

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

OFFICE OF THE CLERK

10 AUG -2 P 2:50

SENATE
S. No. 2250

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Introduced by Senator Miriam Defensor Santiago

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 Thirteenth Congress, Second Regular Session.

10 AUG -2 P2:51

SENATE
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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 TO REGULATE OFFICE-BASED INVASIVE PROCEDURES

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

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

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

8 SECTION 3. *Definition of Terms.* -For the purposes of this Act, the term:

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

16 (B) "Minor procedures" are those that can be performed safely, requiring local or
17 topical anesthesia with a minimum of discomfort, and where the likelihood of
18 complications requiring hospitalization is minimal by current best practice experience.
19 Such minor procedures include, but are not limited to, cosmetic tattooing, *Clostridium*

1 *botulinum* bacterium (Botox) injections, collagen injections, and the injection of any
2 foreign substance into any part of the body.

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

8 (D) “Unlicensed personnel” means the members of the staff and any other
9 individuals employed by or affiliated with the practitioner, including contract.

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

16 SECTION 5. *Duties of Unlicensed Personnel.* -It shall be unlawful for any person, being
17 unlicensed personnel of the practitioner, to perform any duty, task or responsibility that requires
18 a license to perform.

19 Duties that do not require professional licensure and are assigned to unlicensed personnel
20 should be in accordance with their training, education and experience and under the direct
21 supervision of a practitioner.

22 SECTION 6. *Where the Surgery and Other Invasive and Minor Procedures Can Be*
23 *Performed.* -It shall be unlawful to perform any surgery or other invasive or minor procedure in
24 an office, clinic, center, facility or other establishment that does not conform to all the following
25 requirements:

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

8 SECTION 8. *Follow-up Cure.* - The professional who performed the procedure shall be
9 personally responsible for patient care. He or she must maintain an outpatient service, either at
10 facility where procedure was undertaken, or elsewhere, such that the professional can provide
11 appropriate follow-up care. The professional must ensure his or her availability for emergencies
12 or arrange for appropriate cover if on leave.

13 SECTION 9. *Penalties.* - The performance of any surgery or any invasive or minor
14 procedure by other than a licensed practitioner shall be punishable by a penalty of imprisonment
15 ranging from *prision mayor* in its maximum term to *reclusion temporal* in its minimum term, or
16 a fine ranging from Five Hundred Thousand Pesos (P500,000.00) to One Million
17 Pesos(P1,000,000.00), or both, at the discretion of the court, taking into consideration all
18 attending circumstances, and the cancellation of the license to practice his or her profession.

19 The performance of any surgery or any invasive or minor procedure by a licensed
20 practitioner but who is not licensed to perform the procedure he or she did shall be punishable by
21 a penalty of imprisonment ranging from *prision mayor* in its medium to *prision mayor* in its
22 maximum term, or a fine ranging from Three Hundred Thousand Pesos (P300,000.00) to Five
23 Hundred Thousand Pesos (P500,000.00), or both, at the discretion of the court, taking into
24 consideration all attending circumstances, and the cancellation of the license to practice his or
25 her procession.

26 The performance of any duty, task or responsibility other than any surgery or any
27 invasive or minor procedure that requires a license to perform by any unlicensed person shall be
28 punishable by a penalty of imprisonment ranging from *prision mayor* in its minimum term to

1 *prision mayor* in its medium term, or a fine ranging from One Hundred Thousand Pesos
2 (P100,000.00) to Three Hundred Thousand Pesos (P300,000.00), or both, at the discretion of the
3 court, taking into consideration all attending circumstances.

4 The owner, proprietor, or operator of any office, clinic, center, facility or other location
5 that does not conform to all requirements in section six of this Act be punished by a penalty of
6 imprisonment ranging from *prision mayor* in its medium term to *prision mayor* in its maximum
7 term, or a fine ranging from Three Hundred Thousand Pesos (P300,000.00) to Five Hundred
8 Thousand Pesos (P500,000.00), or both, at the discretion of the court, taking into consideration
9 all attending circumstances, and the cancellation of the license to operation such an
10 establishment. If the owner, proprietor or operator of the establishment above is a corporation,
11 trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be
12 imposed on the entity's responsible officers, including, but not limited to, the president, vice
13 president, chief executive officer, general manager, managing director or partner directly
14 responsible therefor.

15 SECTION 10. *Aggravating Circumstances.* - The penalties described in section eight
16 shall be imposed in the maximum if the violation of this act results in the following
17 circumstances:

- 18 (A) Death of the patient or the contraction of some incurable disease;
19 (B) Insanity or psychological damage of the patient; and
20 (C) Permanent physical disfigurement or permanent disability of the patient.

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

25 SECTION 12 *Separability Clause.* - If any provision or part hereof, is held invalid or
26 unconstitutional, the remainder of the law or the provision shall remain valid and subsisting.

1 SECTION 13. *Repealing Clause.* - Any law, presidential decree, issuance, executive
2 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
3 with, the provisions of this Act is hereby repealed, modified or amended accordingly.

4 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
5 publication in at least two (2) newspapers of general circulation.

Approved,

/ptml06july2010