

THIRTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S.B. No. 0000

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Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

The Constitution, Article II, Section 15, states that:

“The State shall protect and promote the right to health of the people and instill health consciousness among them.”

The practice of acquiring an organ from a living related donor is acceptable. Donation from a living non-related donor is also acceptable but it should be emphasized that there should be no form of profiteering among donor and alleged agent.

Although the sale of an organ does not violate any law, the Department of Health (DOH) has said that the organized practice of organ donation for profit is against ethical standards and is not within the commerce of man. Allowing the practice of living non-related donors in the country will open doors for foreigners to buy kidney and other body parts here in our country, particularly since many of our countrymen are poor. People who accept payment for organ donation are not properly informed of the consequences. The operation on a healthy donor may be a possible source of infection and may cause excessive bleeding.

DOH reported that a kidney is sold for about P100,000.00 with the agent getting P 10,000 to P12,000 per deal. The sale of kidney has already happened in the past but these were done before the transplantation ethics was discussed and put into order.

Kidney transplantation, compared to a lifetime of dialysis, is considered the most successful treatment mode for end-stage renal failure in terms of improving the quality of life of the chronically ill. Expedient and relatively less costly, the cost of transplantation ranges from

P300,000 to P500,000 and pales in comparison to the required twice-a-week dialysis at P5,450.00 per session, amounting to P43,600.00 a month or P523,200 per year. Since no government or private insurance, or health maintenance organization (HMO) sustain prolonged dialysis, its exorbitant costs are borne out-of-pocket by patients. Given the expense, it is understandable that of the estimated 25,000 to 30,000 Filipinos afflicted with end-stage kidney disorders, only 2,000 are on dialysis (Phil. Society of Nephrology Disease Registry, 1998). Most patients on dialysis, however, come for treatment for an average period of six (6) months when their financial resources run out.

Organs for transplantation come from various sources: cadaveric donation, living related organ donation from parents, siblings, and offsprings, and living non related organ donation. Of these sources, living non related organ donation may involve payment of organ donors – a practice which runs counter to Western / Northern traditions where the sale of body parts is believed to be immoral. In the European Union and in North America, legal prohibitions are in place penalizing both organ donors and recipients involved in the transaction. In these affluent and developed nations, government subsidies and provisions for support of hemodialysis abound – a situation that is not obtaining in developing countries where governments and people are impoverished. Terminally ill patients in developing countries with limited resources, thus, consider organ transplantation as the only resource.

  
MIRIAM DEFENSOR SANTIAGO  
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AN ACT  
REGULATING "LIVING NON-RELATED ORGAN  
DONATIONS"

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

SECTION 1. *Short Title.* – This Act shall be known as the "*Living Non-Related Organ Donations Act of 2007*".

SECTION 2. *Declaration of Policy.* – It is the policy of the State to protect the health of the people and to promote programs and regulations to protect the same.

SECTION 3. *Definition of Terms.* –

(1) "*Living Related Donors*" – the international transplantation definition is limited to relatives of the 1<sup>st</sup> degree of consanguinity, i.e. parents, siblings, and offsprings; in the Philippine context, however, it shall subsume the concept of the "extended family" inclusive of spouses and all blood relatives;

(2) "*Cadaver Donors*" – are organs taken from brain dead donors;

(3) "*Living Non-Related Donors*" (*LNRD*) include the following:

3.1 Emotionally Related Donation – organs from friends, close associates, with no blood-line relationship;

3.2 Gifted or Gritudinal Donation – donors receive a token of appreciation or recognition in cash or in kind within the context of gratitude and reciprocity;

3.3 Commercial or “for profit” donation – organs are donated as a business proposition with an agreed price, arranged by a broker/agent with a profit motive;

SECTION 4. *Guidelines in “Living-Non Related Organ Donation”*. – Pursuant to universal ethical standards for the preservation of life, respect and promotion of human dignity, as enshrined in the 1987 Constitution of the Republic of the Philippines, the following guidelines pertinent of Living Non Related Organ Donation are hereby proposed:

(1) All organ donations must adhere to the following precepts: ethical, religious, moral, cultural and social, and the legality of procedures founded on equity, justice, and volunteerism;

(2) Commercial or for “profit” kidney donation shall not be allowed; compensation in Living Non Related Organ Donation shall be carried out in the spirit of altruism between donor and donee; and shall not in any way, be transacted through brokers;

(3) Continuing Support to Donors shall include medical care, economic and livelihood opportunities, educational privileges for dependents, and other mechanisms to promote their well being;

(4) Hospitals engaged in organ transplantation must have an active Ethics Committee which will evaluate and approve all kidney transplantation from living non related donors; in the dispensation of its mandate, the Committee shall monitor, supervise, and implement the order of conduct in the procurement of donor organs;

(5) In “Living Non-Related Organ Donation” the Ethics Committee shall ensure the Psychosocial preparation and processing of donors during the pre-operational and post-transplantation phases respectively;

(6) A national nonprofit intermediary body shall be established to oversee the transplantation process, including the procurement of the organ; it shall supervise a centralized coordinated organ donor bank and patient Registry; and shall observe equity in the distribution/assignment of the organs through a national organ donation network;

(7) LNRD donation for foreigners shall temporarily be disallowed pending further deliberation. Exceptions under certain circumstances may include the following:

- a. Filipinos with foreign citizenship
- b. Foreign nationals married to Filipino citizens and living in the Philippines.

Exceptions shall ensure that no Filipino citizen with a need for organ donation is prejudiced in accommodating the same.

SECTION 5. *Regulating Authority.* – The Department of Health is the government agency responsible for the implementation of the guidelines for Living Non- Related Organ Donation. The DOH shall coordinate with local health agencies to supervise and monitor the implementation of the guidelines to Living Non-Related Organ Donation.

SECTION 6. *Penalties for Violation.* – The DOH shall formulate proper regulatory sanctions for hospitals, health agencies, and individuals who shall not comply with the guidelines herein.

SECTION 7. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

SECTION 8. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SECTION 9. *Effectivity Clause*– This Act shall take effect fifteen (15) days following its publication in two (2) national newspapers of general circulation.

Approved.