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KAGAWARAN NG KATARUNGAN
Department of Justice
 Manila

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Executive Director EMERITO L. ROJAS
 National Council on Disability Affairs
 NCDA Building, Isidora St.
 Brgy. Holy Spirit, Quezon City 1127

Dear Executive Director ROJAS:

This has reference to your letter requesting from this Department legal opinion on the following issues, to wit:

- (a) Whether cancer patients, persons living with cancer, cancer survivors, and persons with rare disease can be included in the issuance of persons with disabilities (PWDs) identification card or disability card; and
- (b) Whether cancer and rare disease can be classified as new types of disabilities in accordance with the Magna Carta for Persons with Disabilities.

You stated that Republic Act (R.A.) No. 11215,¹ otherwise known as the "National Integrated Cancer Control Act" and R.A. No. 10747,² otherwise known as the "Rare Diseases Act of the Philippines" recognize cancer patients, persons living with cancer, cancer survivors, and persons with rare disease as PWDs, as follows:

"Section 25, R.A. No. 11215. *Persons with Disabilities.* - Cancer patients, persons living with cancer and cancer survivors are considered as persons with disabilities (PWDs) in accordance with Republic Act No. 7277,³ as amended, otherwise known as the 'Magna Carta for Disabled Persons.'" (Emphasis ours)

"Section 10, R.A. No. 10747. *Designation of Persons with Rare Disease as Persons with Disabilities (PWDs).* — Persons

¹ An Act Institutionalizing a National Integrated Cancer Control Program and Appropriating Funds Therefor, dated February 14, 2019.

² An Act Promulgating a Comprehensive Policy in Addressing the Needs of Persons with Rare Disease, dated March 3, 2016.

³ An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Person and Their Integration into the Mainstream of Society and for Other Purposes, dated March 24, 1992.

with rare disease shall be considered as persons with disabilities (PWDs), in accordance with Republic Act No. 7277, as amended, or the Magna Carta for Disabled Persons.” (Emphasis ours)

Specifically, you wish to be clarified on whether the above-mentioned laws created new classification or types of disabilities for the purpose of issuance of disability card. You mentioned that there are currently nine (9) existing types of disabilities as per Department of Health (DOH) Administrative Order (A.O.) No. 2013-0005-A but cancer and rare diseases were not yet included therein as types of disabilities.

The Council believes that it is proper to include cancer and rare diseases as part of the types of disabilities in accordance with R.A. No. 7277, which defines disability as:

“(1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual;

“(2) a record of such an impairment; or

“(3) being regarded as having such an impairment;”

(Emphasis supplied)

Section 4 (b) of R.A. No. 7277 defines impairment as any loss, diminution or aberration of psychological, physiological, or anatomical structure of function.

You also mentioned that the United Nations Convention on the Rights of Persons with Disabilities (CRPD) where Philippines is a state party offers broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.

Hence, this request.

We answer both of your queries in the affirmative.

The above-quoted provisions of R.A. No. 11215 and R.A. No. 10747 are clear, explicit and categorical, and need no further interpretation or construction, only application. They clearly state that cancer patients, persons living with cancer, cancer survivors, and persons with rare disease are considered as persons with disabilities. As such, we don't see any reason why disability cards or PWD identification cards may not be issued to them, as this may serve as proof of their status as PWDs.

Since the subject statutes are clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or speech is the index of intention. Furthermore, there is the maxim *verba legis non est recedendum*, or from the words of a statute there should be no departure.⁴

⁴ Department of Justice Opinion No. 32, s. 2017.

Moreover, Section 25, Rule VII of the Implementing Rules and Regulations (IRR) of R.A. No. 11215, issued pursuant to DOH Memorandum Circular No. 2019-0036, further clarifies the matter regarding the issuance of PWD identification card, as follows:

“Sec. 25. Persons with Disabilities. – Cancer patients, persons living with cancer and cancer survivors are considered as persons with disabilities, thus, the National Council on Disability Affairs (NCDA) and the local social welfare development offices shall issue the persons with disability card to them in accordance with Republic Act No. 7277, as amended, otherwise known as the ‘Magna Carta for Disabled Persons’ and with Republic Act No. 10754 or ‘An Act Expanding the Benefits and Privileges of Persons with Disability.’ The Philippine Registry for Persons with Disability shall also be linked to appropriate DOH reporting mechanisms.” (Emphasis supplied)

We believe that the issuance of disability card or PWD identification card to cancer patients, persons living with cancer, cancer survivors and persons with rare disease is not only necessary, but is imperative and obligatory in nature in order for them to easily access their rights and privileges accorded to them by law, specifically under R.A. No. 11215 and R.A. No. 10747, to wit:

“Section 26, R.A. No. 11215. *Rights and Privileges.* - The cancer patients, persons living with cancer and cancer survivors are accorded the same rights and privileges as PWDs and the DSWD shall ensure that their social welfare and benefits provided under Republic Act No. 7277, as amended, are granted to them. Further, the DOLE shall adopt programs which promote work and employment opportunities for able persons with cancer and cancer survivors.” (Emphasis supplied)

“Section 11, R.A. No. 10747. *Rights and Privileges of Persons with Rare Disease.* — The appropriate national government agency shall ensure that they are accorded the same rights and privileges as PWDs, to wit:

“(a) The Department of Social Welfare and Development (DSWD) shall provide assistance to persons with rare disease to ensure that their social welfare and benefits provided under Republic Act No. 7277, as amended, or the Magna Carta for Disabled Persons, are granted; xxx” (Emphasis supplied)

Relative thereto, Section 11, Rule IV of the IRR of R.A. No. 10754 or “An Act Expanding the Benefits and Privileges of Persons with Disability” states that the PWD identification card can be used by a PWD as a proof of his or her entitlement to the said benefits and privileges:

"Section 11. Proof of Entitlement – The benefits and privileges indicated in the Act are available to persons with disability who are Filipino citizens, upon submission of any of the following as proof of his/her entitlement thereto:

"11.1 An identification card issued by the Persons with Disability Affairs Office (PDAO) or the City / Municipal Social Welfare and Development Office (C/MSWDO) of the place where the person with disability resides.

"11.2 The passport of the concerned person with apparent disability.

"11.3 An identification card issued by the National Council on Disability Affairs. This is on a case-to-case basis for emergency purposes only, provided that the PWD ID number coding shall be retained in accordance with the official residence of the person with disability." (Emphasis supplied)

Thus, as to your request for clarification on whether the above-mentioned laws created new classification or types of disabilities for the purpose of issuance of a PWD identification card, we also answer in the affirmative.

Meanwhile, it must be borne in mind that the non-inclusion of cancer and rare disease as forms or types of disabilities under the aforesaid DOH A.O. No. 2013-0005 can logically be explained by the fact that R.A. No. 11215 and R.A. No. 10747 were enacted by Congress only in 2019 and 2016, respectively, which considered cancer patients, persons living with cancer, cancer survivors and persons with rare disease as persons with disabilities (PWDs) in accordance with R.A. 7277, as amended.

In view of the foregoing disquisitions, it is our view that cancer patients, persons living with cancer, cancer survivors, and persons with rare disease should be included in the issuance of PWD identification card as an outcome of them being considered as persons with disabilities by R.A. No. 11215 and R.A. No. 10747 vis-à-vis R.A. 7277, as amended. The issuance of PWD identification card to them is also necessary and indispensable as it is a proof of their entitlement to the benefits and privileges accorded to them by law.

Please be guided accordingly.

Very truly yours,



MENARDO I. GUEVARRA
Secretary

Department of Justice
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