

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



Senate

Office of the Secretary

'18 FEB 26 P 7:02

SENATE

SENATE BILL NO. 1708

RECEIVED

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO STRENGTHEN THE PROFESSION OF OPTOMETRY, HEREBY
AMENDING REPUBLIC ACT NO. 8050, OTHERWISE KNOWN AS THE
REVISED OPTOMETRY LAW OF 1995, IN ORDER TO ENHANCE THE
DELIVERY OF VISION CARE IN THE PHILIPPINES AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

The Constitution, Article II, Section 15 provides:

Section 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

Article XIII, Section 11, likewise provides:

SECTION 11. 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. xxx

Unite for Sight, a non-profit organization specializing in healthcare delivery to communities around the world, and which has reportedly provided eye care services to more than 2.5 million people worldwide, including more than 99,000 sight-restoring surgeries,¹ has stated that "[l]ow vision and blindness have dire effects on individuals, families, and communities," which "effects range from a decrease in quality of life and increased mortality to large-scale economic consequences."²

It likewise shed light on the connection between loss or impairment of eyesight and poverty, citing sources that indicate that "blindness may be a result of living in poverty and may also lead an individual or family into poverty," thus:

¹ <http://www.uniteforsight.org/about-us>

² <http://www.uniteforsight.org/community-eye-health-course/module1>

The impact of blindness and poor vision on quality of life is particularly alarming for those living in poverty. Approximately 45 million people in the world are blind, and 87% of visually impaired people live in developing countries.^[3] The economic consequences of blindness are staggering, as 90% of blind individuals cannot work.^[4] Thus, "poverty and blindness are believed to be intimately linked, with poverty predisposing to blindness, and blindness exacerbating poverty by limiting employment opportunities, or by incurring treatment cost."^[5] Impoverished people are more likely to become blind due to lack of access to health services. They also tend to be more susceptible to eye infections and diseases, and lack awareness about eye health. ... In addition, "clear evidence shows that some blinding eye diseases are a direct consequence of poverty (for example, trachoma)."^[6] However, the converse is also true: blindness may also cause people to become poor. For instance, one study on the consequences of poverty reported:

Although some individuals become disabled because of low income, a staggering 64 per cent of those with disabilities were not in poverty prior to onset of the disability. Households affected by disability, and which were not initially impoverished, had three times the probability of entering into poverty within one year of onset of disability compared with unaffected households. Households affected by disability also had a lower probability of leaving poverty because of the increased costs and reduced earnings associated with disability."^[7]

Optometrists are among those who are at the frontline of the nation's efforts to protect and enhance the vision health care system of our country, consistent with Section 2 of Republic Act No. 8050, otherwise known as the Revised Optometry Law of 1995.

However, the unfortunate reality is that our 10,000-strong corps of professional optometric healthcare providers is extremely inadequate to service the needs of our 103 million citizens. As a result, the market became ripe for the entry and rampant proliferation of those who illegally and indirectly engage in the practice of optometry.

Not only does the illegal and indirect practice of optometry undermine the privilege earned by these licensed optometrists to pursue their profession and earn a reasonable living therefrom, after having invested valuable resources in order to become lawfully qualified to practice in said field, but most importantly, such illegal and indirect practice by unlicensed persons also pose a significant danger to the public, who rely on the implied credentials and accountability of those who hold themselves

³ *Ibid.* citing "Visual Impairment and Blindness." WHO. (2009). Accessed 4 January 2011.

⁴ *Ibid.* citing "World Blindness Overview." Himalayan Cataract Project. www.cureblindness.org. Accessed 7 January 2009.

⁵ *Ibid.* citing Kuper, H., et. al. "Does Cataract Surgery Alleviate Poverty? Evidence from a Multi-Centre Intervention Study Conducted in Kenya, the Philippines and Bangladesh." *PloS Medicine*. 5.11 (2010). Accessed 3 January 2011.

⁶ *Ibid.* citing Gilbert, C., et. al. "Poverty and blindness in Pakistan: results from the Pakistan national blindness and visual impairment survey." *British Medical Journal*. 336.29 (2008). Accessed 3 January 2011.

⁷ *Ibid.* citing Holden, B. "Blindness and poverty: a tragic combination." *Clinical and Experimental Optometry*. 90.6 (2007): 401-403. Accessed 4 January 2011.

out to the public as vision care services, thinking that such persons or entities are subject to professional standards or regulatory control like any other licensed professionals.

Therefore, there is a need for our government to continue working towards increasing the number and improving the quality of our corps of professional and licensed optometric healthcare providers, while, at the same time, taking necessary steps to protect our countrymen from the dangers posed by persons and entities who unlawfully hold themselves out as licensed professionals or who otherwise engage in the illegal or indirect practice of optometry.

There is likewise a need to elevate the level of services that optometrists can provide, in order to improve the people's access to eye care-related essential goods, health and other services at affordable cost. For instance, optometrists in developed countries have recently been allowed to prescribe Therapeutic Pharmaceutical Agents (TSAs), subject to certification and regulation by appropriate agencies. Subject to the exercise of regulatory controls by the Department of Health (DOH) and Food and Drugs Authority (FDA), which shall, in turn, be guided by internationally accepted practices, there is every reason and opportunity for our optometrists to play an even greater role in achieving the aspirations laid down in our Constitution, as applied in the field of vision care.

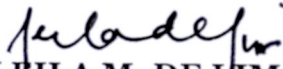
Finally, in order to promote the growth of the field and the number of professionals who engage in the practice thereof, it is time to place our optometrists on a plane that is at par with other professionals, such as medical professionals, by affording them the opportunity to establish optometry clinics without being subjected to the payment of local business permits. This is with the understanding that the exemption applies only to clinics, or portions of the operation thereof, that strictly involve the direct provision of professional services that are essential and natural extensions of the practice of the profession of optometry, and not to other income-generating endeavors, such as sale of products or merchandise like medicine, ophthalmic products, accessories and implements.

This bill, therefore, aims to address the country's vision care needs by strengthening the optometric profession, as follows:

1. Prohibiting and penalizing the indirect practice of optometry;
2. Providing guidelines to protect the ethical standards of optometrists during engagements with commercial eye care and vision adjustment product providers;
3. Increasing the existing penalties for the illegal practice of optometry;
4. Allowing optometrists to prescribe and administer therapeutic pharmaceutical agents (TPAs), subject to the exercise of regulatory controls by the Department of Health (DOH) and Food and Drugs Authority (FDA), which shall, in turn, be guided by internationally accepted practices; and

5. Exempting optometry clinics and facilities, or portions of the operation thereof, that strictly involve the direct provision of professional services that are essential and natural extensions of the practice of the profession of optometry, from the payment of national or local tax, fee, including the Mayor's Permit or business permits; provided that the corresponding professional tax to the province (or city in the case of Highly Urbanized Cities) where he practices his profession shall be paid, in addition to other fees or dues that he may be required to pay under other relevant laws in order to remain a licensed member of the profession in good standing.

With these changes, it is hoped that we can enhance the delivery of vision care services in our country by protecting the legitimate practice of optometry.


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VISION CARE IN THE PHILIPPINES AND FOR OTHER PURPOSES

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

1 **SECTION 1.** New Sections 6-A, 6-B and 6-C shall be inserted after Section 6 of
2 Republic Act. No. 8050, otherwise known as Revised Optometry Law (R.A. No. 8050),
3 as follows:

4 **Sec. 6-A.** *Prohibition Against the Indirect Practice of*
5 *Optometry. –*

6 a. No person, whether natural or juridical, shall engage,
7 employ, hire, form a partnership or corporation with, or
8 otherwise enter into a contract or arrangement with an
9 optometrist for the purpose of deriving financial and other
10 benefit from the practice of said optometrist of the
11 profession of optometry as defined by law.

12 b. This prohibition shall not apply:

- 1 1. where a patient-doctor relationship exists between an
- 2 individual and an optometrist;
- 3 2. when the optometrist is under the employ of the
- 4 government or any of its subdivisions, agencies and
- 5 instrumentalities, and services the vision care needs of
- 6 its public employees;
- 7 3. when an optometrist forms a professional partnership
- 8 with other optometrists for the purpose of practicing
- 9 optometry;
- 10 4. when an organization works with optometrists in
- 11 undertaking charitable projects to provide vision care
- 12 services to indigent patients; and
- 13 5. on limited commercial optometry practice as provided
- 14 in Section 6-B of this Act.

15 **Sec. 6-B. *Limited Commercial Optometry Practice.*** -

16 Optometrists may enter into contracts or arrangements that

17 allow them to provide limited optometric services to customers

18 of establishments that exclusively deal in optical products which:

- 19 a. creates a fiduciary relationship that is above and separate
- 20 from the contractual relationship between the optometrist
- 21 and the establishment, as if it was contracted directly
- 22 between them; and
- 23 b. shall be regulated by the PRC, in consultation with
- 24 recognized optometry associations, to ensure that:

- 1 1. All patients are informed in writing, through signages,
2 and in person by the on-site optometrist of the
3 following:
 - 4 i. The services being offered by the on-site
5 optometrist are limited only optometric services,
6 excluding sale of any products and merchandise of
7 the establishment;
 - 8 ii. That the establishment accepts orders arising from
9 prescription obtained from different optometrists;
 - 10 iii. That it is recommended that they consult an
11 optometrist or ophthalmologist or other medical
12 professionals, such as pediatricians in the case of
13 children, for full-scale examination, consultation
14 and treatment, as vision impairment may be
15 symptomatic of diseases or conditions that cannot
16 be detected or treated by the on-site optometrist;
 - 17 iv. That they have no obligation to purchase any item
18 from the establishment after the consultation, and
19 that they can obtain a second opinion from another
20 optometrist if they should so choose; and
 - 21 v. That it is best to be examined by a professional,
22 whether an on-site or off-site optometrist, before
23 purchasing an unrestricted product, as defined by
24 the DOH in consultation with an optometrist
25 association, such as low-risk ones like reading
26 glasses, or replacement glasses; and if they opt not

1 to seek advice or consult with any professional, they
2 assume the risk of doing so, for which they must
3 sign a waiver;

4 c. Optometrists receive no incentive for sales;

5 d. ensure that optometrists remain liable, administratively,
6 civilly and even criminally, for malpractice and unethical
7 behavior for services rendered to patients whom they meet
8 under these limited commercial optometry practice
9 arrangements; and that they are aware of such liability.

10 e. The consultation is done under circumstances that preserve
11 the doctor-patient confidentiality, and the dignity of the
12 profession.

13 f. If the consultation is offered free of service by the
14 establishment, the on-site optometrist may withhold the
15 prescription but is required to inform the patient of the
16 findings, without a written prescription, for purposes of
17 obtaining and comparing with a second opinion.

18 **Sec. 6-C. Therapeutic Pharmaceutical Agents (TPA's).** -

19 Optometrists who have obtained their optometry degrees under
20 a curriculum which contain the requisite subjects, including
21 pharmacology and pathology, as determined by the Board of
22 Optometry, shall be allowed to use therapeutic pharmaceutical
23 agents (TPA's); Provided, that the Board of Optometry shall
24 implement guidelines for the certification, after undergoing the
25 appropriate training, of optometrists to use or prescribe TPA's

1 who would not otherwise be qualified by reason of not
2 possessing the above referred qualification; Provided, finally,
3 that optometrists can only use or prescribe TPA's from a list
4 approved by the DOH in coordination with the Board of
5 Optometry and the Food and Drugs Administration (FDA).

6 The DOH shall follow the internationally acceptable standards
7 and formularies in establishing the list of TPA's allowable under
8 this Act.

9 Prescription of TPA's without certification and beyond the list
10 approved by the DOH shall be considered unauthorized practice
11 of Optometry, regardless if the offender is a licensed
12 Optometrist.

13 **SEC. 2.** Section 30 of R.A. No. 8050 shall be amended as follows:

14 **SEC. 33. Penal Provisions.** – The commission of any of the
15 prohibited acts listed in the immediately preceding section shall be
16 punished with imprisonment of not less than one (1) year but not
17 more than eight (8) years, or a fine of not less than Ten thousand
18 pesos (P10,000) but not more than ~~Forty thousand pesos~~
19 ~~(P40,000.00)~~ **ONE MILLION PESOS (P1,000,000)**, or both, at
20 the discretion of the court.

21 In addition, the administrative penalties specified in Section 26
22 hereof shall be imposed whenever applicable.

23 If the violation is committed by an association, partnership,
24 corporation or any other institution, the managing officers and other

1 persons responsible for its commission shall be liable for the
2 penalties provided for in this Act.

3 **SEC. 3.** A new Section 33-A and 33-B shall be inserted after Section 33 of R.A. No.
4 8050 as follows:

5 **Sec. 33-A.** *Penalties for Persons Abetting the Illegal Practice of*
6 *Optometry.* - Any person, whether natural or juridical, who abets,
7 assists or facilitates the illegal or indirect practice of optometry as
8 defined under this law, shall be guilty of the offense of illegally
9 practicing optometry and be subject to the penalties prescribed in
10 Section 33 of this Act. In case of juridical entities, the directors,
11 corporate officers, and/or other offices having control,
12 management, and direction of said entities shall be held liable for
13 such violation.

14 **Sec. 33-B.** *Optometrists Liable for Violating the Law.* - An
15 optometrist who willfully allows himself to be used by persons
16 who violate the provisions of RA No. 8050 and this law, shall
17 likewise be guilty of violating said laws, and shall be subject to the
18 penalties prescribed in Section 33 of this Act.

19 **SEC. 4.** A new Section 40-A shall be inserted before Section 41 under Miscellaneous
20 Provisions of R.A. No. 8050, as follows:

21 **Sec. 40-A.** *Exemption of Optometry Clinics from the Payment*
22 *of Business Taxes.* - Clinics, refraction rooms, offices and other

1 places used for conduct of optometric services and procedures are
2 taken to be established as a direct consequence of the practice of
3 optometry and are exempt from being subjected to any other
4 national or local tax, license or fee, including the Mayor's Permit
5 or business permit provided that concerned medical
6 professionals pay the corresponding professional tax to the
7 province where he practices his profession or to the city in case of
8 Independent Component Cities and Highly Urbanized Cities.

9 The local government, however, may require the Mayor's Permit
10 or business permit for clinics which have established shops for
11 the purpose of generating income and are engaged in the sale of
12 products such as medicine, ophthalmic products, accessories and
13 implements are prescribed and dispensed as defined by law.

14 **SEC. 5. *Repealing Clause.*** - All laws, decrees, executive orders, and rules and
15 regulations, or parts thereof, inconsistent with the provisions of this Act, are hereby
16 repealed or modified accordingly.

17 **SEC. 6. *Separability Clause.*** - If, for any reason, any section or provision of this Act
18 is held unconstitutional or invalid, the other sections or provisions hereof shall not be
19 affected and thereby remain in full force and effect.

20 **SEC. 7. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
21 complete publication in at least two (2) national newspapers of general circulation.

Approved,