

Advertising for a Kidney: Is it Ethical? Is it Legal?

The Gold Foundation *Ethics for Lunch* Seminar Series: Difficult Cases from the Ethics Committee of New York-Presbyterian Hospital

Lunch was provided by a generous grant by the Arnold P. Gold Foundation

Kenneth Prager, MD, Chair
New York Presbyterian Hospital Ethics Committee
Tuesday, 9 May 2006
12:00 pm - 1:30 pm
401 Hammer Health Sciences Building
Columbia University Medical Center

Dr. Kenneth Prager presented, to an audience of 105, a case of solicitation and “directed donation” of a kidney for transplantation. The troubling and contentious case raised both ethical and legal issues that could not be clearly resolved.

A patient at the New York-Presbyterian Hospital, in need of a kidney transplant, advertised on a local New York City radio station and provided the contact information for the New York-Presbyterian Transplant Institute. The Transplant Institute program subsequently was inundated with phone calls and could not handle all of the inquiries which temporarily caused the program to shut down. Seven to eight hundred calls were received out of which 200 potential donors were tested for compatibility. A donor was chosen from this pool and the kidney transplant was successful. The recipient publicly thanked the donor on a Web site.

Even though money was not exchanged for this “directed donation” (it is against the law in New York State to pay for an organ), it is unclear whether such solicitation and directed donation is legal, ethical, and fair. Organ procurement agencies and hospital transplantation programs do not have policies that deal with such cases. Organ procurement organizations typically deal with only cadaveric donors, not live donations. Since New York Hospital code requires hospitals to comply with professional standards, if the hospital accepted a solicited donation, the hospital would be breaking the rules. However, hospitals also have a duty not to abandon their patients. This case generated a number of ethical questions, such as:

- What was in the best interest of the patient?
- How should such directed donations be handled?
- Does such solicitation and directed donation affect who gets the organ (fairness)?

- How does this affect procuring organs for the most severely ill and longest on the list, or does this direct the organ to the person who places the ad?
- Does solicitation benefit those with more resources (justice) since they have more resources for advertising their need for organs?
- Does advertising expand the pool of possible donors and increase the supply of organs available for transplanting (a benefit to all)?

These dilemmas illustrated competing values that needed to be weighed. The Hospital Ethics Committee considered whether the hospital had any responsibility to protect the donor. The recipient and the donor were provided separate medical teams in order to protect their separate interests. A psychosocial evaluation of the donor was conducted. The Committee ensured that the recipient's insurance company was responsible for the medical costs of the uninsured donor. The hospital Ethics Committee, along with the hospital administration, decided not to become involved in the financial arrangement between the donor and recipient.

This case provided a number of unresolved issues that illustrated the complex and difficult ethical dilemmas that accompany organ transplantation, particularly one that involves public solicitation of a donor. Compassion and caring are needed by both donor and recipient, but concerns about justice and those still on the waiting list must be addressed.