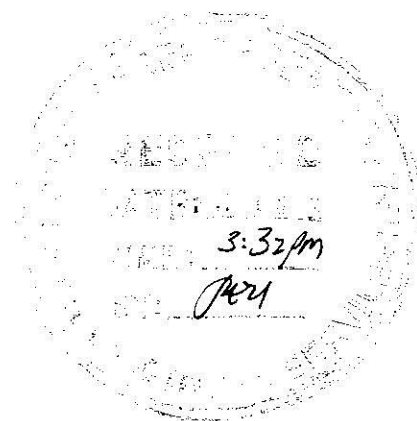




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 3694



Introduced by **HON. JOSEPHINE VERONIQUE “Jaye” R. LACSON - NOEL**
and **HON. FLORENCIO GABRIEL G. NOEL**

EXPLANATORY NOTE

Section 11 of Article XIII of the 1987 Constitution states that: “the State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.” In order for the government to fully uphold this state policy, it is required that doctors, nurses and other hospital personnel require assistance from caregivers in order for patients to swiftly bounce back to recovery.

One of the biggest responsibilities of a caregiver is to assist a person with personal care. This might include bathing, grooming, dressing, going to the toilet, mobility assistance, and over-all personal supervision. More than being a caregiver, they are required to be a very reliable and efficient companion to every aspect of life including health, emotional, physical, and personal matters.¹

These challenging prerequisites, most often than not, are overlooked. They are not sufficiently paid resulting to their decision to try their luck overseas. The Philippines has become a major source country of domestic care and healthcare workers, sending them to the Middle East, North America, Asia, and Europe. From 2010 to 2014 nurses and caregivers were the top workers deployed to USA, Europe, Canada and Spain. In light of an ageing worldwide population, an increase in demand for domestic and international caregivers is anticipated. Aside from the traditional markets such as the United States and Canada, rising demand is felt in Europe (Spain); the Middle East (Israel, Bahrain, and Saudi Arabia); and Asia (Japan, the Republic of Korea).²

¹ <https://aginginplace.org/caregiver-responsibilities-list-caring-for-my-parents/>

² https://www.eria.org/uploads/media/Books/2021-Coping-with-Rapid-Population-Ageing-Asia/16_Part2-Ch-4-Philippines-Care-Workers.pdf

Today, in the United States, there are more than one in five Americans (21.3 percent) are caregivers, having provided care to an adult or child with special needs at some time in the past 12 months. This totals an estimated 53.0 million adults in the United States, up from the estimated 43.5 million caregivers in 2015.³ The Department of Labor and Employment through its website posted job vacancies for home-based caregivers while other regions of the same agency posted the need for caregivers overseas.

To recognize the role of caregivers in national development, this bill seek to safeguard the welfare of caregivers, advance the profession through the institution of guidelines and policies to enable them to achieve their full potential.

IN VIEW OF THE FOREGOING, approval of this bill is earnestly sought.



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An Waray Party-list

³ <https://www.aarp.org/ppi/info-2020/caregiving-in-the-united-states.html>



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AN ACT
INSTITUTING POLICIES FOR THE PROTECTION AND WELFARE OF
CAREGIVERS IN THE PRACTICE OF THEIR PROFESSION

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

SECTION 1. Short Title. - This Act shall be known as the "**Caregivers Welfare Act**"

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to recognize the role of caregivers in national development and to institute policies in the practice of the profession with the end in view of developing competent caregivers whose standards of professional service shall be excellent and globally competitive.

The State also recognizes the need to protect the rights of the caregivers towards a decent employment and income, and adheres to a policy of protecting caregivers against abuse, harassment, violence and economic exploitation.

SEC. 3. Definition of Terms. - As used in this Act:

- a) **Caregiver** refers to a graduate of a caregiving course from an accredited training institution that is recognized by the government or is certified competent by that same institution, and renders caregiving services as stipulated in Section 6 of this Act;
- b) **Client** refers to a dependent infant, child or adult;
- c) **Employer** refers to any person who engages and controls the services of a caregiver and is a party to the employment contract; and
- d) **Private Employment Agency (PEA)** refers to any individual, legitimate partnership, association or organization accredited and licensed by the Department of Labor and Employment (DOLE), corporation or entity licensed to engage in the recruiting and placement of caregivers for local employment.

SEC. 4. Employment Contract. - An employment contract shall be executed by and between the caregiver and the employer before the commencement of the service in a language or dialect understood by both parties. A copy of the duly signed employment contract shall be given to the caregiver which shall include the following:

- a) Duties and responsibilities of the caregiver;
- b) Period of employment;
- c) Compensation;
- d) Authorized deductions;
- e) Hours of work and proportionate additional payment or overtime pay;
- f) Rest days and allowable leaves;
- g) Board, lodging and medical attention;
- h) Termination of employment; and
- i) Any other lawful condition agreed upon by both parties.

The DOLE shall develop a model employment contract for caregivers which shall be made available at all times, free of charge to caregivers, employers and the general public.

In case where the employment of the caregiver is facilitated through a private employment agency, the PEA shall keep a copy of all employment contracts of their caregivers which shall be made available for verification and inspection by the DOLE.

SEC. 5. Pre-employment Requirements. - Prior to the execution of the employment contract, the employer may require the following:

- a) Caregivers training certificate issued by the school or institution accredited by the Technical Education and Skills Development Authority (TESDA);
- b) Medical certificate or health certificate issued by a local government health officer; and
- c) National Bureau of Investigation (NBI) or police clearance.

SEC. 6. Duties of the Caregivers. - The caregiver may provide any of the following services:

- a) Provide personal care support and assistance to clients with physical impairment or disabilities in private homes, nursing or geriatric care facilities, and other residential settings;
- b) Help clients with their daily activities and mobility restrictions;
- c) Provide some basic health-related services, such as checking the clients' pulse rate, temperature and respiration rate;
- d) Help clients with simple prescribed exercises, and assist them with home medications as prescribed by the physician, provided that assistance in the administration of intravenous medications shall be upon written consent of the physician;
- e) Advise clients and their families on cleanliness and household tasks;

- f) Accompany clients to appointments with doctors or on other errands;
- g) Assist in housekeeping tasks within the clients' room;
- h) Prepare food for clients; and
- i) Other tasks directly related to the needs of the clients.

SEC. 7. Hours of Work. - The caregiver's working hours shall be based on the employment contract signed by the parties and in accordance with the labor laws, rules and regulations. A caregiver shall have an eight (8) hour work shift, beyond which the mandatory overtime pay shall be applied.

SEC. 8. Minimum Wage. - The minimum Wage of a caregiver shall not be less than the applicable minimum wage in the region.

SEC. 9. Payment of Wages. - Wages shall be paid on time directly to the caregiver to whom they are due once every two (2) weeks or twice a month at the intervals not exceeding sixteen (16) days. The employer, unless allowed by the caregiver through a written consent, shall make no deductions from the wages other than what is mandated by law. No employer shall pay the wages of the caregiver by means of promissory notes, vouchers, coupons, tokens, tickets, chits or any object other than the cash wage as provided for under the law.

Caregivers are also entitled to a thirteenth month pay as provided for by law.

SEC. 10. Pay Slip. - The employer shall at all times provide the caregiver with a copy of the pay slip containing the amount paid in cash every pay day, and indicating all deductions made, if any. A copy of the pay slip shall be kept by the employer for a period of three (3) years.

SEC. 11. Leave Benefits. - A caregiver who has rendered at least one (1) year of service shall be entitled to an annual service incentive leave of at least five (5) days with pay. Any unused portion of the annual leave shall be cumulative or carried over to the succeeding years. Unused leaves shall be convertible to cash.

SEC. 12. Other Benefits. - A caregiver shall be covered by the Social Security System, the Philippine Health Insurance Corporation or Philhealth, and the Home Development Mutual Fund or Pag-IBIG, and shall be entitled to all the benefits in accordance with the pertinent provisions provided by law. The effective date of coverage shall be on the first day of employment.

SEC. 13. Non-Diminution of Benefits. - All existing arrangements between a caregiver and the employer shall be adjusted to conform to the minimum standards set by this Act. Nothing in this Act shall be construed to cause the diminution or substitution of any benefits and privileges currently enjoyed by the caregiver hired directly or through a PEA.

SEC. 14. Basic Necessities. - For the household-based caregiver, the employer shall provide for the basic necessities of the caregiver to include at least three (3) adequate meals a day and humane sleeping arrangement. They shall also provide appropriate rest and assistance in case of illnesses and injuries sustained during the exercise of the caregiver's duties and responsibilities without loss of benefits.

SEC. 15. Privileged Information. - All information and communication pertaining to the patient or employer or members of the household shall be treated as privileged and confidential, and shall not be publicly disclosed by the caregiver during and after employment.

SEC. 16. Termination of Service. - Neither the caregiver nor the employer may terminate the contract before the expiration of the term except for grounds provided for in Sections 17 and 18 of this Act. If the caregiver is unjustly dismissed, the caregiver shall be paid the compensation already earned plus the equivalent of fifteen (15) days work by way of indemnity. The caregiver and the employer may mutually agree upon written notice to pre-terminate the contract of employment to end the employment relationship.

SEC. 17. Termination of Contract by the Caregiver. - A caregiver may terminate the employment relationship at any time before the expiration of the contract for any of the following reasons:

- a) Verbal or emotional abuse by the employer, client or any member of the household;
- b) Inhuman treatment including physical abuse by the employer, client or any member of the household;
- c) c) Commission of a crime or offense against the caregiver by the employer, client or any member of the household;
- d) d) Violation of the terms and conditions of the employment contract by the employer; and
- e) e) Other causes analogous to the foregoing.

SEC. 18. Termination of Contract by the Employer. - The employer may terminate the services of the caregiver at any time before the expiration of the contract for any of the following causes:

- a) Misconduct or willful disobedience by the caregiver of the lawful order of the employer in connection with the former's work;
- b) Gross or habitual neglect or insufficiency in the performance of duties;
- c) Fraud or willful breach of the trust reposed by the employer;
- d) Commission of crime or offense by the caregiver against the person of the employer, client or any immediate member of the employer's family;
- e) Violation of the terms and conditions of the employment contract by the caregiver; and
- f) Other causes analogous to the foregoing.

SEC. 19. Settlement of Disputes. - All labor-related disputes shall be elevated to the DOLE Regional Office and/or the National Labor Relations Commission (NLRC) having jurisdiction over the workplace without prejudice to the filing of civil or criminal action in appropriate cases. The DOLE Regional Office shall exhaust all conciliation and mediation efforts before a decision shall be rendered.

Ordinary crimes or offenses committed under the Revised Penal Code and other special penal laws by either party shall be filed with the regular courts.

SEC. 20. Protection of Caregiver Hired through PEAs. - The Secretary of Labor and Employment shall, through a system of licensing and regulation, ensure the protection of the caregivers hired through PEAs.

The PEAs shall be jointly and severally liable with the employer for all wages, wage-related benefits, and other benefits due to the caregiver.

The provisions of the Labor Code of the Philippines on the qualifications of the PEAs with regards to nationality, net worth, owners and officers, office space and other requirements, as well as non-transferability of license and commission of prohibited practices shall apply.

SEC. 21. Responsibilities of the PEAs. - In addition, the PEAs shall have the following responsibilities:

- a) Ensure that the caregivers are not charged or levied any recruitment or placement fees whatsoever;
- b) Ensure that the employment contract between the caregiver and the employer stipulates the terms and conditions of employment and all the benefits prescribed by this Act;
- c) Provide a pre-employment orientation briefing to the caregiver and the employer about their rights and responsibilities in accordance with this Act;
- d) Keep copies of employment contracts pertaining to recruited caregivers which shall be made available during inspections or whenever required by the DOLE;
- e) Assist caregivers with respect to complaints or grievances against their employers; and
- f) Cooperate with government agencies in rescue operations involving abused or exploited caregivers.

SEC. 22. Implementing Rules and Regulations. - Within sixty (60) days from the effectivity of this Act, the Secretary of Labor and Employment shall, in coordination with the Director General of the TESDA, promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 23. Separability Clause. - If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 24. Repealing Clause. - All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 25. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,