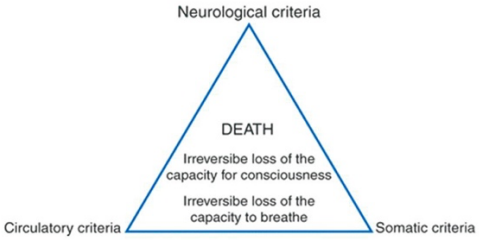
Ethical Issues at the End of Life I

Ethical issues	Definition
Ordinary / Extraordinary Means	*Saving life is not obligatory, if doing so would be excessively burden-some (e.g. costs, pain) or disproportionate in relation to the expected benefits*
Double Effect	*Permit to cause harm as a side effect (or "double effect") of bringing about a good result even though it would not be permissible to cause such a harm as a means to bringing about the same good end*
Coma	Person **lacks both awareness and wakefulness** • Damage reticular activating system OR bilateral cortical damage
Vegetative ***unresponsive wakefulness syndrome"*** **(UWS)**	• Widespread cortical damage • **Awake/arousable** (open eyes, sleep-wake cycle preserved) ○ Basic reflexes, reflexive to loud stimuli or pain • **BUT no signs of awareness** = does not respond to visual/auditory stimuli + no emotions/cognition expressed • vegetative state for 4 weeks = "continuing" / for 6 months = "permanent"
Locked in syndrome	**Body is paralysed*** (some eye movements preserved) but the patient **remains fully consciousness and aware** (usu. after CVA)

Defining Death

- ***Death diagnosis*** = irreversible loss of the capacity for consciousness and capacity to breathe.
- ***Made by*** intensivist, nominated doctor not part of organ transplant or retrieval team
  - After death, retrieval team may re-intubate to prevent aspiration and ensuing pulmonary damage, insufflation with 100% oxygen is permitted
  - Avoid cardiac compressions / mechanical ventilation ***until after*** commencing organ retrieval surgery
- Death diagnosed using 3 different sets of criteria;



- Additional minimum observation periods are required to diagnose death using different criteria.

Death signs

- Massive cranial and/or cerebral destruction
- decapitation
- massive truncal injury incompatible with life
- incineration
- rigor mortis
- hypostasis
- decomposition
- fetal maceration

Dx of cardioresp. arrest or COMA

Cessation of circulation is the basis for diagnosis of death.

1. **5 min observation of maintained cardiorespiratory arrest** [Observation not <2 mins and not >5 mins] OR **5 min apnoea test** (if coma)
2. **Absence of circulation** (i.e. absent pulse or arterial pressure for ≥2 mins)
3. **Absent skin perfusion**
4. **immobility:**
   - Loss of capacity for consciousness
   - absence of pupillary response to light
   - absence of corneal reflex
   - absence of motor response to supra-orbital pressure
   - Loss of capacity to breathe

Euthanasia "good death"

- Intentional act of one person to end the life of another person to relieve that person's suffering.
- Euthanasia is illegal in **all Australian States and Territories,** ➔ person may be charged w/ murder, manslaughter or assisting suicide.
- **Voluntary e:** performed at request of a competent person
- **Non-voluntary e**: performed when person is incompetent
- **Involuntary e:** performed when the person is competent, but;
  - has not expressed the wish to die, or
  - has expressed a wish not to die.

Suicide

- **Suicide** = intentional act of killing oneself (now legal in Australia)
- **Assisted s.** = person intentionally kills themselves with assistance of another (who provides knowledge or means to do it).
  Assisted suicide is illegal in ***all*** *Australian States and Territories, exc. for Victoria*
- **Physician-assisted s.** = doctor assists patient to commit suicide.
  - ***Issue w/***

Expressing 'futility of Rx'

Using language that describes the treatment as:

- "not being beneficial",
- "over- burdensome", or
- "not in the patients best interests"

Enables clinicians to provide a clear message that the decision is about the effectiveness of the treatment, **NOT** the person's worth.

	Voluntary assisted dying (VAD act 2017) (**currently Vic, WA – but Tas, SA, Qld by 2023**) *If ≥18, competent w/ incurable/advanced disease/imminent death*	
	Main point	**Cons**
Stakeholders	Patient, doctor, family (next of kin)	
Respect for autonomy	• Respecting patient free choice in decision making. • A professional responsibility to respect patients' wishes	The sanctity of life overrides individual autonomy
Beneficence	***Compassionate act that*** relieves suffering and permits the patient control in decision making at the end of life	Assisted death constitutes abandonment by the medical profession
Non-maleficence	Refusal/inability to relieve suffering and address patients requests is harmful to the doctor-patient relationship	Assisted dying is harmful to the doctor- patient relationship & integrity of medical profession in society
Justice	Regulatory safeguards ensure that vulnerable members of society are not harmed by assisted dying.	Vulnerable groups in society may be compelled to request assisted death

End of Life II Organ donation and transplantation: some ethical issues

Ethical issues raised by organ procurement for transplantation

Organ transplantation is an effective treatment for organ failure (**beneficence, non-maleficence**)

"Two pathways, DCD and DBD raise different ethical issues" = **DCD issue w/ who consents to AM interventions and how soon person dies**

Dead Donor Rule:	Benefits of organ donation	Consent & Organ donation challenges
Organ donors must be dead before retrieval of organs **Why the DD rule?** • Protect vulnerable (avoid view of humans being organ banks) • Respect human life • **Separates organ retrieval from murder** • Promotes social trust in donation	*Act of ***altruism, solidarity & community reciprocity*** to benefit those in need • ***To donors*** whose wishes are respected • ***To families*** who glean some small comfort from donation • ***To individuals*** who receive transplants – extend life expectancy • ***To the public*** regarding social solidarity assoc. w/ donation-transplantation program	• Patient/donor's wishes unclear? (**limits of patient autonomy**,) (a) Not on organ donor register (b) Had opted in but family say patient had changed their mind • Conflict amongst family members? (**importance of family wishes**) (a) One parent is in favour of donation, the other opposed (b) Patient is on organ donor register, but family are opposed (c) Family are too distressed to even talk about organ donation • **How informed is the consent anyway? (ambiguity over whose decision it is**) (a) Understanding difference between DBD and DCD?

Ethical and legal criteria for determining death on brain and circulatory criteria

Death cause	Legal requirement	Benefits
1. ***Irreversible cessation of all brain function***	**Human Tissue Act 1983** allows next of kin to make decisions for donor as patient is formally dead even if circulation intact	Since circulation remains, gives plenty of time to: • organise organ donation • give family time to grieve w/ patient
• ***Irreversible cessation of blood circulation***: ○ Apnoea (5min) ○ immobility ○ absent pulse/intra-arterial pressure (≥2 mins) ○ absent skin perfusion *Not reversible if circulation reversed by: • **Auto-resuscitation** (Lazarus phenomenon) or • **CPR** [usu. not done as must obtain legal consent from pt/family to avoid the allegation of assault) • ***NB: heart may still display conduction activity 38 mins after death**	***Guardianship Act 1987 (NSW)*** permits substitute consent (by next of kin) ***ONLY*** for treatments that 'promote or maintain the health and well-being' of patient • This is difficult as **ante-mortem interventions optimise organ quality for donation**, rather than benefiting patient's health (who gets to decide then?) – would giving consent be murder? • Cannot utilise Human tissue act as patient NOT dead yet	• More ethically acceptable to increase organ availability • Provides more organ donation opportunities after death AM interventions: • ***Cannulating the femoral arteries to enable rapid access for cooling solutions? [requires consent]*** • ***Giving heparin to promote circulation when BP drops during the dying process? [requires consent]*** • *Giving inotropes and other drugs to maintain patient/donor until donation can be scheduled [permitted in NSW w/o consent]* • *Taking blood for cross matching [permitted in NSW w/o consent]* • *Delaying withdrawal of ventilation to allow time for all of the donation-associated tasks to be completed (may be hours, 24 +)? [permitted in NSW w/o consent]*

Ethical issues including scarcity, waiting lists and transplant tourism

NHMRC *Ethical Guidelines for organ transplantation*: MAIN Allocation issues

Eligibility:

1) **NO discrimination** against: age, *race*, *cultural and religious belief*, *gender*, *relationship status*, *sexual preference*, *disability*, low SES
   a. Allow for transplant regardless of **past lifestyle (e.g.** liver failure if previously alcoholic)
2) **Factors to consider**:
   a. severity of illness and urgency/need for transplant
   b. likelihood of good outcome
   c. able to adhere to ongoing Rx
3) **Gender inequalities** (females greater self-sacrifice and less likely to receive, but have better health outcomes due to improved compliance)

1) Emphasise the act of organ donation is altruistic, promoting community solidarity and reciprocity
2) Aim to **maximise scarce commodity**
   a. Give young healthier organs to younger patient expected to have a longer LE
   b. Open communication between recipients, families, medical staff
3) **Protect Privacy** (both donors and recipients)
4) **Thinking of Recipient** (uphold their autonomy, well-being and minimise harm)

   → their decision to reject a transplant should **NOT** affect their position on waiting list
5) Promote ***transparency and be open to scrutiny about transplantation activities***
   a. Promotes social trust in donation

Increasing donation

- **Incentives** e.g. Israel covers funeral costs
- **Markets** e.g. Iran
- **Coercion** e.g. Taiwan – couple health staff with similar views to potential donor families
- **Force e.g.** China organ harvesting
- **Opt-out organ donation system** (Spain)
- Abandon **dead donor rule → increase exploitation of the vulnerable (low SES, poor health literacy, desparate)**

Transplant tourism

(human rights abuses & maleficence)

- ***Poorly documented***
- Worse medical outcomes
- **Exploitation of** living donors (usu. males needing money or who are misled – kidneys grow back)
- ***Crimes against humanity***: murdered prisoners
- Aus. Citizens can return home with transplanted organ w/o criminal charges