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Mr Alan Milburn MP  
Minister of State  
Department of Health  
Richmond House  
79 Whitehall  
LONDON SW1A 2NS

29th September 1997

Dear Mr Milburn,

My colleague Dr D. W. Evans has shown me his letter to you of 27th September. He, as you know is a retired cardiologist at Papworth Hospital. I took early retirement after 23 years as consultant anaesthetist at Addenbrooke's Hospital.

I have shared for many years his concern for the condition of patients used as sources of organs for transplantation and his continuing dismay at the lack of accurate information on which their consent is based. The forms encouraging people to sign Donor Cards and now to join the Organ Donor Register have always been, and are still, inaccurate and misleading viz -

- death has not "taken place for certain"; there is still much evidence of life (only some of which is looked for)
- "brain death" has NOT been confirmed; there may even be residual brain-stem activity, especially the vasomotor centre. Higher brain activity can certainly be present, as is admitted even by such as Pallis
- doctors certifying death cannot be said to be "not involved in the transplant process"; only doctors sympathetic to the cause will be involved. Doctors like D.W. Evans and myself would never be asked because we would NOT certify death in those circumstances
- the phrase "after my death" is nowhere explained; if signatories have a different concept of death, their consent is obtained by deception.

Consent for any other, even minor, operation must be countersigned by a doctor who has explained it and its consequences in detail in terms that the patient can understand. Alternative procedures should be offered and any divergence of medical opinion be explained (e.g. that duodenal ulcer can be treated medically or surgically, different approaches to treatment of ingrowing toenails). None of this is required for consent for organ donation on the Register or Cards, and no other consent is legally required.

It is my continuing experience that lay people and the majority of medical colleagues have accepted present procedures and the conclusions of the Conference of Medical Colleges by default. The passage of time during which only one opinion has been heard has ensured this. I venture to suggest that even your goodself and your colleagues in the Department will be

equally unaware of these realities and we are grateful that you are willing to consider them now.

Perhaps my greatest concern as an anaesthetist is that donor patients, certified as "dead", respond to the pain of surgery in much the same way as other patients - by movement and by greatly raised blood pressure and pulse rates. The movement can be abolished by muscle relaxants, which do not alter consciousness, and the blood pressure and pulse (vasomotor) effects can be reduced either by administering a general anaesthetic, or by other pharmacological means which also do not alter consciousness. There is a divergence of anaesthetic practice. Some anaesthetists will insist on giving the full general anaesthetic, but others, realising both the paradox of having to anaesthetise one certified as "dead" and also under pressure from transplant surgeons who see the general anaesthetic as a threat to the viability of the organs, will withhold anaesthesia. It should be absolutely mandatory that this divergence is explained to Donor Card and Registry signatories and also the need and option for general anaesthesia. Other patients experiencing awareness during surgery have recourse through the courts, but this is denied to those who cannot survive the surgery.

It may be of interest that I observed on some 25 occasions between 1988 and 1994 that entries in the Theatre Registers (written by many different theatre staff) recorded the time of death of patients used as organ donors at some time after the commencement of the surgery. Clearly it appeared to those theatre staff that the patients were not dead when surgery began.

I note that Lord Ashbourne, Baroness Jay and Anne Campbell MP have received Dr D.W. Evans' letter, and I hope that you will approve if I circulate this to them.

With kind regards,

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Hill". The signature is fluid and cursive, with a large initial 'D' and 'H'.

Dr David J. Hill MA FRCA

c.c. Lord Ashbourne  
Baroness Jay  
Anne Campbell MP