

17th February 2002

Dr Lo Kwok Hung
President
The College of Surgeons of Hong Kong
Room 901, 9/F, Hong Kong Academy of Medicine Jockey Club Building
99 Wong Chuk Hang Road
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Hong Kong

Dear Dr Lo,

Amendments for Human Organ Transplant Regulation

I refer to your letter dated 21st January 2002 inviting comments from our College on the Human Organ Transplant Regulation. On behalf of the Hong Kong College of Paediatricians, I would like to submit the following comments for your consideration.

The Human Organ Transplant Ordinance is to prohibit commercial dealings in organ transplant, and the proposed amendments to better define “human organs” and see to operational & monitoring matters in a more structured way.

The College supports the principles underlying the Ordinance; but on the other hand, the Ordinance should not hinder “normal transplantation” unnecessarily, for it is one of the most valuable means to save patients’ life in modern medicine. The Ordinance should protect those medical practitioners who act in good faith to the best of their knowledge for the benefit of patients, so that they will not be deterred from performing it because of undue concerns of possible liability. In the Ordinance, the responsibility of providing reliable and relevant information has somehow fallen on the medical practitioner, but in actual fact, he might not be able to prove the validity and verify those information, and can only act to the best of his knowledge. The Board should consider accepting those information, including overseas certificates and documents which cannot be verified, to be legal after declaration by patients or parties concerned. Procedural matters should be simplified, for it is not by filling many forms that commercial dealings can be prohibited.

Suggestion for amendments:-

In Point 13,
line 3, after “must first be satisfied”, add “*to the best of his knowledge and in good faith*”...
line 7, after “contravention of it” add “*purposefully*”
line 8, after “supplying falsified information on genetic relationship”, add “*purposefully*”

In Point 15,

“The need to supply to the Board all the information of an imported organ before transplantation can be done” means *the Board will need to function frequently* in order not to delay operations for which patients and organs cannot wait.

Line 7, The statement - “Furthermore it will also be an offence if a registered medical practitioner ...fails to supply any other information the Board may require”- bestows the Board unchallengeable power, for it can demand any information, which not being able to be supplied with, can lead to an offence against the medical practitioner. Such information should rather *be specific and stated beforehand* in the Ordinance.

The Ordinance has covered the part on minors and mentally incapacitated person, who as recipients, can have their parents or guardians acting on their behalf. This applies also to cadaveric donors. As for only allowing those above 18 if unmarried or above 16 if married to be live donors is acceptable, so long as *bone marrow, cord blood and peripheral stem harvest are exempted*, i.e. minors can also be donors in these situations.

The clarification of the definition of human organs as amended, with bone marrow, cord blood and stem cells being exempted from such regulation, is acceptable. This also applies to the definition of ‘payment’ not to include administrative cost incidental to the transplant procedure. To allow interviewing donor and recipient by different personnels is reasonable; and the revised structure of the Board for better functioning is also acceptable

Our College supports the amendments of the Ordinance, but in addition, proposes the above points for better protection of medical practitioners who act in good faith, and for promotion of the development of transplant without contravening commercial dealings.

Yours sincerely,

Dr Betty Young
Chairman
Professional and General Affairs Committee
Hong Kong College of Paediatricians

cc. Professor NK Leung, President, Hong Kong College of Paediatricians