

SENATE

S. B. No. 1353
(In substitution of Senate Bill No. 216)



Prepared and submitted jointly by the Committees on Health and Demography; Justice and Human Rights; and Ways and Means with Senator Hontiveros as author thereof

AN ACT
INCREASING THE PENALTIES FOR THE REFUSAL OF HOSPITALS AND MEDICAL CLINICS TO ADMINISTER APPROPRIATE INITIAL MEDICAL TREATMENT AND SUPPORT IN EMERGENCY OR SERIOUS CASES, AMENDING FOR THE PURPOSE BATAS PAMBANSA BILANG 702, OTHERWISE KNOWN AS "AN ACT PROHIBITING THE DEMAND OF DEPOSITS OR ADVANCE PAYMENTS FOR THE CONFINEMENT OR TREATMENT OF PATIENTS IN HOSPITALS AND MEDICAL CLINICS IN CERTAIN CASES" AS AMENDED BY REPUBLIC ACT NO. 8344, AND FOR OTHER PURPOSES

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

SECTION 1. *Section 1 of Batas Pambansa Bilang 702, as amended, is hereby further amended to read as follows:*

"Section 1. In emergency or serious cases, it shall be unlawful for any proprietor, president, director, manager or any other officer, and/or medical practitioner or employee of a hospital or medical clinic to request, solicit, demand or accept any deposit or any other form of advance payment as a prerequisite for confinement or medical treatment of a patient in such hospital or medical clinic or to refuse to administer medical treatment and support as dictated by good practice of medicine to prevent death, or permanent disability, **OR IN THE CASE OF A PREGNANT WOMAN, PERMANENT INJURY OR LOSS OF HER UNBORN CHILD:** *Provided, That by reason of inadequacy of the medical capabilities of the hospital or medical clinic, the attending physician may transfer the patient to a facility where the appropriate care can be given, after the patient or his next of kin consents to said transfer and after the receiving hospital or*

1 medical clinic agrees to the transfer: *Provided, however,* That when the
2 patient is unconscious, incapable of giving consent and/or
3 unaccompanied, the physician can transfer the patient even without his
4 consent: *Provided, further,* That such transfer shall be done only after
5 necessary emergency treatment and support have been administered to
6 stabilize the patient and after it has been established that such transfer
7 entails less risks than the patient's continued confinement: *Provided,*
8 *furthermore,* That no hospital or clinic, after being informed of the medical
9 indications for such transfer, shall refuse to receive the patient nor
10 demand from the patient or his next of kin any deposit or advance
11 payment; *Provided, finally,* That strict compliance with the foregoing
12 procedure on transfer shall not be construed as a refusal made punishable
13 by this Act."

14 **SEC. 2.** *Section 2 of Batas Pambansa Bilang 702, as amended, is hereby further*
15 *amended to read as follows:*

16 "Sec. 2. For purposes of this Act, the following definitions shall
17 govern:

18 "(a) 'Emergency' - a condition or state of a patient wherein based
19 on the objective findings of a prudent medical officer on duty for the day
20 there is immediate danger and where delay in initial support and treatment
21 may cause loss of life or cause permanent disability to the patient, **OR IN**
22 **THE CASE OF A PREGNANT WOMAN, PERMANENT INJURY OR**
23 **LOSS OF HER UNBORN CHILD.**

24 "(b) 'Serious case' - refers to a condition of a patient characterized
25 by gravity or danger wherein based on the objective findings of a prudent
26 medical officer on duty for the day when left unattended to, may cause
27 loss of life or cause permanent disability to the patient, **OR IN THE CASE**
28 **OF A PREGNANT WOMAN, PERMANENT INJURY OR LOSS OF HER**
29 **UNBORN CHILD.**

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2 (I) 'BASIC EMERGENCY CARE' - THE RESPONSE TO A
3 SITUATION WHERE THERE IS URGENTLY REQUIRED MEDICAL
4 CARE AND ATTENTION, AND SHALL INCLUDE PROCEDURES
5 REQUIRED FOR INITIAL DIAGNOSIS, USE OF EQUIPMENT AND
6 SUPPLIES IN SUFFICIENTLY ADDRESSING THE EMERGENCY
7 SITUATION, CONSIDERING THE WELFARE OF THE PATIENT."

8 **SEC. 3.** *Section 4 of Batas Pambansa Bilang 702, as amended, is hereby further*
9 *amended to read as follows:*

10 "Sec. 4. Any official, medical practitioner or employee of the
11 hospital or medical clinic who violates the provisions of this Act shall, upon
12 conviction by final judgment, be punished by imprisonment of not less than
13 six (6) months and one (1) day but not more than two (2) years and four
14 (4) months, or a fine of not less than Twenty thousand pesos
15 (P20,000.00), but not more than One hundred thousand pesos
16 (P100,000.00) or both, at the discretion of the court: *Provided, however,*
17 *That if such violation was committed pursuant to an established policy of*
18 *the hospital or clinic or upon instruction of its management, the director or*
19 *officer of such hospital or clinic responsible for the formulation and*
20 *implementation of such policy shall, upon conviction by final judgment,*
21 *suffer imprisonment of four (4) to six (6) years, a fine of not less than [One*
22 *hundred thousand pesos (100,000.00)]* **FIVE HUNDRED THOUSAND**
23 **PESOS (P500,000.00)**, but not more than [five hundred thousand pesos
24 (P500,000.00)] **ONE MILLION** pesos (**P1,000,000.00**) or both, at the
25 discretion of the court, **WITHOUT PREJUDICE TO DAMAGES THAT**
26 **MAY BE AWARDED TO THE PATIENT-COMPLAINANT; PROVIDED,**
27 **FURTHER, THAT UPON THREE (3) REPEATED VIOLATIONS**
28 **COMMITTED PURSUANT TO AN ESTABLISHED POLICY OF THE**
29 **HOSPITAL OR CLINIC OR UPON THE INSTRUCTION OF ITS**

1 MANAGEMENT, THE HEALTH FACILITY'S LICENSE TO OPERATE
2 SHALL BE REVOKED BY THE DEPARTMENT OF HEALTH. THE
3 PRESIDENT, CHAIRMAN. BOARD OF DIRECTORS, OR TRUSTEES,
4 AND OTHER OFFICERS OF THE HEALTH FACILITY SHALL BE
5 SOLIDARILY LIABLE FOR DAMAGES THAT MAY BE AWARDED BY
6 THE COURT TO THE PATIENT-COMPLAINANT"

7 SEC. 4. New sections 5, 6, 7 and 8 shall be inserted after Section 4 of Batas
8 Pambansa Bilang 702, as amended, to read as follows:

9 "SEC. 5. *PRESUMPTION OF LIABILITY.* - IN THE EVENT OF
10 DEATH, PERMANENT DISABILITY, SERIOUS IMPAIRMENT OF THE
11 HEALTH CONDITION OF THE PATIENT-COMPLAINANT, OR IN THE
12 CASE OF A PREGNANT WOMAN, PERMANENT INJURY OR LOSS OF
13 HER UNBORN CHILD, PROCEEDING FROM THE DENIAL OF HIS OR
14 HER ADMISSION TO A HEALTH FACILITY PURSUANT TO A POLICY
15 OR PRACTICE OF DEMANDING DEPOSITS OR ADVANCE PAYMENTS
16 FOR CONFINEMENT OR TREATMENT, A PRESUMPTION OF
17 LIABILITY SHALL ARISE AGAINST THE HOSPITAL, MEDICAL CLINIC,
18 AND THE OFFICIAL, MEDICAL PRACTITIONER, OR EMPLOYEE
19 INVOLVED.

20 SEC. 6. *HEALTH FACILITIES OVERSIGHT BOARD.* - ALL
21 COMPLAINTS FOR VIOLATIONS OF THE ACT SHALL BE FILED
22 INITIALLY WITH THE HEALTH FACILITIES OVERSIGHT BOARD
23 UNDER THE HEALTH FACILITIES AND SERVICES REGULATORY
24 BUREAU (HFSRB) OF THE DEPARTMENT OF HEALTH. THE BOARD
25 SHALL BE COMPOSED OF A DOH REPRESENTATIVE WITH A
26 MINIMUM RANK OF DIRECTOR TO SERVE AS CHAIR, A
27 REPRESENTATIVE FROM THE PHILIPPINE HEALTH INSURANCE
28 CORPORATION, A REPRESENTATIVE FROM THE PHILIPPINE
29 MEDICAL ASSOCIATION, A REPRESENTATIVE FROM PRIVATE

1 HEALTH INSTITUTIONS, AND THREE REPRESENTATIVES FROM
2 NON-GOVERNMENT ORGANIZATIONS ADVOCATING FOR PATIENT'S
3 RIGHTS AND PUBLIC HEALTH.

4 THE HEALTH FACILITIES OVERSIGHT BOARD SHALL
5 INVESTIGATE THE CLAIM OF THE PATIENT AND UPON
6 ADJUDICATION, IMPOSE ADMINISTRATIVE SANCTIONS IN
7 ACCORDANCE WITH THIS ACT. ON THE BASIS OF ITS OWN
8 FINDINGS, THE BOARD SHALL ALSO FACILITATE THE FILING OF
9 THE CRIMINAL CASE IN THE PROPER COURTS.

10 SEC. 7. *PHILHEALTH REIMBURSEMENT OF BASIC*
11 *EMERGENCY CARE.* - THE COST OF THE BASIC EMERGENCY CARE
12 AND TRANSPORTATION SERVICES INCURRED BY THE HOSPITAL OR
13 MEDICAL CLINIC THAT HAS RENDERED EMERGENCY MEDICAL
14 SERVICES TO THE POOR AND INDIGENT PATIENT SHALL BE
15 REIMBURSED BY THE PHILIPPINE HEALTH INSURANCE
16 CORPORATION (PHIC). "

17 SEC. 8. *TAX DEDUCTIONS.* - OTHER EXPENSES INCURRED
18 BY THE HOSPITAL OR MEDICAL CLINIC IN PROVIDING EMERGENCY
19 AND MEDICAL SERVICES TO THE POOR AND INDIGENT PATIENT,
20 NOT REIMBURSED BY THE PHIC SHALL BE TAX DEDUCTIBLE.

21 SEC. 7. Section 5 of Batas Pambansa Bilang 702, as amended, shall be
22 renumbered as Section 9, and is hereby further amended to read as follows:

23 "SEC. 9. *IMPLEMENTING RULES AND REGULATIONS.* The
24 Department of Health, IN COORDINATION WITH THE PHIC AND THE
25 BUREAU OF INTERNAL REVENUE, shall promulgate the necessary
26 rules and regulations to carry out the provisions of this Act. "

27 SEC. 8. *Separability Clause.* - If any provision of this Act is declared
28 unconstitutional, the same shall not affect the validity and effectivity of the other
29 provisions hereof.

1 **SEC. 9. *Repealing Clause.*** - All laws, decrees, orders, issuances or portion
2 thereof, which are inconsistent with the provisions of this Act are hereby repealed or
3 modified accordingly.

4 **SEC. 10. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
5 publication in the Official Gazette or in at least two (2) newspapers of general
6 circulation.

7 *Approved,*