

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE

S. No. 743

INTRODUCED BY HON. MANUEL B. VILLAR JR.

EXPLANATORY NOTE


Gross ignorance and negligence on the part of some medical practitioners have caused injuries and needless deaths of patients. There is a need to rid the medical profession of incompetent individuals and provide patients with quality medical care.

This bill seeks to build a progressive health care system by penalizing medical malpractice and/or the practice of illegal surgery by *prision mayor* and the cancellation of the license to practice the medical profession. A fine of one hundred thousand pesos (P100,000) to five hundred thousand pesos (P500,000) will also be slapped against incompetent medical professionals.

The safety and welfare of a patient is of paramount importance to the nation. It is only proper that the most competent individuals be permitted to practice medicine.

The passage of this measure will, in the end, provide greater prestige to the medical profession.

Approval of this bill is fervently called for.


MANUEL B. VILLAR, JR.
Senator

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AN ACT
PUNISHING THE MALPRACTICE OF ANY MEDICAL PRACTITIONER
IN THE PHILIPPINES AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “Medical Malpractice
2 Act of 2004.”

3
4 **SECTION 2. *Declaration of Policy.*** – It is the policy of the State to ensure the safety
5 and well being of patients by providing them with professional medical care.

6
7 **SECTION 3. *Definition of Terms*** – Unless the context otherwise requires, the
8 following terms shall have the following meanings:

9
10 (1) *Medical Practitioner* shall refer to any physician, dentist, nurse, pharmacist or
11 paramedical or other supporting personnel (including medical and dental
12 technicians, nursing assistants and therapists);

13
14 (2) *Illegal Surgery* shall refer to surgeries performed to remove healthy human
15 organ/s without the consent of the patient, with intent to gain on the part of the
16 person or persons responsible for such surgery.

17
18 (3) *Malpractice* shall refer to any personal injury, including death, caused by the
19 negligent or wrongful act or omission of any medical practitioner;

20
21 (4) *Physicians* shall refer to Doctors of Medicine, duly certified by the Professional
22 Regulatory Commission who are in the active practice of medicine;

23
24 (5) *Dentists* shall refer to Doctors of Dental Medicine, duly certified by the by the
25 Professional Regulatory Commission who are in the active practice of medicine;
26

1 (6) *Patients* shall refer to people requiring attention from any medical practitioner.
2

3 **SECTION 4. *The Anti-Malpractice Act.*** – Any medical practitioner who performs
4 any act constituting medical malpractice or the illegal practice of surgery shall be punishable
5 by imprisonment or fine or both and, in all instances, the cancellation of license to practice
6 medicine.
7

8 **SECTION 5. *The Complainant.*** – The crime of malpractice shall be prosecuted
9 upon the filing of a complaint by any of the following individuals:
10

- 11 1. the patient;
- 12
- 13 2. parents or legal guardians of the patient;
- 14
- 15 3. grandparents or collateral relatives;
- 16
- 17 4. an officer or social worker of the Department of Social Welfare and Development
18 or of a duly licensed child caring institution, orphanage, home for the aged, mental
19 hospital, or other similar institutions under whose care or custody the patient is
20 committed;
- 21
- 22 5. a concerned, responsible hospital employee where the crime is committed but only
23 if any of the persons mentioned in the four preceding paragraphs have expressly
24 given their consent to the filing thereof.
25

26 **SECTION 6. *Effect of Pardon.*** – The express or implied pardon of the patient,
27 his/her parents, grandparents or guardian shall not bar the prosecution of the crime nor
28 extinguish the criminal action pending, nor constitute a ground for remitting the penalty
29 already imposed.
30

31 **SECTION 7. *Penalties.*** – Medical malpractice and/or the practice of illegal surgery
32 shall be punished by *prison mayor* and the cancellation of the license to practice the medical
33 profession and a fine ranging from One Hundred Thousand Pesos (P100,000.00) to Five
34 Hundred Thousand Pesos (P500,000.00) in the discretion of the court taking into
35 consideration all attending circumstances.
36

37 Any other crime committed by reason or occasion of malpractice shall be considered
38 as a separate offense and the rules on complex crimes shall not apply.
39

40 In no case shall malpractice be considered as a mere aggravating circumstance when it
41 is committed by reason or on occasion of the commission of another crime.
42

43 **SECTION 8. *Aggravating Circumstances.*** – The following circumstances shall
44 aggravate the crime malpractice:
45

- 46 (1) permitting motives of profit to influence the free and independent exercise of
47 professional judgment on behalf of patients;
- 48
- 49 (2) conscious infliction of harm to an unknowing patient with the malicious intent of
50 profiting from such act.
51

52 **SECTION 9. *Damages*** – In addition to the changes that may be awarded by the court
53 under existing laws, the following circumstances shall warrant the award of the additional
54 damages:
55

1 (1) the patient becomes insane or suffers any psychological damage by reason of
2 malpractice;

3 (2) death of patient by reason or occasion of malpractice;

4
5 (3) physical disfigurement or permanent disability of the patient by reason of
6 malpractice.

7
8 **SECTION 10. *Repealing Claus.*** – All laws, presidential decrees, executive orders,
9 proclamations, and/or administrative regulations, which inconsistent with the provision of
10 this Act, are hereby amended, modified, superseded or repealed accordingly.

11
12 **SECTION 11. *Effectivity*** - This Act shall take effect after fifteen (15) days
13 following its publication in the least two (2) national newspapers of general circulation.

14
15 Approved,