
 Department of Corrections and Community Supervision DIRECTIVE	TITLE Incarcerated Individuals as Organ Donors		NO. 4330
			DATE 04/29/2022
SUPERSEDES DIR #4330 Dtd. 03/25/19	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

I. BACKGROUND: It is the Department's policy to assure that medical procedures are performed on competent incarcerated individuals only with informed consent, and that such procedures minimize disruption to facilities and use State resources only for medically necessary care for incarcerated individuals.

Organ donation differs from other medical procedures in that it does not benefit the donor's health. Thus, it raises issues similar to those raised by incarcerated individual participation in research.

II. POLICY

A. Criteria for Approval: Because it may not be possible to assure informed consent for organ donation from someone who is incarcerated, and because the risk posed by the potential organ donor to staff or the public must be carefully assessed, an incarcerated individual may only be permitted to serve as an organ donor as follows:

1. Living Donors
 - a. For an immediate family member for whom no other acceptable donor can be identified; and
 - b. With approval of the Commissioner, after reviewing the recommendation of the Deputy Commissioner/Chief Medical Officer.
2. Brain Death
 - a. In circumstances when an incarcerated individual is declared brain dead, and the family, if any, wishes to pursue organ donation, organs can be harvested from the incarcerated individual pursuant to a Court Order obtained by the family.

For the purposes of this policy, immediate family shall consist only of parents, siblings, children, and spouse. In these cases, the medical advantage from the closeness of the relationship is particularly important.

B. Exclusions

1. Incarcerated individuals who are not competent to give consent cannot be approved to be organ donors.
2. Autopsy is required by statute in all cases of incarcerated individual deaths. The State has responsibility to assure society that no incarcerated individual death is in any way related with providing donor organs.

3. Incarcerated individuals are not allowed to be blood donors. Because of the risk of blood-borne communicable disease in incarcerated individuals, the U.S. Food and Drug Administration does not allow donations of blood from incarcerated individuals.
- C. Costs: All costs associated with incarcerated individual organ donations must be borne by some identified responsible party other than the Department. This includes the cost of incarcerated individual movement and of security. Such arrangements are to be agreed upon in writing in advance.
- D. Place of Donation: All donor procedures must occur within the State of New York; any inpatient procedures on the donor must occur in an accredited hospital which is willing to comply with the security requirements of the Department.

III. PROCEDURE

A. Living Donors

1. Any incarcerated individual wishing to become an organ donor should be made aware of this policy. Application must be made by the incarcerated individual to the Deputy Commissioner/Chief Medical Officer.
2. An assessment of the potential risk to staff and the public posed by the potential organ donor on any trips outside the facility will be requested from the Office of Special Investigations as well as the Director of Classification and Movement. A verification of identity and relationship to the incarcerated individual will also be completed by the Office of Classification and Movement. A report and recommendation from the Office of Special Investigations will be sent to the Deputy Commissioner for Correctional Facilities. The Deputy Commissioner for Correctional Facilities will review and discuss with the Deputy Commissioner/Chief Medical Officer.
3. The Deputy Commissioner/Chief Medical Officer will recommend that the Commissioner grant approval only after being satisfied that all conditions noted above are met.
4. If approval is granted by the Commissioner, the Deputy Commissioner/Chief Medical Officer will send a letter to the incarcerated individual advising of the approval with a copy to the Supervisor of Utilization Management (SUM).
5. The SUM will maintain a log of all currently incarcerated individuals who have been approved to be an organ donor.
6. The Senior Utilization Review Nurse (SURN) assigned to the facility in which the incarcerated individual resides will update the problem list with the code V590 for "Approved Organ Donor."
7. The SURN will monitor the progression of the donation process until the donation is completed, or the incarcerated individual is released from DOCCS custody. In the event that an approved incarcerated individual is transferred to another HUB, the sending HUB's SURN will notify the receiving HUB's SURN of the incarcerated individual's donor status.

8. The SURN will notify the Deputy Commissioner/Chief Medical Officer, the Facility Health Services Director at the facility in which the incarcerated individual resides, and the SUM in advance of any actual organ donation by the incarcerated individual.
9. The SURN assigned to the facility in which the incarcerated individual resides will update the problem list with the code V561 for "Organ Donation."

B. Brain Death

1. With a Court Order obtained by the incarcerated individual's family, organs can be harvested from the incarcerated individual.
2. A Court Order is required regardless of any prior organ donor approval (either signed by the incarcerated individual or from the family of the deceased incarcerated individual) because of the risk that this could be perceived to result in inadequate care of a seriously ill incarcerated individual or inadequate determination as to the cause of an incarcerated individual's death. Court involvement avoids even the appearance of any impropriety.