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SENATE
S. No. 565

RECEIVED BY: *ja*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 15, Section 4, provides:

The family has the duty to care for its elderly members but the State may also do so through just programs of social security.

The Constitution, Article 13, Section 11 provides:

The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women and children. The State shall endeavor to provide free medical care to paupers.

The State recognizes that it is the family that has the primary duty to care for their elderly members, and encourages families and communities to reaffirm the valued Filipino tradition of caring for the elderly. However, there are instances when families cannot care for their elderly members, forcing families to entrust their care to charitable organizations. This legislative measure regulates the operations of homes for the elderly, whether operated for charitable purposes or otherwise, in order to ensure that the elderly are given the care and attention they need.¹

miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the Fifteenth Congress, Second Regular Session.



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1 AN ACT
2 REGULATING HOMES FOR THE ELDERLY

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

3 SECTION 1. *Short Title.* – This Act may be cited as the “Homes for the Elderly Act.”

4 SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to give
5 high priority to the care of the elderly, and encourages families and communities to reaffirm the
6 valued Filipino tradition of caring for the elderly. It is the primary duty of the family to take care
7 of its elderly members, but the State may design programs of social security for them.

8 SECTION 3. *Definitions.* – In this Act, unless the context otherwise requires –

9 (a) “Secretary” means the Secretary of Social Welfare and Development, and
10 includes any person who is authorized by the former to perform any of the duties or exercise any
11 of the powers of the Secretary under this Act or any regulations made under this Act;

12 (b) “home for the elderly” means any establishment, whether for charitable purposes
13 or otherwise, the object of which is, or is held out to be, the provision of residential
14 accommodation with board and personal care for five (5) or more old persons, whether able-
15 bodied or disabled, but does not include —

16 (1) premises which form part of any premises, including maternity homes, used or
17 intended to be used solely for the reception, lodging, and treatment and care of
18 persons who require medical treatment or suffer from any disease;

1 (2) premises used or intended to be used solely for the reception of, and the
2 provision of nursing for, persons suffering or convalescing from any sickness,
3 injury, or infirmity;

4 (3) premises used solely for the reception and care of dying or terminally ill
5 persons; and

6 (4) such other premises as may be prescribed.

7 (c) "license" means a license issued under section 5 in respect of a home, and
8 "licensed" and "licensee" shall have corresponding meanings;

9 (d) "old person" means any person of the age of sixty (60) years and above;

10 (e) "resident," in relation to a home, means any old person, except a member of the
11 staff, residing in the home.

12 SECTION 4. *Homes to which this Act Applies.* – (a) The homes to which this Act applies
13 are homes for the elderly.

14 (b) Notwithstanding any contrary provision in this Act, the Secretary may, upon the
15 application of a person, corporation, trust, partnership, or association carrying on a home for the
16 elderly, approve for admission into the home any person whose age is between 50 and 60 years.

17 SECTION 5. *Licensing of Homes for the Elderly.* – (a) Any person who carries on a
18 home for the elderly without being licensed under this Act shall be guilty of an offense and shall
19 be liable on conviction to a fine not exceeding fifty thousand pesos (P50,000) or to imprisonment
20 for a term not exceeding two (2) years or to both. If the offense is committed by a corporation,
21 trust, firm, partnership, association, or other entity, the penalty shall be imposed upon the guilty
22 officer or officers of such corporation, trust, firm, partnership, association, or entity.

23 (b) An application for the issuance of a license shall be in such form as may be approved
24 by the Secretary.

25 (c) Subject to the provisions of this section and section 6, the Secretary shall, on receipt
26 of an application under subsection (b), issue a license in respect of the home named in the
27 application subject to such conditions as the Secretary may think fit to impose.

1 (d) If any condition imposed by or under subsection (c) is not complied with, the person
2 carrying on the home shall be guilty of an offense and shall be liable on conviction to a fine not
3 exceeding ten thousand pesos (P10,000). If the offense is committed by a corporation, trust,
4 firm, partnership, association, or other entity, the penalty shall be imposed upon the guilty officer
5 or officers of such corporation, trust, firm, partnership, association, or entity.

6 SECTION 6. *Refusal to Issue a License.* – The Secretary may refuse to issue a license if
7 he or she is satisfied –

8 (a) that the applicant or any person employed or proposed to be employed in the
9 management of the home or part thereof is not a fit person, according to standards that shall be
10 set by the Secretary, to carry on or to be so employed at the home named in the application;

11 (b) that for reasons connected with the situation, construction, state of repair,
12 accommodation, staffing, or equipment, the home or any premises used in connection with the
13 home are not fit to be used as a home for the elderly; or

14 (c) that the processes, ways, or methods in which it is proposed to conduct the home
15 is such as not to provide services or facilities reasonably required by old persons.

16 SENATE 7. *Revocation and Suspension of License.* – (a) The Secretary may revoke or
17 suspend a license to use any premises as a home –

18 (1) on any of the grounds specified in section 6;

19 (2) if the licensee fails to comply with any direction given by the Secretary under
20 section 14;

21 (3) if the premises are no longer being used as a home;

22 (4) if a home does not conform in all respects with minimum standards of
23 accommodation that may be prescribed;

24 (5) if in the opinion of the Secretary construction of the home constitutes a fire
25 risk, or the fire-fighting equipment available, or the means of escape provided,
26 or the other precautions taken for avoiding danger from fire, extinguishing fire

1 or otherwise protecting residents from fire, do not conform with the minimum
2 standard required for homes;

3 (6) if in the opinion of the Secretary --

4 (i) the standard of care available to residents in a home is
5 unsatisfactory;

6 (ii) any resident has been ill-treated or neglected in a manner likely
7 to cause unnecessary suffering or has been kept in an
8 environment that is injurious to his or her mental or physical
9 health;

10 (iii) the premises of a home are unsafe for residents or are
11 unsanitary; or

12 (iv) the premises of a home are in such a condition, or a home is
13 managed or conducted in such a manner, that the revocation of
14 the license is required in the interests of the residents or in the
15 public interest;

16 (7) if a home does not comply with any requirement under this Act or any
17 regulations made under this Act relating to staff;

18 (8) if the premises of a home are not repaired or altered as required by the
19 Secretary;

20 (9) if a licensee is convicted for contravening any of the provisions of this Act or
21 any regulations made thereunder, or fails to comply with any direction given
22 by the Secretary under this Act; or

23 (10) if a licensee has contravened or fails to comply with any of the conditions
24 specified in the license.

25 (b) Before revoking or suspending a license, the Secretary shall give notice to the
26 licensee of the ground or grounds on which it is proposed to revoke or suspend the license and
27 shall afford the licensee an opportunity of showing cause why the license should not be revoked
28 or suspended.

1 SECTION 8. *Appeal.* – Any person aggrieved by any decision of the Secretary under
2 section 6 or 7 may, within fifteen (15) days after notice of the decision, appeal to the Office of
3 the President whose decision shall be final.

4 SECTION 9. *Duration of License.* – (a) For a license to be issued, the licensee shall pay
5 to the Secretary a fee of such amount as may be prescribed.

6 (b) A license shall continue in force for a period of two years from the date of its issue,
7 unless it has been previously revoked but may be renewed by the issue of a new license.

8 SECTION 10. *Display of License.* – (a) Every licensee shall cause the current license to
9 be permanently exhibited in some conspicuous place where it can readily be seen by all persons
10 having access to the premises to which the license relates.

11 (b) Every licensee who contravenes or fails to comply with subsection (a) shall be guilty
12 of an offense and shall be liable on conviction to a fine not exceeding ten thousand pesos
13 (P10,000) and, in the case of a continuing offense, to a further fine not exceeding one thousand
14 pesos (P1,000) for every day during which the offence continues after conviction. If the offense
15 is committed by a corporation, trust, firm, partnership, association, or other entity, the penalty
16 shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership,
17 association, or entity.

18 SECTION 11. *Termination of License where Licensee Disposes of Home.* – Every license
19 shall cease to have effect when the licensee ceases to be the owner or lessee of the home to
20 which the license relates.

21 SECTION 12. *Registers.* – (a) The Secretary shall cause to be kept and maintained a
22 register of all licensed homes.

23 (b) Every licensee may be required to keep and maintain such register of residents and
24 staff as the Secretary may consider necessary for carrying out the purposes of this Act.

1 SECTION 13. *Inspection.* – (a) The Secretary may at any time visit and inspect any home
2 for the elderly and any premises which the Secretary suspects or has reason to believe to be used
3 as a home for the elderly, and may inspect any apparatus, appliance, equipment, or instrument, or
4 any book, document or record relating to the home, and question any person found in the home
5 or premises in respect of matters relevant to this Act.

6 (b) Any person who prevents or obstructs or attempts to prevent or obstruct the Secretary
7 in the execution of his or her powers under subsection (1) shall be guilty of any offense and shall
8 be liable on conviction of a fine not exceeding thirty thousand pesos (P30,000) or to
9 imprisonment for a term not exceeding one (1) year or to both. If the offense is committed by a
10 corporation, trust, firm, partnership, association, or other entity, the penalty shall be imposed
11 upon the guilty officer or officers of such corporation, trust, firm, partnership, association, or
12 entity.

13 SECTION 14. *Directions as to Apparatus and Equipment.* – (a) Where in the opinion of
14 the Secretary, the use of any apparatus, appliance, equipment, or instrument in a home is
15 dangerous or detrimental to any person therein or is otherwise unsuitable for the purpose for
16 which it is used, the Secretary may by notice direct the licensee to stop using it.

17 (b) The Secretary may by notice direct the licensee of a home to install or replace such
18 apparatus, appliance, equipment, or instrument therein as may be specified in the notice.

19 SECTION 15. *Duty to Furnish Information.* – (a) The Secretary may from time to time
20 require the licensee of a home to furnish such information relating to –

- 21 (1) the staff and residents;
- 22 (2) any apparatus, appliance, equipment, or instrument used therein;
- 23 (3) the condition or treatment of any resident;
- 24 (4) the premises of the home, the accommodation, and the environment; and
- 25 (5) any matter relating to this Act.

26 (b) A licensee who, on receipt of any requisition under this section, (1) refuses or fails to
27 furnish any information required by the Secretary; or (2) gives any false or misleading

1 information, shall be guilty of an offense and shall be liable on conviction to a fine not exceeding
2 thirty thousand pesos (P30,000.). If the offense is committed by a corporation, trust, firm,
3 partnership, association, or other entity, the penalty shall be imposed upon the guilty officer or
4 officers of such corporation, trust, firm, partnership, association, or entity.

5 SECTION 16. *Exemption.* – (a) The Secretary may, subject to such terms or conditions
6 as he or she may impose, exempt any premises from all or any of the provisions of this Act.

7 (b) An exemption granted under subsection (a) may be withdrawn at any time.

8 SECTION 17. *Regulations.* – (a) The Secretary may make regulations for any purpose for
9 which regulations are required to be made under this Act and generally for carrying out the
10 purposes and provisions of this Act.

11 (b) Without prejudice to the generality of subsection (a), the Secretary may make
12 regulations for or with respect to all or any of the following matters:

13 (1) the forms, fees, and registers for the purposes of this Act;

14 (2) the records or residents in, and the staff of, a home;

15 (3) the obligations and duties of a licensee;

16 (4) the requirements as to the number and qualifications of nursing and other
17 staff in a home;

18 (5) the apparatus, appliances, equipment, and instruments to be provided and
19 maintained in a home;

20 (6) the facilities and services to be provided in a home;

21 (7) empowering the Secretary to limit the number of persons of any
22 description who may be received into any home for the elderly and for
23 enabling licensing of any such home to be made subject to the condition that
24 persons shall not be received in the home in excess of the number fixed for
25 the home in accordance with the regulations;

26 (7) the minimum standards of accommodation, sanitation, and other
27 amenities in a home;

- 1 (8) the cleanliness and hygiene in a home;
- 2 (9) the safety and welfare of residents in a home;
- 3 (10) the management, control, superintendence, and care of a home;
- 4 (11) the notifications of events occurring in a home; and
- 5 (12) the general conduct of a home.

6 (c) Regulations made under this section may –

- 7 (1) prohibit the performance of specified acts without the consent of the
- 8 Secretary;
- 9 (2) authorize the Secretary to require or prohibit the performance of specified
- 10 acts; and
- 11 (3) require specified acts to be performed to the satisfaction of the Secretary.

12 (d) The Secretary may, by notice in writing to the licensee of a home, waive wholly,
13 partly, or conditionally the requirements of any regulations in respect of that home and may
14 amend or withdraw the notice.

15 SECTION 18. *Appropriations.* – Such sums as may be necessary for the initial
16 implementation of this Act shall be taken from the current appropriations of the government
17 agency involved. Thereafter, the fund necessary to carry out the provisions of this Act shall be
18 included in the annual *General Appropriations Act*.

19 SECTION 19. *Separability Clause.* – In any provision, or part hereof, is held invalid or
20 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
21 valid and subsisting.

22 SECTION 20. *Repealing Clause.* – Any law, presidential decree or issuance, executive
23 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
24 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

1 SECTION 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its
2 publication in at least two (2) newspapers of general circulation.

Approved,