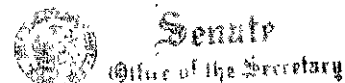


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'13 JUL 31 P3:05

S E N A T E
S.B. No. 1190

RECEIVED BY: *ji*

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

Health facilities have emerged and developed in a variety of forms and structures. As a result, a number of such types of facilities no longer qualify under the current regulatory mandate of the Department of Health (DOH) through the Bureau of Health Facilities and Services (BHFS). In other words, the mandate that subjects such types of facilities under the regulatory control of the Department is now outdated.

The new world order has opened up countries to a new level of competition. Trade borders are slowly disappearing alongside global development. This phenomenon has led industries, such as in the field of health facilities maintenance and health service provision, to grow, expand and evolve. Consequently, the regulation of this field should also be enhanced to respond to such changes as it greatly affects the welfare of the people. Health regulations should be transformed in order to:

- a. Maintain its relevance; and,
- b. Expand its scope of authority and include the whole industry as well.

For years, the regulation of health facilities focused on the specific activities and objects that need to be regulated. This proposed measure introduces a paradigm shift from the traditional way of regulation by regulating the industry as opposed to mere regulation of individual and specific health facilities. As such, there shall be fewer opportunities for circumvention and the health cost becomes controlled. In addition, with this measure, the quality of health facilities and services shall improve as well as the competitiveness, efficiency and productivity of the industry.

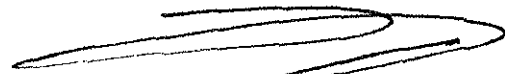
Through this bill, critical infrastructure and technical upgrading is provided to enable the DOH to cope with the challenges of globalization. Thus, aside from competitiveness, the high quality of health facilities and services are ensured. The creation of a Health Facilities Regulation Fund, which would be a new and innovative way of creating and disbursing resources in pursuit of a revitalized regulatory mandate, will facilitate access, productivity and efficiency. The creation and management of a system of benchmarking system would definitely improve quality and efficiency in health regulation and ensure accessibility with respect to necessary health facilities especially to the poor.

The bill also addresses another pressing issue in the field of health care, which is the increasing cost of health services. The increasing cost of health care, particularly hospital care, is a reality recognized by both the government and other

stakeholders in the health sector. Because of the dichotomous health system and the way the health system is organized in terms of health financing and health delivery, there is a lack of government control on the costs of health services being provided by the private health sector. This leads to escalating costs of health services, which erodes value of social health insurance in providing financial risk protection to the population. By regulating the costs of health services in health facilities especially through a strengthened Bureau of Health Facilities and Services, these services will be made more accessible financially to the population, especially those who belong to the lowest income group.

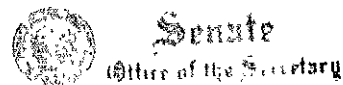
In essence, this bill would bring about improved mandate and available financial resources towards efficient and effective health regulation.

Support for the passage and approval of this bill is thus earnestly sought.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, positioned above the printed name.

LOREN LEGARDA
Senator

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



'13 JUL 31 P 3:05

S E N A T E

S.B. No. **1190**

RECEIVED BY: *ja*

Introduced by Senator Loren Legarda

**AN ACT ENHANCING THE REGULATION OF HEALTH FACILITIES AND
APPROPRIATING FUNDS THEREOF.**

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

1 **SECTION 1. Title.** - This Act shall be known as "**The Health Facilities**
2 **Regulation Act of 2013**".

3
4 **SEC 2. Declaration of Policy.** - Article XIII, Section 11 of the 1987 Philippine
5 Constitution stipulates, among others that: "The State shall adopt an integrated and
6 comprehensive approach to health development which shall endeavor to make
7 essential goods, health and other social services available to all the people at
8 affordable cost." Towards this end, it is the policy of the State to ensure the quality,
9 safety, accessibility and affordability of health services and health facilities for each
10 and every Filipino especially the poor. To attain these goals, the Department of
11 Health, through the Bureau of Health Facilities and Services, must be provided the
12 mandate and capability to regulate health facilities as they develop in time. Thus, to
13 actualize this endeavor, the State shall enhance its regulatory capacity, capability,
14 efficiency and coherence in order to regulate not only the health facilities but the
15 industries that provide them as well.

16
17 **SEC 3. Objectives** - This Act shall adhere to the following objectives:

- 18
19 (a) To enhance the administrative and technical capacity of government in
20 health regulation;
21 (b) To strengthen the government regulatory control powers in implementing
22 health regulations;

- 23 (c) To expand government's regulatory coverage over health facilities, and
24 include the industries that provide them; and,
25 (d) To provide coherence in the government's regulatory processes.
26

27 **SEC 4. Definition of Terms.** - As used in this Act, the following terms shall
28 mean:

- 29 (a) BFAD refers to the Bureau of Food and Drug;
30 (b) BHDT refers to the Bureau of Health Devices and Technology;
31 (c) BHFS refers to the Bureau of Health Facilities and Services;
32 (d) BOQ refers to the Bureau of Quarantine;
33 (e) BUREAU refers to the Bureau of Health Facilities and Services;
34 (f) CHD refers to Center for Health Development of the Department of
35 Health in different regions of the country tasked to implement
36 regulatory functions therein;
37 (g) COA refers to the Commission on Audit;
38 (h) DOH refers to the Department of Health;
39 (i) DFA refers to the Department of Foreign Affairs;
40 (j) PHIC refers to the Philippine Health Insurance Corporation;
41 (k) POEA refers to the Philippine Overseas Employment Administration;
42 and
43 (l) HEALTH FACILITIES refer to institutions that provide diagnostic,
44 therapeutic, rehabilitative and other health care services.
45

46 **SEC 5. Health Facilities Regulation Structure.** - The DOH, through the
47 BHFS, has the primary role of regulating health facilities to ensure safety, quality,
48 access and affordability thereof: *Provided*, that the CHDs shall be primarily tasked to
49 enforce regulatory activities in their respective regions.
50

51 **SEC 6. Powers and Functions.** - The DOH, through the BHFS shall have the
52 following general powers and functions:

- 53 (a) Prescribe measures to rationalize the establishment of health facilities all
54 over the country in accordance with national health goals;
55 (b) Prescribe measures to regulate the establishment, operation,
56 maintenance, and use of health facilities;

- 57 (c) Formulate, enforce and periodically review rules and regulations on the
58 regulation of health facilities duly approved by the Secretary of Health;
- 59 (d) Prescribe regulatory standards for health facilities and promulgate the
60 necessary policy instruments and arrangements with other pertinent
61 government agencies for the enforcement thereof;
- 62 (e) Grant permits for the construction, renovation and expansion of health
63 facilities;
- 64 (f) Register, license, accredit or certify health facilities and suspend and
65 revoke the license, accreditation or certification of the same in
66 accordance with the provisions of this Act and its implementing rules
67 and regulations;
- 68 (g) Provide exemptions from registration, licensure, accreditation or
69 certification with proper notice to the public;
- 70 (h) Undertake inspections of health facilities to ensure compliance with this
71 Act and its implementing rules and regulations;
- 72 (i) Levy, assess and collect appropriate fees pursuant to its functions;
- 73 (j) Publish an annual listing of all registered, licensed, accredited or
74 certified health facilities;
- 75 (k) Develop public-private partnerships towards quality assurance
76 endeavors such as, but not limited to:
- 77 (i) Voluntary accreditation processes and mechanisms; and,
78 (ii) Adverse event reporting and monitoring;
- 79 (l) Require all regulated health facilities to submit to the BHFS and CHDs
80 any adverse event that caused or contributed to death, serious illness or
81 serious injury to a patient;
- 82 (m) Require all regulated health facilities to report notifiable diseases to the
83 appropriate DOH office in accordance with national policies
- 84 (n) Regulate and enforce standards on the management of health facility
85 wastes;
- 86 (o) Coordinate the regulation of health facilities with other government
87 agencies involved directly or indirectly with health regulation;
- 88 (p) Call on the assistance of any instrumentality of the government for the
89 implementation of the provisions of this Act; and

90 (q) Exercise such other powers and responsibilities that shall ultimately
91 contribute to the better health status of the Filipino people as determined
92 by the Secretary.
93

94 **SEC 7. *Validity of the Registration, License, Accreditation or Certification.*** -

95 The validity of the registration, license, accreditation or certification for health
96 facilities and shall depend on the validity period to be prescribed by the BHFS.
97

98 **SEC. 8. *Regulation of the Price of Health Care Services.*** - The President of the

99 Philippines, upon recommendation of the Secretary of the Health, shall have the
100 power to impose the maximum price over diagnostic, therapeutic, rehabilitative and
101 other health care services rendered in health facilities.
102

103 The power to impose maximum prices over health care services shall be
104 exercised within such period of time as the situation may warrant as determined by
105 the President of the Philippines. No court, except the Supreme Court of the
106 Philippines, shall issue any temporary restraining order or preliminary injunction or
107 preliminary mandatory injunction that will prevent the immediate execution of the
108 exercise of this power of the President of the Philippines.
109

110 The DOH, together with the PHIC, in consultation with stakeholders, shall
111 formulate the implementing rules and regulations for the provisions in Section 8 of
112 this Act, within 120 days after the enactment of the same.
113

114 **SEC. 9. *Regulation Capability Strengthening.*** - The DOH, through the BHFS,

115 shall endeavor to strengthen its regulatory capabilities as well as those of the CHDs
116 through process and systems reforms congruent with national health reforms such
117 as, but not limited to, the establishment of a harmonized regulation system together
118 with other DOH regulatory offices, namely, BFAD, BHDT and BOQ: *Provided*, that
119 the CHDs shall enforce DOH regulatory mandates in the their respective regions.
120

121 **SEC. 10. *Information Technology.*** - The DOH, through the BHFS, shall

122 establish an information technology linkage with other health regulatory agencies
123 within a year subsequent to the enactment of this Act. A web page dedicated to the

124 compilation and maintenance of DOH regulation database shall be developed and
125 maintained.

126

127 **SEC. 11. *Quality Seal.*** - The DOH, through the BHFS, shall, in coordination
128 with other DOH regulatory offices, implement a quality seals system for health
129 facilities through the following activities:

130 (a) Adoption of quality standards that would enable international
131 competitiveness whenever applicable;

132 (b) Critical capacity building of the BHFS and CHDs;

133 (c) Enhancement of all necessary regulatory infrastructure; and,

134 (d) Development of necessary requirements, such as but not limited to,
135 sets of criteria, incentive packages, and advocacy scheme.

136

137 **SEC 12. *Cost Restructuring.*** - The DOH, through the BHFS, is hereby
138 mandated to restructure its fee schedule to a level commensurate to the cost of
139 regulatory administration; *Provided*, that no increase in fees shall be implemented
140 without proper consultation with necessary stakeholders.

141

142 **SEC 13. *Health Facilities Regulation Fund.*** - A Health Facilities Regulation
143 Fund is hereby established to institute an efficient, sustainable and cost-effective
144 regulatory system for health facilities through incentives in the form of
145 disbursements to BHFS and CHDs based on performance and compliance to
146 Sections 9, 10, 11 and 12 of this Act and based on the implementing rules and
147 regulations to be formulated by the DOH and subject to COA rules and regulations;
148 *Provided*, that the same fund shall also be used to upgrade the critical capacity and
149 regulatory infrastructure of BHFS and CHDs; *Provided further*, that no amount
150 thereof shall be used for payment of salaries and other allowances.

151 The fund shall be held in trust and derived from all receipts from registration,
152 licensing, accreditation and certification fees, sale of publications and services,
153 assessment, fines, penalties and other fees imposed by the BHFS and the CHDs. This
154 fund may be augmented by grants, donations, endowments from various domestic
155 or foreign sources, as allowed under the Administrative Code of 1987.

156

157 **SEC. 14. *Benchmarks.*** - A system of benchmarks setting shall be
158 institutionalized to provide yearly accomplishment targets for the stipulations under

159 Section 8, 9 and 10 of this Act, which shall be one of the bases for performance
160 evaluation and disbursement of the Health Facilities Regulation Fund to the BHFS
161 and the CHDs.

162

163 **SEC 15. *Prohibited Acts.*** - The following are considered prohibited acts for
164 purposes of this Act:

- 165 (a) Operation and maintenance of a health facility without a license;
- 166 (b) Non-compliance with the standards and requirements on construction,
167 operation and maintenance;
- 168 (c) Refusal to allow required inspections as determined by the BHFS and
169 CHDs and;
- 170 (d) Misrepresentation and/or falsifications in the submission of licensing/
171 renewal requirements;

172

173 **SEC 16. *Administrative Proceedings and Sanctions.*** - Upon verified
174 information of the conduct of prohibited act/s, the DOH, through the BHFS, shall
175 conduct an administrative hearing with proper notices to determine the conduct of
176 prohibited actions and the persons liable.

177 In cases where there is finding of prohibited actions and determination of the
178 persons liable, the DOH, through the BHFS and CHDs, are authorized to impose
179 any or all of the following sanctions:

- 180 (a) Suspension of license;
- 181 (b) Revocation of license;
- 182 (c) Closure of the health facility;
- 183 (d) Administrative fine as prescribed by the DOH, which shall be adjusted
184 yearly based on the Consumer Price Index;
- 185 (e) Filing of criminal charges against persons liable and;
- 186 (f) Permanent disqualification from owning and operating health facilities.

187 Review of all administrative decisions is lodged with the Secretary of Health
188 subject to the rules and regulations of the Administrative Code of 1987.

189

190 **SEC 17. *Penalties.*** - The commission of prohibited acts as described in this
191 Act shall be punishable by imprisonment of not less than six months but not more
192 than five years and/or a fine of not less than Five Hundred Thousand Pesos

193 (P500,000.00) but not more than One Million Pesos (P1,000,000.00). The fine shall be
194 adjusted yearly based on the Consumer Price Index.

195

196 **SEC 18. Appropriations.** - The current DOH appropriations under the
197 General Appropriations Act (GAA) shall be used to carry out the initial
198 implementation of this Act. Thereafter, subsequent appropriations for purposes of
199 this Act shall be increasingly derived from the Health Regulation Fund, with
200 augmentation from the GAA if the former is determined by the DOH to be
201 insufficient.

202

203 **SEC 19. Implementing Rules.** - The Department of Health shall promulgate
204 the implementing rules and guidelines of this Act one hundred twenty (120) days
205 after the passage of the Act.

206

207 **SEC 20. Separability Clause.** - If any part, section or provision of this Act is
208 declared invalid or unconstitutional, other parts or provisions hereof not affected
209 thereby shall remain in full force and effect.

210

211 **SEC 21. Repealing Clause.** - Republic Act No. 4226 and Republic Act No.
212 4688 are hereby repealed. All other laws, decrees, executive orders, circulars,
213 regulations and memoranda, or parts thereof, inconsistent with this Act are hereby
214 repealed or amended accordingly.

215

216 **SEC 22. Effectivity.** - This act shall take effect fifteen (15) days after
217 publication in two (2) newspapers of general circulation.

218

219 Approved,