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

SENATE

'19 JUL 10 A9 :09

Senate Bill No. 309

RECEIVED BY:

Introduced by Senator Juan Miguel F. Zubiri

AN ACT
ESTABLISHING THE DRUG PRICE REGULATORY BOARD TO REGULATE THE PRICES OF DRUGS AND MEDICINES IN THE PHILIPPINES AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9502, OTHERWISE KNOWN AS THE "UNIVERSALLY ACCESSIBLE CHEAPER AND QUALITY MEDICINES ACT OF 2008" AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Eleven years after the enactment of Republic Act 9502 or the Universally Accessible Cheaper and Quality Medicines Act of 2008, achieving its primary objective of ensuring sustainable access to affordable essential drugs and medicines remains to be elusive. Not discounting the great advances made by the Philippine government since the implementation of this law, improvements are still needed to achieve the goal of ultimately lowering the prices of drugs and medicines and broadening the list of drugs and medicines that can be subjected to price regulation.

This bill aims to introduce amendments to eliminate the circuitous procedure of lowering the prices of essential medicines found in the current law by creating a Drug Price Regulatory Board, which will be tasked to, among others, regulate the prices of drugs and medicines in the country.

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

JUAN MIGUEL F. ZUBIRI

EIGHTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
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Office of the Secretary

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

SECTION 1. Chapter 3 of Republic Act No. 9502 will now be titled, "*Drugs and Medicines Price Regulatory Board.*"

SEC. 2. Section 17 to Section 22 of Republic Act No. 9502 will be amended to read as follows:

SECTION 17. *CREATION AND COMPOSITION OF THE DRUG PRICE REGULATORY BOARD.* -

(A) THERE IS HEREBY CREATED THE DRUG PRICE REGULATORY BOARD, WHICH SHALL BE ATTACHED TO THE DEPARTMENT OF HEALTH AND COMPOSED OF SEVEN (7) MEMBERS AS FOLLOWS:

(1) SECRETARY OF HEALTH OR HIS DULY DESIGNATED REPRESENTATIVE AS CHAIRPERSON;
(2) SECRETARY OF TRADE AND INDUSTRY OR HIS DULY DESIGNATED REPRESENTATIVE AS VICE CHAIRPERSON;
(3) DIRECTOR, FOOD AND DRUGS ADMINISTRATION OR HIS DULY DESIGNATED REPRESENTATIVE AS MEMBER;

(4) CHAIRMAN, PHILIPPINE HEALTH INSURANCE CORPORATION AS MEMBER;

(5) ONE (1) ECONOMIST FROM THE ACADEME AS MEMBER; AND

(6) TWO (2) REPRESENTATIVES FROM THE CONSUMER SECTOR AS MEMBERS.

(B) THE MEMBERS OF THE BOARD REPRESENTING THE ACADEME AND THE CONSUMER SECTOR SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES AND SHALL SERVE FOR A TERM OF TWO (2) YEARS: *PROVIDED*, THAT THE REPRESENTATIVES FROM THE CONSUMER SECTOR SHALL NOT BE ELIGIBLE FOR REAPPOINTMENT FOR ANOTHER TERM.

SECTION 18. *POWERS OF THE BOARD.* - THE BOARD SHALL HAVE THE FOLLOWING POWERS:

(A) POWER TO DETERMINE THE MAXIMUM RETAIL PRICE OF DRUGS OR MEDICINES SUBJECT TO PRICE REGULATION –

(1) UPON APPLICATION OR *MOTU PROPIO* WHEN THE PUBLIC INTEREST SO REQUIRES, THE BOARD SHALL HAVE THE POWER TO REGULATE THE RETAIL PRICES OF DRUGS AND MEDICINES LISTED UNDER SECTION 19 HEREOF, INCLUDING THEIR DOSAGE FORM AND PACKING, AND, IN ORDER THAT THEY SHALL BE MADE AVAILABLE TO THE PUBLIC AT AFFORDABLE RETAIL PRICE FROM THE DIFFERENT MANUFACTURERS, IMPORTERS, TRADERS, DISTRIBUTORS, WHOLESALERS OR RETAILERS AND AFTER A PROPER DETERMINATION AS THE BOARD MAY DEEM FIT, FIX FROM TIME TO TIME, BY PUBLICATION THE MAXIMUM RETAIL PRICE AT WHICH SUCH FORMULATIONS SHALL BE SOLD;

(2) NO RETAILER SHALL SELL DRUGS AND MEDICINES AT A RETAIL PRICE EXCEEDING THE MAXIMUM RETAIL PRICE FIXED BY THE BOARD: *PROVIDED*, THAT UNTIL THE

MAXIMUM RETAIL PRICE OF DRUGS AND MEDICINES SUBJECT TO PRICE REGULATION IS FIXED BY THE BOARD, THE RETAIL PRICE THEREOF SHALL BE THE PRICE WHICH PREVAILED IMMEDIATELY BEFORE THE EFFECTIVITY OF THIS ACT AND NO MANUFACTURER, IMPORTER, TRADER, DISTRIBUTOR, WHOLESALER OR RETAILER OF SUCH DRUG OR MEDICINE SHALL SELL THE SAME AT A RETAIL PRICE EXCEEDING THE PRICE PREVAILING IMMEDIATELY BEFORE THE EFFECTIVITY OF THIS ACT.

FOR PURPOSES, HEREOF, DRUGS AND MEDICINES SHALL INCLUDE BUT IS NOT LIMITED TO SINGLE- AND MULTI-INGREDIENT MEDICINES INCLUDED IN THE PHILIPPINE NATIONAL DRUG FORMULARY (PNDF) ESSENTIAL DRUG LIST AND SOLD UNDER THEIR GENERIC AND BRAND NAMES.

(B) POWER TO INCLUDE OTHER DRUGS OR MEDICINES IN THE LIST SUBJECT TO PRICE REGULATION – UPON APPLICATION OR *MOTU PROPIO* WHEN THE PUBLIC INTEREST SO REQUIRES AND AFTER PROPER DETERMINATION, THE BOARD MAY ORDER THE INCLUSION OF DRUGS AND MEDICINES TO THE LIST SUBJECT TO PRICE REGULATION UNDER SECTION 19 THEREOF.

(C) POWER TO IMPLEMENT COST-CONTAINMENT AND OTHER MEASURES –

(1) THE BOARD SHALL HAVE THE POWER TO DETERMINE THE FAIR PRICE OF DRUGS OR MEDICINES FOR PURPOSES OF PUBLIC HEALTH INSURANCE AND GOVERNMENT PROCUREMENT; AND

(2) THE BOARD SHALL HAVE THE POWER TO IMPLEMENT ANY OTHER MEASURES THAT THE GOVERNMENT MAY AVAIL OF TO EFFECTIVELY REDUCE THE COST OF DRUGS OR MEDICINES THAT SHALL INCLUDE, BUT IS NOT LIMITED

TO, COMPETITIVE BIDDING, PRICE-VOLUME NEGOTIATIONS, AND OTHER APPROPRIATE MECHANISMS THAT INFLUENCE SUPPLY, DEMAND, AND EXPENDITURES ON DRUGS AND MEDICINES.

(D) POWER TO IMPOSE ADMINISTRATIVE FINES AND PENALTIES – AFTER DUE NOTICE AND HEARING, THE BOARD SHALL HAVE THE POWER TO SUSPEND OR REVOKE THE LICENSE TO OPERATE (LTO), PROFESSIONAL OR BUSINESS LICENSE, AS THE CASE MAY BE, OF ANY PERSON, MANUFACTURER, IMPORTER, TRADER, DISTRIBUTOR, WHOLESALER, RETAILER, OR ANY OTHER ENTITY, AND IMPOSE ADMINISTRATIVE FINES IN SUCH AMOUNT AS IT MAY DEEM REASONABLE WHICH SHALL IN NO CASE BE LESS THAN FIFTY THOUSAND PESOS (P50,000.00) NOR MORE THAN FIVE MILLION PESOS (P5,000,000.00) FOR VIOLATIONS OF THE MAXIMUM RETAIL PRICE FIXED PURSUANT TO THIS SECTION.

SEC. 3. Delete Section 19 to Section 22 and renumber the succeeding sections accordingly.

SEC. 4. The renumbered Section 22 will be amended to read as follows:

SECTION 22. *DISPLAY OF PRICE FIXED BY THE BOARD FOR DRUGS OR MEDICINES SUBJECT TO PRICE REGULATION.* –

(a) Within a reasonable period as may be determined by the **[**Secretary of the Department of Health**]** **BOARD**, and *Provided*, That it conforms to existing drug product labeling requirements, every manufacturer, importer, distributor, wholesaler, trader, or retailer of a drug and medicine intended for sale shall display the retail price which shall not exceed the maximum retail price **[**approved by order of the President of the Philippines**]** **FIXED BY THE BOARD**. The maximum retail price shall be printed on the label of the immediate container of the drug and medicine and the minimum pack thereof offered for retail sale with the words "RETAIL PRICE NOT TO EXCEED" preceding it, and "UNDER DRUG PRICE REGULATION" on a red strip**: *PROVIDED,* THAT IN CASE OF A CONTAINER CONSISTING OF SMALLER SALEABLE PACKS,**

THE RETAIL PRICE OF SUCH SMALLER PACK SHALL ALSO BE DISPLAYED ON THE LABEL OF EACH SMALLER PACK AND SUCH PRICE SHALL NOT BE MORE THAN THE PRO-RATA RETAIL PRICE OF THE MAIN PACK ROUNDED OFF TO THE NEAREST CENTAVO.

(b) Within a period as may be determined by the **[**Secretary of the Department of Health**]** **BOARD** from time to time, every manufacturer, importer, or trader shall issue a price list to wholesalers, distributors, retailers and to the **[**Secretary of the Department of Health**]** **BOARD**, indicating the retail price, the maximum retail price, and such other information as may be required by the **[**Secretary of the Department of Health**]** **BOARD**.

SEC. 5. Insert a new Section 23 and renumber the succeeding sections accordingly. The new Section 23 shall read as follows:

SECTION 23. ***DISPLAY OF PRICE LIST OF DRUGS OR MEDICINES EXCLUDED FROM THE LIST SUBJECT TO PRICE REGULATION.*** **– EVERY MANUFACTURER, IMPORTER, TRADER, DISTRIBUTOR, WHOLESALER, OR RETAILER OF A DRUG OR MEDICINE EXCLUDED FROM THE LIST SUBJECT TO PRICE REGULATION UNDER SECTION 19 HEREOF SHALL DISPLAY IN INDELIBLE PRINT MARK ON THE LABEL OF THE IMMEDIATE CONTAINER OF THE DRUG OR MEDICINE AND THE MINIMUM PACK THEREOF OFFERED FOR RETAIL SALE, THE WORDS "NOT UNDER PRICE REGULATION" ON A GREEN STRIP.**

SEC. 6. Chapter 8 on Miscellaneous Provisions will be amended to read as follows:

CHAPTER 8: AMENDMENTS TO REPUBLIC ACT 9994 OR THE EXPANDED SENIOR CITIZENS ACT OF 2010.

SECTION 42. ***EXEMPTION OF DRUGS AND MEDICINES UNDER PRICE REGULATION FROM THE "EXPANDED SENIOR CITIZENS ACT OF 2010."*** **– DRUGS AND MEDICINES UNDER PRICE REGULATION AS FIXED BY THE BOARD WILL NOT BE INCLUDED IN THE GRANT OF TWENTY PERCENT (20%) DISCOUNT AND EXEMPTION FROM THE**

VALUE-ADDED TAX (VAT) TO SENIOR CITIZENS AVAILING THE PROVISIONS OF REPUBLIC ACT 9994 OR THE "EXPANDED SENIOR CITIZENS ACT OF 2010."

SEC. 7. *Separability Clause.* – Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions and provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in its entirety.

SEC. 8. *Repealing Clause.* – All laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two national newspapers of general circulation.

Approved,