

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session



House Bill No. **2145**

Introduced by Representatives
EMMI A. DE JESUS, LUZVIMINDA C. ILAGAN,
NERI COLMENARES, CARLOS ISAGANI ZARATE, FERNANDO HICAP, JAMES MARK TERRY
RIDON and ANTONIO TINIO

EXPLANATORY NOTE

The state is mandated to protect and promote health as a basic human right. But health as a human right has been influenced by social determinants that largely impact on the population. Privatization of health care facilities and services, labor export policy, contractualization, among others, exacerbate poor people's access to quality health care. The lack of government funding for hospital operations and facilities and the absence of wage increases and benefits for health professionals and workers further marginalized our medical professionals.

As a consequence, basic health care including essential services at the community level are inaccessible to majority of the marginalized Filipinos. Majority of the Filipino people – plagued with poverty, hunger and unsafe living conditions, do not have access and cannot afford to seek medical attention. Unhealthy living conditions and lifestyle and poverty lead to increased non-communicable diseases while preventable diseases remain constant threats for many Filipinos.

The state's dismal funding for health services results not only to an unhealthy Filipino population but also to an unhealthy and exploited working condition and environment for nurses and other health workers. Our nurses are poorly compensated, overworked and threatened of their job security. Our health care system is in dire need of more health workers not only to address operational and maintenance needs, but more

importantly, to deliver comprehensive and proper health care services from the cities all the way to far flung rural areas.

While the nurse-patient ratio in government hospitals and public health system is generally below the standard for quality nursing care of 1:12 in a hospital ward and 1:20,000 in community health setting, available nursing manpower remains underutilized and untapped.

In areas where essential health services are not accessible, the government has either failed to fill up vacant plantilla positions or failed to insist on creating necessary plantilla positions that would cover the need of the community. The dismal attention given to our citizens' health needs result to high unemployment or underemployment amongst nurses who are either pushed to seek employment abroad or to suffer various forms of exploitation in the country. Sadly, this dilemma faced by our nurses is further exploited both by public and private hospitals who gain profit in the form of exorbitant fees collected from so-called "volunteer" nurses who perform the job of regular Registered Nurses (RN), hence, enabling these hospitals to save money at the expense of our nurses.

According to the Philippine Nurses' Association, the term "volunteer" or "on-the-job training" has been misused by many hospitals to rationalize these unscrupulous practice creating confusion and false hopes among the ranks of some 294,809¹ unemployed Filipino nurses in the country who are led to believe that undergoing this practice would expedite their hiring process for local and foreign employment.

Genuine volunteer work, in the form of medical mission for example is delivering free community based health service where it is most needed. It is a very noble path that some of our nurses have chosen to undertake as a vocation, something that is non-obligatory. These nurses who chose this path were not coerced, deceived nor given false hopes in exchange of their valued service.

In the public sector, the Registered Nurses for Health Enhancement and Local Service (RNheals) Program of the Department of Health (DOH) also falls under the broad definition of "exploitation." The Nurse-Trainees are obliged to perform functions and carry the work load of regular staff nurses in the public health facilities for a year and are given a measly allowance of P8,000 per month while some get additional allowance of P2,000.00 from the Local Government Units (LGUs). These nurse-trainees also supervise the so-called Community Health Teams organized to deliver basic health services in the communities such as support to immunization activities, pregnancy tracking and motivation of pregnant women to avail antenatal care and delivery in health facilities and other health promotion activities.

¹ As of September 1, 2011.

Considering that RNheals Trainees only get P10,000 monthly allowance, these nurses are clearly underpaid, exploited monthly by the government for as low as P7,099 or as high as P12,688. The present monthly starting salaries now for nurses in the government is P18,549 for Salary Grade 11 in public hospitals and P24,887 for Salary Grade 15 in Rural Health Units/City Health Centers and School Nurses under Department of Education as Nurse II position.

In view of the foregoing, the enactment of a legislation that implements the state policy on the protection of nurses and other health workers is long overdue. Hence, the immediate passage of this bill is most earnestly sought.


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**AN ACT PROHIBITING EXPLOITATIVE "VOLUNTEERISM"
OF NURSES IN THE PHILIPPINE HEALTH CARE SYSTEM**

SECTION 1. Short Title. – This Act shall also be known as the "ANTI-EXPLOITATION OF NURSES ACT".

SECTION 2. Declaration of Policy. – As mandated by the Constitutions, the State shall protect and promote the right to health of the people and instil health consciousness among them. The State also recognizes the importance of health and of providing proper and comprehensive health care services to its people and recognizes that the protection and promotion of the right to health of the people is an assumed responsibility of the State. Towards this end, the State recognizes the important role and the contribution of Filipino nurses both here and abroad. As such, the State shall protect the dignity of the nursing profession and shall ensure that Filipino nurses are protected against exploitation.

SECTION 3. Definition of terms:

- a. *Registered Nurse* - is any Filipino nurse who has graduated with a degree in Bachelor of Science in Nursing; passed the Philippine Regulatory Commission

(PRC) Board of Nursing exams; and whose registration has not been revoked by the PRC.

- b. *Volunteer Registered Nurse* - is any Registered Nurse, who, on his/her own volition, offers his/her services to a hospital, clinic or health facility, or community-based health programs for free or without compensation. Services of a Registered Nurse is considered voluntary when:
 - 1) The Registered Nurse is not burdened with the same duties and responsibilities of a Registered Nurse employed by the hospital, clinic or health facility;
 - 2) The Registered Nurse is not required to render full-time service;
 - 3) The Registered Nurse is not the sole Registered Nurse on duty;
 - 4) The Registered Nurse's service is complimentary to the existing workforce of the hospital and not intended to fill-up any vacancy for a regular full-time Registered Nurse employed by the hospital, clinic or health facility; and
 - 5) The Registered Nurse's services is not rendered solely in exchange for any type of Certification by the hospital for the Registered Nurse's application for employment purposes whether here or abroad;
- c. *Fee for work experience* – is any amount collected in exchange for the issuance of any certification of employment or work experience as an actual or perceived requirement for employment application here or abroad.
- d. *Health Care Facility* – any infrastructure or facility where medicine is practiced.
- e. *Clinic* – a health care facility for out-patient care.

SECTION 4. Prohibited Acts. – Any of the following acts are considered as exploitation of nurses and is hereby prohibited:

- 1) To contract or avail of the services of a Registered Nurse for a hospital, clinic or health facility, either without salary, for allowance, for salary below the applicable minimum wage (for privately-hired nurses) or below the prescribed salaries under Republic Act 9173 as amended, (for nurses deployed in government health facilities) whether or not under the pretext of a training, development program, certification course and/or any seminar;
- 2) To collect any fee from a Registered Nurse or from any person or entity in his or her behalf in exchange for a Registered Nurse's voluntary services in a hospital, clinic or any health facility;
- 3) To require or oblige a Volunteer or Trainee Registered Nurse to do any of the following:
 - a. To perform the regular work functions and/or regular work load expected from a regular Staff Nurse employed by the hospital, clinic or health facility without proper compensation;

- b. To render full-time service as a condition for the continued availment of his / her volunteer services; and
 - c. To be the sole Registered Nurse on duty, except during disasters and calamities.
- 4) To contract or avail the services of a Volunteer or Trainee Registered Nurse in order to fill-up a vacant position that requires the hiring of a full-time regular employed Registered Nurse;
- 5) To contract or avail of the Registered Nurse's services for free in exchange for any type of Certification by the hospital for the Registered Nurse's application for employment purposes whether here or abroad; and
- 6) To contract or avail of the services of a registered nurse, under the pretext of training or certification course, but requires her/him to render the tasks and responsibilities expected of a regular staff or community nurse, with the so-called allowance with or without benefits, which is below the applicable minimum wage for both private and public institutions.

SECTION 5. Refund and Compensation.

Any Registered Nurse found to have been a victim of any violation of this Act shall be entitled to: (a) a full refund of all fees illegally collected; and, (b) payment of unpaid salary which should not be less than the applicable minimum wage for services rendered.

SECTION 6. Rights and Protection of Volunteer Registered Nurses. – Any person, hospital, clinic or health care facility that contracts or avails of the services of a volunteer Registered Nurse as defined above, is required to:

- a. Provide health, sanitary and safety equipment to the volunteer Registered Nurse;
- b. Free medical care, laboratory and hospitalization for any injury, sickness or disease that may be contracted by the volunteer Registered Nurse in the course of his/her volunteer service;
- c. Allow volunteer Registered Nurse to participate in any capacity-building and/or skills enhancement training offered by the hospital, clinic or health care facility;

SECTION 7. Penalty Clause:

Any person found guilty of committing Section 4 of this Act shall suffer the penalty of imprisonment of not less than six (6) months and not more than one (1) year and a fine of not less than one hundred thousand pesos (P100,000) but not more than five hundred thousand pesos (P500,000).

Any hospital, clinic or health care facility found violating Section 6 of this Act shall, on the first offense, be given a period of fifteen (15) days from notice of violation to comply. On its second offense, the hospital, clinic or health care facility shall be fined with not less than One Hundred Thousand Pesos (P100,000). On its third offense, the hospital, clinic or health care facility, shall, in addition to a fine of One Hundred Thousand Pesos (P100,000), be banned from availing of the services of a volunteer Registered Nurse. In any case, the hospital, clinic or health care facility shall be held liable for damages and all medical expenses incurred by a volunteer Registered Nurse for any injury, sickness or disease contracted in the course of delivering volunteer service.

If the offender is an association, corporation, or any other juridical person, the penalty above-stated shall be imposed upon the president, treasurer, owner or any other person responsible for the violation. In addition, a warning shall be issued to the hospital for its first offense, suspension of its license to operate for a period of not less than one (1) month and not less than six (6) months shall be imposed on for its second offense and cancellation of its license to operate shall be meted out for its third offense.

If the offender is a government facility under a national government agency, local government unit or government owned and controlled corporation, the penalty above-stated shall be imposed upon the concerned Department Secretary, Local Chief Executive, Chairman of the Board and the Hospital Director, Chief of Hospital, Provincial/City/Municipal Health Officer or head of concerned health facility, whichever is applicable.

If the offender is a foreigner, he/she shall be deported immediately after service of the sentence and be barred permanently from entering the country.

SECTION 8. Implementing Agencies. – The Department of Health is hereby designated as the agency tasked with monitoring the compliance with and implementations of the provisions of this Act by public hospitals or health care facilities while the Department of Labor and Employment is similarly designated as the agency tasked with monitoring the compliance with and implementations of the provisions of this Act by private hospitals or health care facilities.

SECTION 9. Repealing Clause. All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 10. Effectivity Clause. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.