

Question on Notice
No. 630
Asked on 29 April 2008

MISS SIMPSON asked the Minister for Health (MR ROBERTSON)-

QUESTION:

With reference to the Legal, Constitutional and Administrative Review Committee's report concerning organ donor consent, tabled in July 1999 and to the parliamentary library research brief no. 1/99—

- (1) How have the committee's recommendations been implemented?
- (2) What investigation has the Health Department undertaken into the lack of intensive care bed capacity and its link to low donor rates?

ANSWER:

Queensland Health and Queenslanders Donate continue to seek to maximise organ and tissue donation for transplantation procedures and processes in Queensland. There has been active involvement with the National Clinical Taskforce on Organ and Tissue Donation and the newly established Cognate Committee on Organ and Tissue Donation for Transplantation that brings together key clinical stakeholders and Government representatives to improve practice and processes in Australia.

The Mission of Queenslanders Donate is *"To maximise organ and tissue donation rates for a healthier community"* and this maxim is central to all activities in Queensland to ensure quality organ and tissue donation practices are in place.

- (1) The Review by the Legal, Constitutional and Administrative Review Committee of the Transplantation and Anatomy Amendment Bill 1998 contained six recommendations. The recommendations and commentary on each recommendation follows.

Recommendation 1 - *The committee recommends that the Parliament not support the Transplantation and Anatomy Amendment Bill 1998 in its current form.*

The Transplantation and Anatomy Amendment Bill 1998 was not supported as proposed in 1998 based on the recommendation of the Legal, Constitutional and Administrative Review Committee.

Recommendation 2 - *The committee recommends that the Minister for Health, as the minister responsible for the Transplantation and Anatomy Act 1979 (Qld), consider reviewing Part 3 of the Act (Donations of tissue after death) with the aim of establishing whether those provisions should be amended to more accurately reflect current practice in relation to organ donation and transplantation. Given the relative uniformity of these provisions in Australia (and given the desirability of maintaining that uniformity), this is a matter which the minister might wish to raise at an appropriate Australian Health Ministers' forum.*

The operation of Part 3 of the *Transplantation and Anatomy Act 1979* was reviewed following the Committee recommendation and was found to reflect current practice in relation to organ and tissue donation. In 2001, the *Transplantation and Anatomy Act 1979* was amended to better reflect practice in relation to tissue retention by Queensland Pathology.

The *Transplantation and Anatomy Act 1979* is constantly assessed against current international and national practice to determine if a review is required.

Recommendation 3 - *The committee supports the efforts of Australians Donate and Queenslanders Donate to increase education and awareness about organ donation both in the community and in hospitals. In particular, the committee supports the emphasis on educating people about the importance of communicating their decision to be a donor with their family. The conduct of periodic surveys will assist in measuring the effectiveness of these efforts.*

The committee recommends that the Minister for Health consider the appropriateness and feasibility of appointing (as part of Queenslanders Donate) an organ donor advocate to further develop and promote education and awareness strategies regarding organ donation in the Queensland community.

To assist people in recording their decision to be a donor, the committee recommends that the Attorney-General, as the Minister responsible for the Powers of Attorney Act 1998 (Qld), investigate amending that Act so as to allow people to record a wish to be an organ donor after their death in an advance health directive.

Queenslanders Donate have employed an experienced Communication Manager since 2000 (initially part-time, full-time from 1 July 2004) to further develop educational and awareness strategies. In this regard, two programs are currently being led by Queenslanders Donate and funded by the Commonwealth Department of Health and Ageing under the National Reform Agenda on Organ and Tissue Donation:

- Queenslanders Donate is currently collaborating with Education Queensland (Department of Education, Training and the Arts) to develop an educational programme on organ and tissue donation for Year 12 Health Education students; and
- Queenslanders Donate is working with various stakeholders to develop a programme to educate General Practitioners (GPs) and General Practice Nurses working throughout Australia on issues relating to organ and tissue donation for transplantation. The education programme will also include a range of e-resources to allow greater discussion with patients regarding their donor registration status and intent/consent to donate organ and tissue for transplantation.

With regard to the use of an advance health directive to record a wish to be an organ donor after death, the Advance Health Directive form available from the Department of Justice and Attorney General includes a question regarding consent for organ and tissue

donation. This form satisfies the requests of written valid consent for the Transplantation and Anatomy Act but it is not automatically recorded on the Australian Organ Donor Register. Although an advance health directive may be useful in identifying the wishes of an individual to their family or their care providers, Australian Health Ministers continue to support the Australian Organ Donor Register as the only official registry of organ and tissue donors in Australia.

Recommendation 4 - *The committee recommends that Queensland Health (continue to) liaise with Queensland Transport (and Australians Donate) about utilising the driver's licence application and renewal process to provide people with information about organ and tissue donation. This information should encourage people to communicate their decision to be an organ donor with their family and be such that it gives the potential donor's next-of-kin confidence that the potential donor has made a well-informed or considered decision about organ donation. Where appropriate, changes should be made to the Traffic Regulations 1962 and current administrative procedures to achieve this.*

In addition, the committee recommends that the Minister for Transport amend the Traffic Regulations 1962 to provide licence holders with an express statutory right to require amendment of the donor consent notation on their driver's licence at any time.

Use of Queensland Transport's driver's licence application and renewal process ceased in 2005 following the Australian Health Ministers' decision in January 2005 to change the Australian Organ Donor Register from a register of intent (to donate) to a register of consent. This change enabled individuals to record their legal decision to become a potential organ or tissue donor. In the meantime, Queensland Health obtained legal advice that the driver's licence notification process did not satisfy the requirement for informed legal consent because the Queensland Transport database was deemed to be only a register of intent.

It should be noted that medical practice was not altered and families are still approached for consent prior to organ or tissue donation proceeding. This is in line with worldwide best practice and recognises the role of the family in the donation process.

Recommendation 5 - *The committee recommends that immediate steps be taken to overcome the restrictions which currently prevent access to the donor information on the Queensland driver's licence database by those involved in organ donation.*

In this regard the committee notes that Queensland Health has been negotiating with Queensland Transport to amend the current driver's licence application/renewal form to include a question asking people who do consent to a donor notation being recorded on their driver's licence to also consent to Queensland Transport providing that information to Queensland Health.

The committee urges the Minister for Transport and the Minister for Health to expedite moves to enable full use of this valuable data.

This was implemented in 2000 when the Australian Organ Donor Register was introduced and Queensland Transport regularly updated the Australian Organ Donor Register with Queensland information. As in Recommendation 4, this process ceased in 2005 when the Australian Organ Donor Register was converted into a register of legal consent.

Recommendation 6 - The committee recommends that Queensland Health attempt to ascertain the viability of the Australians Donate proposal to establish a national donor database and support that proposal should Queensland Health consider it viable. (In this regard the committee notes that Queensland Health is represented on the National Council of Australians Donate.)

This was supported by Queensland Health and the Australian Organ Donor Register was established in 2000 as a single national register of intent to donate organ and tissue for transplantation. In 2005 the Australian Organ Donor Register was converted to a register of legal consent.

When converting the Australian Organ Donor Register to a consent register in 2005, Australian Health Ministers committed to continue to recognise and utilise the Australian Organ Donor Register as a single, national register for organ and tissue donation.

- (2) The National Clinical Taskforce on Organ and Tissue Donation released its final report in January 2008 and the 51 recommendations in that report are currently being considered by Governments through the Cognate Committee on Organ and Tissue Donation for Transplantation. This report, and the \$28 million National Reform Agenda, clearly articulate that the low donor rates in Australia are multifactorial and cannot be directly attributed to any one source.

A lack of intensive care bed capacity was not specifically identified in this report. The Taskforce report indicated that approximately half of all 'missed' potential donors were located in the emergency department and the other half were already in an intensive care unit.