



Republic of the Philippines
QUEZON CITY COUNCIL
Quezon City
22nd City Council

PO22CC-220

44th Regular Session

ORDINANCE NO. SP- 3221, S-2023

AN ORDINANCE REQUIRING THE RECOGNITION OF HEALTH CARE PROXIES BY ALL HEALTH FACILITIES WITHIN QUEZON CITY

Introduced by Councilors BERNARD R. HERRERA, MARIA ELEANOR "Doc Ellie" R. JUAN, O.D., WENCEROM BENEDICT C. LAGUMBAY, DOROTHY A. DELARMENTE, M.D., JOSEPH P. JUICO and ALBERT ALVIN "Chuckie" L. ANTONIO III

Co-Introduced by Councilors Tany Joe "TJ" L. Calalay, Nikki V. Crisologo, Charm M. Ferrer, Candy A. Medina, Aly Medalla, Dave C. Valmocina, Tatay Rannie Z. Ludovica, Godofredo T. Liban II, Kate Galang-Coseteng, Geleen "Dok G" G. Lumbad, Don S. De Leon, Atty. Anton L. Reyes, Edgar "Egay" G. Yap, Imee A. Rillo, Raquel S. Malañgen, Irene R. Belmonte, Nanette Castelo-Daza, Marra C. Suntay, Joseph Joe Visaya, Alfred Vargas, MPA, Shaira "Shay" L. Liban, Aiko S. Melendez, Mutya Castelo, Kristine Alexia R. Matias, Eric Z. Medina, Emmanuel Banjo A. Pilar, Vito Sotto Generoso, Victor "Vic" Bernardo, Alfredo "Freddy" Roxas and Julian Marcus D. Trono

WHEREAS, the 1987 Philippine Constitution under Article III, the Bill of Rights states that:

"Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

"Section 10. No law impairing the obligation of contracts shall be passed."

WHEREAS, the Philippines being the first signatory to the Universal Declaration of Human Rights, which states that:

"Human rights are inherent in all persons regardless of gender, race, culture, religion, and any other status and all human beings are born free and equal in dignity and rights."

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WHEREAS, through the efforts of the City Mayor, Honorable Ma. Josefina G. Belmonte, alongside MullenLowe TREYNA, through Senior Art Director Adrian de Guzman, the Quezon City Government continuously strives to make healthcare more accessible and inclusive to members of the Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) community by launching the Right to Care Card, in order to combat the lack of legislation that recognizes the rights of members of the LGBTQI community especially in the aspect of healthcare;

WHEREAS, The Right to Care Card, through a Special Power of Attorney (SPA), shall authorize queer couples to choose the kind of treatment, procedures, tests, and prescriptions that their partners shall receive. They will also be allowed to provide care during hospitalization and receive important information throughout the duration of admission.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN REGULAR SESSION ASSEMBLED:

SECTION 1. TITLE. – This Ordinance shall be known as the “Quezon City Right to Care Ordinance.”

SECTION 2. DECLARATION OF POLICY. – In recognition of the efforts of the Quezon City Government to ensure equality and equity among all gender, the Quezon City Government hereby declares that all Health Care Providers within the territorial jurisdiction of the City shall recognize and respect the use of the Quezon City Right to Care Card issued by the Quezon City Gender and Development (GAD) Council Office.

SECTION 3. DEFINITION OF TERMS. – The terms as provided for under this Ordinance are defined as follows:

- a. **Adult** – a natural person who is eighteen (18) years of age or older.
- b. **Health Care** – any treatment, service, or procedure to diagnose or treat an individual’s physical or mental condition.
- c. **Health Care Agent** – any Adult, who is a resident of Quezon City and/or a partner of a qualified Principal who is a Quezon City resident, authorized to make Health Care Decisions on behalf of a Principal under a Health Care Proxy.
- d. **Health Care Decision** – any decision to consent or refuse to consent to Health Care.

- e. **Health Care Provider** – an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer or provide Health Care in the ordinary course of business or practice. Unless the context otherwise requires or is otherwise specified, references in this Ordinance to Health Care Providers shall refer to Health Care Providers, and their agents and employees.
- f. **Health Care Proxy** – a document in which a Principal delegates to a Health Care Agent the authority to make Health Care Decisions on the former’s behalf.
- g. **Principal** – any Adult, Single or Legally Separated, who is a resident of Quezon City and/or a partner of a qualified Health Care Agent who is a Quezon City resident, authorizing a Health Care Agent to act in their place through a Health Care Proxy.

SECTION 4. HEALTH CARE PROXY. – The City shall, as long as resources and personnel are readily available, assist applicants for the Right to Care Card to legally execute Health Care Proxies. Should applicants provide their own Health Care Proxies, the City shall ensure that such documents were executed by competent Adults freely and voluntarily, and (a) identify the Principal and the Health Care Agent; and (b) indicate that the Principal intends for the Health Care Agent to have authority to make Health Care Decisions on behalf of the Principal.

- a. **Scope of Authority** – subject to any express limitations in the Health Care Proxy, a Health Care Agent shall have the authority to make any and all Health Care Decisions on the Principal’s behalf that the Principal could make.
- b. **Disclosure of Information** – the Health Care Agent shall have the right to receive medical information and records necessary to make informed decisions regarding the Principal’s Health Care.

SECTION 5. QUEZON CITY RIGHT TO CARE CARD. – The QC Right to Care Card (“RTC Card”) is a City-issued card which functions as proof that a Health Care Proxy has been executed by the Principal named in the RTC Card.

- a. **Issuance** – Subject to the provisions of this Ordinance, and other conditions which the City may require, the City, through the Quezon City GAD Council Office, shall issue RTC Cards to qualified applicants. Provided that, the Principal and/or the Health Care Proxy is a resident of Quezon City.

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b. **Form** – the RTC Card shall be issued in both physical and digital copies, either of which shall be deemed valid by Health Care Providers.

c. **Contents** –

i. Shall contain the names, signatures, and appropriate contact details of both the Principal and the Health Care Agent.

ii. Shall contain a quick response (“QR”) Code, or any other code or means, which directs to a digital copy of the Health Care Proxy kept in City-owned or controlled digital storage.

iii. Shall contain such other information or design as may be deemed appropriate by the City.

d. **Authority** – A Health Care Agent designated in the RTC Card shall, on behalf of the Principal named therein, have the authority for the following:

i. Subject to any express limitations in the Health Care Proxy, a Health Care Agent shall have the authority to make any and all Health Care Decisions on the Principal’s behalf that the Principal could make.

ii. The Health Care Agent shall have the right to receive medical information and records necessary to make informed decisions regarding the Principal’s Health Care.

iii. Health Care Decisions by the Health Care Agent on the Principal’s behalf shall have priority over decisions by any other person, except as otherwise provided in the Health Care Proxy.

SECTION 6. CAPACITY. – The authority of the Health Care Agent to make Health Care Decisions shall commence upon due determination, in accordance with applicable laws, rules, or regulations, that the Principal lacks capacity to make Health Care Decisions. In the event that there is a due determination that the Principal has regained capacity, the authority of the Health Care Agent to make Health Care Decisions shall cease, but shall recommence if the Principal subsequently loses capacity.

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The foregoing notwithstanding, where the Principal objects to the determination of incapacity or to a Health Care Decision made by the Health Care Agent, the Principal's objection or decision shall prevail unless the Principal is determined by a court of competent jurisdiction to lack capacity to make Health Care Decisions.

SECTION 7. EXPIRATION AND REVOCATION. – A Health Care Proxy may provide that it expires after a specified period or upon the occurrence of a certain condition, otherwise, the Health Care Proxy shall be deemed to remain in effect until revoked. If, prior to the expiration of a Health Care Proxy, the authority of the Health Care Agent has commenced, the Health Care Proxy shall not expire while the Principal lacks capacity.

The issuance of a new RTC Card and/or SPA to the same Principal shall be deemed as an automatic revocation of any RTC Card previously issued to such Principal. Such revocation of an RTC Card shall be deemed as an automatic revocation of the Health Care Proxy attached thereto, regardless of any period or condition specified therein. Principals shall be required to expressly notify the City, through the GAD Council Office, of any expiration, revocation, or modification of their Health Care Proxies, notwithstanding any period or condition for such expiration, revocation, or modification already indicated therein.

SECTION 8. HEALTH CARE PROVIDER OBLIGATIONS. – Health Care Providers within the jurisdiction of the City are required to observe the following:

- a. A Health Care Provider who is presented with an RTC Card or Health Care Proxy, or who finds such card or proxy on the person of the Principal-patient, shall recognize and be charged with due knowledge that a Health Care Proxy has been executed by the Principal-patient. In the case of RTC Cards, the Health Care Provider shall access the Health Care Proxy linked to the RTC Card, and include such linked proxy in the Principal-patient's medical records.*

In the event that the Principal-patient is unaccompanied by the Health Care Agent designated in the RTC Card or Health Care Proxy, Health Care Providers shall exert reasonably diligent efforts to notify such agent, through the contact details provided in the card or proxy, of the circumstances by which the Principal-patient is under their care.

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- b. *A Health Care Provider shall comply with the Health Care Decisions made by the designated Health Care Agent in good faith under an RTC Card or a Health Care Proxy to the same extent as if such decisions had been made by the Principal-patient, subject to any limitations in the Health Care Proxy and in this Ordinance.*
- c. *A Principal-patient may revoke a Health Care Proxy by notifying the Health Care Provider orally or in writing or by any other act evidencing a specific intent to revoke such proxy. In such cases, the Health Care Provider shall record such revocation in the Principal-patient's medical records, and notify its relevant agents and employees, and the Health Care Agent of such revocation.*

SECTION 9. IMMUNITY. – The City shall hold Health Care Providers, or any of its agents or employees, free from any liability for honoring in good faith a Health Care Decision by a Health Care Agent, or for other actions taken in good faith pursuant to this Ordinance. Further, the City shall hold any Health Care Agent free from any liability for making a Health Care Decision in good faith pursuant to this Ordinance.

SECTION 10. HEALTH CARE COST. – Liability for the cost of Health Care provided pursuant to a Health Care Agent's Health Care Decisions shall be the same as if the Health Care were provided pursuant to the Principal's Health Care Decisions.

SECTION 11. ALLIED SERVICES. – Subject to existing laws, rules or regulations, no person may require or prohibit the execution of a Health Care Proxy as a condition for providing Health Care services or insurance to an individual.

SECTION 12. NON-LIMITATION. – Nothing in this Ordinance creates, expands, diminishes, impairs or supersedes any authority that a principal may have under law to make or express decisions, wishes, or instructions regarding health care, whether or not expressed in a Health Care Proxy. Further, nothing herein shall be construed to permit a Health Care Agent to consent to any act or omission to which the Principal could not consent under law.

SECTION 13. EXTRATERRITORIAL RECOGNITION. – A Health Care Proxy or similar instrument executed in another Local Government Unit in compliance with law shall be considered validly executed and recognized for the purposes of this Ordinance.

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SECTION 14. PENALTIES. – A fine of Five Thousand Pesos (Php5,000.00) or imprisonment of not more than six (6) months, or both at the discretion of the court, shall be imposed to both the Health Care Provider, and any of its agents and employees, shall be imposed to any person who shall violate any provision of this Ordinance.

Further, if the Health Care Provider, or its agents or employees, are owned, controlled, or otherwise employed by the City, such violator shall be held administratively liable in accordance with applicable civil service rules.

Furthermore, violations committed by a Health Care Provider, or its agents or employees, shall be reported to the Department of Health.

SECTION 15. IMPLEMENTING RULES AND REGULATIONS. – The Quezon City GAD Council Office and the City Legal Department, in consultation with the City Health Department, City Hospitals and other health institutions within the City, shall formulate the necessary rules and regulations for the implementation of this Ordinance.

SECTION 16. APPROPRIATIONS. – For 2023, the initial fund for the implementation of this Ordinance shall be sourced from the current program and projects of the Quezon City GAD Council Office, or from any available funds of the Office of the City Mayor and the Quezon City Government. Succeeding appropriations shall be included in the general appropriations of the QC Government annually under the Quezon City GAD Council Office and the Quezon City Health Department.

SECTION 17. AUTHORIZATION TO THE HONORABLE MAYOR. – The Honorable Mayor, Ma. Josefina G. Belmonte, is hereby authorized to enter into any agreement relating to the use of the trademark, “Right to Care” and/or “Right to Care Card”, and any agreements with any government unit relating to the purposes of this Ordinance until June 30, 2025.

SECTION 18. SEPARABILITY CLAUSE. – If for any reason, a part of this Ordinance is declared illegal or invalid, the other parts or provisions hereof which are not affected thereby shall remain valid and in full force and effect.

SECTION 19. REPEALING CLAUSE. – All previous issuances, ordinances, rules, rules and regulations or parts thereof which are inconsistent with any provision of this Ordinance are hereby repealed or modified accordingly.

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44th Regular Session

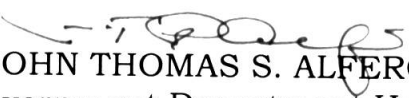
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SECTION 20. EFFECTIVITY CLAUSE. – This Ordinance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

ENACTED: September 25, 2023.


GIAN G. SOTTO
City Vice Mayor
Presiding Officer

ATTESTED:



ATTY. JOHN THOMAS S. ALFEROS, III
City Government Department Head III
(City Council Secretary)

APPROVED: OCT 20 2023


MA. JOSEFINA G. BELMONTE
City Mayor

CERTIFICATION

This is to certify that this Ordinance was APPROVED by the City Council on Second Reading on September 25, 2023 and was PASSED on Third/Final Reading on October 2, 2023.


ATTY. JOHN THOMAS S. ALFEROS, III
City Government Department Head III
(City Council Secretary)

