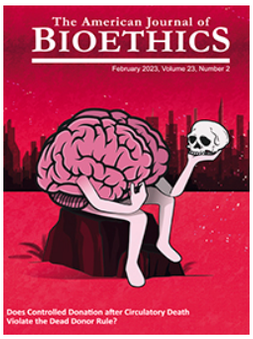

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OPEN PEER COMMENTARIES

Changing the Focus in the Donation After Circulatory Death Debates

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In their target article, Nielsen Busch and Mjaaland (2023) address a longstanding debate within the bioethics and organ transplantation community regarding whether controlled donation after circulatory death protocols (cDCD) violate the dead donor rule. Nielsen Busch and Mjaaland's implicit premise is that much of the resistance to cDCD is, in fact, based on concerns about the violation of the dead donor rule. Thus, the authors take great pains to illustrate that, because organ recovery does not cause the death of the donor, cDCD protocols do not violate the dead donor rule.

In this Open Peer Commentary, clinicians (JNB, PAC, and MN) partner with professionals from an organ procurement organization (RO, MPC) to argue that this debate is largely disconnected from the concerns of bedside clinicians and organ procurement professionals managing potential donors and their families. Drawing from experiences in the intensive care units (ICUs) of both small community hospitals and large teaching hospitals with transplant centers in California, we highlight how challenges that are adjacent to concerns about the dead donor rule are commonly implicated in resistance to cDCD and the subsequent loss of potentially recoverable organs. These challenges can occur even when bedside clinicians are proponents of organ donation and feel a sense of duty to support organ donation when it is the final autonomous wish of a patient.

First, we acknowledge that a proportion of clinicians are concerned about death and cDCD protocols. However, in our anecdotal experience, clinicians who question cDCD on these grounds are largely unaware and unconcerned about the dead donor rule *per se*, at least as it is explicated in the target article. Our observation is supported by a careful reading of relevant qualitative and survey studies (Curley et al. 2007; D'Alessandro, Peltier, and Phelps 2008; Wolf 1994; Hart, Kohn, and Halpern 2012). Rather, these clinicians are concerned with a suite of interrelated issues surrounding the death of the donor: whether dying via a cDCD protocol causes more suffering for the donor or family as compared to earlier withdrawal of life-sustaining treatment; how to manage end-of-life care in the setting of imminent organ recovery; how to manage donors who are not declared dead after withdrawal of life-sustaining treatments in the operating room and must return to a hospital floor to continue comfort care; and fears of accusations of wrongful death in the setting of a complex and changing area of practice. Although the conceptual clarity achieved in the target article is commendable, it does little to assuage such concerns. Additionally, the bioethics community has done little to guide organ procurement professionals on how to manage the uncertainties of clinicians who have these concerns, especially when potentially recoverable organs are on the line (Hart, Kohn, and Halpern 2012; Cappucci et al. 2023).

Second, in cDCD donation, there is an interim period, after a decision has been made to donate but prior to withdrawal of life-sustaining treatments and organ recovery, that may require days of ICU-level care. In our anecdotal experience, potentially recoverable organs may be lost during this period due to the ambiguous relationships among the primary clinical team, the organ procurement team, and the hospital itself. These ambiguities—which variously manifest as administrative, psychosocial, or ethical issues—pose challenges for organ procurement professionals that are largely undescribed in existing professional guidance (MacDonald and Shemie 2017; Verheijde, Rady, and McGregor 2007; Society of Critical Care Medicine 2001; American Society of Anesthesiologists 2017;

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American Medical Association n.d.). One category of issues relates to resource management, such as how to prioritize cDCD donors when ICU beds are in short supply, how to proceed when there is no physician willing to manage end-of-life care and declare death in the operating room due to time constraints, or how to proceed when there is no available space for organ recovery (e.g., an operating room or procedure room) due to the clinical volume of the hospital. Another category of issues relates to intrusions from the local hospital, such as how to manage objections from outside the primary clinical team (e.g., the hospital's ethics committee), how to proceed when there is a lack of local hospital policy (e.g., for patients who lack surrogate decision makers), or what to do when the patient's code status orders (e.g., a Do Not Resuscitate/Do Not Escalate order) are defined in hospital policy such that they have a negative impact on organ suitability. While the target article primarily focuses on justifying organ recovery itself, much of the resistance to cDCD that we have encountered arises during the period immediately preceding organ recovery.

The challenges we highlight in this commentary illustrate the important differences between the theoretical arguments advanced by bioethicists and the pragmatic challenges faced on the ground by clinicians and organ procurement professionals in the United States. Additionally, the challenges we have laid out here have broad implications for the cDCD pathway: they apply not only to the recovery of the abdominal organs (the focus of the target article), but also to the thoracic organs (heart and lungs). To our knowledge, these challenges have only been explored to a limited degree in the existing bioethics literature.

If the bioethics community is interested in increasing the pool of available organs via the cDCD pathway, we argue that the pragmatic issues raised in this commentary should be addressed alongside the theoretical issues addressed in the target article. Thus, our commentary functions as a call to the bioethics community to partner with the organ procurement community to: (a) pursue empirical research using social science methods to better understand barriers to cDCD, and (b) develop strategies to improve collaboration among clinicians, organ procurement professionals, and local hospitals, especially during the critical period after a decision to donate, but prior to the withdrawal of life-sustaining treatments.

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REFERENCES

American Medical Association. n.d. Code of medical ethics opinion 6.1.2: Organ donation after cardiac death. Accessed November 3, 2022. https://www.ama-assn.org/delivering-care/ethics/organ-donation-after-cardiac-death.

American Society of Anesthesiologists. 2017. "Statement on controlled organ donation after circulatory death." https://www.asahq.org/standards-and-guidelines/statement-on-controlled-organ-donation-after-circulatory-death.

Cappucci, S. P., W. S. Smith, R. Schwartzstein, D. B. White, S. L. Mitchell, and C. R. Fehnel. 2023. End-of-life care in the potential donor after circulatory death: A systematic review. *The Neurohospitalist* 13 (1):61–8. doi:10.1177/19418744221123194.

Curley, M. A. Q., C. H. Harrison, N. Craig, C. W. Lillehei, A. Micheli, and P. C. Laussen. 2007. Pediatric staff perspectives on organ donation after cardiac death in children. *Pediatric Critical Care Medicine: A Journal of the Society of Critical Care Medicine and the World Federation of Pediatric Intensive and Critical Care Societies* 8 (3):212–9. doi:10.1097/01.PCC.0000262932.42091.09.

D'Alessandro, A. M., J. W. Peltier, and J. E. Phelps. 2008. Understanding the antecedents of the acceptance of donation after cardiac death by healthcare professionals. *Critical Care Medicine* 36 (4):1075–81. doi:10.1097/CCM.0b013e3181691b2b.

Hart, J. L., R. Kohn, and S. D. Halpern. 2012. Perceptions of organ donation after circulatory determination of death among critical care physicians and nurses: A national survey. *Critical Care Medicine* 40 (9):2595–600. doi:10.1097/CCM.0b013e3182590098.

MacDonald, S. I., and S. D. Shemie. 2017. Ethical challenges and the donation physician specialist: A scoping review. *Transplantation* 101 (5):14. doi:10.1080/15265161.2022.2040646.

Nielsen Busch, E. J., and M. T. Mjaaland. 2023. Does controlled donation after circulatory death violate the dead donor rule? *The American Journal of Bioethics* 23 (2):4–11. doi:10.1080/15265161.2022.2040646.

Society of Critical Care Medicine. 2001. Recommendations for nonheartbeating organ donation: a position paper by the Ethics Committee, American College of Critical Care Medicine, Society of Critical Care Medicine. *Critical Care Medicine* 29 (9):1826–31. doi:10.1097/00003246-200109000-00029.

Verheijde, J. L., M. Y. Rady, and J. L. McGregor. 2007. The United States Revised Uniform Anatomical Gift Act (2006): New challenges to balancing patient rights and physician responsibilities. *Philosophy, Ethics, and Humanities in Medicine: PEHM* 2 (1):19. doi:10.1186/1747-5341-2-19.

Wolf, Z. R. 1994. Nurses' responses to organ procurement from nonheartbeating cadaver Donors. *AORN Journal* 60 (6):968–81. doi:10.1016/S0001-2092(07)68473-7.