


THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
*First Regular Session* )

104 AUG 11 P4:42

RECEIVED BY: \_\_\_\_\_ 

SENATE

S. No. 1720

***Introduced by Senator S. R. Osmeña III***

**EXPLANATORY NOTE**

The right of a patient to quality medical care is of paramount importance. Because the safety and welfare of a patient is always the primary consideration, it is but proper that only the most competent individuals are permitted to practice medicine.

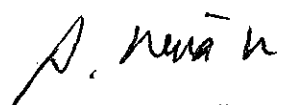
Incidents of malpractice and negligence involving medical and dental practitioners are on the rise. In these cases, patients find that their illnesses are aggravated and compounded by the mistakes or sheer negligence and ignorance by their doctors. Sadly, such negligent acts of unscrupulous medical and/or dental practitioners have sometimes resulted in temporary or permanent disability or death.

Moreover, one of the major deterrents to promoting the Philippines as a medical center in Asia, even with our large pool of doctors, nurses and medical practitioners, is the absence of a law that would protect or indemnify patients from negligent practitioners.

This bill aims to address the alarming incidents of medical malpractice and gross negligence resulting in complications, aggravated injuries and even death. In providing penalties for gross negligence, it is hoped that all fields of the medical profession will be protected against incompetent individuals.

To compensate the general public for injuries or death resulting from medical and dental malpractices, this bill also seeks to institutionalize a system of claims and benefits. It requires all medical and dental practitioners to obtain malpractice insurance in an amount not less than Fifty Thousand Pesos (P50,000.) to answer for any claims for damages arising from act or omission perpetrated by the insured resulting into injury, or loss of life or limb of any person.

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



**SERGIO OSMEÑA III**  
Senator

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

'04 AUG 11 P4:42

RECEIVED BY: \_\_\_\_\_

SENATE  
S. No. 1720

---

Introduced by Senator S. R. Osmeña III

---

**AN ACT**  
**TO PROTECT PATIENTS AGAINST MEDICAL MALPRACTICE, PUNISHING**  
**THE MALPRACTICE OF ANY MEDICAL PRACTITIONER AND REQUIRING**  
**THEM TO SECURE MALPRACTICE INSURANCE AND FOR OTHER**  
**PURPOSES**

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

1       **SECTION 1. Short Title.** - This Act shall be known as the "Anti-Medical  
2 Malpractice Act of 2004."

3       **SECTION 2. Declaration of Policy.** - It is the policy of the State to ensure  
4 the safety of and well being of patients by providing them with professional medical  
5 care.

6       **SECTION 3. Definition of Terms.** - Unless the context otherwise requires,  
7 the following terms shall have the following meanings:

8       (1) "Medical Practitioner" shall refer to any physician, dentist, nurse,  
9 pharmacist or paramedical or other supporting personnel (including medical and  
10 dental technicians, nursing assistants, and therapists);

11       (2) "Illegal Surgery" shall refer to surgeries performed to remove healthy  
12 human organ/s without the consent of the patient, with intent to gain on the part of  
13 the person or persons responsible for such surgery.

14       (3) "Malpractice" shall refer to any personal injury, including death, caused  
15 by the negligent or wrongful act or omission of any medical practitioner;

1 (4) "Physicians" shall refer to Doctors of Medicine, duly certified by the  
2 Professional Regulatory Commission who are in active practice of medicine;

3 (5) "Dentists" shall refer to Doctors of Dental Medicine, duly certified by the  
4 Professional Regulatory Commission who are in active practice of dental medicine;

5 (6) "Patients" shall refer to people requiring medical attention from any  
6 medical practitioner.

7 **SECTION 4. *The Anti-Malpractice Act.*** - Any medical practitioner who  
8 performs any act constituting medical malpractice or the illegal practice of surgery  
9 shall be punishable by imprisonment or fine or both and, in all instances, the  
10 cancellation of the license to practice medicine.

11 **SECTION 5. *The Complainant.*** - The crime of malpractice shall be  
12 prosecuted upon the filing of a complaint by any of the following individuals:

13 (1) the patient;

14 (2) parents or legal guardians of the patient;

15 (3) grandparents or collateral relatives;

16 (4) an officer or social worker of the Department of Social Welfare and  
17 Development or of a duly licensed child caring institution, orphanage, home for the  
18 aged, mental hospital, or other similar institutions under whose care or custody the  
19 patient is committed;

20 (5) a concerned, responsible hospital employee where the crime was  
21 committed but only if any of the persons mentioned in the four preceding  
22 paragraphs have expressly given their consent to the filing thereof.

23 **SECTION 6. *Effect of Pardon.*** - The express or implied pardon of the  
24 patient, his/her parents, grandparents or guardian shall not be a legal impediment  
25 to the prosecution of the crime nor will it extinguish the criminal action still pending,  
26 nor will it constitute a ground for remitting the penalty already imposed.

27 **SECTION 7. *Penalties.*** - Medical malpractice and/or the practice of illegal  
28 surgery shall be punished by *prisión mayor* and the cancellation of the license to  
29 practice the medical profession and a fine ranging from Five Hundred Thousand

1 Pesos (P500,000.00) to One Million Pesos (P1,000,000.00) in the discretion of the  
2 court taking into consideration all attending circumstances.

3 Any other crime committed by reason or on occasion of malpractice shall be  
4 considered as a separate offense and the rules on complex crimes shall not apply.

5 In no case shall malpractice be considered as a mere aggravating  
6 circumstance when it is committed by reason or on occasion of the commission of  
7 another crime.

8 **SECTION 8. *Aggravating Circumstances.*** - The following circumstances  
9 shall aggravate the crime of malpractice:

10 (1) permitting motives of profit to influence the free and independent  
11 exercise of professional judgment on behalf of patients;

12 (2) conscious infliction of harm to an unknowing patient with the malicious  
13 intent of profiting from such act.

14 **SECTION 9. *Damages.*** - In addition to the damages that may be awarded  
15 by the court under existing laws, the following circumstances shall warrant the  
16 award of additional damages:

17 (1) when the patient becomes insane or suffers any psychological damage  
18 by reason of malpractice;

19 (2) death of patient by reason or occasion of malpractice;

20 (3) physical disfigurement or permanent disability of the patient by reason  
21 of malpractice.

22 **SEC. 10. *Compulsory Medical and Dental Malpractice Insurance.*** -

23 Upon approval of this Act, all physicians and dentists shall be required to obtain  
24 MEDICAL AND DENTAL MALPRACTICE INSURANCE of no less than FIFTY  
25 THOUSAND PESOS (P50,000.00) from any reputable and duly licensed insurance  
26 company to answer for any claims for damages arising from an act or omission  
27 perpetrated by the insured resulting into injury, loss of life or limb to any person.  
28 Failure on the part of the Physician or Dentist to comply with the provisions of this

1 Act cause the suspension of his professional license and shall remain effective  
2 until he/she complied therewith.

3 **SECTION 11. *Repealing Clause.*** - All Laws, Presidential Decrees,  
4 Executive orders, Proclamations, and/or Administrative Regulations, which are  
5 inconsistent with the provisions of this Act, are hereby amended, modified,  
6 superseded or repealed accordingly.

7 **SECTION 12. *Effectivity.*** - This Act shall take effect fifteen (15) days after  
8 its publication in the *Official Gazette* or in at least two (2) newspapers of national  
9 circulation.

10 Approved,