

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

'04 JUN 30 P2:53

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SENATE  
S. No. 225

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Introduced by Senator S. R. Osmeña III

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### EXPLANATORY NOTE

Article II, Section 15 of the Constitution declares that the State shall protect and promote the right to health of the people and instill health consciousness among them.

Every individual's health is the concern of society. The uncertainty which attends most health problems further justifies that the State intervene in the provision of adequate health services to every individual.

Health insurance was one of the earliest institutions developed to address the uncertainty related to health problems. Subsequently, however, the distortive effects of health insurance demonstrated the moral hazard problems accompanying health insurance. Firstly, there is the tendency of people with insurance coverage to exert less effort to stay in good health and prevent the incidence of illness. Secondly, insurance benefits appear to influence the decisions made by health practitioners in behalf of patients to order services over and above what is efficient.

Health maintenance organizations were developed in the early 1980's as a more efficient manner of addressing the uncertainty related to health problems. It encourages the individual, under the supervision of the HMO to undertake both preventive and curative health measure. Also, the HMO participates in the management of costs incidental to the provision of the service, hence there is an incentive to be more efficient.

This bill lays the ground rules for the operation of HMOs under government supervision to ensure the public safety and protection. It sets down the procedures and requirements for licensing of HMOs as well as the grounds for suspension and revocation of their license to operate.

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

  
SERGIO OSMEÑA III  
Senator

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AN ACT  
PROVIDING AFFORDABLE HEALTH CARE SERVICES, THROUGH THE HEALTH  
MAINTENANCE ORGANIZATIONS, REGULATING THEIR OPERATIONS, AND  
FOR OTHER PURPOSES

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

1 SECTION 1. **Short Title.** – This Act shall be known as the “Health  
2 Maintenance Organization (HMOs) Code of 2004.”

3 SEC. 2. **Statement of Policy** – It is hereby declared the policy of the  
4 State to protect and promote the right to health of the people and instill health  
5 consciousness among them. Pursuant to this policy, government shall provide  
6 incentives and set the guidelines governing Health Maintenance Organizations  
7 to enhance accessibility to affordable health care services. It shall likewise  
8 recognize, encourage and tap the participation of the private sector in providing,  
9 funding and managing the delivery of cost effective and quality health care  
10 services.

11 SEC. 3. **Objectives.** – In line with the above policy, this Act seeks to:

12 (a) Recognize HMOs as unique medical service providers that combine  
13 the financing, management and provision of health services and to  
14 encourage their growth by granting them incentives.

15 (b) Establish the regulatory framework for HMOs that shall protect the  
16 rights of the buying public as well s the various sectors involved in the  
17 delivery of health care services.

1 (c) Promote the provision of quality health services and to improve the  
2 efficiency in delivery of health care services.

3 (d) Protect the rights of HMOs, their members and health care service  
4 providers.

5 (e) Make people more health-conscious by making health care services  
6 readily available, accessible and affordable.

7 SEC. 4. **Definition of Terms.** – When used in this Code, the following  
8 terms shall mean:

9 (a) *Actuary* – a statistician with the necessary training, qualification and  
10 experience and a fellow of the Actuarial Society of the Philippines. He  
11 shall, among others, compute rates for health care plans on the basis  
12 of experience tables and determine the financial soundness of health  
13 care agreements and operations of HMOs

14 (b) *Agreement* – A contract entered into by a HMO with a member or  
15 group of members or a corporation on behalf of its employees and  
16 their dependents, for the former to provide or arrange to provide pro-  
17 agreed or designated health care services to the latter, for a fixed  
18 period of time and for a specified fee;

19 (c) *Association* – The Association of Health Maintenance Organizations  
20 of the Philippines, Inc. (AHMOPI), the existing association of Health  
21 Maintenance Organizations, recognized by the Department of Health  
22 as the industry association and representing a large number of HMOs  
23 as well as a greater majority of enrolled members;

24 (d) *Co-payment* – the amount a member must pay in order that he can  
25 receive a specific service which is not fully prepaid;

26 (e) *Corporation* – a juridical person as defined by law, duly registered  
27 with the Securities and Exchange Commission;

1 (f) *Deductible* – the amount a member pays out-of-pocket before the  
2 Health Maintenance Organizations begins to pay the cost associated  
3 with treatment;

4 (g) *Department* – the Department of Health (DOH);

5 (h) *Health Maintenance Organization (HMO)* – a medical/health service  
6 provider to provide pre-agreed or designated health care services to  
7 its enrolled members for a fixed periodic fee and for a specific period  
8 of time. It uses a system of health care delivery called managed care  
9 that influences utilization and costs of services and measures  
10 performance resulting in quality cost-effective care. It integrates  
11 financing and delivery and health care services through and managed  
12 health plan which may be in the form of a comprehensive HMO plan,  
13 preferred provider plan, managed indemnity or self-insured plans,  
14 third party administration plan and such others that fall under the  
15 definition of a managed health plan.

16 A health maintenance organization shall possess the following  
17 characteristics of qualify as HMO:

- 18 1. An organized system of providing and assuring health care  
19 services in a defined geographical area;
- 20 2. A pre-agreed set of basic and supplemental health  
21 maintenance and treatment services;
- 22 3. Has enrolled group of individuals paying a fixed periodic fee.

23 By definition, being a medical service provider, the HMO is exempt  
24 from payment of the Expanded Value Added Tax (EVAT) under Republic  
25 Act No. 7716. In line with the above principle of encouraging private  
26 sector to help provide health care services and making membership fees  
27 more affordable to low income sectors of the population, such exemption  
28 shall be maintained.

1           A Health Maintenance Organization shall not be considered an  
2 insurance company, or quasi-insurance firm, or pre-need entity, or a  
3 dealer in security for the reason that the pre-need health care services  
4 are immediately available to the members of HMOs, once the contract is  
5 entered into and paid, unlike insurance of pre-need contracts which  
6 required the occurrence of contingent events insured against or covered,  
7 before the benefits are availed of by the insured.

8 (i) *Managed Care* – a system of health care delivery that influences  
9 utilization and cost of services and measures performance with a goal  
10 to deliver quality, cost-effective health care;

11 (j) *Managed Health Plan* – a plan that covers health care services  
12 through an integrated and organized system of financing, delivery and  
13 management of services to an enrolled population for a specific  
14 period of time and a fixed periodic fee;

15 (k) *Member* – an individual or a person who is part of a group or an  
16 employee or a corporation and his dependents, who entered into a  
17 contract with a HMO;

18 (l) *Person* – a natural or juridical person as defined by law;

19 (m) *Provider* – a health professional such as physician, dentist, nurse or  
20 midwife or health care professionals' group, or a health facility such  
21 as hospital, diagnostic clinic, medical clinic, pharmacy or Health  
22 Maintenance Organization, licensed or authorized by the proper  
23 government agency to provide health care services;

24 (n) *Participating or Accredited Provider* – a provider as defined in  
25 paragraph M who under an express contract with a Health  
26 Maintenance Organization (HMO) or with the latter's contractor or  
27 subcontractor, has agreed to provide health care services to the HMO  
28 members, with the right to payment, other than co-payment or  
29 deductible, directly or indirectly from the HMO;

1 (o) *Membership Fee* – The amount of money paid by an individual  
2 member, group or corporation on behalf of its employees and the  
3 latter’s dependents, in payment for pre-agreed set of health services,  
4 for a specific period of time.

5 SEC. 5. **Health Care Incentives.** – HMOs and health care providers  
6 engaged in health care services pursuant to the provisions of this Act shall be  
7 entitled to the following incentives:

- 8 1. Reduced customs duties for importation of medical equipment used in  
9 health care services of HMOs and similar providers contemplated  
10 under this Act;
- 11 2. Exemption from percentage tax, documentary stamp tax and Value  
12 Added Tax on all health care agreements so as to reduce the cost of  
13 health care;
- 14 3. Making the cost of health care membership fees that corporations or  
15 employers pay for the health care plans of their employees deductible  
16 from the taxable income of said employers, as this will encourage  
17 employers to provide health care plans for their employees;
- 18 4. Such other incentives that the Department of Health may deem proper  
19 to recommend, subject to the concurrence by the Department of  
20 Finance and approval by the President of the Philippines.

21 SEC. 6. **Registration.** – A HMO shall be legally organized as a juridical  
22 person and shall be registered with the Securities and Exchange Commission.  
23 Thus, HMOs shall be organized in accordance with the provisions of the  
24 Corporation Code.

25 SEC. 7. **Licensure.** – The Department of Health is hereby designated as  
26 the government agency to supervise and regulate the operations of HMO and all  
27 other entities offering health care services that fall under the definition of HMO in  
28 accordance with Section 4, paragraph H of this Act. After registering with the  
29 Securities and Exchange Commission said entities shall secure a license to

1 operate as an HMO from the Department of Health. Existing HMOs in the time  
2 of the effectivity of this Act shall likewise secure a license to operate from the  
3 Department of Health, in accordance with the Transitory Provisions provided  
4 herein.

5 The Department shall issue the license to operate within thirty (30) days  
6 from the submission of the complete application and requirements. In case the  
7 application is not approved, the reasons therefor shall immediately be made  
8 known to the application immediately.

9 **SEC. 8. *Licensure Requirements.*** – The Department of Health shall  
10 promulgate the requirements for licensure and renewal of licensure and renewal  
11 of license of HMOs, based on DOH Administrative Order No. 34 and the  
12 provisions of Section 7 of this Act. The requirements shall include:

- 13 (a) The minimum authorized and paid-up capitalization required;
- 14 (b) Financial Statement/projections for new HMOs;
- 15 (c) Annual Reports for existing HMOs;
- 16 (d) Data on membership enrollment;
- 17 (e) Health care services being offered;
- 18 (f) Geographical area of operation;
- 19 (g) Provide network and such other information that the Department may  
20 deem necessary

21 These requirements may be amended by the Department to conform to  
22 the needs of the time and such requirements or any amendment thereto shall be  
23 published in at least one newspaper of general circulation.

24 The license to operate granted under this Act shall be effective for a  
25 period of one year, subject to renewal by the Department.

26 **SEC. 9. *Actuaries/Financial Consultants*** – To protect the potential and  
27 enrolled members of HMOs, the Department shall ensure that HMOs adhere to  
28 actually sound practices and possess financial capabilities to render the  
29 services stipulated in their agreements.

1 To achieve these objectives, the Department shall engage the services of  
2 actuaries and/or financial consultants to analyze the financial status and the  
3 actuarial soundness of the HMO practices prior to issuance or renewal of  
4 licenses. For this purpose, the Department shall require from HMOs such  
5 additional data and reports it deem necessary: *Provided*, That such data and  
6 reports are certified by either an actuary, financial consultant or external auditor.

7 SEC. 10. **Association.** –All Health Maintenance Organizations shall for  
8 purposes of achieving unity in the industry, facilitating government regulations,  
9 mutual assistance among HMOs, self-regulation and quality competition, be a  
10 member of the existing association of Health Maintenance Organizations at the  
11 time of the enactment of this Act. Prior to securing a license from the  
12 Department, the applicant HMO shall seek membership in the existing  
13 association of HMOs. No license shall be issued to any HMO unless it is  
14 certified to be a bona fide member in good standing of such existing association.  
15 The Association shall issue a certification of membership to all members in good  
16 standing of such existing association. The Association shall issue a certification  
17 of membership to all members in good standing in accordance with its By-Laws.  
18 *Provided*, That membership shall not be unreasonably withheld from an HMO  
19 applying for membership.

20 SEC. 11. **Arbitration by the Association and by the Department.** –  
21 Complaints that may be brought by members or providers or even by a HMO  
22 against another HMO shall first be referred to the Association for arbitration. The  
23 Association shall refer such complaint to the grievance mechanism in the  
24 Association and shall be decided within (30) days. In the event no settlement of  
25 the complaint has been reached after thirty (30) days, the Association shall  
26 submit the case to the Department which shall assume jurisdiction over the  
27 case, and shall decide the case within sixty (60) days. The decision of the  
28 Department shall be final and executory, appealable to the Supreme Court only  
29 on questions of law.



1           SEC. 12. **Grounds for Suspension of License.** – The license to  
2 operate issued to HMOs may be suspended by the Department, with strict  
3 adherence to due process, on the following grounds:

- 4           1. When, based on the financial reports, continued operation of the HMO  
5           business is no longer financially sound;
- 6           2. When agreements with members are not honored;
- 7           3. When the statements in the application for license or renewal thereof  
8           are found to be false, misleading, inadequate or incomplete such that  
9           the Department cannot ascertain the true status from such statement,  
10           sufficient to arrive at an honest appraisal of the true capability of the  
11           HMO;
- 12          4. When the decision of the Association on arbitration of complaint is not  
13           honored by a HMO;
- 14          5. When a HMO continuously violates the rules and regulations issued  
15           by the Department in implementing this Act as provided in Section 19  
16           hereof.

17           SEC. 13. **Grounds for Revocation of License.** – The Department shall  
18 revoke the license of any Health Maintenance Organization, with strict  
19 adherence to due process, on the following grounds:

- 20          1. Repealed violations of this Act by any HMO;
- 21          2. Unjustified refusal to provide the health care services contracted for  
22           by a member as provided in the agreement;
- 23          3. Impairment of the financial status of the HMO, as may be determined  
24           by the Department during suspension based on paragraph 1 of  
25           Section 12 hereof, after a fair appraisal by impartial actuaries and  
26           financial consultants, such that even if allowed to continue to operate,  
27           it can no longer provide the services it assumed under the agreement  
28           with its members.

1 4. Refusal to comply with decisions of the Department on cases  
2 submitted by the Association for arbitration.

3 In all cases of revocation, the Department shall have the authority to  
4 assign the agreements of the HMO whose license was revoked, to other existing  
5 HMOs, in order to protect the rights derived by members from the agreements.

6 SEC. 14. The following administrative sanctions are hereby imposed for  
7 violations that do not warrant suspension or revocation of license:

8 (1) A fine of Ten Thousand Pesos (P10,000.00) for the first violation of  
9 the provisions of this Act, Twenty Thousand Pesos (P20,000.00) for  
10 the second; and Thirty Thousand Pesos (P30,000.00) for the third  
11 violation. For the fourth violation of this Act the provision of Sec. 13,  
12 shall apply.

13 (2) A fine of Fifty Thousand Pesos (P50,000.00) every time the license of  
14 the HMO is suspended: *Provided*, That payment of this fine shall not  
15 absolve the HMO from its obligations under the agreements.

16 (3) An order to freeze the assets and funds of the HMO suspended or  
17 revoked for the protection of investors, providers and members.

18 The Amount that may be collected as fines shall be retained by the  
19 Department for its use in the information dissemination mentioned in the  
20 following section: *Provided*, That a separate account to be maintained by the  
21 Department for such purpose

22 SEC. 15. **Publication.** – The Department shall inform the public by  
23 publishing periodically:

- 24 1. List of licensed HMOs;  
25 2. Suspension and/or revocation of the license of HMOs, copies of which  
26 shall be furnished to associations of the medical profession, hospitals  
27 and employers, who shall inform their members accordingly.

28 SEC. 16. **Present HMOs.** – Health Maintenance Organizations registered  
29 with the Securities and Exchange Commission and have been in operation prior

1 to the effectivity of this Act shall continue to operate: *Provided*, That they shall  
2 apply for a new license with the Department within one year from the effectivity  
3 of this Act.

4       SEC. 17. ***New License.*** – The Department shall grant the above HMOs  
5 their new licenses in accordance with this Act: *Provided*, That the existing  
6 agreements, the rights and obligations derived therefrom shall be respected:  
7 *Provided, further*, That the HMOs comply with the licensing requirements within  
8 one year.

9       SEC. 18. ***Appropriations.*** – The amount necessary for the  
10 implementation of this Act shall be included in the General Appropriations Act of  
11 the year following its enactment and every year thereafter.

12       SEC. 19. ***Implementing Rules and Regulations.*** – The Department of  
13 Health, through its Office for Health Facilities Standards and Regulations, in  
14 consultation with its actuarial and financial consultants and the Association of  
15 Health Maintenance Organizations in the Philippines, Inc. (AHMOPI), shall  
16 promulgate the rules and regulations necessary to implement this Act, within  
17 ninety (90) days from its approval. Such rules and regulations shall be furnished  
18 to HMOs and shall take effect upon publication in a newspaper of general  
19 circulation.

20       SEC. 20. ***Separability Clause.*** – If any provision of this Act is declared  
21 unconstitutional or invalid, the other provisions not affected by such declaration,  
22 shall remain in full force and effect.

23       SEC. 21. ***Repealing Clause.*** – All laws, decrees, ordinances, rules and  
24 regulations, executive or administrative orders or parts thereof inconsistent with  
25 this Act are hereby repealed, amended or modified accordingly.

26       SEC. 22. ***Effectivity.*** -- This Act shall take effect fifteen (15) days  
27 following its publication in at least two (2) leading newspapers of general  
28 circulation.

29       Approved,