

**Administration's reply to seven submissions to the
LegCo Subcommittee on Human Organ Transplant Ordinance**

1. **If a patient waiting for transplant should become comatose, prior consent for operation or indication of understanding of the hazards of the operation should be enough. (PEDA)**

Reply:

If the patient has indicated, to the medical practitioner concerned, his understanding about the procedure of and risk involved in the transplant operation he is going to receive, relevant requirements in the existing Ordinance have been satisfied.

2. **Emergency operations like craniotomy or laparotomy on traffic accident victims have been done with only the consent of the relative or, sometimes, lacking the latter, with the hospital administrators' approval only. (PEDA, HKCP, APMHO, EDA, LTPA, CityU)***

Reply:

We have proposed similar measures in the Human Organ Transplant (Amendment) Bill 1999 to cater for situations where the patient is incapable of understanding the relevant explanations.

3. **In general, consent from recipient is necessary because, for example, the recipient may not wish to subject the living donor to the risk of morbidity and mortality related to surgery. (HKCP)**

Reply:

Agreed.

4. **The donor, recipient or his/her next-of-kin, and other relevant parties can be interviewed by members of the Human Organ Transplant Board if the Board considers such processes can help clarify the situation. (HKCP)**

Reply:

The existing Ordinance does not prohibit the Board from doing so.

5. **The consideration to perform a transplant operation should be raised by two experienced professionals not involved directly in the transplant operation. At least one of these professionals should be in-charge of the care of the patients and know the details about the clinical information. (HKCP)**

Reply:

We have proposed similar measures in our Amendment Bill 1999. Members may wish to refer to the Bill for detailed explanations.

6. **A Board of Appeal should be established comprising a judge, a doctor and one other. (APMHO)**

Reply:

Comparatively, the current HOT Board is more representative which comprises 9 members from different fields of the community.

7. **The application procedure and forms in the Regulation should be simplified to improve the efficiency of vetting applications. (APMHO)**

Reply:

The power of making Regulation rests with the Human Organ Transplant Board. We will convey this comment to the Board for its consideration when amending the Regulation in the future.

8. **Two additional persons, one Deputy Chairman and one lay member, should be appointed to the Board. (EDA, LTPA)**

Reply:

We may consider to increase the representation of the Board members.

9. **There should be a Panel of Assessors to form a quorum and deliberating any urgent case of transplant whenever some members of the Board are unable to attend a Board meeting. (EDA)**

Reply:

We have been appointing temporary members, who are familiar with the Ordinance and the operation of the Board, to the Board when some substantive members are out of town.

10. **Since it is very difficult for the Board to prove within a very short time whether or not the recipient is genetically related to the donor, any donor who is not the immediate family member of the recipient must declare that there is no commercial dealings in supplying his organ. The donor is guilty of an offence if he makes a false declaration. (EDA)**

Reply:

Section 4 of the existing Ordinance prohibits commercial dealings in human organs intended for transplant irrespective of whether or not the Board's approval is required. A person is guilty of an offence if he contravenes such provisions.

We will convey to the Board the suggestion that the donor's declaration should be required.

11. **For an MIP, the consent to remove his organ or receive from others can only be obtained exclusively through the court and cannot be given by the guardian of the MIP. (EDA)**

Reply:

This comment is noted, and will be taken up separately.

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PEDA = The Practising Estate Doctors' Association

HKPA = Hong Kong College of Physicians

APMHO = Alliance for Patients Mutual Help Organisations

EDA = Estate Doctors Association Ltd

LTPA = The Hong Kong Liver Transplant Patients' Association

HKMA = Hong Kong Academy of Medicine (no comment)

CityU = Faculty of Humanities and Social Science of the City University of Hong Kong