

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 664



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

More and more Filipinos are becoming afflicted with end-stage organ failure, with organ transplant as the only chance of survival. The National Kidney and Transplant Institute, in its website, states that kidney diseases, especially end-stage renal diseases, are the seventh leading causes of death among Filipinos. Organ transplantation, while universally accepted as a mode of medical treatment to prolong and improve the quality of lives of patients, is limited due to the expense and shortage of donors. Approximately one person dies each week while waiting for organ transplant.

In an effort to encourage and regulate organ donation, the Philippines passed the *Organ Donation Act* in 1991, authorizing the donation of any or all part of human body after death. However, lack of deceased organ donors continues to limit the application of organ transplantation. Some people have invariably resorted to other sources of graft, such as living donors. Nonetheless, organ donation from living donors has been surrounded by ethical issues, including abuse, exploitation, and human trafficking. In the past years, this has become a global problem, with patient-tourists from rich countries travelling abroad to purchase organs, targeting vulnerable populations in resource-poor countries such as the Philippines. In 2004, the World Health Organization called on member states "to take measures to protect the poorest and vulnerable groups from transplant tourism and the sale of tissues and organs." In 2008, the *Declaration of Istanbul on Organ Trafficking and Transplant Tourism* was adopted by States-Parties, highlighting the need for all countries to develop laws and guidelines to govern organ donation and transplantation activities, and to have a transparent regulatory oversight system that ensures donor and recipient safety and the enforcement of standards and prohibitions on unethical practices.

It is imperative therefore that a law be passed seeking to protect, on the one hand, the lives of patients by developing a national system of promoting organ donation from both deceased donors and living donors, and on the other hand, protect living donors from exploitation, abuse, and human trafficking. This bill will ensure the availability of organs and tissues for donation to patients who are in need, while providing stricter regulation and more careful supervision of the practice of organ donation.

In view of the foregoing, the immediate passage of this bill is earnestly requested.



RON P. SALO
KABAYAN Party List

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AN ACT
STRENGTHENING THE HUMAN ORGAN AND TISSUE DONATION AND
TRANSPLANTATION PROGRAM, PROVIDING PENALTIES FOR VIOLATION
THEREOF, AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “Organ Donation Act”.

ARTICLE I
GENERAL PROVISIONS

SEC 2. Declaration of Policy. – It is hereby declared the policy of the State to promote and protect the right of all Filipinos to the highest standard of health. The State shall exert all efforts to provide access to human organs for transplantation for patients with end-stage organ failures in order to prolong and improve the quality of their lives. At the same time, the State reaffirms its obligation to protect the inherent dignity of every human being, and maintains that human organs are beyond the commerce of men. It shall prohibit any commercialization in the handling of organs for transplantation. While encouraging donation of human organs and tissues and respecting the desire of citizens who want to donate organs, the State shall strictly regulate the donation of human organs and tissues in order to protect living donors, especially those from the vulnerable sectors of society, from abuse, exploitation, and human trafficking.

SEC 3. Definition of Terms. – For the purpose of this Act, the following terms shall be defined as follows:

- a) **Advertisement** includes any form of advertising or the promotion of goods, services or ideas through paid or unpaid announcements. It can be in print, broadcast, or electronic media whether to the public generally or to any section of the public or individually to selected persons for the purpose of promoting commercial dealings in human organs, tissues, or parts.

- b) **Allowable reimbursement** refers to the reasonable costs incurred by the donor for organ and tissue donation and transplantation.
 - c) **Brain death** refers to the irreversible cessation of all functions of the entire brain.
 - d) **Commercial dealings** refer to:
 - i. The sale, barter, or supply of human organ, tissue, or part thereof involving valuable consideration in whatever form;
 - ii. Acts involving trafficking of a human organ, tissue, or part thereof through whatever means; and
 - iii. The brokering for sale, barter or supply of a human organ, tissue, or part thereof whether for money or any other consideration in violation of this Act.
 - e) **Death** refers to 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:
 - i. 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 these functions. In this case, death shall be deemed to have occurred at the time these functions ceased; or
 - ii. In the opinion of the consulting physician, concurred in by the attending physician, 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 a person shall be determined in accordance with the acceptable standards of medical practice. The death shall be recorded in the patient's medical record.
- f) **Decedent** refers to a deceased individual.
 - g) **Donor** refers to an individual who voluntarily donates organ, tissue, or part thereof, gratuitously to another who accepts it. The term also refers to an individual authorized in this Act to donate all or part of the body of a decedent.

- h) **Donor allocation scoring system** refers to the national scoring system by which allocation of organs from deceased donors shall be based.
- i) **Graft** refers to an organ that has been removed from the body of an organ donor for transplantation into a recipient.
- j) **Hospital** refers to an institution that is licensed, accredited, or approved by the Department of Health (DOH) devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment and care of individuals from illness, disease, injury or deformity, or in need of obstetrical or other medical and nursing care. The term "hospital" shall also be construed as any building or place where there are installed beds, or cribs, or bassinets for twenty-four (24)-hour use or longer by patients in the treatment of diseases, diseased conditions injuries, deformities, or abnormal physical and mental states, maternity cases, and all institutions such as those for convalescence, sanatoria care, infirmaries, nurseries, dispensaries and such other means by which they may be designated.
- k) **Human organ** refers to the kidney, liver, heart, lung, pancreas, and any other human organ, tissue, or part thereof, including bone marrow, bone, cornea, skin, muscle tissue, and any other transplantable part of a human body.
- l) **Human organ and tissue bank storage facility** refers to a facility licensed, accredited or approved by the DOH under the law for storage of human organs, tissues, or parts thereof.
- m) **Immediate family** refers to either the decedent's legitimate spouse, children, parents, grandchildren, grandparent, or sibling, whether whole blood or half blood, in the order of priority.
- n) **Indigent** refers to an individual who has no visible means of income or whose income is insufficient for the subsistence of his/her family, and identified, listed or certified by the Department of Social Welfare and Development (DSWD) as poor pursuant to the National Household Targeting System for Poverty Reduction.
- o) **Living donor** refers to an individual who is willing to donate an organ, tissue, or part of the body while still alive, and may either be a:
 - i. **Living related donor (LRD)** – a donor who is related to the recipient by blood within the fourth civil degree of consanguinity; or
 - ii. **Living non-related donor (LNRD)** – a donor who is not related to the recipient by blood but who is willing to donate organs, tissues, or parts thereof.

A LNRD is further classified as:

1. *Directed living organ donor* – a donor who has a specific intended recipient to whom the organ shall be donated; or
 2. *Non-directed living organ donor* – a living donor who is willing to donate an organ to any suitable recipient.
- p) **Transplant center** refers to a hospital with transplant facilities duly accredited by the DOH.
- q) **Valuable consideration** refers to any financial gain or benefit but does not include “allowable reimbursement” as defined in subsection (b) herein.

SEC. 4. Philippine Organ and Tissue Donation and Transplant Program (POTDTP). – The Philippine Organ and Tissue Donation and Transplantation Program is hereby established to provide the overall direction and system of implementation of organ donation and transplantation in the country, through the Philippine Organ and Tissue Donation and Transplantation Board under the Department of Health (DOH).

SEC. 5. Philippine Organ and Tissue Donation and Transplantation Board (POTDTB). – There is hereby established a Philippine Organ and Tissue Donation and Transplantation Board, hereinafter referred to as the Board, composed of the following members:

- a) Secretary of Health, as Chairperson;
- b) DOH Undersecretary for Policy and Standard Development Team for Service Delivery, as Vice Chairperson;
- c) Chairperson of National Transplant Ethics Committee or representative;
- d) President of the Philippine Health Insurance Corporation (PhilHealth) or representative;
- e) Representative of government transplant facilities appointed by the Secretary of Health;
- f) Representative of private transplant facilities appointed by the Secretary of Health;
- g) Representative of the professional societies involved in transplantation, including the Philippine Society of Transplant Surgeon, the Philippine Society of Nephrology, the Philippine Urology Association and the Transplant Society of the Philippines designated by the societies on a rotational basis for a term of two (2) years;
- h) Chairperson of the Professional Regulation Commission or representative; and

- i) Representative of inter-faith organizations or nongovernment organizations involved in health advocacy, preferably on human organ donation, to be appointed by the Secretary of Health.

The Secretary of Health may:

- a) Appoint additional members based on the recommendation of the Board;
- b) Appoint additional members to the National Transplant Ethics Committee and the Philippine Network for Organ Sharing (PhilNOS) based on the recommendation of the Board; and
- c) Designate any existing unit, office, center or bureau under the DOH to serve as secretariat of the Board and for any other functions related to organ donation and transplantation.

SEC. 6. Functions. – The Board shall exercise the following functions:

- a) Develop and implement policies on organ donation and transplantation within the framework of Philippine laws;
- b) Serve as the overall implementing body of the organ donation and transplantation program in the country;
- c) Review and approve programs in support of a rational, ethical, accessible and equitable organ donation and transplantation program in the country;
- d) Approve the issuance of the certificate of accreditation of transplant facilities;
- e) Monitor compliance of transplant centers and organ recovery organizations with the policies prescribed by the Board; and
- f) Perform other functions as may be ordered by the President of the Philippines, or matters that are germane or related to its above-mentioned primary functions.

SEC. 7. Philippine Network for Organ Sharing. – There is hereby established a Philippine Network for Organ Sharing (PhilNOS) under the Board to perform the following functions:

- a) Oversee and facilitate donation and organ transplantation involving deceased and living donors in the country;
- b) Act as the central coordinating body to ensure that all organs from deceased and living donors are allocated according to established criteria;
- c) Promote organ donation from a deceased or living donor through the following means:

- d)
 - i. Public information and education drive;
 - ii. Information and education for health and allied professionals;
 - iii. Training of transplant coordinators; and
 - iv. Campaign to recruit volunteers to sign organ donor cards;
- e) Implement the policies on organ allocation from a deceased or living donor;
- f) Maintain a national waiting list of patients seeking transplantation with organs from deceased and living donors;
- g) Organize, fund, and regulate a national network of government hospital-based organ recovery organizations;
- h) Assist in the development and accreditation of nongovernment organ recovery organizations;
- i) Develop and update specific donor allocation scoring systems for the different organs for transplantation and use the same for the selection of deserving recipients from the waiting list of organ transplant candidates;
- j) Provide relevant data in aid of legislation and in the formulation of health policies regarding deceased organ donation; and
- k) Perform such other functions as may be ordered by the Board.

SEC. 8. Secretariat. – The PhilNOS shall be supported by a secretariat consisting of personnel with the necessary technical expertise and capability who will be designated by the Secretary of Health from the existing bureau or unit of the DOH. The secretariat shall be headed by a Program Manager under the direct supervision of the Chairperson of the Board.

SEC. 9. Transplant Centers. – The Board, through its licensing and accreditation arm and the Bureau of Health Facilities and Services, shall establish accreditation criteria to determine the DOH-licensed hospitals that should be allowed to perform transplant operations. The Board and the Bureau of Health Facilities and Services may limit a transplant center to the performance of transplants to specific organs or tissues. These accredited hospitals shall be accredited as transplant centers.

SEC. 10. Transplantation Section. – Each transplant center shall establish a Transplantation Section under its surgical department. The Section must have at least: (a) one (1) qualified transplant surgeon; (b) a transplant support team which

includes a clinical transplant coordinator; (c) medical specialists; and (d) nurses knowledgeable in transplantation.

SEC. 11. Functions of the Transplantation Section. – The Transplant Section shall have the following functions, over and above those determined by the transplant center:

- a) Record all transplants performed in the center containing information required by the Board and submit a monthly report to the Board;
- b) Monitor and provide medical follow-up care of transplant patients and living donors; and
- c) Document donor outcomes, graft and patient survival and morbidities associated with transplant procedures. A summary of these documentations shall be submitted to the Board annually.

SEC. 12. Organ Recovery Organization. – In order for the PhilNOS to effectively carry out its functions, organ special service units to be called organ recovery organization (ORO) shall be allowed and encouraged. An ORO is a nonprofit organization, which may be independent or hospital-based and accredited by the DOH to obtain organs for transplantation. An ORO shall be responsible for identifying, evaluating and obtaining organ donations from deceased donors from hospitals, including the preservation and transportation of such organs.

The Secretary of Health shall formulate guidelines to ensure that an ORO is designated for each region and major hospitals in the country as well as in areas where transplant activity is concentrated.

SEC. 13. National Transplant Ethics Committee. – A National Transplant Ethics Committee under the DOH shall be established to perform the following functions:

- a) Formulate national ethical standards or guidelines on organ donation and transplantation for approval by the Board;
- b) Assist the Board in the resolution of ethical issues;
- c) Assist in the monitoring of transplant facilities to ensure compliance with ethical standards or guidelines; and
- d) Perform such other functions as may be ordered by the Board on ethical related issues.

SEC. 14. Hospital Ethics Committee. – All hospitals and medical institutions shall create an Ethics Committee to improve healthcare delivery and outcomes by helping to identify, analyze, and resolve ethical dilemmas as they emerge predominantly through consultation, education, and policy development.

The Ethics Committee shall:

- a) Make recommendations to the National Transplant Ethics Committee in formulating the ethical principles and policies on human organs, tissues, or parts thereof, in order to prevent and avoid participation of the hospital, whether directly or indirectly, in commercial dealings in human organs, tissues, or parts thereof;
- b) Monitor and resolve ethical issues involving organ donation and transplantation;
- c) Submit monthly reports of all its meetings and proceedings to the National Transplant Ethics Committee; and
- d) Perform such other functions as may be ordered by the National Transplant Ethics Committee.

The Ethics Committee shall review and evaluate all living nonrelated donations. A report on each evaluation shall be submitted to the Board.

Living related donations with proof of relationship within the fourth civil degree of consanguinity may, at the transplant center's discretion, be exempted from the Ethics Committee evaluation.

All hospitals, medical institutions, organ or tissue bank storage shall record all transactions and vital information or documents on organ donations and shall be made available and transparent to the public, whenever necessary.

ARTICLE II ORGAN DONATION FROM DECEASED DONORS

SEC. 15. Organ Donation from Deceased Donors. – The recovery of organs from deceased donors shall be prioritized over organs from living donors.

SEC. 16. Person Who May Execute a Legacy. – A person who is at least eighteen (18) years of age and of sound mind may give, by way of legacy, all or any organ, tissue, or part thereof for the same purpose that a person may be a recipient thereof as specified in Section 19 hereunder.

SEC. 17. Person Who May Execute a Donation. –

- a) 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, any of the following persons in the order of priority provided herein may donate all or any part of the decedent's body for any purpose provided in Section 19 of this Act:
 - i. Spouse;
 - ii. Son or daughter of legal age;

- iii. Either parent;
- iv. Grandchildren;
- v. Grandparent;
- vi. Brother or sister of legal age; and
- vii. Legal guardian over the person of the decedent at the time of death.

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

Any donation by a person authorized under subsection (a) shall be sufficient if it complies with the formalities of a donation of a movable property.

SEC. 18. Examination of Human Body or Part Thereof. – A legacy or donation of all or of any organ, tissue, or part of a human body authorizes an examination necessary to assure medical acceptability of the legacy or donation for the purpose intended.

For purposes of this Act, the recovery of the human organ, tissue, or part thereof from brain-dead but heart-beating donor who eventually dies from an accident, trauma, or other medico-legal case shall be part of the autopsy to be authorized by law enforcement authorities, including the police or National Bureau of Investigation.

SEC. 19. Persons Who May Become Legatees or Donees. – The following persons may become legatees or donees of human organs, tissues, 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 or tissue bank storage facility – for medical or dental education, research, therapy or transplantation; and
- d) Any specified individual – for therapy or transplantation needed by the individual.

SEC. 20. Duty of Hospitals. – A hospital authorized to receive organ donations or to conduct transplantation shall train qualified personnel and staff to handle the delicate task of introducing the organ donation program in a humane manner to the immediate family of the decedent authorized to execute a donation under Section 17 of this Act. The hospital shall accomplish the necessary routine

inquiry or the required request form or document that will elicit from the patient, upon admission to the hospital, or the immediate family at the death of the patient, about the instruction on organ donation, which information will be added to the record of the patient.

All hospitals shall refer potential deceased donors to the PhilNOS which shall refer the organ recovery to an ORO.

A hospital that fails to comply with this section shall, after due hearing, be penalized with a revocation of license to operate and of PhilHealth's accreditation.

SEC. 21. Manner of Executing a Legacy. –

- a) A legacy or donation of all or any organ, tissue, or any part of the human body may be made through a written duly signed will. The legacy becomes effective upon the death of the testator even before probate proceedings are conducted. 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 or donation of all or any organ, tissue, or part of the human body may also be made in any document other than a will. The legacy becomes effective upon death of the testator or donor and shall be respected by and binding upon the 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 one's person, must have been signed by the testator or donor in the presence of two (2) witnesses, who must either be relatives within the fourth-degree of consanguinity of the testator or donor or his/her legal guardian or both, and who must have signed the document in the presence of the testator or donor. If the testator or donor cannot sign, the document may be signed at the discretion and presence of the testator or donor and two (2) witnesses who must, likewise, sign the document in the presence of the testator or donor. Delivery of the document of legacy during the testator or donor's lifetime is not necessary to make the legacy valid.
- c) The legacy may be made to a specified legatee or unspecified 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 the human organ, tissue, or part thereof of the decedent.
- d) The testator may designate in the will, card or other document the surgeon or physician who will carry out the appropriate procedures for removing or transplanting the human organ, tissue, or part thereof of the decedent.

In the absence of a designation, or if the surgeon or physician designated is not available, the legatee or other persons authorized to accept the legacy may authorize any surgeon or physician for the purpose.

SEC. 22. Organ Donor Cards. – A donor may also indicate the willingness to donate an organ, tissue, or part thereof either through a donor card or the government-issued identification (ID) cards and licenses, including the following:

- a) Land Transportation Office (LTO) – issued driver's license;
- b) PhilHealth membership ID;
- c) Government Service Insurance System (GSIS) membership ID;
- d) Social Security System (SSS) membership ID;
- e) Professional Regulation Commission (PRC) license card;
- f) Bureau of Internal Revenue (BIR) tax identification number ID; or
- g) Department of Foreign Affairs (DFA)-issued Philippine passport.

The LTO, PhilHealth, GSIS, SSS, PRC, BIR and the DFA, in coordination with the Secretary of Health through the PhilNOS, shall devise their respective application forms wherein the consent of the applicant to be an organ or tissue donor in case of death will be asked. The application must also be signed by at least two (2) witnesses who must be relatives within the fourth degree of consanguinity of the donor. The response of the donor shall be indicated in these cards, and these government agencies shall furnish the PhilNOS of the applicant's response, which will be recorded in the PhilNOS registry for the purpose of assigning the level of priority in the organ transplant waiting list.

SEC. 23. Procedure in the Absence of a Donation. – In the absence of any of the persons authorized to execute a donation under Section 17 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 decedent who died in an accident or any traumatic incident or other medico-legal cases may authorize in a public document the transplantation of an organ to the body of a living person: *Provided*, That the physician, head of the hospital or a designated officer of the hospital for this purpose exerted reasonable efforts, within forty-eight (48) hours, to locate the nearest relative specified in Section 17 of this Act, or the guardian of the decedent at the time of death.

The physician, head of the hospital or a designated officer of the hospital, or the medico-legal officer of any government agency which has custody of the body may authorize the removal of the cornea or corneas of the decedent within twelve (12) hours after death and upon the request of qualified legatees or donees for the sole purpose of transplantation: *Provided*, That the removal of the cornea or corneas will not interfere with any subsequent investigation or alter the post-mortem facial

appearance of the decedent by means of placing eye caps after the cornea or corneas have been removed.

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

- 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 the hospital or the designated officer authorizing the removal of the organ.

SEC. 24. Persons Authorized to Remove and Transplant Organs, Tissues and Corneas. – Only authorized medical practitioners in a hospital shall remove or transplant any organ which is authorized to be removed or transplanted. The removal of corneal tissues shall be performed only by ophthalmic surgeons and ophthalmic technicians trained in the methodology of such procedure and duly certified by the accredited National Association of Ophthalmologists and specialty board.

SEC. 25. 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 the authorized representative of the testator or donor 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 of 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. 26. 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:

- a) The execution and delivery to the legatee or donee of a signed statement; or
- b) A written statement addressed to an attending physician executed in the presence of two (2) other persons and communicated to the legatee or donee; or
- c) A written statement addressed to an attending physician during a terminal illness or injury, and communicated to the legatee or donee; or

- d) A signed card or document found on the person or effects of the testator or donor.

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 or donation made through 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. 27. Rights and Duties After Death. – The legatee or donee may accept or reject the legacy or donation. A legatee or donee who accepts the legacy or donation shall, upon the death of the testator and prior to embalming, authorize the removal of the organ, tissue, or part thereof, avoiding unnecessary mutilation. After removal of the human organ, tissue, or part thereof, the 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.

SEC. 28. Allowable Reimbursements for Organ from Deceased Donor. – The human organ, tissue, or part thereof shall be donated for free or without any financial consideration. Reimbursements for reasonable expenses incurred during the recovery, organ preservation, transport, and the ORC's administrative and other operational costs may be collected from the legatee or donee. This amount shall be determined by the PhilNOS and shall be subject to annual review considering inflationary and other economic factors.

SEC. 29. Transport of Donated Organ. – In view of the urgency to immediately transport the donated organ to be utilized in a transplant operation, all local airlines shall allocate a space in the passenger cabin to accommodate the transport of such organ on the first available opportunity, free of charge. If the package requires an accompanying transplant coordinator, such accompanying person may be charged the regular or discounted rate at the discretion of the carrier. In availing of this privilege, the following requirements shall be observed by the transplant coordinator:

- a) The sender must be a DOH or PhilNOS-accredited ORO represented by any of its clinical transplant coordinators who must carry the official PhilNOS-issued identification card;
- b) The receiving party must also be a clinical transplant coordinator who must also carry an official PhilNOS-issued identification card; and
- c) The packaging must comply with required medical standards and contain a seal also issued by the PhilNOS. The required packaging standards shall be provided by the PhilNOS to all local airlines.

ARTICLE III ORGAN DONATION FROM LIVING DONORS

SEC. 30. *Living Donors.* – The Board shall establish policies and guidelines to prevent organ trafficking and to ensure the safety of living donors and their eventual recipients in accordance with the provisions of this Act.

SEC. 31. *Living Donors in Closed Settings.* – Individuals in closed settings, such as prisons, rehabilitation centers and other similar facilities, shall be allowed to donate their organs, tissues, or parts thereof, only to donees who are related to them by blood within the fourth civil degree of consanguinity.

SEC. 32. *Assistance and Protection to Donors.* – A donor of a human organ, tissue, or part thereof and the immediate family shall be entitled to the following assistance, protection, and recognition:

- a) Inclusion in the priority list of the PhilNOS if the donor should need an organ in the future. The immediate family of a living or deceased donor shall also be given priority if any member of the immediate family, as defined in this Act, also needs an organ in the future;
- b) Allowable reimbursement for reasonable expenses from the donee or, when eligible, from the PhilHealth, for the costs directly related or associated with the legal removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ, tissue, or parts thereof, including expenses for travel, housing, and lost wages incurred by the donor in connection with the donation of the organ, tissue, or part thereof, medical insurance and periodic health monitoring, life insurance, and cost of medicines of the donor to attain full recovery;
- c) Additional support voluntarily provided by a donee, a nonprofit organization or government agencies, which include the Technical Education and Skills Development Authority (TESDA), the Commission on Higher Education (CHED), and other agencies for educational or livelihood assistance coursed through the DOH;
- d) Memorialization through a "Dugtong Buhay" award to be given by the Secretary of Health;
- e) Paid leave for fifteen (15) days during the time of full recovery when the donor is employed, either in the government or private sector;
- f) Priority in employment in the government, *Provided*, That a physician certifies that the living donor is fit for either strenuous or non-strenuous work, or both: *Provided*, however, That this shall not apply to positions in the uniformed police and military personnel;
- g) Disability pay from the SSS or GSIS in case of post-operation disability;

- h) Ten percent (10%) discount from pharmaceutical companies and their distributors on transplant and post-transplant-related medicines prescribed for the donor's medication, provided that this will be certified by the attending physicians; and
- i) Token of gratitude to the donor in the form of cash. This amount shall be determined by the PhilNOS and shall be subject to annual review considering inflationary and other economic factors.

The Secretary of Health, in coordination with the concerned agencies, including the Civil Service Commission (CSC) and the Department of Labor and Employment (DOLE), shall formulate the necessary guidelines for the effective implementation of this section.

SEC. 33. PhilHealth Assistance. – Pursuant to its mandate under the National Health Insurance Act of 1995, as amended, the PhilHealth shall:

- a) Develop a benefit package to reimburse the host ORO for the acquisition cost of the organ, tissue, or part thereof; and
- b) Increase its present benefit package for indigent-donee who cannot afford the entire cost before, during, and after organ transplantation, including related expenses such as anti-rejection drugs or immunosuppressants. For this purpose, the PhilHealth shall formulate a socialized medical and financial assistance scheme in relation to the annual family income to enable the indigent-recipient to pay for the transplant and ensure survival.

ARTICLE IV PUBLIC AWARENESS PROGRAM

SEC. 34. Information and Education Drive. – To ensure public awareness of the maximum benefits under this Act, the DOH, in cooperation with institutions such as the National Kidney and Transplantation Institute (NKTI), civic and nongovernment health organizations, and other health-related agencies involved in the donation and transplantation of human organs, as well as the Department of Education and the CHED shall undertake a public information and education program for this purpose.

The Secretary of Health shall ensure that all health professionals, both in government and private sectors, as well as media organizations from print, radio and television are encouraged to undertake massive public information campaign to emphasize the importance of human organ donation.

The importance of human organ donation shall be emphasized in the Health and Science subjects in the curricula of both the elementary and secondary levels. The Secretary of Health shall coordinate with the Secretary of Education and the Chairperson of the CHED for the effective implementation of this provision. The Information and Advocacy Committee under the existing PhilNOS shall be in charge of the training program of the faculty members of the schools handling courses on human organ and tissue donation.

The Secretary of Health shall also endeavor to disseminate information on human organ and tissue donation through other means, including the internet, social media, and mails.

SEC. 35. National Organ Donation Awareness Month. – The month of April of every year is hereby declared as the “National Organ Donation Awareness Month.” The DOH, in coordination with various government and private agencies, and organizations, including professional societies, OROs or associations related to human organ donation and transplantation, shall spearhead programs and activities that highlight the importance of organ donation in saving lives.

ARTICLE V PROHIBITED ACTS AND PENALTIES

SEC. 36. Prohibited Acts. – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

- a) Advertise in any manner, whether formally or informally through print, broadcast media and other means of electronic media, an offer to sell, barter, deal in or supply human organs, tissues, or parts thereof or an offer to acquire, buy or to receive human organs, tissues, or parts thereof for consideration in whatever form;
- b) Advertise, publish, print, broadcast or distribute, or cause the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, or any brochure, flyer, or any propaganda material that promotes commercial dealings in human organs, tissues, or parts thereof;
- c) Recruit, transport, transfer, harbor, provide, or receipt of persons by any means, for the sale, barter, or supply of human organs, tissues, or parts thereof which involves consideration in whatever form;
- d) Offer consideration whether in the form of money, or any other kind or service for the purpose of acquiring, buying, offering, selling, or trading human organs, tissues, or parts thereof;
- e) Offer to supply human organs, tissues, or parts thereof for consideration or initiate or negotiate any arrangement for the supply thereof or for an offer to supply human organs, tissues or parts thereof;
- f) Act as a facilitator, middleman, broker or other similar role in the sale, barter, or supply of human organs, tissues, or parts thereof for consideration in whatever form;
- g) Engage in the trade, sale, barter, or supply of human organs, tissues, or parts thereof for consideration in whatever form;

- h) Knowingly store or handle human organs, tissues, or parts thereof that have been acquired or transferred or sold for consideration in whatever form;
- i) Knowingly deliver, transport, transfer or distribute human organs, tissues, or parts thereof that have been acquired or transferred or sold for consideration in whatever form;
- j) Remove or transplant human organs, tissues, or parts thereof even after he/she has been informed or has knowledge of that the same have been acquired or transferred or sold for consideration in whatever form;
- k) Consent to the transplantation of human organs, tissues, or parts thereof and be transplanted with the same with the knowledge that the human organs, tissues, or parts thereof have been acquired or transferred or sold for consideration in whatever form;
- l) Recruit or invite persons to supply human organs, tissues, or parts thereof for consideration; and
- m) Make or receive payment for the supply of or for an offer to supply human organs, tissues, or parts thereof, other than those allowed under this Act.

SEC. 37. Prohibited Discriminatory Acts. –

- a) It shall be unlawful to discriminate against a living organ donor or an organ donee in any form from pre-employment to post-employment, including hiring, promotion, or assignment by reason of the person being an organ donor or an organ donee despite a certification from a physician that the living donor or an organ donee is fit for work: *Provided*, That this provision shall not apply to uniformed police and military personnel for purposes of their pre-employment and hiring procedure and requirements.
- b) It shall be unlawful for private health insurance companies under a health maintenance organization (HMO) and life insurance companies to deny or deprive a person of health or life insurance coverage on the basis of being an organ donor or donee. Neither shall the insurance premiums of an insured donor or donee be increased nor the insurance benefits of an insured donor or donee be decreased. The Insurance Commission shall implement the provision covering life insurance and shall develop the necessary policies to ensure compliance.
- c) It shall be unlawful for a carrier to refuse to transport or ship an organ, tissue, or part thereof, whether accompanied or not. Such refusal shall be penalized with a fine in the amount of not less than Fifty Thousand Pesos (P50,000.00).

Any person who commits the discriminatory act mentioned in subsection (a) of this section shall suffer the penalty of imprisonment for six (6) months to four (4)

years and a fine not exceeding ten thousand pesos (P10,000.00), including the cancellation or revocation of license or permit as may be applicable.

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

SEC. 38. Penalties for Prohibited Acts. – The following penalties and sanctions are imposed for the offenses enumerated in Section 36 of this Act:

- a) Any person found guilty of committing any of the acts enumerated in Section 36 of this Act shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than Five Hundred Thousand Pesos (P500,000,000.00) but not more than two million pesos (P2,000,000.00);
- b) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;
- c) The registration with the Securities and Exchange Commission (SEC) and license to operate of an erring corporation, partnership, association, or group shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate similar establishments in a different name;
- d) If the offender is a hospital, clinic or other similar licensed medical institution, the penalty shall be imposed upon its owner, president, director, members of the board, officials, doctors and medical staff with knowledge of the illegal acts and participated in the illegal acts;
- e) If the offender is a hospital, clinic or medical institution under the DOH and other regulatory institutions, its license shall be cancelled and revoked, and the license to practice of medical professionals working in such hospital, clinic, medical or regulatory institution found guilty of the illegal acts shall be cancelled and revoked;
- f) If the offender is a foreigner, the foreigner shall be immediately deported after serving the sentence and be barred permanently from entering the country; and
- g) If the offender is an official or employee of a government agency, such official or employee shall be held administratively liable, without prejudice to criminal liability under this Act. The government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. The retirement and other benefits of erring government official or employee shall likewise be forfeited.

ARTICLE VI FINAL PROVISIONS

SEC. 39. Rules and Regulations. – Within thirty (60) days from the approval of this Act, the Secretary of Health, after consultation with all health professionals of both government and private, and nongovernment health organizations, shall promulgate the rules and regulations implementing the provisions of this Act. The implementing rules and regulations issued pursuant to this Act shall take effect thirty (30) days after its publication in two (2) national newspapers of general circulation.

SEC. 40. Repealing Clause. – Republic Act No. 7170, as amended, also known as the "Organ Donation Act of 1991", is hereby repealed, and all orders or directives issued pursuant to said Act.

All other 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. 41. Suppletory Application of Republic Act No. 9208. – The provisions of Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003", and Section 4(g) of its Implementing Rules and Regulations, insofar as they are not inconsistent with the provisions of this Act, shall apply suppletorily.

SEC. 42. Separability Clause. – If any provision of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 43. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.