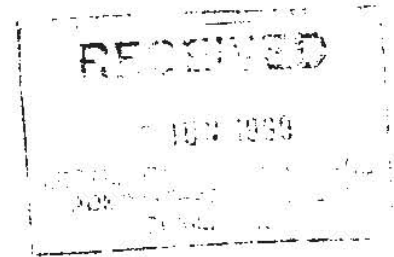


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Gary Fenlon MLA
Chair
Legislative Assembly of Queensland
Legal, Constitutional and Administrative Review Committee
Parliament House
Cnr George & Alice Streets
BRISBANE QLD 4000

10 June 1999

Dear Mr Fenlon,

Re: Inquiry into the Transplantation and Anatomy Amendment Bill 1998

Thank you for the opportunity to respond to the proposed legislation change. On behalf of the NSW Transplant Advisory Committee I wish to make a number of points:

- 1) Within NSW there are differing views on the proposal. Many professionals involved in organ donation and transplantation can readily identify the positive aspects of the differing approaches.
- 2) At the recent National Forum on Organ and Tissue donation which was conducted in Canberra recently there was consensus that legislation relevant to organ donation should be uniform across all states of Australia. It was envisaged that Australians Donate should facilitate this uniform approach.
- 3) The Acts in all States & Territories currently allow for: where a person dies in hospital, if it is known at death (without having to ask relatives) that the deceased had expressed the wish for, or consented to, being a donor, there is no legal requirement in any State or Territory for a hospital to establish lack of objection (or consent) from the relatives. In practice however, next of kin, if available, should be consulted about their knowledge of the deceased person's wishes at the time of death, in case there was a change of mind. (Refer to National Health & Medical Research Council (NHMRC) Recommendations for the donation of cadaveric organs and tissues for transplantation, 1996, Part 1, Section 1, para 1.2, and Section 2, para 2.1, p.5.)
- 4) Individuals should discuss their wishes regarding organ/tissue donation with their family. This is the most important step to take in order that those wishes carried out after death. Discussing the decision with relatives/close friends ensures that they understand that the decision is a considered one.

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- 5) Experience has shown that the next-of-kin very rarely disagree with the written wishes expressed by the deceased. (Refer to Recommendations concerning brain death and organ donation, second edition, March 1998, Australian and New Zealand Intensive Care Society (ANZICS), Part 2, Section 2.5, p. 17). In the few cases where relatives have disagreed with the written wishes the families were resolute that the deceased had changed their mind but not their licence.
- 6) Documents as referred to above, from both NHMRC and ANZICS, state the following under 'Organ and tissue donation – Principles':

“The fundamental principle upon which these Recommendations are based is respect for human dignity. This includes the dignity of the prospective donor, the dignity of the prospective donor’s family and the dignity of the prospective recipient. The professional’s ethical and legal duty of care is derived from this principle”.

To not discuss organ/tissue donation with the deceased person’s family, excludes them from treatment with dignity at a time of extraordinary stress.

Yours sincerely,



Dr. James Mackie
Chair
NSW Transplant Advisory Committee