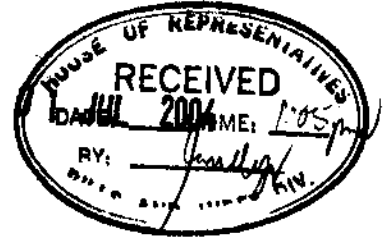


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 226



Introduced by Hon. Rozzano Rufino B. Biazon

EXPLANATORY NOTE

While there is no contention that professionals in the field of medicine and healthcare do not have the intention or desire to do harm to their patients, it cannot be denied that just as in any other profession, errors due to incompetence and negligence still occur in the treatment of patients, sometimes leading to fatal consequences.

Stories of miserable and ruined lives due to the errors of medical professionals abound in the media. Although some in the medical field say these comprise just a very small percentage of patients, these are still lives of human beings which should not have been destroyed by an equally small percentage of negligent and incompetent medical professionals.

What makes it worse is that these medical professionals are often licensed by the State to perform their jobs, with the educational system for such professionals being highly regulated. With the power to extend or end lives, these professionals should perform and live up to the expectations of the general public. In this field, to err on the right side should be the only choice.

While the present system provides for three avenues that a claimant of medical malpractice may take --- criminal court for penal sanction, civil court for damages and the Professional Regulation Commission to suspend or revoke a license--- this system itself contributes to the delay, if not denial, of justice for the victim. The legal costs, not to mention the time element involved, makes the physical effects of medical incompetence and negligence more intolerable.

In addition, medical professionals are likewise victimized by this present system. A doctor may have his reputation tainted by having cases filed against him in three venues, each one lasting several years before being resolved. In the meantime, anyone is free to do damage to his good name with the mere mention that he has cases filed against him here and there.

This bill seeks to provide the environment where patients will be provided with the best medical care that they deserve by seeking to punish those who perform their jobs with negligence and incompetence and weeding them out of the profession. It also provides a process where justice is attained both by the accuser and the accused in a more reasonable way.

For this, the passage of this bill is earnestly sought.


ROZZANO RUFINO B. BIAZON
Representative
Lone District of Muntinlupa

THIRTEENTH CONGRESS

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AN ACT
ESTABLISHING A MEDICAL AND HEALTH CARE LIABILITY LAW, PROVIDING
PENALTIES THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the “Medical and Health Care Liability Act of 2002”.

SEC. 2. *Policy and Objectives.* – The State shall protect and promote the right to health of the people and instill health consciousness among them. It shall ensure the safety and well being of patients by creating an environment wherein incompetent and negligent medical practitioners shall not go unpunished.

The State shall provide patients a venue to address their grievances and claims against incompetent and negligent medical practitioners.

SEC. 3. *Definition of Terms.* For the purpose of this Act unless the context otherwise requires, the following terms shall have the following meanings:

- a) *Medical Practitioner* – shall refer to individuals in the medical and health profession, duly certified by the Professional Regulatory Commission where applicable, who have direct responsibility in the treatment, surgery, diagnosis or care of patients such as, but not limited to, physicians, dentists, nurses, pharmacists and paramedics.
- b) *Medical Malpractice* – shall refer to acts of gross negligence or incompetence or omission by a medical practitioner resulting to a new or aggravated injury or illness, deformity or death to the patient. Such negligent or incompetent acts or omission should be a breach of the accepted standards of medical care given by reasonable and prudent medical practitioners under the same circumstances.
- c) *Medical or Healthcare Liability Claim* – shall mean a claim in which the claimant alleges that injury was caused by medical malpractice.
- d) *Patients* – shall refer to persons requiring medical attention from any medical practitioner.
- e) *Illegal Medical Practice* – shall refer to the act of providing patients with medical attention without possessing the required training, education, certification, license or legal authority to perform the functions of medical practitioners and specialists.
- f) *Illegal Medical Practitioner* – shall refer to individuals engaged in illegal medical

practice as defined in this Act.

- g) *Illegal Surgery* – shall refer to surgeries performed to remove healthy human organs without the consent of the patient. It shall also refer to surgeries performed that are not necessary to the recovery of the patient from his injury or illness.

SEC. 5. *The Anti Medical Malpractice Act.* – Any individual who performs an act constituting medical malpractice or illegal surgery as defined in this Act shall be punishable by imprisonment or fine or both and in all instances, the suspension or cancellation of the license as a medical practitioner.

SEC. 6. *Illegal Medical Practice* – Any individual who performs an act constituting illegal medical practice as defined in this Act shall be punishable by imprisonment or fine or both.

SEC. 7. *The Complainant* – The following may file a complaint of medical malpractice against a medical practitioner:

- 1) The patient;
- 2) Parents or legal guardian of the patient;
- 3) Grandparents or collateral relatives;
- 4) The institutional head of a duly licensed child caring institution, orphanage, home for the aged, mental hospital or other similar institutions whose care or custody the patient is committed

SEC. 8. *Statute of Limitation* – Medical or Healthcare liability claims shall be filed not later than two years after the commission of the alleged medical malpractice.

SEC. 9. *Certification of Substantial Basis for Medical or Healthcare Liability Claim* – Claims under this Act shall be filed only after the issuance of a certification from the Board of Medicine of the Professional Regulations Commission that there is substantial basis for a medical and healthcare liability claim to be pursued.

The Board of Medicine shall review the claim and if there is reason to believe that there is a breach of the standard of medical care, shall issue a Certification of Substantial Basis not later than three months after the request for a certification is filed.

SEC. 10. *Penalties.* – Persons who commit medical malpractice shall suffer the penalty of imprisonment from a minimum of six months to a maximum of five years or a fine from a minimum of One Hundred Thousand Pesos (P 100,000.00) to a maximum of Two Hundred Fifty Thousand Pesos (P 250,000.00), or both, in the discretion of the court taking into consideration all attending circumstances.

In cases where the offense results in a new or aggravated injury or illness to the patient, the license of the offender shall be suspended by the Professional Regulations Commission for a period not lower than six months.

In cases where the offense results in the permanent disability, disfigurement or death of the patient, the license of the offender shall be revoked by the Professional Regulations Commission and may only be appealed for reinstatement after two years.

Persons who commit illegal medical practice shall suffer the penalty of prison correccional or a fine not lower than Two Hundred Thousand Pesos (P 200,000.00), or both, in the discretion of the court taking into consideration all attending circumstances.

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

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

SEC. 11. *Damages* – In addition to the penalties prescribed in this Act, the following circumstances shall warrant the award of damages amounting to not more than One Million Pesos (P 1,000,000.00):

- 1) When the patient becomes insane or suffers any psychological damage by reason of malpractice or illegal medical practice;
- 2) Physical disfigurement or permanent disability or death of the patient by reason of malpractice or illegal medical practice.

SEC. 12. *Aggravating Circumstance*. – A deliberate attempt to withhold information on the circumstances of the treatment, medication, surgery or diagnosis of the patient, shall aggravate the crime of malpractice.

SEC. 13. *Accessory to Medical Malpractice* – Any person who, whether acting alone or in conspiracy with other persons, deliberately withholds information regarding the medical condition, treatment or care of a patient claiming malpractice, or causes delay in the prosecution of a medical malpractice claim, shall be held liable as an accessory to medical malpractice and shall suffer the same penalties prescribed in this Act.

SEC. 14. *Reinstatement* – The following shall govern the reinstatement by the Board of Medicine of a suspended or revoked license:

- 1) Suspended license- after the prescribed period, a suspension of the license may be lifted if the offender passes a validation exam to be administered by the appropriate regulatory agency.
- 2) Revoked license – After two years, a revoked license may be reinstated if the offender passes a validation exam to be administered by the appropriate regulatory agency.

SEC. 15. *Separability Clause*. – If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

SEC.16. *Repealing Clause* - All other laws, decrees, orders, issuances, rules and regulations that are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 17. *Effectivity*. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.