

中華人民共和國香港特別行政區政府總部衛生福利局的信頭
**Letterhead of Health and Welfare Bureau Government Secretariat, Government of the
Hong Kong Special Administrative Region The People's Republic of China**

Our Ref.:

Tel: 2973 8283

Fax: 2840 0467

Your Fax No.: 25243802

2869 4376

Total Pages: 2

15 January 1999

Ms Eleanor Chow
Subcommittee on HOTO
Legislative Council
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Eleanor,

**Submissions to Subcommittee on
Human Organ Transplant Ordinance (the Ordinance)**

I refer to your letter dated 11 January 1999 with two submissions attached. Since the Hong Kong Heart Foundation Ltd. is content with the existing Ordinance, below is the Administration's reply only to the Department of Surgery of the University of Hong Kong Medical Centre of Queen Mary Hospital.

1. ***Sections 5(4) and (5) of the Ordinance cannot not be fulfilled in patients with acute liver failure, and prohibit the medical profession from providing life-saving treatment for these patients without giving them the benefit of doubt.***

REPLY:

The spirit of these two subsections is to respect the wish of both the donor and the patient since organ transplant is a high risk operation to both of them. Regarding the cases where the patient is incapable of fulfilling such requirements, we have proposed

amendments in the Human Organ Transplant (Amendment) Bill 1999 to solve the problem.

2. *A direct interview with the donor, the recipient, and their family members is essential, and should be promptly performed.*

REPLY:

The existing Ordinance does not prohibit the Human Organ Transplant Board (the Board) from doing so.

3. *The Board should provide better guidelines in section 2 of the Regulation for other means of substantiating the genetic or marital relationship in order to justify the donation.*

REPLY:

The Board is also considering the similar issue. We will convey your comment to it.

4. *There should be a statutory defence for the medical practitioner provided that he has, on reasonable grounds, fulfilled or believed that he has fulfilled the requirement of the Ordinance.*

REPLY:

We have consulted the Department of Justice on this point. The legal advice is that the medical practitioner concerned has a good self-defence if he is misled by false information and has no intention to commit crime.

Regards.

Yours sincerely,

(Clement Lau)
for Secretary for Health and Welfare