L, QALYs ...
• Defining “medical benefit” not so easy
• Bias in medical criteria
EQUITY - NATIONAL LIST

**PRO**

- ↓ WAIT TIME MORE FAIR
- ↑ ESTIMATED LIFE YEARS

- “Cultural maturity requires recognizing the irrationality of preference based solely on geographical proximity” - Veatch & Ross, 2015

**CON**

- ↑ LOGISTICAL COMPLEXITY
- ↑ COLD ISCHEMIA TIME?
- ↓ LOCAL PROCUREMENT?
- CLOSE SMALL PROGRAMS?
• What are limits on directing cadaveric organs?
• Is it OK to advertise for an organ?
• When should livers be split between a smaller adult & a child?
• Should those who contributed to their organ failure get lower wait list priority (or not be listed at all)?
• Why is selling organs prohibited?
• Should we adopt an opt-out system of organ donation?
• Can one consent on behalf of decisionally-incapable individuals to be living organ donors?
• Is preferential treatment based on status ever justified?
“The greatness of humanity is not in being human, but in being humane.”

Mahatma Gandhi