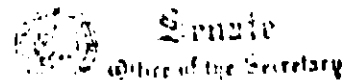
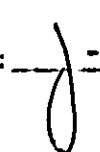


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



16 JAN 12 P3:00

SENATE
S. No. 3070

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
REGULATING OFFICE-BASED INVASIVE PROCEDURES

EXPLANATORY NOTE

The movement of health care services away from traditional inpatient facilities to outpatient settings has escalated the volume of surgery and other invasive procedures being performed in the private offices and facilities. While the majority of these services are provided in a safe and effective manner, the complexity of services and procedures being performed in private practitioners' offices is increasing at unprecedented levels.

While surgery and other invasive and minor procedures performed in Philippine medical facilities, such as hospitals, diagnostic centers, and treatment centers, are regulated by the respective professional Boards (Board of Medicine, Board of Dentistry, etc.) to which the practitioner who performed the operation belongs, the same procedures performed in private medical or dental offices and clinics, cosmetic and facial care centers, spas, and other health facilities are not subject to similar regulatory standards, regardless of the scope or complexity of the procedure. The facility itself where the surgery is performed is not subject to the same regulation as hospitals, diagnostic centers, and treatment centers which must be licensed by the Department of Health.

This bill seeks to correct the unregulated performance of surgery and other invasive procedures and minor procedures in a location other than a hospital, diagnostic center, and treatment center. Thus, the performance of such procedures should be


restricted only to licensed practitioners, and the location where such procedure is to be performed only to licensed facilities.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Fifteenth Congress, First Regular Session.

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

1 SECTION 1. *Short Title.* – This Act shall be known as the "Regulation of Office-
2 Based Surgical Procedures Act."

3 SECTION 2. *Purpose.* – The purpose of this Act is to regulate the performance of
4 surgery as well as cosmetic, dental and other invasive and minor procedures in private
5 offices, clinics, and other cosmetic and facial care centers, spas, health facilities and other
6 establishments.

7 SECTION 3. *Definition of Terms.* – For the purposes of this Act, the term:

8 (A) "Office-based surgery" means surgical or other invasive procedure
9 requiring anesthesia, analgesia or sedation including, but not limited to, cosmetic
10 surgery including face lifts, nose lifts, chin lifts, tummy tucks, breast
11 augmentation, and breast reduction; laser surgery; plastic, and reconstructive
12 surgery; and tumescent and high-volume liposuction on any part of the body,
13 which is performed by a practitioner in a location other than a hospital, diagnostic
14 center, and treatment center which results in a patient stay of less than twenty-four
15 (24) consecutive hours.

16 (B) "Minor procedures" are those that can be performed safely, requiring
17 local or topical anesthesia with a minimum of discomfort, and where the

1 likelihood of complications requiring hospitalization is minimal by current best
2 practice experience. Such minor procedures include, but are not limited to,
3 cosmetic tattooing, Clostridium botulinum bacterium (Botox) injections, collagen
4 injections, and the injection of any foreign substance into any part of the body.

5 (C) "Practitioner" means either a physician, dentist, nurse or other health
6 care practitioner licensed by the Professional Regulation Commission (PRC), who
7 is engaged in the performance of office-based and minor procedures, either in a
8 primary, contributing or assisting capacity, and whose professional practice is
9 subject to review by their respective professional Boards.

10 (D) "Unlicensed personnel" means the members of the staff and any other
11 individuals employed by or affiliated with the practitioner, including contract.

12 SECTION 4. *Who Can Perform Surgery and Other Invasive and Minor*
13 *Procedures.* – It shall be unlawful for any person who is not a licensed practitioner to
14 perform any surgery or any invasive or minor procedure, or to contribute thereto by way
15 of administering any anesthesia, analgesia, or in any way sedate the patient. It shall
16 likewise be unlawful for any licensed, practitioner to perform surgery or any invasive or
17 minor procedure which he or she is not licensed to perform.

18 SECTION 5. *Duties of Unlicensed Personnel.* – It shall be unlawful for any
19 person, who is an unlicensed personnel of the practitioner, to perform any duty, task or
20 responsibility that requires a license to perform. Duties that do not require professional
21 licensure and are assigned to unlicensed personnel should be in accordance with their
22 training, education and experience and under the direct supervision of a practitioner.

23 SECTION 6. *Where the Surgery and Other Invasive and Minor Procedures Can*
24 *Be Performed.* – It shall be unlawful to perform any surgery or other invasive or minor

1 procedure in an office, clinic, center, facility or other establishment that does not conform
2 to all the following requirements:

3 (C) The qualifications of the practitioners, including the specific office-
4 based surgical or invasive procedures and anesthesia services which each
5 practitioner is qualified and competent to perform, and the licensure, accreditation,
6 training and experience relevant to the procedure to be performed. For medical
7 practitioners, board certification or completion of a training program qualified to
8 lead to board certification for other practitioners, certification that is appropriate
9 and applicable for misconduct and malpractice history.

10 SECTION 7. *Follow-up Cure.* - The professional who performed the procedure
11 shall be personally responsible for patient care. He or she must maintain an outpatient
12 service, either at facility where procedure was undertaken, or elsewhere, such that the
13 professional can provide appropriate follow-up care. The professional must ensure his or
14 her availability for emergencies, or arrange for appropriate cover if on leave.

15 SECTION 8. *Penalties.* - The performance of any surgery or any invasive or
16 minor procedure by other than a licensed practitioner shall be punishable by a penalty of
17 imprisonment ranging from *prision mayor* in its maximum term to reclusion temporal in
18 its minimum term, or a fine ranging from Five Hundred Thousand Pesos (P500,000.00) to
19 One Million Pesos (P1,000,000.00), or both, at the discretion of the court, taking into
20 consideration all attending circumstances, and the cancellation of the license to practice
21 his or her profession. The performance of any surgery or any invasive or minor procedure
22 by a licensed practitioner but who is not licensed to perform the procedure he or she did
23 shall be punishable by a penalty of imprisonment ranging from *prision mayor* in its
24 medium to *prision mayor* in its maximum term, or a fine ranging from Three Hundred
25 Thousand Pesos (P300,000.00) to Five Hundred Thousand Pesos (P500,000.00), or both,

1 at the discretion of the court, taking into consideration all attending circumstances, and
2 the cancellation of the license to practice his or her profession. The performance of any
3 duty, task or responsibility other than any surgery or any invasive or minor procedure that
4 requires a license to perform by any unlicensed person shall be punishable by a penalty of
5 imprisonment ranging from *prision mayor* in its minimum term to *prision mayor* in its
6 medium term, or a fine ranging from One Hundred Thousand Pesos (P100,000.00) to
7 Three Hundred Thousand Pesos (P300,000.00), or both, at the discretion of the court,
8 taking into consideration all attending circumstances. The owner, proprietor, or operator
9 of any office, clinic, center, facility or other location 5 that does not conform to all
10 requirements in section six of this Act be punished by a penalty of imprisonment ranging
11 from *prision mayor* in its medium term to *prision mayor* in its maximum term, or a fine
12 ranging from Three Hundred Thousand Pesos (P300,000.00) to Five Hundred Thousand
13 Pesos (P500,000.00), or both, at the discretion of the court, taking into consideration all
14 attending circumstances, and the cancellation of the license to operate such an
15 establishment. If the owner, proprietor or operator of the establishment above is a
16 corporation, trust or firm, partnership, association or any other entity, the penalty of
17 imprisonment shall be imposed on the entity's responsible officers, including, but not
18 limited to, the president, vice president, chief executive officer, general manager,
19 managing director or partner directly responsible therefor.

20 SECTION 9. *Aggravating Circumstances.* - The penalties described in Section 8
21 shall be imposed in the maximum if the violation of this act results in the following
22 circumstances:

- 23 (A) Death of the patient or the contraction of some incurable disease;
24 (B) Insanity or psychological damage of the patient; and
25 (C) Permanent physical disfigurement or permanent disability of the
26 patient.

1 SECTION 11. *Appropriations.* – To carry out the provisions of this Act, such sum
2 as may be necessary is hereby authorized to be appropriated from the National Treasury.
3 Thereafter, the sum necessary for the continuous operation of the program shall be
4 included in the annual appropriation of the Department of Health.

5 SECTION 12. *Separability Clause.* – If any provision of this Act is held invalid or
6 unconstitutional, the same shall not affect the validity and effectivity of the other
7 provisions hereof.

8 SECTION 13. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
9 portions thereof, which are inconsistent with the provisions of this Act, are hereby
10 repealed, amended or modified accordingly.

11 SECTION 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
12 after its publication in the *Official Gazette* or in two (2) newspapers of general
13 circulation.

Approved,

/lfd 27Nov2015