

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. **5499**



Introduced by ACTS OFW Representative Aniceto D. Bertiz III

EXPLANATORY NOTE

It is the avowed policy of the State to protect the rights of workers and promote their welfare, and afford full protection to labor, local and overseas (Sec. 18, Art. II; Sec. 3, Art. XIII, Philippine Constitution).

While we the legislators have been exerting all our efforts to fulfill our duties to enact laws to protect our citizenry, unscrupulous people continue to seek, find, and invent crafty ways to go around or through these laws to victimize unwary workers.

The phenomenon of decking, a practice which requires overseas Filipino workers to go first to an office for registration for their pre-employment medical examination and then being farmed out to a selected medical clinic located elsewhere, is an invention of these unscrupulous and greedy elements. It is a lucrative practice as the OFW has to pay the registrar (decker) an amount more than double the fee charged by the medical clinic. This practice has directly contributed to the establishments of monopolies in the medical examination of OFWs, in the process increasing the pre-employment cost shouldered by the employers and workers. This practice also violates the guaranteed rights of workers to choose from among government-accredited medical clinics.

In August 2016, Winston Q8 Certification Solutions International, Inc., a foreign-owned company registered in the Philippines, announced that it has secured an agreement with the Ministry of Health of Kuwait and that all medical testing of OFWs bound to Kuwait will have to pass through them. They partnered with Mawared Service and eight (8) local medical clinics to charge exorbitant fees to OFWs with the following fees:

- Winston Q8: P5,483.00
- Mawared Service: P3,475.00
- Visa: P4,000.00
- Medical: P2,917.00

The practice of decking had reached our Supreme Court in the case Association of Medical Clinics for Overseas Workers, Inc. Vs. GCC Approved Medical Centers Association, Inc. and Christian E. Cango/Hon. Enrique T. Ona Vs. GCC Approved Medical Centers Association, Inc. and Christian Cango (G.R. No. 207132/G.R. No. 207205, December 6, 2016). The GCC Approved Medical Centers Association, Inc. (GAMCA) was the sole medical group accredited by the Gulf Cooperation Council (GCC). GAMCA's member clinics had the monopoly of

conducting medical examinations on OFWs bound to the GCC States. The Supreme Court cited the prohibition against the referral decking system under Section 16 of R.A. No. 10022, and declared the provision as a valid exercise of police power.

However, our Supreme Court also declared in it that “xxx Section 16 of RA No. 10022 does not specifically define the consequences of violating the prohibition against the referral decking system xxx.”

It is for these reasons that this bill is proposed. The bill defines and criminalizes the practice of decking. It also clarifies that those who imposed, established, managed, and participated in the decking practice are committing illegal recruitment and that these acts would be meted with appropriate penalties and sanctions.

The bill is urgent because, as shown in the case of Winston Q8 Certification Solutions, other unscrupulous groups and individuals, Filipinos and even foreign nationals, have realized that monopolizing medical examinations for OFWs is a lucrative practice. They are emboldened to establish monopolies for other countries. This bill is a statement that the Philippines will not allow our workers to be their milking cows.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

REP. ANICETO D. BERTIZ III

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. **5499**

Introduced by ACTS OFW Representative Aniceto D. Bertiz III

AN ACT FURTHER AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINO ACT OF 1995, AS AMENDED BY REPUBLIC ACT NO. 10022, TO STRENGTHEN THE STANDARD OF PROTECTION OF THE WELFARE OF MIGRANT WORKERS BY CRIMINALIZING THE PRACTICE OF DECKING AND FOR OTHER PURPOSES

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

Section 1. Short Title. – This Act shall be known as the “Amendment to the Migrant Workers Act Criminalizing Decking.”

Section 2. SubSection (4) of Section 6 on Definition of Illegal Recruitment of R.A. No. 8042, as amended by Section 4 of R.A. No. 10022, is hereby further amended to read as follows:

“(4) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required DIRECTLY OR INDIRECTLY to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a seafarer whose medical examination cost is shouldered by the principal/shipowner”

“(5) IMPOSE, ESTABLISH, MANAGE, AND/OR PARTICIPATE IN THE PRACTICE OF ‘DECKING’ WHEREIN AN OVERSEAS FILIPINO WORKER IS REQUIRED TO REGISTER FIRST TO AN OFFICE, ENTITY, AND/OR WEBSITE WHICH WILL THEN FARM OUT THE MEDICAL EXAMINATION OF THE WORKER TO OTHER MEDICAL CLINICS, THEREBY SUPPRESSING OR LIMITING THE FREEDOM OF THE WORKER TO CHOOSE FROM AMONG OTHER MEDICAL CLINICS ACCREDITED BY GOVERNMENT”

Section 3. SubSection (c) of Section 23 on the Role of Government Agencies of R.A. No. 8042, as amended by 16 of R.A. No. 10022, is hereby further amended to read as follows:

“c. Department of Health. - The Department of Health (DOH) shall regulate the activities and operations of all clinics which conduct medical, physical, optical, dental, psychological and other similar examinations, hereinafter referred to as health examinations, on Filipino Migrant workers as requirement for their overseas employment. Pursuant to this, the DOH shall ensure that:

(c.1) The fees for the health examinations are regulated, regularly monitored and duly published to ensure that the said fees are reasonable and not exorbitant;

(c.2) The Filipino migrant worker shall only be required to undergo health examinations when there is a reasonable certainty that he or she will be hired and deployed to the jobsite and only those health which are absolutely necessary for the type of job applied for or those specifically required by the foreign employer shall be conducted;

(c.3) No group or groups of medical clinics shall have a monopoly of exclusively conducting health examinations on migrant workers for certain receiving countries, EXCEPT AS PROVIDED FOR IN SECTION 6 (5) HEREOF IN THE CASE OF SEAFARERS;

(c.4) Every Filipino migrant worker shall have the freedom to choose any of the DOH operated clinics that will conduct his/her health examination and that his or her rights as a patient are respected. [The decking practice, which requires an overseas Filipino worker to go first to an office for registration and then farmed out to a medical clinic located elsewhere shall not be allowed]

ANY VIOLATION OF SUBSECTIONS (c.2), (c.3) AND (c.4) ABOVE ARE HEREBY DECLARED UNLAWFUL OR PROHIBITED AND PUNISHABLE IN ACCORDANCE WITH SECTION 7 ON PENALTIES HEREOF.”

Section 4. Implementing Rules and Regulations. – The departments and agencies charged with carrying out the provisions of this Act shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

Section 5. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are repealed or modified accordingly.

Section 6. Separability Clause. – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

Section 7. Effectivity Clause. – This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspaper of general circulation whichever comes earlier.

Approved,