

The Wall Street Journal ¹

NOVEMBER 13, 2007

Kidney Shortage Inspires A Radical Idea: Organ Sales As Waiting List Grows, Some Seek to Lift Ban; Exploiting the Poor?

By LAURA MECKLER

Amid a severe kidney-donor shortage, an idea long considered anathema in the medical community is gaining new currency: payments for people willing to give up a kidney.

One of the most outspoken voices on the topic isn't a free-market libertarian, but a prominent transplant surgeon named Arthur Matas.

Dr. Matas, 59 years old, is a Canadian-born physician best known for his research at the University of Minnesota. Lately, he's been traveling the country trying to make the case that barring kidney sales is tantamount to sentencing some patients to death.

"There's one clear argument for sales," Dr. Matas told a gathering of surgeons earlier this year. The practice, currently illegal in the U.S., "would increase the supply of kidneys, save lives and improve the quality of life for those with end-stage renal disease."

The doctor supports a regulated market only for kidneys, since live donors can give one up and survive without excessive health risks. (Transplants of other organs, such as livers and lungs, pose greater complications to a living donor.) And Dr. Matas doesn't rule out financial incentives for the families of deceased donors.

Among his opponents on the issue is a friend and colleague, Francis Delmonico. A Harvard University professor who has played a central role in shaping national transplant policy, the 62-year-old physician has several objections to organ sales. He fears such a system would attract the poor, vulnerable and unhealthy, and that altruistic donations might wither away.

"Payments eventually result in the exploitation of the individual," says Dr. Delmonico, who also worries about encouraging black-market sales both here and in developing countries. "It's the poor person who sells."

The two men, and their different perspectives, represent one of many intensifying battles in medicine — a field where ethics and efficacy sometimes collide. At the core of the kidney-sale debate are complex issues surrounding transplantation. Given the imbalance of supply and demand, physicians and policy makers are forced to ration what's available while considering more radical ideas for obtaining organs.

The federal ban on organ sales dates back to 1983, when Virginia physician Dr. H. Barry Jacobs proposed buying kidneys — mostly from the indigent — and selling them to whomever could afford to buy. His plan was met with widespread outrage. In Congress, then-Rep. Al Gore (D., Tenn.) introduced legislation banning the sale of organs. The bill became law in 1984.

Since then, the gap between demand and supply has widened. In 1988, the first year for which data are available, there were fewer than 14,000 patients waiting for a kidney transplant and about 7,000 deceased-donor kidneys. Today, the waiting list has grown more than fivefold — an increase fueled partly by higher rates of diabetes — but the number of deceased-donor kidneys has only inched up. Some of the gap is made up by living donors, but demand still far outstrips supply. Last year, about 4,400 people died on the waiting list.

More on Organ Donations

[For Religious Group, True Charity Begins On Operating Table](#)

[Page One: Kidney Swaps Seen as Way to Ease Donor Shortage 10/15/07](#)

[Page One: More Kidneys for Transplants May Go to Young 3/10/07](#)

The issues for and against sales have been debated in many medical forums across the country, as surgeons and others in transplantation consider whether the U.S. should experiment with some sort of regulated organ market.

Appearing at a January meeting of the American Society of Transplant Surgeons, Drs. Matas and Delmonico each presented their thoughts on the issue. Afterwards, the audience was asked to take sides with a show of hands. The surprising result: A majority indicated they would support a trial to determine the viability of a U.S. organ market.

At an August conference in New York, Marian A. O'Rourke, a nurse and former president of the North American Transplant Coordinators Organization, listened to Dr. Matas. She, too, found herself persuaded.

"Every time I hear this talk, it makes me think a little bit more about it and question why I had such a gut-wrenching reaction against it," she told him after his presentation.

"You need to hear the talk a few more times," Dr. Matas quipped back.

Kidney sales are common in some developing countries, including Pakistan and the Philippines, though they are technically against the law. Iran is the only country with a government-sanctioned market. Outside medical observers say that sellers in these places are often exploited. Much of the fees go to unscrupulous brokers, for instance, and there is little screening to ensure donors are healthy enough to withstand surgery.

At the moment, there appears to be little, if any, political support so far for changing U.S. law. Still, Dr. Matas and his growing ranks of allies hope discourse and research might eventually lead to a change in policy.

Under the current system, patients who need a kidney transplant are put on a waiting list for kidneys from deceased donors, which are handed out based on geography, waiting time and various medical factors. Waits vary across the country, and easily top five or six years in many areas. Those who have a willing, living donor can bypass the list altogether and get transplants right away. But the donors must give their kidneys freely and attest that no one is paying them to do so.

Dr. Matas envisions a plan where donors would be able to sell their kidneys, regardless of motivation. A set price, he says, could be established by the government and paid by the recipient's insurance, typically Medicare. The kidney would go to whoever is at the top of the waiting list, rich or poor. Potential sellers would be medically and psychologically screened to make sure they are suitable donors. Afterwards, they would be tracked by the government to see what impact the kidney sale had on their life and overall health.

"It's a concept that takes a little while to sink in," Dr. Matas acknowledges. "When you first hear about it, it doesn't sound right."

While ethical questions loom — especially those about exploiting the poor — Dr. Matas maintains that sales shouldn't be written off as taboo.

His logic: The poor might be the most likely to sell a kidney. But if it is safe enough for friends or family to donate out of a sense of compassion or obligation, why should giving up a kidney be banned for someone motivated by money?

Some medical ethicists are coming around. These include Arthur Caplan, a noted bioethicist at

the University of Pennsylvania who once debated this issue with Dr. Matas. He had been concerned that poor people would sell “under desperate and trying circumstances,” and that wealthy types would find a way to get around a regulated market to get a kidney faster.

Now, he says, “I’ve started to think [a trial is] at least worth a look.”

The idea still faces plenty of opposition. Last year, for instance, the Institute of Medicine, a branch of the National Academies of Science, explicitly rejected payments of any kind. They cited objections similar to Dr. Delmonico’s.

The National Kidney Foundation was so strongly against kidney sales that its director objected when a Washington think tank sought to host a panel discussion on the issue last summer. “NKF is unwavering in its long-established opposition to any initiative that makes organs a commodity and its aversion to any scheme of buying and selling organs,” the group’s chief executive, John Davis, wrote.

Dr. Delmonico, meanwhile, has worked to maintain the status quo — and his credentials carry substantial weight. Until last June, he was president of the United Network for Organ Sharing. Under direction of the federal government, the network runs the nation’s organ-distribution system. Dr. Delmonico now serves as medical director of the Transplantation Society, an affiliate of the World Health Organization.

Despite their differences over organ sales, Drs. Matas and Delmonico have much in common. Both have been kidney-transplant surgeons since the late-1970s, when the field was young and all the leading surgeons knew one another. Dr. Matas’s wife sent gifts when Dr. Delmonico’s grandchildren were born. Dr. Delmonico was quick with recommendations for the best Italian food in Boston’s North End when Dr. Matas came to town to visit.

Dr. Delmonico has used his influence to help kill efforts on the kidney-selling front. In 2003, several medical groups, including the American Medical Association and the United Network for Organ Sharing, endorsed legislation to allow pilot studies of payments to families that donate a loved one’s organs after death.

Dissent was strong, including from Dr. Delmonico, who testified before Congress on behalf of the National Kidney Foundation. “The sale of bodies or body parts would undermine the fundamental values of our society,” he told the House Energy and Commerce Committee. The bill went nowhere.

The federal government has since established a program to reimburse living donors for expenses including travel, lodging and meals. Today, more than a dozen states offer a tax deduction of up to \$10,000 to help defray expenses. Until recently, outright sales have remained a largely unpopular subject.

In some ways, Dr. Matas is an unlikely change agent. He is best known for his early research on the use of cyclosporine, an important post-transplant medication used to prevent organ rejection.

Completing his residency at the University of Minnesota in 1979, he gravitated toward transplant, attracted to the excitement that coursed through the developing field. Researchers and clinicians were working to improve shaky success rates, which saw only about half of transplanted organs survive a year.

“The opportunity to do clinical research to try and improve that was phenomenal,” he says. “I really didn’t set out to become a crusader.”

He didn’t think much about organ sales, going along with the orthodoxy in opposition. But then the rising demand for transplants — and a shortage of kidneys — began to take its toll on Dr. Matas. Describing the wait-list process to patients was particularly rough. “I used to tell them a

year, then two or three years, then four or five years. Right now in Minnesota, I'm telling them six years."

This was on his mind in 2002, when he traveled to Miami and heard a talk by philosopher Janet Radcliffe Richards of University College London. She posited that none of the arguments against organ sales made sense. Her lecture got him to further examine his own beliefs.

His first step was to ask whether kidney sales would be financially viable. If not, he felt, the ethics were irrelevant.

In February 2004, he and a colleague published a paper calculating that the government could spend \$95,000 to evaluate and compensate a donor and still break even. The reason: Medicare pays for dialysis for all Americans who need it. Transplant recipients no longer need the costly procedure, which translates to huge savings.

His paper suggested that compensation to donors include health and life insurance as well as cash, given the risks of the surgery. Initially, he called the people who would sell their kidneys "vendors."

"A significant payment could be made to the vendors without increasing the overall costs to the health-care system," the paper, published in the *American Journal of Transplantation*, concluded.

In the same issue, Dr. Delmonico and another colleague sought to choke off the debate. Their opinion piece cited research that found some kidney sellers in India suffered postoperation health problems. And despite the cash infusion, their finances didn't necessarily improve after the operation. They said sales could alter the doctor-patient relationship, with doctors pressured to approve donors because money was on the line.

The debate in the medical literature was on. A few months later, Dr. Matas submitted a letter to the journal's editor, rebutting Dr. Delmonico's main points. The poor are more likely to be sellers, he wrote, but society has no problem letting them take on other dangerous jobs. And if the body is so sacred, why does the U.S. allow egg and sperm sales?

In late 2004, Dr. Matas, writing in the same publication, offered a full-fledged argument in favor of sales. He said that a regulated U.S. market could counter unregulated ones in other countries.

Dr. Matas was elected president of the American Society of Transplant Surgeons in May of 2006. He continued his debate with Dr. Delmonico. At the New York transplant conference this summer, Dr. Delmonico argued that problems found abroad would be inevitable here, too: young people forced by their poverty-stricken families to sell a kidney, out-of-control bidding for the best organs.

"The person is not left better off, but they're left with one less kidney."

Dr. Delmonico, who opened the conference as keynote speaker, had left by the time Dr. Matas addressed the group later that day. Despite several years of sparring at conferences and in journals, the pair had never discussed kidney sales one-on-one — until this fall.

Two months ago, they found themselves at the same conference in Minneapolis, and slipped off to an empty meeting room at the Hyatt Regency. For more than an hour, they talked about their differences and found some common ground. They agreed that the U.S. should eliminate disincentives to kidney donation (such as barriers to health insurance for donors) and that all donors should be properly monitored after surgery.

But they couldn't bridge the divide on sales. Dr. Delmonico is convinced that the U.S. would be stuck with a free-for-all if the door to sales is allowed to open at all. "[Dr. Matas says] 'You regulate it'; I say, 'It's impossible to regulate it.'"

"We're just friends," says Dr. Matas, "who have agreed to disagree."

Write to Laura Meckler at laura.meckler@wsj.com

Notes

¹<http://online.wsj.com/public/article/SB119747536833823793.html>