



Anatomical Board of the State of Texas
John Hubbard, PhD, PT
Chairman
PO Box 195895
Dallas, TX 75219

John K Hubbard, PhD, PT
Chair, Anatomical Board of the State of Texas
University of Houston College of Medicine
Department of Biomedical Sciences
Room 8036, Health 2 Building
4849 Calhoun Rd.
Houston, TX 77204

RQ-0292-KP
FILE # ML-48571-19
I.D. # 48571

June 24, 2019

Honorable Ken Paxton
Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

RE: Legality of Science Care to operate a Willled Body Program in the State of Texas

Dear Mr. Paxton:

The Anatomical Board of the State of Texas (SAB, Board) received a letter from Science Care Corporation dated February 7, 2019 requesting oversight from the SAB for a Willled Body Donation and Processing facility that Science Care would like to operate within the State of Texas. A formal response on this request was delayed until such time that the Board would be able to meet in a regularly scheduled meeting which would also be an open public session. The SAB was able to meet at its annual scheduled meeting at UT Health – San Antonio on May 31, 2019.

At this meeting, representatives from Science Care were present and presented information on their company as well as fielded questions from members of the Board and other meeting attendees. Due to the lengthy ensuing discussion, it was determined that an *ad hoc* committee of Board members would be formed to construct a formal response to Science Care. The *ad hoc* committee of the SAB has formed its opinion but is not sure of the legality of Science Care to operate a Willled Body Program within the State of Texas, or the ability of the SAB to enforce its rules and regulations over a commercial entity such as Science Care. As such, the Executive Committee and the *ad hoc* committee of the SAB are requesting a formal opinion from the State of Texas Attorney General's office on the legality of Science Care and other such corporations to operate Willled Body Donation programs in the State of Texas.

As paraphrased from the Texas Health and Safety Code Title 8, Subtitle B, Chapter 691, the general duties of the Board are to 1) oversee distribution of Willed Body Programs (WBP) bodies and anatomical specimens to institutions authorized to receive them and 2) adopt rules to ensure that each body and anatomical specimen in the custody of the board or an institution represented on the board is treated with respect. These rules were initially formulated to ensure that WBP donors were available and distributed equitably to meet the educational and research needs of medical, dental, osteopathic and chiropractic schools within the State of Texas. Oversight of the WBP's has subsequently been extended to include distribution to graduate allied health programs along with surgical and medical skill training programs for licensed allied health professionals.

The SAB recognizes the need for increasing numbers of whole-body donors to meet the ever-increasing demand for training programs both inside and outside of our formal educational institutions. Physician specialty training programs, surgical skill training programs, health care continuing education competency requirements, and medical equipment development programs are all enhanced from use of human cadavers and anatomical specimens. There is an ever-increasing need for Willed Body Donors, however, there are rules that must be followed when acquiring human bodies for educational or research endeavors within the State of Texas.

As stated in the Texas Health and Safety Code 691.028: Donation of a Body by Written Instrument, "An adult living in this state who is of sound mind may donate his body by will or other written instrument to the board, a medical or dental school, or another donee authorized by the board, to be used for the advancement of medical science." The law also states in 691.030 Boards Authority to Distribute Bodies and Anatomical Specimens, that: (a) The board or the board's representative shall distribute bodies donated to it and may redistribute bodies donated to medical or dental schools or other donees authorized by the board to schools and colleges of chiropractic, osteopathy, medicine, or dentistry incorporated in this state, to physicians, and to other persons as provided by this section, and (b) In making the distribution, the board shall give priority to the schools and colleges that need bodies for lectures and demonstrations.

Chapter 692A of the Texas Health and Safety code states in 692A.011. that ... (4) an eye bank or tissue bank, **except that use of a gift of a whole body must be coordinated through the Anatomical Board of the State of Texas;** These laws clearly give the SAB the authority to 1) determine what entities other than recognized medical or dental schools may receive direct donations of bodies by written instrument, 2) that the priority for distribution be to educational institutions, and 3) that all whole-body donations are to be coordinated through the SAB.

While Science Care obtains their human tissue from whole body donations, they hold themselves out to be a tissue bank for non-transplant human tissue. Science Care does not solicit parts of bodies or specific organs for donations, they solicit whole-body donations. It was apparent from our May 31, 2019 discussion, that Science Care solely solicits whole body donations, intending to section those whole-body donors into specific tissue or organ sections. Science Care donors donate their whole bodies, not specific organs or parts of their bodies. The opinion of the SAB is that Science Care is a whole-body donation organization and not a tissue bank and does not fall under the jurisdiction of the Uniform Anatomical Gifts Act.

As such, if Science Care were to operate within the State of Texas, it would need to operate under the jurisdiction of the Anatomical Board of the State of Texas, and become subject to all the rules and regulations that govern donation of human bodies within this state.

The SAB acknowledges that under TAC 25:4: Rule 477.1.3.B, the Board lacks jurisdiction over skeletal materials or other prepared specimens obtained from commercial sources, but that is not what Science Care as a commercial entity is providing to its clients. Bodily sections including but not limited to extremities, torsos, or cephalad sections that are either fresh frozen or embalmed do not meet the criteria of prepared specimens which are fixated utilizing specialized methods intended for long-term preservation and usage.

Science Care also openly acknowledges that they frequently and routinely ship human body sections obtained from their Willed Body Donors internationally, often to unregulated facilities, courses, and workshops. As stated in a prior AG opinion (jm0663 – 1987) “the Anatomical Board of the State of Texas has no authority to transport dead bodies to foreign countries”. If Science Care is to be under the oversight of the SAB, the international transporting of Willed Body Donors or their sectioned body parts from within the state of Texas would need to cease.

It was also fully disclosed in open forum during the SAB meeting that Science Care is a for-profit whole-body procurement (through donations) and distribution organization. Chapter 692A.016 states that: “SALE OR PURCHASE OF PARTS PROHIBITED. (a) Except as otherwise provided in Subsection (b), a person commits an offense if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. An offense under this subsection is a Class A misdemeanor, and that (b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.” This states that an entity receiving a whole-body donation may only recoup their expenses in utilization of a whole-body donor or an anatomical specimen. While it is not illegal to charge direct expenses for provision of cadavers or anatomical specimens to customers or institutions as part of their business dealings, the SAB holds that is illegal, immoral and unethical to profit from the sale of donated bodies.

The medical and dental educational institutions represented by the SAB have an obligation to provide the citizens of the State of Texas competent medical, dental and other health care providers. The ability to educate these students in the basic anatomical sciences which is the foundation of their diagnostic paradigm depends on the availability of human cadavers obtained through our Willed Body Programs. We hold a sacred trust with our whole-body donors and interpret the Texas State Law and Texas Administrative Code as being in opposition to for-profit commercialization of whole-body donation programs.

After careful consideration and examination of the Texas Health and Safety Code 692A.011; 692A.002 (the Law), and the Texas Administrative Code, Section 25, Part 4 (the Rules or interpretation of the Law), the Anatomical Board of the State of Texas feels that that the Law and Administrative Code do not allow companies like Science Care to receive, procure, hold, distribute, or cremate deceased human bodies or body parts within the State of Texas.

Specifically, Health and Safety Code 692A.011 (a) does not recognize companies like Science Care as falling under any of the categories that are identified as being able to receive an anatomical gift. Science Care is not an organ procurement organization, hospital, an individual, eye bank, or tissue bank. Science Care is also not a forensic science program, search and rescue organization, or the Anatomical Board of the State of Texas. Additionally, Health and Safety Code 692A.011 (b) explains that with the exception of Subsections (a)(1) through (6), the Anatomical Board of the State of Texas shall be the donee of gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution by the board under Chapter 691. Furthermore, under the Texas Administrative Code, Section 25, Part 4: Rule 479.1- Institutions Authorized to Receive and Hold Bodies, Science Care does not fall into any of the approved categories for institutions or organizations authorized to receive and hold bodies.

At this time, the Anatomical Board of the State of Texas does not feel that Science Care, a for-profit whole-body procurement (through donations) and distribution organization, is legally entitled to receive whole body donations within the State of Texas. The SAB respectfully requests a formal opinion from the State Attorney General's as to whether Science Care is or is not entitled to conduct this type of business activity, within the State of Texas.

If the State of Texas Attorney General's office rules that Science Care is indeed entitled to operate a Willied Body Donor program as a commercial entity within the State of Texas, then the SAB requests formal approval from the Attorney General's office to enforce the existing laws, rules, and regulations upon Science Care and state that they may only legally operate under the auspices of the SAB and must follow the same rules and regulations set forth in Chapters 691 and 692A of the Health and Safety Code and the Section 25, Part 4 of the Texas Administrative Code that all other whole body donation programs in the State of Texas must adhere to.

With sincere regards:



John K Hubbard. PhD, PT
Chairperson, Anatomical Board of the State of Texas
Hubbard@Central.UH.edu