Transplantation (Authorisation of removal of Organs etc.) (Scotland) Bill

NHS Fife

The following is a representation of the views of members of the Organ Donation Committee and of the Critical Care Consultants in NHS Fife. It is based on discussion and communication via e mail.

1. Do you support the Bill?

   All feedback I have received supports the principle of presumed consent with soft opt out. We do not, however, support all proposed aspects.

2. Do you think the Bill (if enacted) would achieve its aim of increasing the number of organs and tissue made available for transplantation in Scotland? Please provide an explanation for your answer.

   There has been a general increase in public awareness as regards organ donation over the past decade. The development of local Organ Donation Committees, Clinical Leads for Organ Donation (CLODS) and Senior Nurse for Organ Donation (SNODS) has increased awareness within our hospitals. As organ donation is now possible from donors after circulatory death this further increased donation. Critical Care Consultants and Accident and Emergency Consultants know when our patients are potentially suitable for organ donation and will involve our local SNODS at an early stage. Evidence suggests this improves rate of consent.
   In short, the bill would be an excellent new development, however, it is unclear if this would increase organs and tissue for transplant.

3. Do you support the proposal of appointing a proxy? Please provide an explanation for your answer.

   No.
   The appointment of a proxy could potentially lead to family/proxy disagreement at a very difficult time. To accept a proxy decision against close families’ wishes would, we believe, lead to a loss of trust between the Doctors looking after the patient and the patients’ family.
   It would also significantly prolong a process which at present already takes around 24 hours.
   Intensive Care Consultants have their main duty of care to their patients within Intensive Care but also have a responsibility to keep families informed and make sure that families are confident and comfortable that their relatives are receiving
best care. Anything that undermines this relationship will be counterproductive and we believe could reduce consent for organ donation. At present if a patient is on the organ Donor register and a family refuses to give consent then we respect that wish. We believe this to be appropriate. We can legally overrule the family but as far as we are aware this has never happened in Scotland.

4. **Do you have any comments on the role of “authorised investigating persons” as provided for in the Bill?**

The SNOD system which we have in place at present should remain unchanged. There should be no “authorized investigating person”.

For all the reasons stated in 3 above.

It would add another level of complexity, potentially increase conflict, and prolong the duration of the whole process.

It is also worth noting that this person could not be the CLOD or SNOD therefore this would require another person to be available 24 hours a day 7 days a week.

5. **Is there anything in the Bill you would change? If yes, please provide more details.**

The bill needs to be extremely simple.
If the public are faced with a decision which seems complex they will not make any decision.

The best scenario is for people to register as a yes on the Organ Donation Register.

One way to achieve this is to have a simple Opt In/ Opt Out.

Though we believe that Soft Opt Out/ Presumed Consent is reasonable. We believe it is important that Next Of Kin should have the final decision and this should not be challenged.

The flow diagram on page 16 of the Transplantation Authorisation of Removal of Organs etc.) (Scotland ) Bill seems very unfortunately worded.

It reads

“Process under 2006 Act ( As Amended by Bill ) to establish whether organs may lawfully be removed for transplantation.”

We suggest this gives the impression of Taking rather than the Donor Giving. We believe it should be reworded as

“Process under 2006 Act ( As Amended by Bill ) to establish whether organs may lawfully be donated for transplantation.” This term “removed” should be altered to “donated” throughout the whole document and flow diagram.
Again in the flow diagram (if a patient is on the ODR or has a donor card) organs may be removed, this, as previously stated must be with families/next of kin’s consent.

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