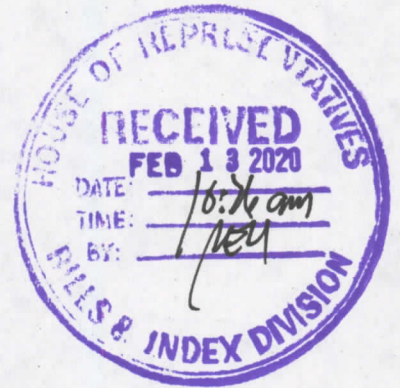


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6284



Introduced by the Honorable Precious Hipolito Castelo

EXPLANATORY NOTE

Early December 2019, a mysterious and novel strain of coronavirus, which is now denominated as the 2019 Novel Coronavirus Acute Respiratory Disease (nCoV ARD) was discovered in the city of Wuhan in Central China.

The Philippines was not spared by the spread of the deadly virus. As of February 10, 2020, the Department of Health (DOH) confirmed that there were already three (3) persons in the country who were afflicted by the nCoV ARD, and that there are 202 persons under investigation whose test results are pending.

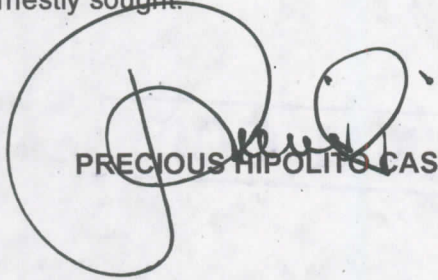
As the number of afflicted persons continues to rise globally, the role of the health workers in each country becomes more and more highlighted. These health workers are the most vulnerable to viruses and diseases because they attend to the infected. They are the frontliners in the delivery of health care services, and thus, they play a vital role especially when there is a national, or even a global health emergency.

In 1992, Republic Act No. 7305 or the Magna Carta of Public Health Workers was enacted. Despite the fact that private and public health workers face the same risks in the performance of their duties, there seems to be no similar law which covers health workers who work in private health care institutions.

It is on this premise that this Representation proposes the passage of a Magna Carta for Private Health Workers. If this bill is enacted into law, private health workers will be entitled to additional compensation such as, but not limited to, hazard allowance, subsistence allowance, longevity pay, laundry allowance and remote assignment allowance.

Public and private health workers deserve to be in the same plane when it comes to humane conditions of employment. Their noble profession usually requires them to take care of others before taking care of themselves. As such, it is imperative that support is given to them on a regular basis.

Thus, the immediate passage of this bill is most earnestly sought.


PRECIOUS HIPOLITO CASTELO

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House Bill No. 6284

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AN ACT
PROVIDING FOR THE MAGNA CARTA OF PRIVATE HEALTH WORKERS

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 "Magna Carta for Private Health Workers."

SEC. 2. Declaration of Policy. - The State shall protect and promote the right to health of the people and instill health consciousness among them. Towards this end, this Act aims:

- (a) to promote and improve the social and economic well-being of the private health workers, their living and working conditions and terms of employment; and
- (b) to develop their skills and capabilities in order that they will be more responsive and better equipped to deliver health projects and programs.

SEC. 3. Definition. - For purposes of this Act, "private health workers" shall mean all persons who are engaged in health and health-related work, and all persons employed in all private health care institutions and hospitals, sanatoria, health infirmaries, health centers, rural health units, health stations, clinics and other health-related establishments, regardless of their employment status.

SEC. 4. Recruitment and Qualification. - Recruitment policy and minimum requirements with respect to the selection and appointment of a private health worker shall be developed and implemented by the employer in accordance with the policies and standards of the Department of Labor and Employment.

SEC. 5. Performance Evaluation and Merit Promotion. - The employer shall prepare a uniform career and personnel development plan applicable to all its private health personnel. Such career and personnel development plan shall include provisions on merit promotion, performance evaluation, in-service training grants, job rotation, suggestions and incentive award system. It shall likewise be in accordance with the policies and standards of the Department of Labor and Employment.

The performance evaluation plan shall consider foremost the improvement of individual employee efficiency and organizational effectiveness: Provided, That each employee shall be informed regularly by his/her supervisor of his/her performance evaluation.

The merit promotion plan shall be in consonance with the rules of the Department of Labor and Employment.

SEC. 6. Transfer or Geographical Reassignment of Private Health Workers.

- (a) a transfer is a movement from one position to another which is of equivalent rank, level or salary without break in service;
- (b) a geographical reassignment, hereinafter referred to as "reassignment," is a movement from one geographical location to another; and
- (c) a private health worker shall not be transferred and or reassigned, except when made in the interest of public service, in which case, the employee concerned shall be informed of the reasons therefore in writing. If the private health worker believes that there is no justification for the transfer and/or reassignment, he/she may appeal his/her case to the Department of Labor and Employment, which shall cause his/her reassignment to be held in abeyance; Provided, That the necessary expenses of the transfer and/or reassignment of the private health worker and his/her immediate family shall be paid for by the employer.

SEC. 7. Married Private Health Workers. - Whenever possible, the proper authorities shall take steps to enable married couples, both of whom are private health workers, to be employed in the same private health care institution, provided that they be assigned in different departments, units, divisions, or areas.

SEC. 8. Security of Tenure. - In cases of regular employment, the employer shall not terminate the services of a private health worker except only for just or authorized causes pursuant to the Labor Code. A private health worker who is unjustly dismissed from employment shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

SEC. 9. Discrimination Prohibited. - A private health worker shall not be discriminated against with regard to age, gender, sexual orientation, gender identity and expressions, marital or relationship status, disability, social class, creed, religious or political beliefs, and racial or ethnic origin in the exercise of his/her profession.

SEC. 10. No Understaffing/Overloading of Health Staff. - There shall be no understaffing or overloading of private health workers. The ratio of health staff to patient load shall be such as to reasonably effect a sustained delivery of quality health care at all times without overworking the private health worker and over-extending his/her duty and service. Health students and apprentices shall be allowed only for purposes of training and education.

In line with the above policy, substitute officers or employees shall be provided in place of officers or employees who are on leave for over three (3) months.

SEC. 11. Exclusive Bargaining Representation and Private Health Workers' Participation in Policy and Decision-making. - The labor organization designated or selected by the majority of the private health workers in an appropriate collective bargaining unit shall be their exclusive representative in such unit for the purpose of collective bargaining.

Any provision of law to the contrary notwithstanding, private health workers shall have the right, subject to such rules and regulations as the Secretary of Labor and Employment may promulgate, to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, private health workers and employers may form labor-management councils: Provided, That the representatives of the workers in such labor-management councils shall be elected by at least the majority of all employees in said establishment.

SEC. 12. Resolution of Grievances. - An individual employee or group of employees shall have the right at any time to present grievances to their employer.

The adjustment and resolution of grievances arising from the interpretation or implementation of the Collective Bargaining Agreement, and those arising from the interpretation or enforcement of company personnel policies shall be submitted to the grievance machinery for settlement.

All grievances submitted to the grievance machinery which are not settled within seven (7) calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the Collective Bargaining Agreement.

For this purpose, parties to a Collective Bargaining Agreement shall name and designate in advance a Voluntary Arbitrator or panel of Voluntary Arbitrators, or include in the agreement a procedure for the selection of such Voluntary Arbitrator or panel of Voluntary Arbitrators, preferably from the listing of qualified Voluntary Arbitrators duly accredited by the Board. In case the parties fail to select a Voluntary Arbitrator or panel of Voluntary Arbitrators, the Board shall designate the Voluntary Arbitrator or panel of Voluntary Arbitrators, as may be necessary, pursuant to the selection procedure agreed upon in the Collective Bargaining Agreement, which shall act with the same force and effect as if the Arbitrator or panel of Arbitrators has been selected by the parties as described above.

SEC. 13. Safeguards in Disciplinary Procedures - In every disciplinary proceeding, the private health worker shall have;

- (a) the right to be informed, in writing, of the charges;
- (b) the right to full access to the evidence in the case;
- (c) the right to defend himself/herself and to be defended by a representative of his/her choice and/or by his/her organization, adequate time being given to the private health worker for the preparation of his/her defense;
- (d) the right to confront witnesses presented against him/her and summon witnesses in his/her behalf;
- (e) the right to appeal to designated authorities;
- (f) the right to reimbursement of reasonable expenses incurred in his/her defense in case of exoneration or dismissal of the charges; and
- (g) such other rights as will ensure fairness and impartiality during proceedings.

SEC. 14. Duties and Obligations. - The private health workers shall:

- (a) discharge his/her duty humanely with conscience and dignity;
- (b) perform his/her duty with utmost respect for life; and race, gender, religion, nationality, party policies, social standing or capacity to pay.

SEC. 15. Code of Conduct. - Within six (6) months from the approval of this Act, the Secretary of Labor and Employment, upon consultation with other appropriate agencies, professional and health workers' organization, shall formulate and prepare a Code of Conduct for Private Health Workers, which shall be disseminated as widely as possible.

SEC. 16. Normal Hours of Work. - The normal hours of work of any private health worker shall not exceed eight (8) hours a day or forty (40) hours a week. Hours worked shall include:

- (a) all the time during which a private health worker is required to be on active duty or to be at a prescribed workplace; and
- (b) all the time during which a private health worker is suffered or permitted to work. Provided, That the time when the private health worker is place on "On Call" status shall not be considered as hours worked but shall entitle the private health worker to an "On Call" pay equivalent to fifty percent (50%) of his/her regular wage. "On Call" status refers to a condition when private health workers are called upon to respond to urgent or immediate need for health/medical assistance or relief work during emergencies such that he/she cannot devote the time for his/her own use.

SEC. 17. Overtime Work. - Where the exigencies of the service so require, any private health worker may be required to render, service beyond the normal eight (8) hours a day. In such a case, the workers shall be paid an additional compensation in accordance with existing laws and prevailing practices.

SEC. 18. Work During Rest Day. -

- (a) Where a private health worker is made to work on his/her schedule rest day, he/she shall be paid an additional compensation in accordance with existing laws; and
- (b) Where a private health worker is made to work on any special holiday he/she shall be paid an additional compensation in accordance with existing laws. Where such holiday work falls on the workers' scheduled rest day, he/she shall be entitled to an additional compensation as may be provided by existing laws.

SEC. 19. Night-Shift Differential. -

- (a) Every private health worker shall be paid night-shift differential of ten percent (10%) of his/her regular wage for each hour of work performed during the night-shifts customarily adopted by hospitals.
- (b) Every private health worker required to work on the period covered after his/her regular schedule shall be entitled to his/her regular wage plus the regular overtime rate and an additional amount of ten percent (10%) of such overtime rate for each hour of work performed between ten (10) o'clock in the evening to six (6) o'clock in the morning.

SEC. 20. Additional Compensation. - Private health workers shall receive the following allowances: hazard allowance, subsistence allowance, longevity pay, laundry allowance and remote assignment allowance.

SEC. 21. Hazard Allowance. - Private health workers shall be compensated hazard allowance equivalent to at least twenty percent (20%) of their respective monthly basic salaries.

SEC. 22. Subsistence Allowance. - Private health workers who are required to render service within the premises of hospitals, sanitarium, health infirmaries, main health centers, rural

health units and health stations, or clinics, and other health-related establishments in order to make their services available at any and all times, shall be entitled to full subsistence allowance of three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Labor and Employment upon consultation with other appropriate government agencies.

SEC.23. Longevity Pay. - A monthly longevity pay equivalent to five percent (5%) of the monthly basic pay shall be paid to a private health worker for every five (5) years of continuous, efficient and meritorious services rendered as certified by the head of the department, office or unit concerned commencing with the service after the approval of this Act.

SEC. 24. Laundry Allowance. - All private health workers who are required to wear uniforms regularly shall be entitled to laundry allowance equivalent to Five Hundred Pesos (P500.00) per month: Provided, That this rate shall be reviewed periodically and increased accordingly by the Secretary of Labor and Employment in consultation with the appropriate government agencies concerned taking into account existing laws and prevailing practices.

SEC. 25. Remote Assignment Allowance. - Doctors, dentists, nurses, and midwives who accept assignments as such in remote areas or isolated stations, which for reasons of far distance or hard accessibility such positions had not been filled for the last two (2) years prior to the approval of this Act, shall be entitled to an incentive bonus in the form of remote assignment allowance equivalent to fifty percent (50%) of their basic pay, and shall be entitled to reimbursement of the cost of reasonable transportation to and from and during official trips.

In addition to the above, such doctors, dentists, nurses, and midwives mentioned in the preceding paragraph shall be given priority in promotion or assignment to better areas. Their tour of duties in the remote areas shall not exceed two (2) years, except when there are no positions for their transfer or they prefer to start in such posts in excess of two (2) years.

SEC. 26. Housing. - All private health workers who are in tour of duty and those who, because of unavoidable circumstances are forced to stay in the hospital, sanitarium or health infirmary premises, shall be entitled to free living quarters within the hospital, sanitarium or health infirmary or if such quarters are not available, shall receive quarters allowance as may be determined by the Secretary of Labor and Employment and other appropriate government agencies concerned: Provided, That this rate shall be reviewed periodically and increased accordingly by the Secretary of Labor and Employment in consultation with the appropriate government agencies concerned.

SEC. 27. Medical Examination. - Annual compulsory medical examination shall be provided free of charge to all private health workers: Provided, That where medical examination shows that medical treatment and/or hospitalization is necessary for those already in service, the treatment and/or hospitalization shall be provided free of charge in a government hospital. Medicines shall be subsidized by the entity paying the salary of the private health worker.

SEC. 28. Compensation of Injuries. - Private health workers shall be protected against the consequences of employment injuries in accordance with existing laws. Injuries incurred while doing overtime work shall be presumed work-connected.

SEC. 29. Leave Benefits for Private Health Workers. - Private health workers are entitled to such leave benefits as provided by existing laws and prevailing practices.

SEC. 31. Right to Self-Organization. - Private health workers shall have the right to freely from, join or assist organizations or unions for purposes not contrary to law in order to defend and protect their mutual interests and to obtain redress of their grievances through peaceful concerned activities.

However, meanwhile the State recognizes the right of private health workers to organize or join organization, private health workers on-duty cannot declare, stage or join any strike or cessation of their service to patients in the interest of public health, safety or survival of patients.

SEC. 32. Freedom from Interference or Coercion. - It shall be unlawful for any person to commit any of the following acts of interference or coercion:

- (a) to require as a condition of employment that a private health worker shall not join a health workers' organization or union or shall relinquish membership therein;
- (b) to discriminate in regard to hiring or tenure of employment or any item or condition of employment in order to encourage or discourage membership in any health workers' organization or union;
- (c) to prevent a private health worker from carrying out duties laid upon him/her by his/her position in the organization or union, or to penalize him/her for the action undertaken in such capacity;
- (d) to harass or interfere with the discharge of the functions of the private health worker when these are calculated to intimidate or to prevent the performance of his/her duties and responsibilities; and
- (e) to otherwise interfere in the establishment, functioning, or administration of health workers organization or unions through acts designed to place such organization or union under the control of government authority.

SEC. 33. Consultation With Health Worker's Organization. - In the formulation of national policies governing the social security of private health workers, professional and health workers, organizations or unions as well as other appropriate government agencies concerned shall be consulted by the Secretary of Labor and Employment.

SEC. 34. Health Human Resource Development/Management Study. - The Department of Labor and Employment shall conduct a periodic health human resource development/management study into, among others, the following areas;

- (a) adequacy of facilities and supplies to render quality health care to patients and other client population;
- (b) opportunity for private health workers to grow and develop their potentials and experience a sense of worth and dignity in their work. Private health workers who undertake postgraduate studies in a degree course shall be entitled to an upgrading in their position or raise in pay: Provided, That it shall not be more than every two (2) years;
- (c) mechanisms for democratic consultation in government health institutions;
- (d) staffing patterns and standard or health care to ensure that the people receive-quality care. Existing recommendations on staffing and standards of health care shall be immediately and strictly enforced;
- (e) ways and means of enabling the rank-and-file workers to avail of education opportunities for personal growth and development;

- (f) upgrading of working conditions, reclassification positions and salaries of private health workers to correct disparity vis-a-vis other professions such that positions requiring longer study to upgrade and given corresponding pay scale; and
- (g) assessment of the national policy on exportation of skilled health human resource to focus on how these resources could instead be utilized productively for the country's needs.

SEC. 35. Rules and Regulations. - The Secretary of Labor and Employment after consultation with appropriate agencies of the government as well as professional and health workers' organizations or unions, shall formulate and prepare the necessary rules and regulations to implement the provisions of this Act. Rules and regulations issued pursuant to this section shall take effect thirty (30) days after publication in a newspaper of general circulation.

SEC. 36. Prohibition Against Double Recovery of Benefits. - Whenever other laws provide for the same benefits covered by this Act, the private health worker shall have the option to choose which benefits will be paid to him/her. However, in the event that the benefits chosen are less than that provided under this Act, the worker shall be paid only the difference.

SEC. 37. Prohibition Against Elimination and/or Diminution. - Nothing in this law shall be construed to eliminate or in any way diminish benefits being enjoyed by public health workers at the time of the effectivity of this Act.

SEC. 38. Penal Provision. - Any person shall willfully interfere with, restrain or coerce any private health worker in the exercise of his/her rights or shall in any manner any act in violation of any of the provisions of this Act, upon conviction, shall be punished by a fine of not less than Fifty Thousand Pesos (P50,000.00) or imprisonment of six (6) months but not more than one (1) year or both at the discretion of the court.

If the offender is a public official, the court, in addition to the penalties provided in the preceding paragraph, may impose the additional penalty of disqualification from office.

SEC. 39. Separability Clause. - If any provision of this Act is declared invalid, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 40. Repealing Clause. - All laws, presidential decrees, executive orders and their implementing rules, inconsistent with the provisions of this act are hereby repealed, amended or modified accordingly.

SEC. 41. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.