Why illegal aliens get a place in line; Duke case involved a serious medical error, not a transplant policy violation. (Opinions-Commentary) (Editorial).


Byline: Robert Sade

"Foreigners should not get transplants in the U.S., certainly not illegal aliens."

"American organs should go to Americans."

Those were common complaints voiced after the Feb. 22 death of 17-year-old Jesica Santillan after two heart-lung transplants at Duke University Medical Center in Durham, N.C. But comments like those would not be welcome in the small town of Louisburg, N.C. Jesica lived there for more than three years while waiting for organs to replace her failing heart and lungs. During that time, Jesica, who had been smuggled illegally into this country by her parents in search of lifesaving treatment, was virtually adopted by the townspeople. They raised more than $100,000 to pay for an operation. But still, should an illegal alien have been provided a scarce resource?

Foreign nationals are allowed to receive transplants in the U.S, limited to no more than 5% of transplants per year in any transplant center. The intent is that at least 95% of organs donated after death in this country go to Americans.

Although no laws were broken in the Santillan case, was performing a transplant on an illegal alien morally the right thing to do? After all, using a heart-lung combination for Jesica meant that three U.S. citizens would die on the waiting list because three organs were not available for them—they went to Jesica. Ethical quandaries persist in the transplant field because not enough organs are donated to go around; more than 23,000 patients will live each year because of transplantation, but more than 6,000 will die for lack of one. The task of deciding who gets donated organs has been carried out by the United Network for Organ Sharing, using a broadly based decisionmaking process. The bottom line is that Jesica, even as an illegal alien, received her transplant within the boundaries of UNOS' allocation algorithms.

Transplantation of scarce organs into foreign nationals may seem unfair in some ways to Americans, but it must be understood that organs flow both ways across borders. Our organ procurement organization has retrieved organs from foreign donors who died suddenly while visiting or working in this country. When they generously consented to donation, none of these families objected to Americans receiving their loved ones' organs. That same good should come from their tragedy was their only concern. The generosity of Americans is legendary, and it is reciprocated by many who visit our shores.

Other questions of ethics have been raised about the Santillan case. Rejection of the
transplanted organs occurred early because of a serious medical error: a blood type mismatch not noticed by the surgeon. Jesica's condition worsened over the two weeks before another heart-lung set became available. Should she have received a second set of organs after the first was rejected? After all, she had her chance with the first transplant. If it failed, didn't a second transplant simply make it six patients rather than just three who would die while waiting?

The question of retransplantation has been addressed through UNOS' deliberative process. The result is a policy that patients with a failed previous transplant should be evaluated and selected on the same medical grounds as a patient who did not have a previous transplant. Not enough information has been published to determine just how sick Jesica was before her second transplant. The medical facts will be reviewed by UNOS' Professional Standards Committee, which is empowered to apply sanctions, if indicated.

The other medical issue raised in the Duke situation is whether doctors were correct in "pulling the plug" on a brain-dead patient without agreement of the family. News reports have stated that the Santillan family did not want Jesica removed from life support, yet over their objections, Jesica's support was stopped after she had been declared brain dead and after family and friends said their goodbyes. Despite how it may sound to a lay audience, the issue is straightforward. In both law and ethics, brain death is fully equivalent to cardiopulmonary death. If a patient's heart has permanently stopped after prolonged attempts to restart it, it would seem odd, even bizarre, to keep the ventilator going while the electrocardiogram monitor shows a flat line. Compassion for the family's emotional state occasionally may justify continuing the ventilator for a short time while goodbyes are said, as was done in Jesica's case.

Jesica's death was clearly tragic, arising from an egregious error. A procedural flaw allowed this to happen: More than one person should be responsible for checking blood type and other important donor-recipient matching data. Given an error that should not have occurred, the physicians and the hospital have responded appropriately. For example, the surgeon, James Jaggers, was honest and courageous when he told the family about the error immediately after the first operation and accepted personal responsibility for it. The hospital expeditiously put into place policies aimed at preventing recurrence of such an error and seems to have dealt with the Santillan family in a fair and straightforward manner.

Like organ donation itself, some good should come from this tragic event. Our hope should be that we in the medical community use this experience both to develop better systems of error prevention and to strengthen the nation's support of organ donation.

Robert Sade is a professor of surgery at the Medical University of South Carolina, Charleston; director of the university's Institute of Human Values in Health Care; and medical director of the South Carolina Organ Procurement Agency.


Thomson Gale Document Number:A99622257
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