



When to declare death raises questions of ethics

By Stephanie Nano Associated Press Writer

NEW YORK — A report on three heart transplants involving babies is focusing attention on a touchy issue in the organ donation field: When and how can someone be declared dead?

For decades, organs have typically been removed only after doctors determine that a donor's brain has completely stopped working. In the case of the infants, all three were on life support and showed little brain function, but they didn't meet the criteria for brain death.

With their families' consent, the newborns were taken off ventilators and surgeons in Denver removed their hearts minutes after they stopped beating. The hearts were successfully transplanted, and the babies who got the hearts survived.

"It seemed like there was an unmet need in two situations," said Dr. Mark Boucek, who led the study at Children's Hospital in Denver. "Recipients were dying while awaiting donor organs. And we had children dying whose family wanted to donate, and we weren't able to do it."

The procedure — called donation after cardiac death — is being encouraged by the federal government, organ banks and others as a way to make more organs available and give more families the option to donate.

But the approach raises legal and ethical issues because it involves children and because, according to critics, it violates laws governing when organs may be removed.

As the method has gained acceptance, the number of cardiac-death donations has steadily increased. Last year, there were 793 cardiac-death donors, about 10 percent of all deceased donors, according to United Network for Organ Sharing. Most of those were adults donating kidneys or livers.

"It is a much more common scenario today that it would have been even five years ago," said Joel Newman, a spokesman for the network.

The heart is rarely removed after cardiac death because of worries it could be damaged from lack of oxygen. In brain-death donations, the donor is kept on a ventilator to keep oxygen-rich blood flowing to the organs until they are removed.

The Denver cases are detailed in a recent edition of *New England Journal of Medicine*. The editors, noting the report is likely to be controversial, said they published it to promote discussion of cardiac-death donation, especially for infant heart transplants.

They also included three commentaries and assembled a panel discussion with doctors and ethicists. Many of the remarks related to the widely accepted "dead donor rule" and the waiting time between when the heart stops and when it is removed to make sure that it doesn't start again on its own.

In two of the Denver cases, doctors waited only 75 seconds; the Institute of Medicine has suggested five minutes, and other surgeons use two minutes.

State laws stipulate that donors must be declared dead before donation, based on either total loss of brain function or heart function that is irreversible. Some commentators contended that the Denver cases didn't meet the rule since it was possible to restart the transplanted hearts in the recipients.

"In my opinion, it's an open-and-shut case. They don't have irreversibility, and they don't have death," said Robert Veatch, a professor of medical ethics at Georgetown University.

But others argue the definition of death is flawed, and that more emphasis should be on informed consent and the chances of survival in cases of severe brain damage.