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

S E N A T E

Senate Bill No. 878

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Article II, Section 15 of the Constitution declares that the State shall protect and promote the rights to health of the people and instill health consciousness among them. Towards this end, the State shall endeavor to enhance the accessibility of affordable health care services by encouraging the growth of medical/health service providers and by regulating their activities to prevent the commission of fraudulent acts inimical to the people.

Pursuant to this constitutional mandate, this measure shall tap the participation of the private sector in providing, funding and managing Health Maintenance Organizations (HMOs). This will greatly assist the government in the efficient delivery of quality and cost-effective basic health care services.

This proposed measure defines the following characteristics to qualify an entity as health maintenance organization, provides the procedures and requirements for licensing, and defines the grounds for suspension and revocation of their license to operate.

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

JINGGOY EJERCITO ESTRADA
Senator

Senate
Office of the Secretary

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Senate Bill No. 878

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AN ACT
PROVIDING AFFORDABLE HEALTH CARE SERVICES, THROUGH THE HEALTH MAINTENANCE ORGANIZATIONS, REGULATING THEIR OPERATIONS, AND FOR OTHER PURPOSES

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

SECTION 1. ***Short Title.*** This Act shall be known as the ***"Health Maintenance Organizations (HMOs) Act of 2013".***

SEC. 2. ***Statement of Policy.*** It is hereby declared the policy of the State to protect and promote the right to health of the people and instill health consciousness among them.

Pursuant to this policy, government shall enhance accessibility to affordable health care services by recognizing and tapping the participation of the private sector in providing funding and managing the delivery of cost effective and quality health care services. Towards this end, it shall encourage the growth of health maintenance organizations (HMOs) and provide the regulatory framework that will ensure their sustainability and viability in order to protect the interest of the public.

SEC. 3. ***Objectives.*** In line with the above policy, this Act seeks to:

a. Recognize HMOs as unique medical service providers that combine the financing, management and provisions of health services and to encourage their grown;

b. Establish the regulatory framework for HMOs that shall protect the rights of the buying public as well as the various sectors involved in the delivery of health and services;

c. Promote the provision of quality health services and to improve the efficiency in delivery of health care services;

d. Protect the rights of HMOs, their enrollees and health career service providers; and

e. Make people more health conscious by making health care services readily available, accessible and affordable.

SEC. 4. *Definition of Terms.* When used in this Code, the following terms shall mean:

a. *Actuary* – a person with the necessary training, qualification and experience and a fellow of the Actuarial Society of the Philippines. She/he shall, among others, compute rates and reserves for health care plans on the basis of experience tables and determine the financial soundlessness of health care agreements and operations of HMOs;

b.. *Agreement* – a contract entered into by an HMO with a member or group of members or a corporation on behalf of its employees and/or their dependents, for the former to provide or arrange to provide pre-agreed or designated health care services to the latter, for a fixed period of time and for a specified fee;

c. *Association* – the Association of Health Maintenance Organizations of the Philippines, Inc. (AHMOPI), the existing association of Health Maintenance Organizations, recognized by the Department of Health as the industry association and representing a large number of HMOs as well as a greater majority of enrolled members;

d. *Co-payment* – the amount a member must pay in order that she/he can receive a specific service which is not fully prepaid;

e. *Corporation* - a juridical person as defined by law, duly registered with the Securities and Exchange Commission;

f. *Deductible* – the amount an enrollee pays out of pocket before the health maintenance organizations begins to pay the cost associated with treatment;

g. *Department* – the Department of Health (DOH);

h. Commission – the Insurance Commission;

i. Health Maintenance Organization (HMO) – a type of managed care organized in accordance with law to provide pre-agreed or designated health care services to its enrolled members for a fixed periodic fee and for a specific period of time. It uses a system of health care delivery called managed care that influences utilization and costs of services and measures performance resulting in quality cost-effective care. It integrates financing and delivery of health care services through managed health plans which may be in the form of a comprehensive HMO Plan, preferred provider plan managed indemnity or self-insured plans, third party administration plan and such order that fall under the definition of a managed health plan under paragraph (k) of this section.

A health maintenance organization shall possess the following characteristics to qualify as HMO:

1. An organized system of managing and assuring health care services in a defined geographical area;

2. A pre-agreed set of basic and supplemental health maintenance and treatment services;
3. Have an enrolled group of individuals paying a fixed periodic fee.

j. Managed Care – a system of health care delivery that influences tilization and cost of services and measures performance with a goal to deliver quality and cost-effective health care;

k. *Managed Health Plan* – a plan that covers health care services through an integrated and organized system of financing, delivery, and management of services to an enrolled population for a specific period of time on a fixed periodic fee;

l. *Member or Enrollee* – an individual or a person who is part of a group or an employee and/or dependents or a corporation, who entered into a contracat with an HMO;

m. *Person* – a natural or judicial person as defined by law;

n. *Provider* – a health professional such as physician, dentist, nurse, midwife, physical therapist or health care professional's group, or a health facility such as hospital, diagnostic clinic, pharmacy licensed or authorized by the proper government agency to provide health care services;

o. *Participating or Accredited Provider* – a provider as defined in paragraph (n) who, under an express contract with, or is owned and operated by, a health maintenance organization (HMO) or with the latter's contractor or subcontractor, has agreed to provide health care services to the HMO enrollees, with the right to payment, other than co-payment or deductible directly or indirectly from the HMO.

p. *Membership fee* – the amount of money paid by an individual member, group, corporation on behalf of its employees and the latter's dependents, in payment for pre-agreed set of health services, for a specific period of time.

SEC. 5. ***Health Care Incentives*** – HMOs and health care providers engaged in health are services pursuant to the provisions of this Act shall be entitled to the following incentives.

1. Reduced customs duties for importation of medical equipment used in health care services of HMOS and similar providers contemplated under this Act; Provided, That such equipment are used exclusively by the HMO and not for resale.

2. Exemption from percentage tax, documentary stamp tax and Value Added Tax on all health care agreements so as to reduce the cost of health care;

3. The cost of health care membership fee that corporation or employers pay for the health care plans of their employees shall be

deductible from the taxable income of said employers, as this will encourage employers to provide health care plans for the employees;

4. Such other incentives that the Insurance Commission and the Department of Health may deem proper to recommend subject to the concurrence by the Department of Finance and approval by the President of the Philippines.

SEC. 6. ***Registration.*** An HMO shall be legally organized as a judicial person and shall be registered with the Securities and Exchange Commission. Thus, HMOs shall be organized in accordance with the provisions of the Corporation Code.

SEC. 7. ***Licensure.*** The Insurance Commission is hereby designated as the government agency to supervise and regulate the operations of HMO and all other entities offering health care services that fall under the definition of HMO in accordance with Section 4 of this Act. After registering with the Securities and Exchange Commission, said entities shall secure a license to operate as an HMO from the Insurance Commission. Existing HMOs at the time of the effectivity of this Act shall likewise secure a license to operate from the Insurance Commission in accordance with the Transitory Provisions provided herein.

The Commission shall issue the license to operate within thirty (30) days from the submission of the complete application and requirements. In case the application is not approved, the reasons therefore shall be made known to the applicant immediately.

However, if the HMO will directly provide health care services such as medical consultation and/or treatment by their own employed medical, professional, perform laboratory or diagnostic services/operate clinics or hospitals, they shall also secure a license from the Department of Health for said facilities.

SEC. 8. ***Licensure.*** The Insurance Commission and Department of Health shall promulgate the requirements for licensure and renewal of license of HMOs based on the provisions of Section 7 of this Act. The requirements shall include, but not be limited to:

a. The minimum authorized and paid up capitalization required;

b. Financial Statements/Projections for new HMOs;

c. Annual Reports for existing HMOs;

d. Data on membership enrollment;

e. Health Care Services being offered;

f. Geographical area of operation; and

g. Such other information or requirements that the Commission and/or the Department may deem necessary;

These requirements may be amended to conform to the needs of the time and such requirements or any amendment thereto shall be effective for period of one year subject to renewal by the Commission.

SEC. 9. ***Actuaries/Financial Consultants***. To protect the potential and enrolled members of HMOs the Commission shall ensure that HMOs adhere to actuarilly sound practices and possess financial capabilities to render the services stipulated in their agreements.

To achieve these objectives, the Commission shall engage the services of actuaries and/or financial consultants to analyze the financial status and the actuarial soundness of HMO practices prior to the issuance or renewal of licences. For this purpose, the Commission shall require from HMOs such additional data and reports if deems necessary. Provided, that such data and reports are certified by either an actuary, financial consultant or external auditor.

SEC. 10. ***Association.*** All Health Maintenance Organization shall, for purposes of achieving unity in the industry, facilitating government regulation, mutual assistance among HMOs, self-regulation and quality competition, be encouraged to be a member of the existing association of Health Maintenance Organizations at the time of the enactment of this act.

SEC. 11. ***Arbitration by the Association and by the Commission.*** Complainants that may be brought by members or providers or even by a HMO against another HMO shall be referred to the Association for arbitration. The Association shall refer such complaint to the grievance mechanism in the Association and shall be decided within thirty (30) days. In the event no settlement of the complaint has been reached after thirty (30) days, the Association shall submit the case to the Commission which shall assume jurisdiction over the case and shall decide the case within sixty (60) days. The decision of the Commission shall be final and executory, appealable to the Supreme Court only on question of law.

SEC. 12. ***Grounds/or Suspension of License.*** The license to operate issued to HMOs may be suspended by the Commission, with strict adherence to due process, on the following grounds:

1. When, based on the financial reports, continued operation of the HMO business is no longer financially sound;

2. When, without justifiable cause, agreements with members are not honored

3. When the statements in the application for license or renewal thereof are found to be false, misleading, inadequate or incomplete such that the Department cannot ascertain the true status from such statement, sufficient to arrive at an honest appraisal of the true capability of the HMO;

4. When the decision of the Association or arbitration of complaint is not honored by a HMO; and

5. When a HMO continuously violates the rules and regulations issued by the Commission and the Department in implementing this Act as provided for in Section 19 hereof.

SEC. 13. ***Grounds for Revocation of License***. The Commission shall revoke the license of any Health Maintenance Organization, with strict adherence to due process, on the following grounds.

1. Repeated violations of this Act by an HMO;
2. Unjustified refusal to provide the health care services contracted for by a member as provided for in the agreement;

3. Impairment of the financial status of the HMO, as may be Section 12 hereof, after a fair appraisal by impartial actuaries and financial consultants, such that, even if allowed to continue to operate, it can no longer provide the services it assumed under the agreement with its members; and

4. Refusal to comply with decisions of the Commission on cases submitted by the Association for arbitration.

In all cases of revocation, the Commission shall have the authority to assign the agreements of the HMO whose license was revoked, to other existing HMOS, or to order such applicable remedies in order to protect the rights derived by members from the agreements.

SEC. 14. The following administrative sanctions are hereby imposed for violations of this Act:

1. A fine of Twenty Thousand Pesos (P20,000.00) for the first violation of the provisions of this Act, Thirty Thousand Pesos (P30,000.00) for the second; and Fifty Thousand Pesos (P50,000.00) for the third violation. For the fourth violation of this Act, the provision of Section 13, shall apply;
2. A fine of One Hundred Thousand Pesos (P100,000.00) every time the license of the HMO is suspended. Provided, That payment of this fine shall not absolve the HMO from its obligations under the agreements it has contracted with members and/or participating or accredited providers.
3. An order to freeze the assets of the HMO suspended or revoked for the protection of investors, providers and members.

The amount that may be collected as fines shall be retained by the Commission for its use in the information dissemination mentioned in the following section: Provided, That a separate account be maintained by the Commission for such purpose.

Violations committed by HMOs in the direct provisions of health care services, performance of laboratory or diagnostic services, operation of hospitals or clinics shall be subject to applicable rules and regulations of the Department of Health.

SEC. 15. ***Reinstatement of Suspended or Revoked Licenses***. The Commission shall order the reinstatement of a suspended or revoked license upon reasonable showing that the ground for which the suspension or revocation

was based has ceased to exist and that the HMO has sufficiently complied with the requirements the Commission may determine for such reinstatement.

SEC. 16. ***Publication***. The Commission and the Department shall jointly inform the public by publishing periodically:

1. List of licensed HMOs.
2. Suspension and/or revocation of the license, of HMOs, copies of which shall be furnished to associations of the medical profession, hospitals and employers who shall inform their members accordingly.

SEC. 17. ***Existing HMOs***. Health Maintenance Organizations registered with the Securities and Exchange Commission and the Department that have been in operation prior to the effectivity of this Act shall continue to operate: Provided, That they shall apply for a new license with the Commission within one year from the effectivity of this Act.

SEC. 18. ***New License***. The Commission shall grant the above HMOs their new licenses in accordance with this Act. Provided, That the existing agreements, the rights and obligations derived therefrom shall be respected: Provided, further, That the HMOs comply with the licensing requirements within one year.

SEC. 19. ***Appropriations.*** The amount necessary for the implementation of this Act shall be included in the General Appropriations Act of the year following its enactment and every year therafter.

SEC. 20. ***Implementing Rules and Regulations***. The Commission and the Department of Health, in consultation with the concerned sectors, shall promulgate the rules and regulations necessary to implement this Act within Ninety (90) days from its approval. Such rules and regulations shall be furnished to HMOs and concerned sectors and shall take effect upon publication in a newspaper of general circulation.

SEC. 21. ***Separability Clause***. If any provision of this Act is declared unconstitutional or invalid, the other provisions not affected by such declaration, shall remain in full force and effect.

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

SEC. 23. ***Effectivity.*** This Act shall take effect fifteen (l5) days following its publication in at least two (2) newspapers of general circulation.

Approved,