

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **2620**



Introduced by Reps. NERI J. COLMENARES, LUZVIMINDA C. ILAGAN,
CARLOS ISAGANI T. ZARATE, EMMI A. DE JESUS, ANTONIO L. TINIO,
FERNANDO HICAP and TERRY RIDON

AN ACT
PROHIBITING THE PRIVATIZATION OF PUBLIC HOSPITALS, PUBLIC HEALTH
FACILITIES AND PUBLIC HEALTH SERVICES

EXPLANATORY NOTE

This bill seeks to protect the right to health of the Filipino people especially the poor by upholding the public character of government hospitals and prohibiting any form of privatization of public hospitals, public health facilities and public health services.

Article II, Section 15 of the 1987 Constitution states that "the State shall protect and promote the right to health of the people and instill health consciousness among them." Further, Article XIII Section 11 states that the "State shall adopt an integral and comprehensive approach to health development and shall endeavor to make essential goods, health and other social services available to all the people at affordable cost."

The Right to Health is also enshrined in World Health Organization constitution and in various United Nations' instrumentalities.

Yet, according to Asian Development Bank Country Partnership Strategy: Philippines 2011-2016, six out of ten Filipinos die without medical attention, and nearly half of health care costs are paid out of pocket.

According to the Department of Health (DOH) in 2010, the poorest of the population are the main users of government health facilities. But public hospitals and health facilities have suffered neglect due to the inadequacy of health budgets in terms of support for upgrading to expand capacity and improve quality of services.

To address this, the DOH implemented health reforms which include, among others, the provision of fiscal autonomy to government hospitals by allowing collection of socialized user fees for services and converting these hospitals into government corporations. Upgrading of hospitals and health

facilities were targeted through different mechanisms including public-private partnership (PPP) and income retention. These were consistently espoused in Health Sector Reform Agenda (1999), Fourmula One for Health (2005), and Aquino Health Agenda (2010).

Officials of the Department of Health state that such reforms do not constitute privatization. But the World Health Organization defines privatization in healthcare as “a process in which non-governmental actors become increasingly involved in the financing and/or provision of healthcare services.”* Based on this definition, privatization include the following: divestiture or outright sale of public sector assets in which the state divests itself of public assets to private owners; franchising or contracting out to private, for profit, or, not-for-profit providers; self-management, wherein providers are given autonomy to generate and spend resources; market liberalisation or deregulation to actively promote growth of the private health sector through various incentive mechanisms, and; withdrawal from state provision, wherein the private sector grows rapidly as a result of the failure on the part of the government to meet the healthcare demands of the people (ES Savas, “A taxonomy of privatization strategies,” Policy Studies Journal, 1989, as cited by Peedell).

Instead of alleviating the burden of poor patients, the health reforms implemented by the DOH contributed to further inaccessibility of health services, as previously free services and supplies in public hospitals and facilities were subjected to “user fees”. Most poor patients who are not qualified under the National Household Targeting System as sponsored PhilHealth members could not afford the present standard fees in government hospitals. Even if patients are covered by PhilHealth, the increasing cost of health services and non-availability of supplies, procedures and equipment in public hospitals greatly increase the out-of pocket payments of the people and result to their further impoverishment.

For example, when radiology services in Jose R. Reyes Memorial Medical Center were subjected to public-private-partnership with Himex Corp, previously free xray procedure was charged P150-300. In San Lazaro Hospital where many dengue patients go for treatment, patients have to pay P150 for every blood test and P1,200 per blood pack (2011) because these are not given free. Even barangay health stations and district hospitals charge patients or ask for “fixed” donations for vaccinations, and supplies like cotton, gauze, and syringes. These fees are already difficult to bear for families who earn minimum daily wage of P456 (in NCR), but more so for those who have no source of (regular) income, and yet are not considered “poorest of the poor” by the National Household Targeting System and are not covered by PhilHealth sponsored programs for any reason.

Corporatized hospitals, or government-owned and controlled corporation (GOCC) hospitals, get the funds for maintenance and other operating expenses, capital outlay and personal services from the hospital income. Service patients in these GOCC hospitals are required to pay for everything except for doctors’ fees. As a result, in 2011, thousands of patients in Philippine Heart Center are waitlisted for operations until they are able to raise the cost of patients’ share ranging from tens of thousands to hundreds of thousand pesos. In the same year, it was reported that patients who are not able to pay their bills in Philippine Children’s Medical Center are made to surrender their valuables as collateral “pawnshop style” before they are allowed to go home. Hospital directors of

*J Muschell, Technical Briefing Note on Privatization in Health, 1995, WHO/TFHE/TBN/95.1, as cited by Peedell, http://www.healthprofessionals4nhs.co.uk/wp-content/uploads/2012/01/Peedell-privatisation-is-inevitable-bmj.d2996.full_.pdf

GOCC hospitals for several years of budget deliberations are practically pleading for increased government allotment to better serve the patients especially the indigents. Despite these reports, there are persistent attempts to privatize public hospitals nationwide.

Health workers, patients, and health advocates opposing the PPP of Philippine Orthopedic Center (POC) raise concerns on the displacement of indigent patients comprising 80-90% of 190,000 annual patients of POC. Bid documents on the modernization of POC, indeed show that only 70 out of 700 beds will be allotted to indigents, an arrangement which incidentally, is in line with the DOH policy of charity bed allotment for private hospitals (DOH AO 2007-0041).

When public hospitals are opened to private investors, in whatever degrees or forms, the orientation of health care shifts from service to income and profit. When public hospitals are privatized, the general public suffers.

Public hospitals and public health facilities were built to serve the public. People's taxes should be returned to the people in terms of adequate and free social services including health services especially for poor patients. Public hospitals and public health facilities should be allotted adequate budget to fully cover the expenses for maintenance and other operating expenses, personal services and capital outlay so that they can fulfill their mandate of serving the public especially the poor.

Health care must be made accessible, affordable, and appropriate to the needs of the people. Public hospitals, as part of the public health care delivery system, must be fully developed and strengthened by the government, not privatized.

This Bill is a major step to address the inaccessibility and inequity in health care made worse by privatization of public health services. As legislators, we are duty-bound to uphold the health and well-being of the people. In order to have a comprehensive and integrated health care delivery system as mandated by the Constitution of the Republic of the Philippines, the urgent approval of this bill is earnestly recommended.

Approved,



Rep. NERI J. COLMENARES
Bayan Muna Party-list



Rep. CARLOS ISAGANI ZARATE
Bayan Muna Party-list



Rep. EMMI DE JESUS
Gabriela Women's Party-list



Rep. LUZVIMINDA ILAGAN
Gabriela Women's Party-list



Rep. ANTONIO L. TINIO
ACT Teachers Party-list



Rep. FERNANDO HICAP
Anakpawis Party-list



Rep. TERRY RIDON
Kabataan Party-list

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AN ACT
PROHIBITING THE PRIVATIZATION OF PUBLIC HOSPITALS,
PUBLIC HEALTH FACILITIES AND PUBLIC HEALTH SERVICES

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 “Anti-Privatization of Public Hospitals, Health Facilities and Health Services Act of 2013.”

SECTION 2. Declaration of Policy. It is the declared policy of the State that it shall protect and promote the right to health of the people and instill health consciousness among them. Further, the State shall endeavor to make essential goods, health and other services available to all the people at affordable cost.

SECTION 3. Definition of terms. For purposes of this act, the following terms shall mean:

- a. **Public hospitals** – all Department of Health (DOH) –retained and national hospitals, and provincial and regional hospitals under the local government.
- b. **Public health facilities** – Health centers, lying-in, and barangay health stations under the national or local government.
- c. **Public health services** – all diagnostic, laboratory, medical, surgical, and health-related services provided by public hospitals and public health facilities to indigent, service or poor patients.
- d. **Indigent/service/poor patients** – those who have no source of income, or whose family income are below the mandated minimum daily wage and/or below the minimum monthly cost of living as set by appropriate government agencies.

SECTION 4. "Privatization" so defined. As used in this Act, the term "privatization" shall mean the process in which non-government actors become increasingly involved in the financing and/or provision of health care services. This includes, but not limited to, the following:

- a. outright sale;
- b. public-private partnership;
- c. contracting out of equipment and services;
- d. joint venture;
- e. franchising;
- f. management control and/or corporatization;
- g. leasing; and
- h. user-charges.

SECTION 5. Prohibition of Privatization of Public Hospitals, Public Health Facilities, and Public Health Services – No public hospital, public health facility, and public health services shall be privatized. Likewise, under no circumstances shall any person, whether natural or juridical, initiate, cause, and approve the privatization of any public hospital, public health facility or public health services.

SECTION 6. Bed allotment for indigent/service/poor patients in public hospitals. At least 90% of the total bed capacity of all public hospitals shall be allotted for indigent/service/poor patients.

SECTION 7. Liability and Accountability– Any person, whether natural or juridical, who initiate, cause or approve the privatization of any public hospital, public health facility or public health services is liable under this Act.

SECTION 8. Penalties– Any person who violates any provisions of this Act shall be penalized accordingly:

- a. "First Offense"– A fine of not less than one hundred thousand pesos (P100,000.00) but not more than two hundred thousand pesos (P200,000) and suspension of one year to two years from public office;
- b. "Second Offense"- A fine of not less than two hundred thousand pesos (P200,000) but not more than five hundred thousand pesos (P500,000) and temporary disqualification from holding any public office of not less than three years but not more than six years; and
- c. "Third Offense"- A fine of not less than five hundred thousand pesos (P500,000) but not more than eight hundred thousand pesos (P800,000) and removal from public office and perpetual disqualification from holding any public position or office.

SECTION 9. Separability Clause– If any provisions of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 10. Repealing Clause – All provisions of laws, orders, decrees, including rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

SECTION 11. Effectivity Clause— This Act shall take effect (15) days following its publication in the Official Gazette or at least two (2) national newspaper of national circulation.

Approved,