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Gaming the Transplant System

Timothy F. Murphy, University of Illinois College of Medicine, Chicago

In summer of 2003, the federal government and the state of Illinois filed suit against three Chicago medical centers for allegedly falsifying the health status of people waiting for liver transplants in the late 1990s. Waiting lists for organs are ordered according to various factors, but critical illness moves sick people ahead of the healthier. The suits alleged that doctors said their patients were critically ill when they were not. According to the *Chicago Tribune*, some of the patients at the University of Illinois Medical Center spent weekends at home, one acted the part of a clown at a blood drive, and another was at a restaurant having dinner when he got word that a suitable liver had been located. Authorities alleged that one patient on the list was not even eligible for transplantation (O'Connor 2003). The other medical centers accused were the University of Chicago and Northwestern University.

The accusations originated with Raymond Pollak, M.D., who used to run the abdominal transplant program at the University of Illinois Medical Center. He once went public with his concerns about the way patients were designated as eligible for transplantation. For his troubles, Dr. Pollak says the Dean of the College of Medicine called him in and said: "If the other places are supporting their liver programs this way, what's wrong with doing it that way?" Dr. Pollak is now at another University of Illinois campus and says the Chicago transplant program falsified health status in order to increase revenue and profits. Specifically, he said the university's motive was to reach the threshold number of transplants required in order to qualify for Medicare and Medicaid reimbursement. The Dean has declined comment about the accusations. The University issued a statement saying that

> Our physicians acted at all times with the utmost concern for the welfare of patients very ill with liver disease. We have cooperated over a number of years with the federal government in response to requests for information about our liver transplant program. We are continuing discussions with the government about our program.

The University of Chicago and Northwestern also denied wrongdoing but paid fines ($115K and $24K respectively) to bring the litigation against them to an end. The University of Chicago called the allegations a dispute over records and billing: "All of the patients were accurately diagnosed with live-threatening liver disease and required transplantation to survive." Northwestern also called the charges a dispute about billing: "Our doctors stand by every medical judgment they made." The charges against the University of Illinois Medical Center are still pending.

The ethics of transplantation are by their very nature a public matter. The use of an organ draws in other people, living and dead, and is therefore a matter for social deliberation and consensus. I hope all the allegations are unfounded, though I have no way of knowing about the actions of any of the transplant programs. Misrepresenting the health of patients warps a system designed to strike a balance between those in critical need and other factors, such as time spent waiting for an organ. If there were no shortage of organs, if they could be grown to order at the local Stem Cell Genesis Organ Bank down the street, questions about entitlement and allocation would more or less go away, for those with means anyway. But donors are scarce, and society has put in place a deliberative mechanism to allocate scarce life-saving organs as they become available. The system in place is a fallible system, to be sure, but it does pass certain ethical tests about access and equity (Veatch 2000). Individual physicians are not wiser than this system in deciding which patient ought to get an organ, especially if money is both institutional id and superego.

Can the problem of misrepresentation be brought under control? To some extent, yes. There are apparently standards now in place - that were not in place for the period in which the misconduct is alleged - that reduce the possibility of misrepresentations. These standards rely on clinical data rather than subjective judgments from physicians. I hope these standards do their job and protect the system against overzealous physicians acting to advance the financial well being of ethically tone-deaf institutions. Physicians who deliberately misrepresent health status in order to gain advantage for their institutions are guilty of an ethical crime against people on waiting lists. And that's true no matter if only one or all transplant programs are at work gaming the transplant system.

References

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