

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 6332



Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9502, OTHERWISE KNOWN AS THE "UNIVERSALLY ACCESSIBLE CHEAPER AND QUALITY MEDICINES ACT OF 2008"

EXPLANATORY NOTE

Republic Act No. 9502, otherwise known as the "Universally Accessible Cheaper and Quality Medicines Act of 2008," was passed into law in June 2008. This landmark law seeks to make quality medicines affordable and accessible to all Filipinos.

While RA 9502 amended provisions of RA 8293 (Intellectual Property Code), RA 6675 (Generics Act of 1988) and RA 5921 (Pharmacy Law), it, however, did not meet its purpose since prices of medicines remain high, particularly the innovator drugs.

An impact evaluation was commissioned by the DOH in 2014 (Sarol, et.al.) which revealed that the law failed to address issues on drug affordability and access especially for the poor.

Among the salient findings that were cited in the study include the following: the significant reduction of prices was felt only on the drugs subjected to Maximum Retail Price (MRP) and Government Mediated Access Price (GMAP); a number of drugs under GMAP did not become readily available in hospitals; there was lack of trust of consumers on generic medicines; and only the upper and middle class benefited from the law while majority of Filipinos especially the poor are still struggling with accessibility issues.

To squarely address the issue of drug affordability and accessibility, especially for the underprivileged, this measure seeks to create an independent Drug Price Regulation Board (DPRB), which will be empowered among others to determine the maximum retail price of drugs or medicines, include other drugs or medicines in the list subject to price regulation, implement cost-containment, and investigate and adjudicate on illegal acts of price manipulation.

As such, the authority of the President of the Philippines to regulate the price of drugs or medicines will be assumed by the DPRB, which shall also undertake the present authority of the Secretary of Health to monitor and regulate the price of drugs and medicines in the country.

More importantly, the bill mandates all medical, dental and veterinary practitioners, whether public or private, to prescribe generic drugs or medicines only as a mechanism to increase the utilization of more affordable generic medicines in the country.

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


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4th District, Quezon

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

SECTION 1. Section 17 of Republic Act No. 9502, otherwise known as the "Universally Accessible Cheaper and Quality Medicines Act of 2008," is hereby amended to read as follows:

"SEC. 17. *CREATION OF THE DRUG PRICE REGULATION BOARD.* – THERE IS HEREBY CREATED THE DRUG PRICE REGULATION BOARD, HEREINAFTER REFERRED TO AS THE "BOARD".

THE BOARD SHALL BE INDEPENDENT AND AUTONOMOUS AND SHALL HAVE THE SAME STATUS AS THAT OF A NATIONAL GOVERNMENT AGENCY ATTACHED TO THE OFFICE OF THE PRESIDENT.

SEC. 2. Section 18 of RA 9502 is hereby amended to read as follows:

"SEC. 18. *COMPOSITION OF THE BOARD.* – THE BOARD SHALL BE COMPOSED OF SEVEN (7) VOTING MEMBERS, NAMELY:

- (1) A PUBLIC HEALTH EXPERT;
- (2) A TRADE SPECIALIST;
- (3) A PHARMACIST;
- (4) A FINANCE EXPERT OR ECONOMIST;
- (5) A LAWYER; AND
- (6) TWO PERMANENT REPRESENTATIVES FROM THE CONSUMERS' SECTOR.

THE PRESIDENT SHALL APPOINT A CHAIRMAN OF THE BOARD AND SIX (6) MEMBERS FOR A TERM OF FOUR (4) YEARS, WITHOUT PREJUDICE TO ONE REAPPOINTMENT. THE TERMS OF THE INITIAL APPOINTEES SHALL BE ON A STAGGERED BASIS: THE CHAIRMAN SHALL HOLD OFFICE FOR A TERM OF FOUR (4) YEARS, THE NEXT THREE (3) MEMBERS FOR THREE (3) YEARS, AND THE LAST THREE (3) MEMBERS FOR TWO (2) YEARS.

THE CHAIRMAN SHALL HAVE THE RANK AND PRIVILEGES OF A DEPARTMENT UNDERSECRETARY, AND THE MEMBERS SHALL HAVE THE RANK AND PRIVILEGES OF ASSISTANT SECRETARIES OF A DEPARTMENT.

THE MEMBERS OF THE BOARD MUST BE CITIZENS AND RESIDENTS OF THE PHILIPPINES, OF GOOD MORAL CHARACTER, OF RECOGNIZED PROBITY AND INDEPENDENCE AND MUST HAVE DISTINGUISHED THEMSELVES PROFESSIONALLY IN PUBLIC, CIVIC OR ACADEMIC SERVICE. EXCEPT FOR THE MEMBERS REPRESENTING THE CONSUMERS' SECTOR, THE MEMBERS OF THE BOARD MUST HAVE BEEN IN THE ACTIVE PRACTICE OF THEIR PROFESSIONS FOR AT LEAST TEN (10) YEARS, AND MUST NOT HAVE BEEN CANDIDATES FOR ANY ELECTIVE NATIONAL OR LOCAL OFFICE IN THE IMMEDIATELY PRECEDING ELECTIONS, WHETHER REGULAR OR SPECIAL.

THEY SHALL HOLD OFFICE UNTIL THEIR SUCCESSORS SHALL HAVE BEEN APPOINTED AND QUALIFIED. SHOULD A MEMBER OF THE BOARD FAIL TO COMPLETE HIS TERM, HIS SUCCESSOR SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES BUT ONLY FOR THE UNEXPIRED PORTION OF THE TERM.

ANY MEMBER OF THE BOARD MAY BE REMOVED BY THE PRESIDENT OF THE PHILIPPINES FOR NEGLECT OR DERELICTION OF DUTY, INCOMPETENCE, MALPRACTICE, AND UNPROFESSIONAL, UNETHICAL, IMMORAL OR DISHONORABLE CONDUCT: *PROVIDED, THAT* IN THE COURSE OF INVESTIGATION, THE PRESIDENT OF THE PHILIPPINES SHALL HAVE THE POWER TO SUSPEND SUCH MEMBER UNDER INVESTIGATION AND DESIGNATE A TEMPORARY MEMBER IN HIS PLACE.

VACANCIES IN THE BOARD SHALL BE FILLED FOR THE PERIOD OF THE UNEXPIRED TERM ONLY.

IN NO CASE SHALL ANY AND ALL OF THE MEMBERS OF THE BOARD APPOINT REPRESENTATIVES TO ACT ON THEIR BEHALF.

THE BOARD SHALL ORGANIZE A SECRETARIAT WHICH SHALL BE HEADED BY AN EXECUTIVE OFFICER, SUBJECT TO THE NATIONAL COMPENSATION AND POSITION CLASSIFICATION PLAN. IT SHALL FIX THE SECRETARIAT'S STAFFING PATTERN, DETERMINE THE DUTIES, QUALIFICATIONS, RESPONSIBILITIES AND FUNCTIONS, AS WELL AS THE COMPENSATION SCHEME FOR THE POSITIONS TO BE CREATED UPON THE RECOMMENDATION OF THE EXECUTIVE OFFICER. IT SHALL ALSO PREPARE AND APPROVE ITS BUDGET.

THE BOARD SHALL APPOINT THE MEMBERS OF THE STAFF UPON THE RECOMMENDATION OF THE EXECUTIVE OFFICER.

A MEMBER OF THE BOARD SHALL AVOID CONFLICTS OF INTEREST AT ALL TIMES. WHEN A CONFLICT OF INTEREST ARISES, HE SHALL RESIGN FROM HIS POSITION IN ANY PRIVATE BUSINESS ENTERPRISE WITHIN THIRTY (30) DAYS FROM HIS ASSUMPTION OF OFFICE AND/OR DIVEST HIMSELF OF HIS SHAREHOLDINGS OR INTEREST WITHIN SIXTY (60) DAYS FROM SUCH ASSUMPTION.

THE SAME RULE SHALL APPLY WHERE A MEMBER OF THE BOARD IS A PARTNER IN A PARTNERSHIP.

SEC. 3. Section 19 of RA 9502 is hereby amended to read as follows:

"SEC. 19. *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 PROPRIO* WHEN THE PUBLIC INTEREST SO REQUIRES, THE BOARD SHALL HAVE THE POWER TO REGULATE THE RETAIL PRICE OF DRUGS OR MEDICINES LISTED UNDER SECTION 23 HEREOF, AND AS THE BOARD MAY DEEM FIT, FIX FROM TIME TO TIME THE MAXIMUM RETAIL PRICE AT WHICH SUCH DRUGS OR MEDICINES SHALL BE SOLD BY PUBLICATION.

(2) IN DETERMINING THE MAXIMUM RETAIL PRICE, THE BOARD SHALL CONSIDER THE FOLLOWING FACTORS:

(a) RETAIL PRICES OF THE SAME OR SIMILAR DRUGS AND MEDICINES IN OTHER COUNTRIES;

(b) THE AVAILABLE SUPPLY IN THE MARKET;

(c) THE COST TO THE MANUFACTURER, IMPORTER, TRADER, DISTRIBUTOR, WHOLESALER OR RETAILER OF THE FOLLOWING BUT NOT LIMITED TO:

(i) THE EXCHANGE RATE OF THE PESO TO THE FOREIGN CURRENCY WITH WHICH THE DRUG OR MEDICINE OR ANY COMPONENT, INGREDIENT OR RAW MATERIAL THEREOF WAS PAID FOR;

(ii) ANY CHANGES IN THE AMORTIZATION COST OF MACHINERY BROUGHT ABOUT BY ANY CHANGE IN THE EXCHANGE RATE OF THE PESO TO THE FOREIGN CURRENCY WITH WHICH THE MACHINERY WAS BOUGHT THROUGH CREDIT FACILITIES;

(iii) ANY CHANGES IN THE COST OF LABOR BROUGHT ABOUT BY A CHANGE IN THE MINIMUM WAGE; OR

(iv) ANY CHANGES IN THE COST OF TRANSPORTING OR DISTRIBUTING THE DRUGS OR MEDICINES TO THE AREA OF DESTINATION;

(v) SUCH OTHER FACTORS OR CONDITIONS, WHICH WILL AID IN ARRIVING AT A JUST AND REASONABLE MAXIMUM PRICE.

(3) NO RETAILER SHALL SELL DRUGS OR MEDICINES AT A RETAIL PRICE EXCEEDING THE MAXIMUM RETAIL PRICE FIXED BY THE BOARD: *PROVIDED, THAT, UNTIL THE MAXIMUM RETAIL PRICE OF DRUGS OR MEDICINES SUBJECT TO PRICE REGULATION IS FIXED BY THE BOARD, 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: PROVIDED, FURTHER, THAT IMMEDIATELY AFTER THE DRUG PRICE REGULATION BOARD IS CONSTITUTED, THE BOARD SHALL UNDERTAKE A STUDY ON THE PREVAILING PRICES OF DRUGS OR MEDICINES SUBJECT TO PRICE REGULATION AND IMMEDIATELY AFTER THE EFFECTIVITY OF ITS POWERS, PROVIDE AN INITIAL LIST OF DRUGS OR MEDICINES THE NEW MAXIMUM RETAIL PRICES OF WHICH SHALL BE FIXED BY THE BOARD.*

(B) *POWER TO INCLUDE OTHER DRUGS OR MEDICINES IN THE LIST SUBJECT TO PRICE REGULATION.* - UPON APPLICATION OR *MOTU PROPRIO* WHEN THE PUBLIC INTEREST SO REQUIRES AND AFTER PROPER DETERMINATION, THE BOARD MAY ORDER THE INCLUSION OF DRUGS OR MEDICINES TO THE LIST SUBJECT TO PRICE REGULATION UNDER SECTION 23 HEREOF.

(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 NOT BE LIMITED TO, COMPETITIVE BIDDING, PRICE-VOLUME NEGOTIATIONS, AND OTHER APPROPRIATE MECHANISMS THAT INFLUENCE SUPPLY, DEMAND, AND EXPENDITURES ON DRUGS OR MEDICINES.

(D) *POWER TO INVESTIGATE AND ADJUDICATE ON ILLEGAL ACTS OF PRICE MANIPULATION.* - THE BOARD SHALL HAVE A QUASI-JUDICIAL POWER TO INVESTIGATE AND ADJUDICATE ON ILLEGAL ACTS OF PRICE MANIPULATION SUCH AS HOARDING, PROFITEERING, OR ILLEGAL COMBINATION OR FORMING CARTEL, AS DEFINED UNDER SECTION 5 OF REPUBLIC ACT NO. 7581, OTHERWISE KNOWN AS THE PRICE ACT, AND ALL ACTS COMMITTED IN RESTRAINT OF TRADE.

THE BOARD WILL COMMENCE AN INVESTIGATION INTO THE PRICE OF A DRUG PRODUCT WHEN ANY OF THE FOLLOWING CRITERIA ARE MET:

(1) THE NATIONAL AVERAGE TRANSACTION PRICE OR ANY MARKET-SPECIFIC AVERAGE TRANSACTION PRICE OF A NEW DRUG PRODUCT EXCEEDS THE MAXIMUM AVERAGE POTENTIAL PRICE DURING THE INTRODUCTORY PERIOD BY MORE THAN FIVE PERCENT (5%).

(2) EXCESS REVENUES FOR A NEW OR EXISTING DRUG PRODUCT ARE TWO MILLION PESOS (PHP2,000,000.00) OR MORE.

(3) THE BOARD RECEIVES A COMPLAINT.

(E) *POWER TO IMPOSE ADMINISTRATIVE FINES AND PENALTIES.* - AFTER DUE

NOTICE AND HEARING, THE BOARD SHALL HAVE THE POWER TO IMPOSE ADMINISTRATIVE FINES UP TO ONE HUNDRED MILLION PESOS (PHP100,000,000.00) FOR THE FIRST OFFENSE AND NOT LESS THAN ONE HUNDRED MILLION PESOS (PHP100,000,000.00) BUT NOT MORE THAN TWO HUNDRED FIFTY MILLION PESOS (PHP250,000,000.00) FOR THE SECOND OFFENSE AGAINST ANY PERSON, MANUFACTURER, IMPORTER, TRADER, DISTRIBUTOR, WHOLESALER, RETAILER OR ANY OTHER ENTITY FOR VIOLATIONS OF THE MAXIMUM RETAIL PRICE FIXED PURSUANT TO THIS ACT

(F) *POWER TO DEPUTIZE GOVERNMENT ENTITIES.* - THE BOARD SHALL HAVE THE POWER TO CALL UPON AND DEPUTIZE ANY OFFICIAL, AGENT, EMPLOYEE, AGENCY, OR INSTRUMENTALITY OF THE NATIONAL OR LOCAL GOVERNMENT FOR ANY ASSISTANCE THAT IT MAY DEEM NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT.

(G) *OTHER POWERS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ACT.* - THE BOARD SHALL EXERCISE SUCH POWERS AND FUNCTIONS AS MAY BE NECESSARY TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS CHAPTER OF THE ACT SUCH AS, BUT NOT LIMITED TO, THE POWER TO ISSUE SUBPOENA *DUCES TECUM* AND SUBPOENA *AD TESTIFICANDUM*, AND TO REQUIRE THE PRODUCTION AND SUBMISSION OF RECORDS, DOCUMENTS, BOOKS OF ACCOUNT, BILLS OF LADING, INPUT DOCUMENTS, RECORDS OF PURCHASE AND SALE, FINANCIAL STATEMENTS, AND SUCH OTHER DOCUMENTS, INFORMATION AND PAPERS AS MAY BE NECESSARY TO ENABLE THE BOARD TO CARRY OUT ITS FUNCTIONS, DUTIES AND RESPONSIBILITIES."

SEC. 4. Section 20 of RA 9502 is hereby amended to read as follows:

"SEC. 20. *BOARD PROCEDURES.* - ALL INQUIRIES, STUDIES, HEARINGS, INVESTIGATIONS AND PROCEEDINGS CONDUCTED BY THE BOARD SHALL BE GOVERNED BY THE RULES ADOPTED BY THE BOARD, AND IN THE CONDUCT THEREOF THE BOARD SHALL NOT BE BOUND BY THE TECHNICAL RULES OF EVIDENCE.

IN ACCORDANCE WITH ITS POWER TO INVESTIGATE ANY MATTER BEFORE IT, THE BOARD SHALL HAVE THE POWER TO DEPOSE WITNESSES RESIDING WITHIN OR OUTSIDE THE PHILIPPINES ACCORDING TO ITS RULES AND REGULATIONS."

SEC. 5. Section 21 of RA 9502 is hereby amended to read as follows:

"SEC. 21. *EFFECTIVITY OF THE BOARD'S DECISIONS OR ORDERS.* - ALL DECISIONS OR ORDERS OF THE BOARD PURSUANT TO SECTION 19 OF THIS ACT SHALL BE IMMEDIATELY OPERATIVE, UNLESS OTHERWISE PROVIDED BY THE BOARD."

SEC. 6. Section 22 of RA 9502 is hereby amended to read as follows:

"SEC. 22. *REVIEW OF THE BOARD'S DECISIONS OR ORDERS.* - A PARTY ADVERSELY AFFECTED BY A DECISION, ORDER OR RULING OF THE BOARD MAY, WITHIN THIRTY (30) DAYS FROM NOTICE OF SUCH DECISION, ORDER OR RULING, OR IN CASE OF A DENIAL OF A MOTION FOR RECONSIDERATION THEREOF, WITHIN FIFTEEN (15) DAYS AFTER NOTICE OF SUCH DENIAL, FILE AN APPEAL WITH THE COURT OF APPEALS, WHICH SHALL HAVE JURISDICTION TO REVIEW SUCH DECISION, ORDER OR RULING AND TO MODIFY OR SET ASIDE THE SAME WHEN IT CLEARLY APPEARS THAT THERE WAS NO EVIDENCE BEFORE THE BOARD TO SUPPORT REASONABLY SUCH DECISION, ORDER OR RULING, OR THAT THE SAME IS CONTRARY TO THE LAW, OR THAT IT WAS WITHOUT THE JURISDICTION OF THE BOARD. THE EVIDENCE PRESENTED TO THE BOARD, TOGETHER WITH THE RECORD OF THE PROCEEDINGS BEFORE THE BOARD, SHALL BE CERTIFIED BY THE BOARD TO THE COURT OF APPEALS. SAID APPEAL SHALL BE PLACED ON FILE IN THE OFFICE OF THE CLERK OF THE COURT OF APPEALS WHO SHALL FURNISH COPIES THEREOF TO THE BOARD AND OTHER PARTIES INTERESTED.

ANY DECISION, ORDER OR RULING OF THE BOARD MAY LIKEWISE BE REVIEWED BY THE SUPREME COURT UPON A WRIT OF CERTIORARI IN APPROPRIATE CASES. THE PROCEDURE FOR REVIEW, EXCEPT AS HEREIN PROVIDED, SHALL BE IN ACCORDANCE WITH THE RULES PRESCRIBED BY THE SUPREME COURT. THE FILING OF A PETITION FOR A WRIT OF CERTIORARI OR OTHER SPECIAL REMEDIES IN THE

SUPREME COURT SHALL IN NO CASE SUPERSEDE OR STAY ANY DECISION, ORDER OR RULING OF THE BOARD, UNLESS THE SUPREME COURT SHALL SO DIRECT, AND THE PETITIONER MAY BE REQUIRED BY THE SUPREME COURT TO GIVE BOND IN SUCH FORM AND OF SUCH AMOUNT AS MAY BE DEEMED PROPER."

SEC. 7. Section 38 of RA 9502 is hereby amended to read as follows:

"SEC. 38. Section 6 of Republic Act No. 6675, otherwise known as the Generics Act of 1988, is hereby amended to read as follows:

"SEC. 6. *Who Shall Use Generic Terminology.* - (a) All government health agencies and their personnel as well as other government agencies shall use generic terminology or generic names in all transactions related to purchasing, prescribing, dispensing and administering of drugs and medicines.

"(b) All medical, dental and veterinary practitioners, including private practitioners, shall write prescriptions using the generic name ONLY [The brand name may be included if so desired]."

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SEC. 8. *Appropriations.* - The funds needed to implement the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 9. *Separability Clause.* - If any provision of this Act is declared invalid, the provisions hereof not affected by such declaration shall remain in full force and effect.

SEC. 10. *Repealing Clause.* - All laws, executive orders, or administrative orders, rules and regulations or parts thereof which are inconsistent with this Act are hereby amended, repealed or modified accordingly.

SEC. 11. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,