

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



Senate  
Office of the Secretary

'13 JUL -9 A9 :14

SENATE  
S.B. No. 670

RECEIVED BY: ja

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Introduced by Senator Loren Legarda

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#### EXPLANATORY NOTE

This bill seeks to encourage the establishment and growth of the Health Maintenance Organizations (HMOs) in the Philippines to promote participation of the private sector in providing health care to Filipinos.

Section 15, Article II of the 1987 Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them. Section 11, Article XIII likewise provides that the State shall endeavor to provide free medical care to paupers.

Clearly at present, the State cannot achieve the full delivery of quality health services. There is, therefore, a need to encourage private sector participation in addressing the health needs of our country. Such private participation can be initiated through establishment and regulation of health maintenance organizations.

Under this bill, a health maintenance organization is envisioned an insurance company that sells fixed pre-paid health insurance policies to the public. It coordinates the delivery of pre-agreed or designated health care services to its members through a network of health care providers for a fixed periodic fee and for a specified period of time. Through managed care, it influences the utilization and cost of health services with the end to make beneficial, effective, and/or necessary quality health care affordable to the public.

The importance of State intervention in this endeavor is crucial to ensure that the imposition of harsh unconscionable terms be avoided. That is why this proposed measure enumerates the operating guidelines for HMOs to address the alleged gross inequality of bargaining power that currently characterizes the HMO relationship with its members and health care providers.

In view of the foregoing, the immediate approval of this bill is earnestly sought.

LOREN LEGARDA  
Senator

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AN ACT  
REGULATING THE ESTABLISHMENT AND OPERATIONS OF HEALTH  
MAINTENANCE ORGANIZATIONS (HMOs), PROVIDING THEM  
INCENTIVES AND FOR OTHER PURPOSES

*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 "Health  
2 Maintenance Organization Act of 2013."  
3

4       **SECTION 2. Statement of Policy.** - It is hereby declared the policy of the  
5 State to protect and promote the right to health of the people and instill health  
6 consciousness among them. Towards this end, it shall encourage the establishment  
7 and favorable operation of Health Maintenance Organizations (HMOs) by granting  
8 reasonable incentives to enhance accessibility to quality health care services through  
9 affordable health insurance policies.  
10

11       **SECTION 3. Objectives.** - In line with the above policy, this Act seeks to:  
12

- 13       a) Recognize HMOs as unique health care insurance entities that combine the  
14 financing, management and coordination of health services and to encourage  
15 their growth by granting them reasonable incentives.  
16       b) Establish the regulatory framework for HMOs.  
17       c) Recognize and protect the rights of HMOs, health care providers and  
18 members.  
19       d) Advance health consciousness among our people by promoting greater  
20 accessibility to quality health care through affordable health insurance  
21 policies.  
22

1           **SECTION 4. Definitions.** - When used in this Act, the following terms shall  
2 mean as follows:

3           a) Health Maintenance Organization - an insurance company organized in  
4 accordance with the provisions of the Corporation Code of the Philippines  
5 that sells fixed pre-paid health insurance policies as defined in paragraph (j)  
6 of this section to the public. It coordinates the delivery of pre-agreed or  
7 designated health care services to its members through a network of health  
8 care providers for a fixed periodic fee and for a specified period of time.  
9 Through managed care, it influences the utilization and cost of health services  
10 with the end to make beneficial, effective, and/or necessary quality health  
11 care affordable to the public;

12           The HMO shall possess the following functional characteristics:

13           1) It uses an organized system called "Managed Care" to coordinate the  
14 delivery of health services to its members through health care providers in  
15 a defined geographical area;

16           2) It contracts the services of health care providers to deliver health care  
17 services to its enrollees and/or their dependents as their agreement may  
18 stipulate;

19           3) It has an enrolled group of individuals paying a fixed periodic fee.

20           b) Actuary - a statistician with the necessary training, qualification and  
21 experience and a fellow of the Actuarial Society of the Philippines. He shall,  
22 among others, compute rates for health care plans on the basis of experience  
23 tables and determine the financial soundness of health care agreements and  
24 operation of HMOs;

25           c) Co-Payment - a charge which may be collected directly by a health care  
26 provider from a member in accordance with the member's health care policy;

27           d) Claim - a statement of services submitted to an HMO by a health care  
28 provider following the provision of Covered Services to a member that shall  
29 include diagnosis or diagnoses and itemization of services and treatment  
30 provided to the member;

31           e) Covered Services/Coverage - health care services to be delivered by a health  
32 care provider to a member as provided for in a health care policy;

33           f) Deductible - the amount a member pays out-of-pocket before the HMO  
34 begins to pay the cost associated with treatment;

- 1 g) Health-Care Provider - a health professional such as physician, dentist,  
2 nurse, midwife, health care professional group and hospital, duly licensed by  
3 the proper government agency to provide active health care services;
- 4 h) Health Care Provider Contract - a contract between an HMO and a health  
5 care provider for the latter to deliver or provide health care services to  
6 members of the former. It includes a schedule of Covered Services and  
7 compensations and specifies all other terms, conditions, limitations,  
8 exclusions, benefits, rights and obligations thereof to which the HMO and  
9 health care provider are subject.
- 10 i) Health Care Policy - an insurance policy comprising an individual set of  
11 health service delivery and compensation procedure offered as a Managed  
12 Care product of an HMO to its members. It specifies Covered Services and all  
13 other terms, conditions, limitations, exclusions, benefits, rights and  
14 obligations thereof to which the HMO and members are subject. It may be in  
15 the form of a Comprehensive HMO Policy, Preferred Provider Policy,  
16 Managed Indemnity, Self-Insured Policy or Third Party Administration  
17 Policy.
- 18 j) Managed Care - A complex system that involves the active coordination of,  
19 and the arrangement for, the provision of health services and coverage of  
20 health benefits. It involves relationships and organization of the providers  
21 giving care, and the covered benefits tied to managed care rules;
- 22 k) Medically Necessary Services - refer to health care services that a reasonably  
23 prudent physician would deem necessary for the diagnosis or treatment of  
24 illness or injury or to improve the functioning of a malformed body part of a  
25 member;
- 26 l) Member - an insured individual, a part of a group or an employee of a  
27 corporation and his dependents, who entered into a contract of health  
28 insurance with an HMO;
- 29 m) Enrollment Fee - the amount of money paid to an HMO by an individual  
30 member, group or corporation on behalf of its employees and the latter's  
31 dependents, in payment for a pre-agreed set of health services, for a specific  
32 period of time;
- 33 n) Participating Provider - a health care provider who, under a Health Care  
34 Provider Contract, has agreed to provide health care services to the HMO  
35 members, with the right to payment, other than co-payment or deductible  
36 directly or indirectly from the HMO;

- 1 o) Specialist - a diplomate and/or Fellow of a Specialty Society recognized by  
2 the Philippine Medical Association (PMA).

3  
4 **SECTION 5. Health Care Incentives.** - To tap and encourage private sector  
5 participation in the government's thrust to make health services accessible to the  
6 low-income sectors of the population through affordable enrollment fee, HMOs  
7 shall be granted the following incentives:

- 8 a) The cost of HMO membership fees that corporations or employers pay for  
9 their employees shall be deductible from the taxable income of said  
10 employers;  
11 b) Such other incentives that the Insurance Commission may deem proper to  
12 recommend, subject to the concurrence of the Department of Finance and  
13 approved by the President of the Philippines.

14  
15 **SECTION 6. Registration.** - An HMO shall be legally organized as a juridical  
16 person and shall be registered with the Securities and Exchange Commission,  
17 hereinafter referred to as the SEC.

18  
19 **SECTION 7. Licensure.** - The Insurance Commission, hereinafter referred to  
20 as the Commission, shall supervise and regulate the operations of all HMOs and all  
21 other entities that possess the functional characteristics of HMOs, except the  
22 Philippine Health Insurance Corporation ( PHIC ). After registering with the SEC,  
23 said entities shall secure a license to operate as an HMO from the Commission. All  
24 HMOs existing at the time of effectivity of this Act shall likewise secure a license to  
25 operate from the Commission upon expiration of their licenses.

26 The Commission shall, upon receipt of a completed application for a license  
27 to operate, provide a sixty (60) day period for public comment. As soon as the  
28 period has lapsed and after thorough review, it shall either approve or deny the  
29 application, the reasons thereof shall immediately be known to the applicant. The  
30 license to operate granted under this Act shall be effective for one (1) year, subject to  
31 renewal by the Commission.

32  
33 **SECTION 8. Licensure Requirements.** - The Insurance Commission and the  
34 Department of Health shall prescribe the requirements for licensure and renewal of  
35 license of HMOs based on the provisions of Section 7 of this Act. The requirements  
36 shall include but not be limited to:

- 1 a) The minimum authorized and paid up capitalization;
- 2 b) Financial Statement/projections for new HMOs;
- 3 c) Annual Reports for existing HMOs;
- 4 d) Data on membership enrollment;
- 5 e) Geographical area operation;
- 6 f) Health policies being offered;
- 7 g) Arrangements for ensuring the payment of the cost of health care services or
- 8 the provision for automatic applicability of an alternative coverage in the
- 9 event of discontinuance of the Health Maintenance Organization;
- 10 h) Any deposit of cash, or guaranty or minimum restricted reserves which the
- 11 Commissioner, by regulation may adopt to assure that the obligations to
- 12 subscribers and providers will be performed;
- 13 i) Philippine Health Insurance Corporation (PHIC) Accreditation;
- 14 j) Department of Health HMO Accreditation - The Department of Health shall
- 15 accredit HMOs after the Secretary has determined that the applicant:
  - 16 A. Guarantees its members fundamental patient's rights, to include among
  - 17 others:
    - 18 1) *Patient's right to choose physician or health facility* - The freedom of
    - 19 patients to choose their physician or health facility shall not be
    - 20 negotiated by any contract arrangement or procedure of a health
    - 21 maintenance organization. All members in HMOs shall be offered an
    - 22 out-of-network option that will enable them to obtain, even at the
    - 23 member's additional expense care from a health provider. Such out-
    - 24 of-network health providers shall have the right to HMO
    - 25 compensation, other than co-payment or deductible directly or
    - 26 indirectly from the HMO;
    - 27 2) *To see a specialist of choice* - An HMO patient may seek the services of a
    - 28 specialist who may not necessarily be affiliated with the HMO.
    - 29 3) *Patient's right to emergency care* - A member who reasonably believes
    - 30 that he is suffering from an emergency condition has the right to seek
    - 31 emergency care from the nearest emergency department without first
    - 32 pre-authorizing or pre-certifying the care with their HMO;
    - 33 4) *Patient's right to Grievance and external review program* - Members of an
    - 34 HMO shall be granted the right to dispute coverage denials on the
    - 35 basis of "medically necessary" decisions before an independent
    - 36 Review Committee as provided for in Section 10 hereof.

1 B. Guarantees in Health Care Providers:

- 2 1) *Physician's/Dentist's full freedom to manage and treat patients in accordance*  
3 *with the prevailing standard of care* - Permitting arbitrary health policy  
4 definitions of "medically necessary" to control all coverage  
5 determinations and allowing HMO bureaucrats, rather than properly  
6 qualified licensed physician/dentists to make "medically necessary"  
7 decisions shall be made by physicians/dentists in accordance with  
8 generally accepted standards of medical/dental practice that a prudent  
9 physician/dentist will make;
- 10 2) *Prompt and just compensation* - health care providers shall be paid their  
11 just professional/facility fees within thirty (30) days from receipt of the  
12 latter's written or electronic claim. In the event that such claim is not  
13 approved, the reasons therefore shall be made known to the provider  
14 within seven (7) days after receipt of such written or electronic plan.  
15 Disputes may then be addressed to the Insurance Commission for  
16 arbitration as provided for in Section 10 hereof. HMOs that do not pay  
17 clean claims within the thirty (30) day window may be liable for  
18 suspension of its license to operate and, additionally, will be required  
19 to pay interest at a rate to be determined by the Insurance  
20 Commission. Professional fees must be in accordance with the  
21 Philippine Medical Association's/Philippine Dental Association's  
22 latest schedule of fees and latest Relative Unit Values and multiplying  
23 factors (RUV) prevailing upon the effectivity date of the contract.

24 C. Has a network of qualified and duly licensed health providers.  
25

26 **SECTION 9. Actuaries/Financial Consultants.** - To protect the potential and  
27 enrolled members of the HMOs, the Commission shall ensure that HMOs adhere to  
28 actuarially sound practices and possess financial capabilities to render the services  
29 stipulated in their agreements.  
30

31 To achieve these objectives, the Commission shall engage the services of  
32 actuaries and/or financial consultants to analyze the financial status and the  
33 actuarial soundness of the HMO practices prior to issuance or renewal of licenses.  
34 For this purpose, the Commission shall require from HMOs such additional data  
35 and reports it deems necessary: *Provided*, That, such data and reports are certified by  
36 either an actuary, financial consultant or external auditor.

1           **SECTION 10. *Arbitration and Review.*** – HMOs shall provide an internal  
2 mechanism where disputes between parties to a Health Care Policy or parties to an  
3 internal Care Provider Contract may be resolved in an expeditious manner. In the  
4 event that the dispute is unresolved, a member, health provider or an HMO may  
5 elevate the case directly to the Commission for binding arbitration. However, if the  
6 Commission determines the conflict to be medical in nature or requiring a review of  
7 medically necessary decisions, the case shall be referred to an HMO Medical Review  
8 Committee to be constituted by the DOH for judgment. The HMO Medical Review  
9 Committee shall ensure that reviews of medically necessary decisions must be made  
10 only by truly independent licensed physicians familiar with the medical condition or  
11 treatment in question and of the same specialty as the treating physician. Such  
12 complaints or disputes shall be decided upon within thirty (30) days and the  
13 decision shall be final and executory. All other complaints that remain with the  
14 Insurance Commission for arbitration shall be decided upon within sixty (60) days.  
15 The decision of the Commission shall be final and executory, appealable to the  
16 Supreme Court only on questions of law.

17  
18           **SECTION 11. *Grounds for Suspension of License.*** – The license to operate  
19 issued to an HMO may be suspended by the Commission on the following grounds:

- 20       a) When, based on financial reports, continued operation of the HMO business  
21       is no longer financially sound;
- 22       b) When agreements with members are not honored;
- 23       c) When contracts with health care providers, including but not limited to  
24       prompt and just compensation for health services rendered, are violated;
- 25       d) When the statements in the application for license or renewal thereof are  
26       found to be false, misleading, inadequate or incomplete such that the  
27       Commission cannot ascertain the true status from such statement or are not  
28       sufficient to arrive at an honest appraisal of the true capability of the HMO;
- 29       e) When the decision of the Commission on cases for arbitration is not honored  
30       by an HMO;
- 31       f) When the decision of the HMO Review Committee is not honored by an  
32       HMO;
- 33       g) When an HMO continuously violates the rules and regulations issued by the  
34       Commission and the Department of Health pursuant to Section 18 of this Act.



1           **SECTION 12. *Grounds for Revocation of License.*** - The Commission shall  
2 revoke the license of any Health Maintenance Organization on the following  
3 grounds:

- 4       a) Repeated violations of this Act by an HMO;
- 5       b) Repeated suspension of HMO license;
- 6       c) Impairment of the status of the HMO, as may be determined by the Insurance  
7       Commission during suspension based on paragraph (a) of Section 11 hereof,  
8       after a fair appraisal by impartial actuaries and financial consultants, such  
9       that even if allowed to continue to operate, it can no longer provide the  
10      services it assumed under the agreement with its members.

11  
12           **SECTION 13. *Administrative Sanctions.*** - The following administrative  
13 sanctions are hereby imposed for violations that do not warrant suspension or  
14 revocation of license:

- 15      a) A fine of Ten Thousand Pesos (P10,000.00) for the first violation of the  
16      provision of this Act, Twenty Thousand Pesos (P20,000.00) for the second  
17      violation, and Thirty Thousand Pesos (P30,000.00) for the third violation. The  
18      provision of Section 11 shall apply upon the fourth violation of this Act;
- 19      b) A fine of Fifty Thousand Pesos (P50,000.00) every time the license of the  
20      HMO is suspended: *Provided*, That payment of this fine shall not absolve the  
21      HMO from its obligations under the agreement;
- 22      c) An order to freeze the assets and funds of the HMO suspended or revoked  
23      for the protection of investors, providers and members.

24      The Commission shall retain the amount that may be collected as fines for its  
25 use in the information dissemination mentioned in the immediately succeeding  
26 section: *Provided*, That a separate account be maintained by the Commission for  
27 such purpose.

28  
29           **SECTION 14. *Publication.*** - The Commission shall periodically publish in a  
30 newspaper of general circulation the following:

- 31      a) List of duly licensed HMOs in good standing;
- 32      b) Suspension and/or revocation of the license of HMOs, copies of which shall  
33      be furnished to associations of the medical/dental profession, hospitals and  
34      employers who shall inform their members accordingly.

1       **SECTION 15. Existing HMOs.** - All existing Health Maintenance  
2 Organizations duly registered with the Securities and Exchange Commission and  
3 have been in operation prior to the effectivity of this Act shall continue to operate:  
4 *Provided*, That they shall apply for new license with the Commission within one (1)  
5 year from the effectivity of this Act.

6  
7       **SECTION 16. New License.** - The Commission shall grant the above HMOs  
8 their new license in accordance with this Act: *Provided*, That existing agreements,  
9 rights and obligations derived therefrom shall be respected: *Provided further*, That the  
10 HMOs comply with the licensing requirements within one (1) year.

11  
12       **SECTION 17. Implementing Rules and Guidelines.** - The Insurance  
13 Commission and the Department of Health shall promulgate the rules and  
14 regulations necessary to implement this Act within ninety (90) days from its  
15 approval. Said rules and regulations shall be furnished to HMOs and shall take  
16 effect upon publication in a newspaper of general circulation.

17  
18       **SECTION 18. Separability Clause.** - If any provision of this Act is declared  
19 unconstitutional or invalid, other provisions hereof not affected thereby shall remain  
20 in full force and effect.

21  
22       **SECTION 19. Repealing Clause.** - All laws, decrees, ordinances, rules and  
23 regulations, executive or administrative orders or parts thereof inconsistent with this  
24 Act are hereby repealed, amended or modified accordingly.

25  
26       **SECTION 20. Effectivity.** - This Act shall take effect fifteen (15) days  
27 following its publication in at least two (2) newspapers of general circulation.

28  
29       Approved,