

LAWNUM: RA07170
DATE : 01/07/92
TITLE : AN ACT AUTHORIZING THE LEGACY OR DONATION OF ALL OR PART OF
A
HUMAN BODY AFTER DEATH FOR SPECIFIED PURPOSES

TEXT :

S. No. 76
H. No. 11281

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second
day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT No. 07170]

AN ACT AUTHORIZING THE LEGACY OR DONATION OF
ALL OR PART OF A HUMAN BODY AFTER DEATH FOR
SPECIFIED PURPOSES

Be it enacted by the Senate and House of Representatives of
the Philippines in Congress assembled:

SECTION 1. Title. - This Act shall be known as the "Organ
Donation Act of 1991".

SEC. 2. Definition of Terms. - As used in this Act the
following terms shall mean:

a) "Organ Bank Storage Facility" - a facility licensed,
accredited or approved under the law for storage of human
bodies or parts thereof.

b) "Decedent" - a deceased individual, and includes a
still-born infant or fetus.

c) "Testator" - an individual who makes a legacy of all or
part of his body.

d) "Donor" - an individual authorized under this Act to
donate all or part of the body of a decedent.

e) "Hospital" - a hospital licensed, accredited or approved
under the law, and includes a hospital operated by the

Government.

f) "Part" - includes transplantable organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of the human body.

g) "Person" - an individual, corporation, estate, trust, partnership, association, the Government or any of its subdivisions, agencies or instrumentalities, including government-owned or-controlled corporations; or any other legal entity.

h) "Physician" or " Surgeon" - a physician or surgeon licensed or authorized to practice medicine under the laws of the Republic of the Philippines.

i) "Immediate Family" of the decedent - the persons enumerated in Section 4(a) of this Act.

j) "Death" - the irreversible cessation of circulatory and respiratory functions or the irreversible cessation of all functions of the entire brain, including the brain stem. A person shall be medically and legally dead if either:

1) In the opinion of the attending physician, based on the acceptable standards of medical practice, there is an absence of natural respiratory and cardiac functions and, attempts at resuscitation would not be successful in restoring those functions. In this case, death shall be deemed to have occurred at the time these functions ceased; or

2) In the opinion of the consulting physician, concurred in by the attending physician, that on the basis of acceptable standards of medical practice, there is an irreversible cessation of all brain functions; and considering the absence of such functions, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such natural functions. In this case, death shall be deemed to have occurred at the time when these conditions first appeared.

The death of the person shall be determined in accordance with the acceptable standards of medical practice and shall be diagnosed separately by the attending physician and another consulting physician, both of whom must be appropriately qualified and suitably experienced in the care of such patients. The death shall be recorded in the patient's medical record.

SEC. 3. Person Who May Execute A Legacy. - Any individual, at least eighteen (18) years of age and of sound mind, may give by way of legacy, to take effect after his death, all or part of his body for any purpose specified in Section 6 hereof.

SEC. 4. Person Who May Execute a Donation. -

a) Any of the following persons, in the order of priority stated hereunder, in the absence of actual notice of contrary intentions by the decedent or actual notice of opposition by a member of the immediate family of the decedent, may donate all or any part of the decedent's body for any purpose specified in Section 6 hereof-.

- 1) Spouse;
- 2) Son or daughter of legal age;
- 3) Either parent;
- 4) Brother or sister of legal age; or
- 5) Guardian over the person of the decedent at the time of his death.

b) The persons authorized by sub-section (a) of this Section may make the donation after or immediately before death.

SEC. 5. Examination of Human Body or Part Thereof. - A legacy or donation of all or part of a human body authorizes any examination necessary to assure medical acceptability of the legacy or donation for the purpose(s) intended.

For purposes of this Act, an autopsy shall be conducted on the cadaver of accident, trauma, or other medico-legal cases immediately after the pronouncement of death, to determine qualified and healthy human organs for transplantation and/or in furtherance of medical science.

SEC. 6. Persons Who May Become Legatees or Donees. - The following persons may become legatees or donees of human bodies or parts thereof for any of the purposes stated hereunder:

a) Any hospital, physician or surgeon - For medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

b) Any accredited medical or dental school, college or university - For education, research, advancement of medical or dental science, or therapy;

c) Any organ bank storage facility - For medical or dental education, research, therapy, or transplantation; and

d) Any specified individual - For therapy or transplantation needed by him.

SEC. 7. Duty of Hospitals. - A hospital authorized to receive organ donations or to conduct transplantation shall train qualified personnel and their staff to handle the task

of introducing the organ donation program in a humane and delicate manner to the relatives of the donor-decedent enumerated in Section 4 hereof. The hospital shall accomplish the necessary form or document as proof of compliance with the above requirement.

SEC. 8. Manner of Executing a Legacy. -

a) Legacy of all or part of the human body under Section 3 hereof may be made by will. The legacy becomes effective upon the death of the testator without waiting for probate of the will. If the will is not probated, or if it is declared invalid for testamentary purposes, the legacy, to the extent that it was executed in good faith, is nevertheless valid and effective.

b) A legacy of all or part of the human body under Section 3 hereof may also be made in any document other than a will. The legacy becomes effective upon death of the testator and shall be respected by and binding upon his executor or administrator, heirs, assigns, successors-in-interest and all members of the family. The document, which may be a card or any paper designed to be carried on a person, must be signed by the testator in the presence of two witnesses who must sign the document in his presence. If the testator cannot sign, the document may be signed for him at his direction and in his presence, in the presence of two witnesses who must, likewise, sign the document in the presence of the testator. Delivery of the document of legacy during the testator's lifetime is not necessary to make the legacy valid.

c) The legacy may be made to a specified legatee or without specifying a legatee. If the legacy is made to a specified legatee who is not available at the time and place of the testator's death, the attending physician or surgeon, in the absence of any expressed indication that the testator desired otherwise, may accept the legacy as legatee. If the legacy does not specify a legatee, the legacy may be accepted by the attending physician or surgeon as legatee upon or following the testator's death. The physician who becomes a legatee under this subsection shall not participate in the procedures for removing or transplanting a part or parts of the body of the decedent.

d) The testator may designate in his will, card or other document, the surgeon or physician who will carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the legatee or other persons authorized to accept the legacy may authorize any surgeon or physician for the purpose.

SEC. 9. Manner of Executing a Donation. - Any donation by a person authorized under subsection (a) of Section 4 hereof shall be sufficient if it complies with the formalities of a

donation of a movable property.

In the absence of any of the persons specified under Section 4 hereof and in the absence of any document of organ donation, the physician in charge of the patient, the head of the hospital or a designated officer of the hospital who has custody of the body of the deceased classified as accident, trauma, or other medico-legal cases, may authorize in a public document the removal from such body for the purpose of transplantation of the organ to the body of a living person: Provided, That the physician, head of hospital or officer designated by the hospital for this purpose has exerted reasonable efforts, within forty-eight (48) hours, to locate the nearest relative listed in Section 4 hereof or guardian of the decedent at the time of death.

In all donations, the death of a person from whose body an organ will be removed after his death for the purpose of transplantation to a living person, shall be diagnosed separately and certified by two (2) qualified physicians neither of whom should be:

- a) A member of the team of medical practitioners who will effect the removal of the organ from the body; nor
- b) The physician attending to the recipient of the organ to be removed; nor
- c) The head of hospital or the designated officer authorizing the removal of the organ.

SEC. 10. Person(s) Authorized to Remove Transplantable Organs. - Only authorized medical practitioners in a hospital shall remove and/ or transplant any organ which is authorized to be removed and/or transplanted pursuant to Section 5 hereof.

SEC. 11. Delivery of Document of Legacy or Donation. - If the legacy or donation is made to a specified legatee or donee, the will, card or other document, or an executed copy thereof, may be delivered by the testator or donor, or his authorized representative, to the legatee or donee to expedite the appropriate procedures immediately after death. The will, card or other document, or an executed copy thereof, may be deposited in any hospital or organ bank storage facility that accepts it for safekeeping or for facilitation or procedures after death. On the request of any interested party upon or after the testator's death, the person in possession shall produce the document of legacy or donation for verification.

SEC. 12. Amendment or Revocation of Legacy or Donation. -
a) If the will, card or other document, or an executed copy thereof, has been delivered to a specific legatee or donee,

the testator or donor may amend or revoke the legacy or donation either by:

- 1) The execution and delivery to the legatee or donee of a signed statement to that effect; or
- 2) An oral statement to that effect made in the presence of two other persons and communicated to the legatee or donee; or
- 3) A statement to that effect during a terminal illness or injury addressed to an attending physician and communicated to the legatee or donee; or
- 4) A signed card or document to that effect found on the person or effects of the testator or donor.

b) Any will, card or other document, or an executed copy thereof, which has not been delivered to the legatee or donee may be revoked by the testator or donor in the manner provided in subsection (a) of this Section or by destruction, cancellation or mutilation of the document and all executed copies thereof.

Any legacy made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a) of this Section.

SEC. 13. Rights and Duties After Death. - a) The legatee or donee may accept or reject the legacy or donation as the case may be. If the legacy or donation is of a part of the body, the legatee or donee, upon the death of the testator and prior to embalming, shall effect the removal of the part, avoiding unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin or other persons under obligation to dispose of the body of the decedent.

b) Any person who acts in good faith in accordance with the terms of this Act shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding of this Act.

SEC. 14. International Sharing of Human Organs or Tissues. - Sharing of human organs or tissues shall be made only through exchange programs duly approved by the Department of Health: Provided, That foreign organ or tissue bank storage facilities and similar establishments grant reciprocal rights to their Philippine counterparts to draw human organs or tissues at any time.

SEC. 15. Information Drive. - In order that the public will obtain the maximum benefits from this Act, the Department of Health, in cooperation with institutions, such as the

National Kidney Institute, civic and non-government health organizations and other health related agencies, involved in the donation and transplantation of human organs, shall undertake a public information program.

The Secretary of Health shall endeavor to persuade all health professionals, both government and private, to make an appeal for human organ donation.

SEC. 16. Rules and regulations. -The Secretary of Health, after consultation with all health professionals, both government and private, and non-government health organizations shall promulgate such rules and regulations as may be necessary or proper to implement this Act.

SEC. 17. Repealing Clause. - All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and other presidential issuances inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 18. Separability Clause. - The provisions of this Act are hereby deemed separable. If any provision hereof should be declared invalid or unconstitutional, the remaining provisions shall remain in full force and effect.

SEC. 19. Effectivity. - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,

RAMON V. MITRA
SALONGA
Speaker of the House
of Representatives

JOVITO R.
President of the Senate

This bill which was a consolidation of Senate Bill No. 76 and House Bill No. 11281 was finally passed by the Senate and the House of Representatives on October 24, 1991 and November 20, 1991, respectively.

CAMILO L. SABIO
Secretary General
House of Representatives

DEMAREE J.B. RAVAL
Acting Secretary of the Senate

Approved: January 07, 1992

CORAZON C. AQUINO

President of the Philippines