

FIFTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **5390**

EXPLANATORY NOTE

Transplantation has prolonged and improved the quality of life of patients in need of organ replacement. The traditional source of organ grafts has always been the deceased donors, i.e. individuals who suffer severe irreversible brain injury with the rest of the body remaining practically intact and "healthy." However, the perennial lack of deceased organ donors has continually hampered the widespread application of transplantation. The imbalance of supply and demand has created the need to resort to other sources of grafts, such as living donors. Organ donation from living donors, albeit, a noble act of charity, has been beset by numerous ethical issues, it has unfortunately lent itself to abuse and has been tainted with commercialism in many areas of the world and oftentimes has been associated with human trafficking.

On June 23, 2010 the Department of Health (DOH) attempted to address the situation by establishing mechanisms to curtail organ sale and protect the living kidney donor through AO No. 2002-0124 and AO No. 2008-0004-A. Despite the enactment of the Organ Donation Act in 1991 and the subsequent issuance of Administrative Orders, the potential of the use of deceased donors has yet to be fully utilized.

The 2008 Declaration of Istanbul on Organ Trafficking and Transplant Tourism strongly encouraged governments, in collaboration with health care institutions, professional and non-governmental organizations to take appropriate action to increase deceased organ donation, remove obstacles and disincentives to deceased organ donation, enact legislation and create transplantation infrastructure so as to fulfill each country's deceased donor potential (Istanbul Declaration 2008). Tackling the issue of human organ and tissue transplantation in the 63rd World Health Assembly, it was reported that "experience in countries with the most successful deceased donor programs has shown the advantage of having strong national organizations that can stimulate, coordinate and regulate donation and transplantation. Such organizations can inform the public about the importance of sustaining a community resource that is built on voluntary, unpaid donation of

organs, tissues and cells rather than on the exploitation inherent in organ purchases and that provides equitable access to all." (63rd World Health Assembly provisional agenda item 11.21).

The potential of deceased donor organs is yet to be maximized in our country where the estimated number of deaths due to accidents is about 8,000 per year (ADB-ASEAN Regional Road Safety Program Accident Costing AC7 Report: Philippines). This bill is necessary to institutionalize the development of a national system of promoting organ donation from deceased donors and sharing of grafts through the Philippine Network for Organ Sharing (PHILNOS) that shall implement a system of timely referral and processing of potential multiple organ donors, uphold equitable allocation, efficient procurement and transplantation of organs from deceased donors.

The state also recognizes that the source of organs should not be restricted only to deceased donors but should include living donors who are willing to donate out of altruism. The state needs to strictly supervise and regulate the practice of living donation in order to protect the rights of the donor thus preventing the act of exploitation and selling of organs.

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



RUFUS B. RODRIGUEZ



MAXIMO B. RODRIGUEZ, JR.

HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **5390**

An Act

**Establishing a National Program for Sharing of Organs from Deceased Donors
and Regulation of Human Organs for Donation and Transplantation from
Living Donors**

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

Sec. 1. Title. This Act shall be known as the "National Program for Sharing
Organs from Deceased Donors and Regulation of Human Organs for Donation and
Transplantation from Living Donors Act," otherwise known as "Organ Donation Act
of 2011."

Sec. 2. Policy. The State shall protect and promote the right to health of the
people and instill health consciousness among them. It recognizes the importance
of an active deceased donor program in providing valuable treatment to those with
kidney failure as well as in protecting the vulnerable sectors of society from the
potential for abuse of living organ donors. It maintains that the human body or parts
thereof, is beyond the commerce of man and shall prohibit any commercialization
in the handling of organs for transplantation. The State shall respect the desire of
citizens who want to donate organs and shall ensure that the consent process is
informed and purely voluntary. It recognizes the family's right to make a choice by
having access to complete information, including the positive impact that the act of
organ donation will have on fellow Filipinos.

Sec. 3. Creation and Nature of the Corporation. There is hereby created the
Philippine Network for Organ Sharing Corporation (PHILNOS), which shall have
the status of a tax-exempt government corporation attached to the Department of
Health for policy coordination and guidance. It shall facilitate a national system of
promoting organ donation from both deceased and living donors and sharing of
organs in coordination with private organ procurement organizations. It is tasked to

serve as the central coordinating body for all deceased organ donation and transplantation activities in the country.

Sec. 4. Records and Reports. The PHILNOS shall keep and cause to keep such records as may be necessary for the purpose of making actuarial studies, calculations and valuations of the funds of the Corporation. The PHILNOS shall maintain appropriate books of accounts to record its assets, liabilities, income, expenses, receipts and disbursement of funds and other financial transactions and operations.

Sec. 5. Examination and Valuation of the Funds. The PHILNOS shall make a periodic actuarial examination and valuation of its funds in accordance with accepted actuarial principles.

Sec. 6. Exemptions from Taxes and Duties. It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the PHILNOS shall be preserved and maintained at all times. The PHILNOS, its assets, revenues including all accruals thereto, and any donation, contribution, bequest, subsidy or financial aid which may be made to the Corporation shall be exempt from all taxes, assessments, fees, charges, or duties of all kinds.

Moreover, said donation, contribution, bequest, subsidy or financial aid which may be made to the Corporation shall constitute as allowable deduction from the income of the donor for income tax purposes and shall be exempt from donor's tax, subject to such conditions as provided for in the National Internal Revenue Code, as amended.

Sec. 7. Administration.

a. Implementing Body. The Philippine Network for Organ Sharing (PHILNOS) shall implement the provisions of this Act.

b. Powers and Functions of the PHILNOS. The PHILNOS shall exercise the following powers and functions:

- 1) To administer and supervise the implementation of this Act;
- 2) To formulate, adopt, amend and/or rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act, as well as the effective exercise of the powers and functions, and the discharge of duties and responsibilities of the PHILNOS, its officers and employees;
- 3) To manage the national living and deceased donor program, ensuring effectiveness, efficiency, equity and transparency in the national system of allocation of deceased organs;
- 4) To initiate and implement programs that will increase awareness and acceptance of deceased organ donation and transplantation and that will increase the number of organs from deceased donors for transplantation;

- 5) To formulate and implement the policies that will promote the ethical practice of living and deceased organ donation and transplantation;
- 6) To supervise all functions of organ procurement organizations;
- 7) To serve as an advisory body to the President of the Philippines and to relevant government agencies, in all policies pertaining to organ donation and transplantation;
- 8) To adopt and approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the PHILNOS personnel;
- 9) To authorize such capital and operating expenditures and disbursements of the PHILNOS as may be necessary and proper for the effective management and operation of the Corporation;
- 10) To invest the funds of the PHILNOS, directly or indirectly in accordance with the provisions of this Act, and all applicable laws and rules and regulations.
- 11) To conduct continuing actuarial and statistical studies and valuations to determine the financial condition of the PHILNOS, and taking into consideration such studies and valuations and the limitations herein provided, re-adjust the allocation or re-allocation of the funds to the agency or organization covered;
- 12) To sue and be sued;
- 13) To enter into, make, perform and carry out contracts of every kind and description with any person, firm or association or corporation, domestic or foreign;
- 14) To carry on any other lawful business whatsoever in pursuance of, or in connection with the provisions of this Act;
- 15) To have one or more offices in and outside of Metro Manila, and to conduct its business and exercise its powers throughout and in any part of the Republic of the Philippines;
- 16) To enter into agreements with the Philippine Health Insurance Corporation or any other entity, enterprise, corporation or partnership for the benefit of Filipino patients needing organ transplantation;
- 17) To submit to the President of the Philippines and to both Houses of Congress its Annual Report, and to make such report available to the general public. The report shall contain the status of the PHILNOS Fund, its total disbursements, reserves, average costing to Organ Procurement Organizations (OPO) and any request for additional appropriation. It should also contain data that ensures the transparency of the allocation process for deceased organs and all other data pertinent to the implementation of the national deceased donor program.

- 18) To exercise such powers and perform such other acts as may be deemed appropriate, useful, incidental or auxiliary to carry out the provisions of this Act, or to attain the purposes and objectives of this Act.

Sec. 8. Quasi-Judicial Powers. The PHILNOS, in order to carry out its tasks more effectively, shall be vested with the following powers:

- a) Conduct investigations for the determination of a question, controversy, complaint, or unresolved grievance brought to its attention relating to living and deceased organ donation or organ transplantation, and render decisions, orders, or resolutions thereon. It shall proceed to hear and determine the case even in the absence of any party who has been properly served with notice to appear. It shall conduct its proceedings or any part thereof in public or in executive session; adjourn its hearings to any time and place; refer technical matters or accounts to an expert and to accept his reports as evidence; direct parties to be joined in or excluded from the proceedings; and give all such directions as it may deem necessary or expedient in the determination of the dispute before it;
- b) Issue summons and/or subpoenas requiring the attendance and/or testimony of parties to a controversy or witnesses, or the production of documents and other materials necessary to a just determination of the case under investigation;
- c) Temporary suspension or permanent revocation of license, and/or imposition of fines after due notice and hearing. The decision shall immediately be executor, even pending appeal, when the public interest so requires, and as may be provided for in the implementing rules and regulations.

The revocation of an OPO's accreditation shall disqualify it from obtaining another accreditation in its own name, under a different name, or through another entity, whether natural or juridical.

In the exercise of its quasi-judicial powers, the Corporation shall not be bound by the technical rules of evidence.

Sec. 9. Coverage. This Act shall cover all government and private hospitals, health facilities, organ procurement organizations, medical and allied medical professionals, foundations, non-government organizations and other government units that are involved or have relevant roles in organ transplantation in the Philippines.

Sec. 10. Definition of Terms:

- a) **Attending Physician (AP)** is the primary physician responsible for both the care and management of the potential multiple organ donor.
- b) **Brain Death (BD)** is the irreversible cessation of all functions of the entire brain, including the brain stem.

- c) **Death** is the irreversible cessation of circulatory and respiratory functions or the irreversible cessation of all functions of the entire brain, including the brain stem, which is determined in accordance with the acceptable medical practice and 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.
- d) **Decedent** refers to a deceased individual, and includes a still-born infant or fetus.
- e) **Donor Service Area (DSA)** refers to the territorial jurisdiction of an organ procurement organization as may be designated by the PHILNOS.
- f) **Gift or Incentives** refers to money in any form (i.e. cash, check or its equivalent in kind) that is given to the donor from the recipient and considered unduly beneficial to the donor.
- g) **Organ Procurement** is the administrative procedure involved with acquiring organs for transplantation through various programs, systems, or organizations. It includes obtaining consent, donor management, and arranging for transportation of donor organs to the hospital for processing and transplant.
- h) **Organ Procurement Organization (OPO)** is a PHILNOS accredited non-profit organization, independent or hospital-based, licensed and authorized by DOH to procure organs for transplantation. An OPO is responsible for the procurement of organ donations from deceased donors from hospitals, including preservation and transportation of such organs.
- i) **Organ Transplant Candidate (OTC)** is a patient diagnosed to have end-stage-organ-disease and is medically suitable to receive an organ graft.
- j) **Organ-Specific Allocation Scoring System (OSASS)** is the national scoring system by which allocation of organs/grafts from deceased donors shall be based.
- k) **Philippine Organ Donor and Recipient Registry System (PODRRS)** is the web-based electronic utility used by the PHILNOS contractor to conduct its business. The PODRRS comprises of the national database of all organ transplant candidates, organ transplant recipients, and organ donors, and all other software, applications and security architecture needed for the collection, modification, validation, reporting, management and redundancy of data associated with the tasks and activities of the PHILNOS.
- l) **Host OPO** is the particular OPO which, having received an organ donor call from a referring hospital, assumes responsibility for organ procurement.
- m) **Potential Multiple Organ Donor (PMOD)** is any patient who will imminently become brain dead, or who currently meets the criteria for brain death.

- n) **Referring Hospital (RH)** refers to any hospital that identifies and refers potential deceased organ donors to PHILNOS.
- o) **Testator** is an individual who makes a legacy of all or part of his body.
- p) **Transplant Center (TxC)** refers to any hospital which is duly accredited by the Department of Health (DOH) to perform organ transplantation.
- q) **Transplant Coordinator (TC)** refers to the designated trained health care professional who takes the central role and acts as liaison among the referring hospital, and the retrieval and transplant team members in processing a potential organ donor.
- r) **Procurement Transplant Coordinator (PTC)** is the TC who shall have the responsibility of coordinating the donor's evaluation, management, and recovery of organs for transplantation.
- s) **Clinical Transplant Coordinator (CTC)** is the TC who shall have the responsibility of coordinating the transplant candidate's evaluation, management, and follow-up care.
- t) **Transplant Doctor** is a licensed physician who is involved in the care and/or management of a transplant candidate or recipient.
- u) **Living Related Donors (LRDs)** are related to the recipient by blood within the fourth degree of consanguinity (i.e. parents, children, siblings, nephews/nieces, first cousins).
- v) **Living Non- Related Donors (LNRDs)** are not related to the recipient by blood but have the willingness and intention to donate a kidney/organ based on certain reasons.

These donors are classified into:

- (a) **Voluntary Donors** – Those who are not related by blood to the recipient but bear close emotional ties with him/her (i.e. spouses, relatives by affinity, friends, employers/employees of long standing, colleagues, fiancé/fiancée and adoptive parents or children).
- (b) **Commercial Donors** – It is also known as kidney/organ vendors who offer their kidneys and other organs for sale. They usually engage the services of a broker or agent. Payment or a promise of payment is a precondition and pre-requisite to the organ donation.
 - i. **Directed Kidney/Organ Donor** is someone who has a specific recipient in mind whom he would want to donate to. This follows the principle known as donor designation wherein the donor's wishes are given due consideration.

- ii. **Non-Directed Kidney/Organ Donor** is someone who would donate to whoever he/she matches on a list of waiting patients for organ transplant.

Sec. 11. The Board of Directors.

- a) **Composition.** The corporate powers and functions of the PHILNOS shall be vested in and exercised by the Board of Directors hereinafter referred to as the Board, and shall be composed of seven (7) members as follows:
 - 1) The Secretary of Health;
 - 2) The President of the Corporation;
 - 3) The Chairman of the National Transplant Ethics Committee;
 - 4) Two (2) representatives of professional organizations related to transplantation, including but not limited to the Philippine Society of Nephrology (PSN) and the Philippine Society of Transplant Surgeons (PSTS);
 - 5) A representative of the patient group; and
 - 6) A representative of PhilHealth.

The Secretary of Health shall be the ex officio Chairperson, while the President of the Corporation shall be the Vice Chairperson of the Board

- b) **Appointment and Tenure.** The President shall appoint all the Members of the Board upon the recommendation of the Chairperson of the Board and in consultation with the sectors concerned. Members of the Board shall have a term of four (4) years each, renewable for a maximum of two (2) years, except for members whose terms shall be co-terminus with their respective positions in government. Any vacancy in the Board shall be filled in the manner in which the original appointment was made and the appointee shall serve only the unexpired term of his predecessor.
- c) **Meetings and Quorum.** The Board shall hold regular meetings at least once a month. Special meetings may be convened at the call of the Chairperson or by a majority of the members of the Board. The presence of four (4) voting members shall constitute a quorum. In the absence of the Chairperson and Vice Chairperson, a temporary presiding officer shall be designated by the majority of the quorum.
- d) **Allowances and Per Diems.** The members of the Board shall receive a *per diem* for every meeting actually attended, subject to the pertinent budgetary laws, and rules and regulations on compensation, honoraria and allowances.

Sec. 12. The President of the Corporation.

- a) **Duties and Functions.** The President shall have the duty of advising the Board and effecting the policies and decisions. His functions are as follows:
 - 1) To act as the chief executive officer of the PHILNOS
 - 2) To be responsible for the general conduct of the operations and management functions of the PHILNOS; and
 - 3) To execute any other duties assigned to him by the Board.
- b) **Qualifications.** The President must be a Filipino citizen and must possess have adequate and appropriate training with at least (3) years of experience in the field of healthcare management.
- c) **Salary.** The President shall receive a salary to be fixed by the Board, with the approval of the President of the Philippines, payable from the funds of the Corporation, subject to applicable laws and rules and regulations on compensation of officers of government-owned or controlled corporations.
- d) **Prohibition.** To avoid conflict of interest, the President must not be a physician in active medical practice during his term. Neither shall he be involved in any OPO and/or health care institution.

In the event that the President is a transplant doctor, he shall only be allowed to return to active medical practice twelve (12) months from date of termination of his term.

Sec. 13. Executive Department Composition. The Executive Department shall be composed of the President of the Corporation and the Heads of the departments which shall be the following:

- a) **Accreditation and Training Department** shall handle the accreditation of the OPO, including its quality assurance and standardization. It shall also provide training and certification of TCs.
- b) **Ethics and Legal Affairs Department** shall handle ethical and legal matters.
- c) **Finance Department** shall handle standardization of organ acquisition costs including system of reimbursement for the OPO members and auditing of financial statements in relation with OPO transactions.
- d) **Information and Advocacy Department** shall handle lay education, information dissemination and media concerns.
- e) **Registry Department** shall handle registry and research.

Other departments may be formed upon the discretion of the Board of PHILNOS.

Sec. 14. The External Audit Department. The External Audit Department shall conduct a periodic review and audit of the operations of PHILNOS, with special emphasis on organ allocation procedures. It shall submit its annual audit report to the PHILNOS Board and Office of the President of the Philippines, and make these reports available to the general public.

This department shall be composed of designated representatives from PhilHealth, OPO, Transplant Hospital, Public Sector, and from professional organizations related to transplantation, including but not limited to the PSN and PSTS.

Sec. 15. Organ Procurement Organization (OPO).

- a) **Main Function and Requirement.** An OPO is responsible for the procurement of organs from deceased donors from hospitals including preservation and transportation of such organs. All OPOs must secure accreditation and licensing from PHILNOS.
- b) **Duties and Responsibilities.** OPOs are required to fulfill the following duties and responsibilities:
 - 1) Respond to call from RH within his DSA and subsequent evaluation of the PMOD for eligibility;
 - 2) Discuss organ donation with the potential donor's family;
 - 3) Obtain consent for donation and for removal of the organs;
 - 4) Management of organ procurement within its DSA;
 - 5) Reporting to PHILNOS the availability of a PMOD immediately after consent for donation is obtained;
 - 6) Fulfillment of all medicolegal requirements;
 - 7) Appropriate preservation and packaging of the organs;
 - 8) Assurance that adequate tissue typing material is procured, divided and packaged
 - 9) Assurance that written documentation of donor evaluation, donor maintenance, consent for donation, death pronouncement, and organ procurement quality accompanies the organ;
 - 10) Cooperation and coordination with other OPOs;
 - 11) Promotion of deceased organ donation through education and information dissemination; and
 - 12) Adherence to all DOH and PHILNOS rules and regulations
- c) **Temporary Suspension of License.** An OPO's license to operate can be suspended by PHILNOS for failure to:

- 1) Respond to calls from Referring Hospitals (RH);
 - 2) Procure an available organ;
 - 3) Fulfill reportorial requirements; or
 - 4) Non-compliance with the PHILNOS rules and regulations.
- d) **Permanent Revocation of License.** An OPO's license can be revoked by PHILNOS for any of the following reasons:
- 1) Repeated violations of PHILNOS rules and regulations;
 - 2) Violation of Republic Act (R.A.) No. 9208, otherwise known as Anti-Trafficking Law; or
 - 3) Violation of Section 22 of this Act.

The Corporation through its Board, after consultation with professional medical organizations, may provide for additional grounds for the revocation of an OPO's license.

- e) **Designation of DSA.** The designation of the DSA shall be guided by the following:
- 1) Geographical proximity;
 - 2) Technical capacity; and
 - 3) Quality of service

Sec. 16. Reporting of Brain Death. All patients with brain death in a tertiary hospital within the DSA of an OPO are to be considered potential multiple organ donors (PMOD) and as such, should be reported by the hospital to the designated OPO.

All tertiary hospitals, be it government or private, in the country are required to include the number of brain death cases in their annual report.

Sec. 17. Brain Death Certification

- a) Organs may be procured only from patients who have been declared to have suffered brain death and have a prior written intention to donate their organs (such as an organ donor card or will) or whose next of kin have given consent for organ donation.
- b) The DOH, in consultation with an appropriate professional organization such as the Philippine Neurological Association (PNA), shall establish and promulgate the acceptable parameters for declaring the occurrence of brain death (BD). Such criteria may be reviewed and/or modified as deemed appropriate by the members of the PNA or upon request by the PHILNOS

- c) Certification of BD shall be done separately by two (2) physicians, both of whom must be appropriately qualified and suitably experienced in neurological assessment for the diagnosis of brain death.
- d) The death certificate should be signed at the time of death certification.

Sec. 18. Consent for Deceased Organ Donation.

- a) Consent for donation shall be obtained by the PTC and shall be done only after the issuance of the BD certificate. Laboratory examinations shall commence only after consent for donation is secured.
- b) Consent for deceased organ donation must be obtained from the legal next-of-kin of the PMOD in the following order of priority, as stipulated in R.A. No. 7170, otherwise known as the Organ Donation Act of 1991:
 - 1) Spouse;
 - 2) Son or daughter of legal age;
 - 3) Either parent;
 - 4) Brother or sister of legal age; or
 - 5) Guardian over the deceased person at the time of death
- c) In the absence of the legal next-of-kin of the PMOD 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 18b hereof as stipulated in R.A. No. 7170.
- d) To guarantee the priority of a decedent's wishes over the decedent's family members with respect to their objections to organ donation, all hospitals and emergency personnel shall be mandated to develop procedures of "routine inquiry/required request" that will elicit from the patient, upon admittance to the hospital, or their families, at patient's death, about organ donation. If the patient expresses the intent to donate his or her organs, that information is added to the patient's record.
- e) The following documents, or advance directives, shall be recognized and honored as expressions of the testator's legacy or desire to donate his organs upon his death:

- 1) ***Organ Donor Card (ODC)*** which shall have the following elements:

- i. Signature and/or fingerprint mark of testator;
- ii. Signature and/or fingerprint mark of one witness; and
- iii. Date the ODC was signed.

PHILNOS shall release a universal ODC that shall bear the PHILNOS logo and a provisional space for the logo of the TxC or OPO where the ODC was obtained.

2) ***Driver's License;***

- 3) ***Living Wills.*** Living wills provide instructions for someone's medical care if that person becomes incapacitated or otherwise unable to make decisions for himself or herself. State statutes regulate living wills. In most cases, a LIVING WILL can direct that one's organs or tissues be taken and donated if medically appropriate. If individuals execute a living will, it is advisable for them to inform their physicians and their families of its existence.

- 4) ***Durable Powers of Attorney for Health Care.*** A durable POWER OF ATTORNEY for health care names someone, the individual's "agent," to make important decisions regarding that person's health care should the person become incapacitated. These documents can instruct the person's agent to donate the person's organs or tissues upon the person's death. As with living wills, the durable power of attorney for medical care is only effective if, in addition to the agent, the family and the person's physician know of its existence.

- 5) ***Advance Care Medical Directive.*** An advance care medical directive (ACMD) combines some features of the living will and the durable power of attorney for health care. An ACMD allows individuals to provide instructions for the type of care they do or do not want in a number of medical scenarios. These documents need to be created in consultation with their physician.

- 6) ***Video-tape of oral attestation.***

Sec. 19. 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, all the necessary laboratory examinations, *i.e. not autopsy* shall be conducted on the cadaver of accident, trauma, or other medico-legal cases immediately after the pronouncement of death to determine viability and/or quality of human organs that will be utilized for transplantation and/or in furtherance of medical science.

Sec. 20. Enrollment of the Organ Transplant Candidate. All OTCs shall be enrolled according to established criteria per organ. They shall be registered in the Philippine Organ Donor and Recipient Registry System (PODRRS) through their respective TxCs.

Sec. 21. Organ Allocation.

- a) Only the enrolled OTC shall be eligible to receive an organ retrieved from the deceased donor.
- b) Only PHILNOS shall have the authority to allocate all retrieved organs in the country.
- c) PHILNOS shall oversee the formulation and implementation of each and every allocation scoring system for each graft that shall form the basis for the allocation of individual organs/grafts. Such a scoring system shall be formulated through broad-based consultation and should be consistent with current international and national ethical and scientific standards.
- d) PHILNOS shall ensure the transparency of the implementation of the Organ-Specific Allocation Scoring System (OSASS) through daily electronic monitoring and audit.
- e) All OSASS are subject to periodic review and revision as deemed appropriate and as recommended by PHILNOS and/or by related professional organizations such as the Philippine Society of Nephrology and Philippine Society of Transplant Surgeons.

Sec. 22. Acceptable Living Donations.

- a) Any individual, at least twenty one (21) years of age, of sound mind, who underwent screening and counseling procedures and has been found suitable as living donor based on the physical and psychological evaluation and assessments made by physicians of the transplant facility who are not in any way directly connected with the transplant team, and thus fully understands the risks, benefits and consequences of removal of organs from his/her body for the purpose of transplantation,
- b) Informed written consent obtained for the removal of organs and tissues from the donor's body for the purpose of transplanting the same to another living human body. Such informed consent shall be in a document witnessed by a relative of the donor and two (2) physicians neither of whom shall be a member of the team of medical practitioners who will effect the removal of the organ from the donor's body nor the physician or transplant team attending to the recipient of the organ to be transplanted,
- c) Directed LNRDs are permitted only when it is voluntary and truly altruistic, without any kind of compensation or gratuity package attached to it. They must be screened and approved by the Hospital Ethics Committee, and

- d) Living donors (LRDs and Voluntary Directed LNRDs) need not go through the organ allocation system of PODRRS. They must however register themselves to PHILNOS for documentation purposes.

Sec. 23. Grounds for Rejecting Living Donation and Transplantation.

- a) Donor is a minor (less than 21 years of age).
- b) Donor is found to be ill (i.e. cancer, kidney disease, sepsis, rabies, hepatitis and HIV/STDs).
- c) Donor is a previous organ donor.
- d) Donation will result in a physical and/or psychological harm to the donor.
- e) Foreigners are not eligible to receive any organ from Filipino living non-related donors; *Unless*, That he/she is a former Filipino citizen and that the potential donor is related to the said foreigner by consanguinity within the fourth degree.
- f) Non-directed LNRD are not allowed to donate organs for transplantation.
 - i. No hospital, foundation, organization or agency, public or private, is allowed to keep a list of potential non-directed LNRDs and to utilize non-directed LNRDs for transplantation.
 - ii. PHILNOS is likewise prohibited to keep a list of potential non-directed LNRDs in PODRRS and to utilize non-directed LNRDs for organ allocation for the purposes of transplantation.

Sec. 24. Rights of Living Donors.

- a) The costs for all medical and psychiatric work ups to determine the living donor's fitness to donate shall be borne by the intended recipient.
- b) Living Donors shall be entitled to a leave of absence with pay for the period of his confinement for purposes of actual transplantation and post-transplant recovery for a period not to exceed fifteen (15) working days.
- c) Should the living donor develop a disability, as defined under the Social Security and Government Service Insurance System charters, resulting from the donation procedure, he/she shall be entitled to a disability pay, as therein defined and computed.
- d) Should the living donor eventually develop a disease or illness necessitating a transplant, the said donor shall be given priority in PODRRS.

Sec. 25. Organ Transplantation.

- a) Organ transplantation can be performed only in accredited and licensed TxC.

- b) The DOH, through the PHILNOS, shall formulate and implement the accreditation requirements for TxC, define their functions, monitor their operations and ensure their compliance with all government regulations.
- c) Organ transplantation can be carried out only by medical professionals accredited by the appropriate professional medical organizations.
- d) PHILNOS shall ensure that all medical and paramedical personnel involved in transplantation shall comply with pertinent government regulations.
- e) No TxC may perform a transplant procedure using an organ from a deceased donor that has not been allocated through PHILNOS.
- f) Organ transplantation with deceased donor shall be carried out at the TxC of choice of the OTC. The organ transplantation shall also be performed by the transplant team of choice of the OTC.

Sec. 26. Non-Commercialization of Donated Organs, Incentives and Recognitions. Organs should only be donated freely, without any monetary payment. Purchasing, or offering to purchase organs for transplantation is prohibited. PHILNOS shall formulate guidelines to ensure that any gifts or rewards are not, in fact, disguised forms of payment for donated organs.

- a) All OPOs have the option to give recognition to the family or next-of-kin of the deceased organ donor and/or to the deceased organ donor through a commemorative token or ceremony that has a monetary value not greater than the amount that shall be stipulated by PHILNOS.
- b) All OPOs shall not offer or give any gift to the family or next-of-kin of the PMOD in anticipation or in exchange for organ donation.
- c) To further increase awareness on deceased organ donation, a nominated week during the calendar year shall be declared as National Organ Donation Awareness Week when PHILNOS, OPOs and/or hospitals will be holding activities pertaining to organ donation.

Sec. 27. Education. The Department of Education shall mandate the inclusion of organ donation awareness in the national high school curriculum. The Commission on Higher Education (CHED) shall mandate the inclusion of organ donation awareness in all medical and paramedical courses including, but not limited to, Medicine, Nursing, Physical Therapy, Occupational Therapy, Respiratory Therapy, Radiation Technology and Medical Technology.

Sec. 28. Driver's License. The Land Transportation Office is mandated to provide information on organ donation to all applicants for a license to operate a motor vehicle. It is required to include a query regarding consent for organ donation in case of brain death in all drivers' licenses.

Sec. 29. Air Transport

- a) The Civil Aviation Authority of the Philippines (CAAP) under the Department of Transportation and Communication (DOTC) and the DOH

shall jointly formulate guidelines that shall govern the transport of procured organs through commercial airlines.

- b) The CAAP shall ensure the compliance of all registered commercial airlines with the regulations allowing transport of procured organs.

Sec. 30. Violations and Sanctions. Non-compliance to the policy guidelines stated in this Act shall be ground for suspension or revocation of license of the Hospital or Transplant Center, or organ procurement organization subject to the implementing rules and regulations to be established. Any violations by erring professionals – doctors, nurses, transplant coordinators – shall be investigated by the Department of Health and the Professional Regulations Commission for appropriate administrative sanctions.

Sec. 31. Appropriation.

- a) **Initial Appropriations** - Congress shall appropriate the amount of Forty Million Pesos (Php 40,000,000.00) for the initial implementation of this Act.
- b) **Subsequent Appropriations** - The following year after the amount necessary to implement the Program and thereafter, the appropriation shall be included in the regular budgetary allocation for the Department of Health, until such time that the Corporation shall be self-sustaining through its own funding.
- c) **Additional Appropriations** – DOH may request Congress to appropriate supplemental funding for PHILNOS in order to meet targeted milestones of the Act as deemed necessary by the Corporation.

Sec. 32. Financing

- a) A standard Organ Acquisition Cost from organ retrievals coming from deceased donors shall be determined by PHILNOS.
- b) PhilHealth shall develop a benefit package for the reimbursement of the organ acquisition cost to the Host OPO for every organ procurement event that occurs.
- c) To be included in the PODRRS list, a potential transplant recipient of PHILNOS shall pay a one-time, non-refundable registration fee.
- d) PHILNOS shall be given authority to conduct tax-exempted fund-raising activities that will help augment the revolving fund for organ acquisition.

Sec. 33. Funds of the PHILNOS.

- 1) **Funds.** All income derived from registration fees or from fund-raising activities shall be utilized solely for the continuous operations of PHILNOS.

The funds of the PHILNOS shall not be used for purposes other than what are provided for under this Act. Moreover, no portion of the funds of the PHILNOS or income thereof shall accrue to the General Fund of the national government and its political subdivisions, instrumentalities and

other agencies including government-owned and controlled corporations except as may be allowed under this Act.

- 2) ***Deposits and Disbursements.*** All revenues collected and all accruals thereto shall be deposited, administered and disbursed in accordance with the law. A maximum expense loading of seventy percent (70%) of the yearly revenues from all sources may be disbursed for administrative and operational expenses except as may be otherwise approved by the President of the Philippines on the basis of actuarial and management studies.
- 3) ***Investment of Funds.*** The funds of the PHILNOS which are not needed to meet its current obligations may be invested under such terms and conditions and rules and regulations as may be prescribed by the Board; *Provided*, That investments shall satisfy the requirements of liquidity, safety/security and yield in order to ensure the actuarial solvency of the funds of the PHILNOS; *Provided*, further, That the PHILNOS shall submit an annual report on all investments made to both Houses of Congress of the Philippines, and to other agencies as may be required by law, as such as:
 - (a) in interest-bearing bonds or securities or other evidence of indebtedness of the Government of the Philippines;
 - (b) in interest-bearing deposits or securities in any domestic bank doing business in the Philippines; *Provided*, That in the case of such deposits, there shall not exceed at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller; *Provided*, further, That the said bank has prior designation as a depository for the purpose by the Monetary Board of the Central Monetary Authority;
 - (c) in real estate property including shares of stocks involving real estate property and investments secured by first mortgages on real estate or other collaterals acceptable to the PHILNOS; *Provided*, That, such investment shall, in the determination of the Board, redound to the benefit of the Corporation, its members as well as the general public;
 - (d) in loans to, or in bonds, debentures, promissory notes or other evidence of indebtedness of any solvent corporation created or existing under the laws of the Philippines;
 - (e) in common and preferred stocks of any solvent corporation or financial institution created or existing under the laws of the Philippines listed in the stock exchange with proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period; and

- (f) in domestic mutual funds including investments related to the operations of mutual funds.

Sec. 34. General Provisions.

- a) ***Dispensation of PHILNOS funds.*** PHILNOS shall pay for the expenditures of all Organ Donation Events that have been performed/processed by authorized OPOs within their DSAs, provided, that all requirements are submitted to PHILNOS within sixty (60) days from date of Organ Procurement.

Compensation for the staff and board members of PHILNOS shall be drawn from the Corporation's own funds upon such time that it has been deemed self-sustaining.

PHILNOS shall also provide for the funding of memorial gardens, medallions, and similar tokens as recognition for the noble act of organ donors.

- b) ***Development and Disposition of Acquired Assets.*** PHILNOS shall have the right to develop and dispose of its acquired assets obtained in the ordinary course of its business. To add value to, improve profitability of, and/or enhance the marketability of an acquired asset, PHILNOS may further develop/renovate the same either with its own capital or through a joint venture arrangement with private companies or individuals.

PHILNOS may sell its acquired assets in accordance with existing Commission on Audit (COA) rules and regulations for an amount not lower than the current market value of the property. For this purpose, PHILNOS shall conduct an annual appraisal of its property or acquired assets to determine its current market value. All notices of sale shall be published in newspapers of general circulation.

No injunction or restraining order issued by any court, commission, tribunal or office shall bar, impede or delay the sale and disposition by PHILNOS of its acquired assets, except on questions of ownership and national or public interest.

Sec. 35. Implementing Rules and Regulations. PHILNOS, in consultation with relevant medical societies and government agencies, shall promulgate the necessary Implementing Rules and Regulations within three (3) months from the Effectivity of this Act.

Sec. 36. Separability Clause. If for any reason any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

Sec. 37. Repealing Clause. All laws, presidential decrees, executive and administrative orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 38. Effectivity. This Act shall take effect fifteen (15) days from the date of its publication in at least three (3) national newspapers of general circulation.

Approved,