

Medical-ethical guidelines for organ transplantation

I. Preamble

1. The transplantation of organs, organ parts and human tissue (referred to here as "organs") has become a familiar technology in human medicine. Over the past few years new technical developments have opened up further possibilities in this field, although at the same time the shortage of available organs has created new problems. For these reasons the Swiss Academy of Medical Sciences has found it necessary to revise its Guidelines of 1981 on this important subject.
2. The new version of these Guidelines is based on the latest works on this subject, particularly those of the Council of Europe and World Health Organisation (see Chapter IV, Literature).

II. Guidelines

A. Removal of organs from deceased donors

1. Organs may be removed from a deceased person in the state of heart death or brain death, provided all the conditions of the existing laws and jurisdiction are met and if the deceased person did not give any express instructions to the contrary during his¹ lifetime. The doctor responsible for a potential organ donor will discuss the possibility and the nature of the organ removal with the close relatives and will explain the procedure to them. This must be done even if the deceased person has given his written consent to the removal of organs after his death.

¹ For the sake of simplicity, in these Guidelines the masculine form of expression is used for both sexes.

2. In accordance with the recommendations of the SAMS of 13 June 1996, "Guidelines for the Definition and Diagnosis of Death with a View to Organ Transplantations", death must be confirmed by one or more doctors who are involved neither with the removal of the organ(s), the care of the recipient or the transplantation itself.
3. The nursing staff will be included in the various decision-making steps, up to the removal of the organ(s).
4. The anonymity of the recipient to the relatives of the donor and of the donor to the recipient must be assured. Both sides must also guarantee anonymity towards third parties.

B. Removal of organs from living donors

1. An organ may be removed from a person of full legal age and capable of making decisions, provided he gives his consent voluntarily and his state of health allows the removal of the organ. As a rule, the donor and the recipient are blood relatives or have a close emotional bond with one another.
2. The donor in question must be thoroughly informed of the procedure for the proposed organ removal, the risks involved and the consequences. He must give his consent in writing, but may retract this at any time, without giving a reason.
3. Organs may not be removed for transplantation from minors or from adults who are incapable of making decisions. An exception can be made for the removal of regenerable tissue, which involves minimal risk, provided the transplantation is restricted to close blood relatives and is undertaken in a life-threatening situation or severe illness of the recipient, which cannot be treated in any other way. The consent of a minor, able to understand the significance of the operation when this is thoroughly explained to him and the permission of his legal representative must be obtained separately, the latter in writing. Refusal by the proposed donor has to be accepted, without any reason being given on his part.

C. General principles

1. An organ may under no circumstances be used for commercial purposes. Moreover, no doctor is permitted to take part in the removal or transplantation of organs or in the preparations for such operations, if there is reason to believe that these have been the subject of commercial transactions.
2. No institution or person who takes part in the removal of an organ, in the broadest sense of the term, may receive remuneration beyond the costs of the operation. Living organ donors, on the other hand, have the right to remuneration of the costs of hospitalisation, medical treatment and care arising in connection with the organ donation, as well as compensation for their loss of earnings, and they must be suitably insured against immediate injury to their health, all these costs being chargeable to the recipient.

D. Allocation of organs

1. Any patient whose illness can be cured or alleviated on the long term by an organ transplantation can be considered as a recipient of any suitable organ that may become available. The principles of equality and of fairness in the allocation of organs on the basis of medical criteria must be guaranteed for the whole of Switzerland. If a transplantable organ can be easily transported (e.g. a kidney), it must be offered to the existing European organ-exchange organisations.
2. All patients for whom a medical indication for an organ transplantation exists must be fully informed of this possibility. The registration of a possible recipient with a transplantation centre, his inclusion on the waiting list and the allocation of a suitable organ must be made on the basis of medical considerations and not on the basis of material or social considerations. In the case of several potential recipients with comparable medical prognosis, the allocation of an available organ is made according to their position on the waiting list.
3. In the event of a shortage of particular organs, inclusion on the waiting list may be restricted to patients residing in Switzerland.

III. Commentary

ad. I.

The SAMS Sub-Committee responsible for the revision of the Guidelines for Organ Transplantations based its deliberations mainly on the principles of the Council of Europe (Progress Report MSM 3. 1-5, 1987), the principles of the World Health Organisation (1991 General Meeting in Helsinki, WHA 44.25) and on their Progress Reports of 1987-1991 (see Chapter IV, Literature).

ad II. A

Many people are involved in the preparations for removal of an organ. The relatives, who are anyway already seriously affected by the general circumstances of the impending death, may gain the impression that the dying person is being passed, like an object, from one authority to the other. It is therefore recommended that one member of the medical/nursing team be nominated as contact person, to be available to the relatives during the ensuing hours. He will explain to them, in a competent manner that they will understand the value of the organ donation, the need for changes of personnel in the medical and nursing team or the reasons for possible necessary transfer to another hospital and any bridging therapy, as well as the importance of necessary additional investigations carried out in the interests of the recipient.

Although most Swiss cantons have appropriate basic legal provisions regarding the removal of organs, these are in some cases contradictory. From the medical-ethical standpoint, the assumed consent of the deceased person is sufficient as a prerequisite for the removal of an organ or organs.

Every doctor, whether general practitioner or specialist, must endeavour to promote the principle of organ donation within his sphere of activity and influence. Increased availability of transplantable organs helps, among other things, to alleviate the problems associated with the allocation of organs that exist today.

ad. II. D

The selection of recipients of organs must be made primarily on the basis of medical criteria (e.g. biological age, immune status, concomitant or secondary diseases). Details are to be found in the corresponding guidelines of the working-group of *Swiss Transplant* and of specialist medical associations.

If the number of donor organs is insufficient for the number of medically suitable recipients who are in need of them, there is a tendency to use other selection criteria which do not, however, meet the requirements as regards objectivity. However, due to their subjectivity, social criteria such as race, sex, marital status, economic situation, degree of personal acquaintance, antisocial behaviour or social failure cannot be considered in the decision-making process for the allocation of organs for transplantation. Local recipients should not be given preference if in some other place there is a recipient who is more suitable according to the medical criteria (especially in regard to immunological compatibility).

Approved by the Senate of the Swiss Academy of Medical Sciences (SAMS) on 8th June 1995. This text replaces the corresponding Guidelines of 1981.

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IV. Literature

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