



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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4829



INTRODUCED BY **TUTOK TO WIN**
PARTY-LIST REPRESENTATIVE **SAM "SV" VERZOSA**

EXPLANATORY NOTE

The rapid growth of technology has transformed many brick-and-mortar pharmacies into online businesses. Medicines are now rampantly sold over the internet through online pharmacies and various online platforms. The COVID-19 crisis accelerated the expansion of electronic commerce (e-commerce) by providing access to a significant variety of medicines to the consumers from the convenience and safety of their homes, and has likewise enabled pharmaceutical companies to continue their operations in spite of contact restrictions and other confinement measures.

The fast-tracked growth of e-commerce, however, resulted in the prevalence of the illegal sale of falsified, fake, or otherwise harmful medicines over the internet. Several reports were already made regarding the circulation of fake medicines and supplements in the Philippine drug supply chain.

Falsified medicines are a major threat to public health. The World Health Organization (WHO) estimated that 10.5% of medicines worldwide are substandard

or falsified.¹ The United Nations Office on Drugs and Crime (UNODC) focused on combating falsified medicines and distinguished it from counterfeit medicines to dissociate the context of intellectual property rights and to adequately address the growing concerns on the illegal trade of medical products.

The Food and Drug Administration (FDA), pursuant to FDA Advisory No. 2019-154 dated 11 June 2019, directed e-commerce platforms to stop selling medicines online unless the appropriate License to Operate (LTO) from the FDA is secured.²

A Joint Administrative Order (JAO) No. 22-01 dated 04 March 2022 was also issued by various Departments, including the Department of Health (DOH), to improve the regulation of online selling activities. However, the widespread sale of falsified, fake or harmful medicines in various e-commerce platforms remains unresolved.

Despite the enactment of various laws such as the Republic Act (R.A.) No. 10918 or the *Philippine Pharmacy Act*, R.A. No. 8203 or the *Special Law on Counterfeit Drugs* and R.A. No. 9792 or the *E-Commerce Act*, pharmaceutical crimes and proliferation of falsified medicines are becoming more complex and compounded.

In one case, the Supreme Court concluded that the passage of R.A. No. 9502 or the *Universally Accessible Cheaper and Quality Medicines Act of 2008* nullifies the reason or purpose of R.A. No. 8203 so the latter loses all meaning and function, thereby absolving the accused.³

Therefore, there is a pressing need for a more comprehensive, harmonized and stricter legislation to: (a) counter the illegal online sale of falsified medicines in e-

¹ World Health Organization. Substandard and falsified medical products. 2018. Accessed at: <https://www.who.int/news-room/fact-sheets/detail/substandard-and-falsified-medical-products>

² Cortez, G. (2014, June 14). FDA orders Shopee, Lazada to stop selling medicines. *Business World*. Accessed at: <https://www.bworldonline.com/the-nation/2019/06/14/236563/fda-orders-shopee-lazada-to-stop-selling-medicines/>

³ G.R. No. 149907, *Roma Drug, et al. v. Glaxo SmithKline, et al.*

commerce platforms; (b) regulate the operation of online pharmacies; and (c) promote consumer awareness on falsified medicines being sold in e-commerce platforms.

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

A handwritten signature in black ink, appearing to be 'SV' followed by a stylized flourish.

SAM "SV" VERZOSA
Representative
Tutok to Win Party-List



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AN ACT
STRENGTHENING THE REGULATION OF ONLINE PHARMACIES BY
COUNTERING ONLINE SALE OF FALSIFIED MEDICINES IN E-COMMERCE
PLATFORMS AND PROVIDING FOR THE PROHIBITIONS AND PENALTIES
FOR VIOLATIONS AND REVISING FOR THE PURPOSE REPUBLIC ACT NO.
10173 OR THE 'DATA PRIVACY ACT OF 2012'

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

CHAPTER 1

GENERAL PROVISIONS

SECTION 1. *Short Title.* This Act shall be known as the "**Online Philippine Pharmacy Act (OPPA) of 2022**".

SECTION 2. *Declaration of Policy.* It is the policy of the State to protect and promote the right to health of the people and instill health consciousness among them as provided in Section 15 Article II of the 1987 Constitution. Article XIII, Section 12 thereof further mandates the State to establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems.

Pursuant to the above policies aimed to protect public health, the State must strengthen its capability to prevent, investigate, suppress, and more effectively respond to the proliferation of illegal online sale of falsified medical products by criminalizing certain acts and providing for the penalties for the violations thereof; to regulate the operation of online pharmacies; supporting the integrity of the medical product supply system; and promote national and international cooperation in order to achieve these objectives.

SECTION 3. *Definition of Terms.* For purposes of this Act, the following terms are defined:

- a) “Active Ingredient” shall refer to any substance or mixture of substances that is designated to be used in the manufacture of a medicine.
- b) “CDRR” shall refer to the Center for Drug Regulation and Research of the FDA.
- c) “Counterfeit medicines” shall refer to pharmaceutical products falling under any of the following conditions, which results in the reduction of the pharmaceutical products’ safety, efficacy, quality, strength or purity:
 - 1. do not contain the amounts as claimed;
 - 2. with wrong ingredients;
 - 3. without active ingredients; or
 - 4. with less than eighty percent (80%) of the active ingredients it purports to possess as distinguished from an adulterated drug including reduction or loss of efficacy due to expiration.

This is used in the context of intellectual property rights, as distinguished from falsified medicines.

- d) “DOH” shall refer to the Department of Health.
- e) “Director General” shall refer to the Director General of the FDA.
- f) “Drugs” shall refer to pharmaceutical products that pertain to any chemical compound or biological substance, other than food, intended

for use in the treatment, cure, mitigation, prevention or diagnosis of disease in humans or animals, including but not limited to:

1. any article recognized in the Philippine Pharmacopoeia, Philippine National Drug Formulary, or in any foreign official pharmacopoeias and formularies which are adopted by the FDA or any documentary supplement to any of them;
 2. any article, other than food, intended to affect the structure or any function of the human body or animals;
 3. any article intended for use as a component of any chemical compound or biological substance or articles specified above, not including devices or their components, parts, or accessories; or
 4. herbal and/or traditional drug, and the components thereof, which are articles of plant or animal origin used in folk medicine, which are:
 - i. recognized in the Philippine National Drug Formulary; or
 - ii. intended for use in the treatment, cure, mitigation, prevention or diagnosis of disease symptoms, injury or body defects in humans; or
 - iii. other than food, intended to affect the structure or any function of the human body; and
 - iv. in finished or ready-to-use dosage form.
- g) "E-Commerce Platform" shall refer to a natural or juridical person that solicits the purchase, procurement, or use of goods and services through the internet with the presence and use of monetary transactions, including using, developing, creating, or promoting digital content through digital platforms, websites and marketplaces, with functions which connects and encourages consumers, online merchants, sellers, and retailers to enter into commercial transactions.

- h) "Economic Sabotage" shall refer to any of the acts which are declared unlawful and prohibited under this Act when committed and the amount of the falsified medicines involve (whether as a single product or a totality of different pharmaceutical products) is One Million Pesos (Php1,000,000.00) or more, as valued by the FDA, any provision of law to the contrary notwithstanding.
- i) "E-marketplace" shall refer to an online intermediary that allows participating merchants to exchange information about products to enter into an electronic commerce transaction, which may or may not provide information/services about payments and logistics.
- j) "E-retailer" shall refer to an entity that sells products directly to customers online.
- k) "Excipient" shall refer to any substance that is not an active substance or a finished medicine but is part of the composition of a medicine and essential to the integrity of the finished product.
- l) "Falsified Medicine" shall refer to any medical product or supplement whose identity, composition or source is misrepresented. It contains ingredients of low quality or in the wrong doses; be deliberately and fraudulently mislabeled with respect to their identity or source; have fake packaging, the wrong ingredients, or low levels of the active ingredients.

A substandard medical product can also become a falsified medical product when it is manufactured below the mandated standards of quality or specifications, including where it is manufactured by an authorized, licensed or registered manufacturer.

- m) "FDA" shall refer to the Food and Drug Administration.
- n) "FDRO" shall refer to the Food and Drug Regulation Officer of the FDA.

- o) "Manufacture" shall refer to any part of the process of producing the medicine, or an active substance or excipient of such a product, or of bringing the medicine, active substance or excipient to its final state.
- p) "Medicines" shall refer to any substance, or combination of substances:
 - (a) presented as having properties for treating or preventing disease in humans or animals; or
 - (b) that may be used in or administered to human beings or animals with a view to either restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or making a medical diagnosis.For purposes of this Act, medicines shall also include food supplements and traditional medicines that are used in treating illnesses.
- q) "Online Pharmacy" shall refer to a mode of pharmacy services that utilizes information technology or online mode of communication to better serve patients by providing more convenient access to pharmacy services. This mode of service should be provided by a pharmacy that is duly-licensed by the FDA through a secured online platform.
- r) "Pharmaceutical Products" shall refer to drugs, medicines, biologicals, pharmaceutical and biopharmaceutical products/specialties, veterinary biologics and veterinary medicinal products.
- s) "Service providers" shall refer to natural or legal persons involved in the supply chain of falsified medicines, including those perpetrated through electronic and distance selling. They include e-commerce platforms, providers of electronic payment services, banking and money-transfer services and transport and logistical delivery services, as well as internet service providers, domain name registrars and providers of web-hosting services.
- t) "Trafficking falsified medicines" shall refer to importing, exporting, storing, transporting, donating, dispatching, dispatching in transit, dispatching in free-trade zones, trans-shipping, distributing, brokering,

advertising, offering, keeping for offer, selling or supplying falsified medicines, whether on one's own behalf or for a third party.

- u) "Residence" shall refer to a private dwelling or abode where a person lives, either as owner or lessee, or usufructuary including, for purpose of this Act, its yard, garage, storage rooms or premises; *Provided, That* where the yard, garage, storage rooms or premises are used to manufacture, process, pack, or hold pharmaceutical products for introduction into domestic commerce, the same shall not fall as residence but be considered as establishment.

SECTION 4. *Scope.* This Act applies to offense involving falsified medicines, whether generic or branded, including the components thereof. Intellectual property rights are not covered by this Act.

CHAPTER 2

ONLINE PHARMACY

SECTION 5. *License to Operate as Online Pharmacy.* Pharmaceutical outlets engaged in the sale of pharmaceutical products, whether as an additional activity or as a pure online pharmacy without a physical store for dispensing medicines, shall register with the Food and Drug Administration (FDA) and secure the appropriate license to operate (LTO) for this purpose.

Upon completion of the licensing requirements, the FDA shall also maintain an updated and verified list of registered online pharmacies or maintain an authentication website or online platform for such verification, whichever is more effective and efficient as determined by the FDA.

SECTION 6. *Guidelines on the Application for a license to operate.* All pharmaceutical outlets engaged in online sale of pharmaceutical products, whether as an additional activity or as a pure online pharmacy, shall be subject to monitoring and regular inspection by the FDRO of the FDA. For this purpose, the FDA, in cooperation with appropriate government agencies, shall promulgate guidelines on the licensing

and compliance requirements for pharmaceutical outlets engaged in the online sale of pharmaceutical products and those dispensing online pharmacy services.

SECTION 7. *Covered Medicines.* All online pharmacies are limited to selling, offering for sale and distributing in e-commerce platforms only non-prescription medicines, including food supplements and traditional medicines, until the FDA promulgates guidelines to effectively verify prescriptions, including electronic prescriptions.

SECTION 8. *Licensed Pharmacist Requirement.* All pharmaceutical outlets engaged in the online sale of pharmaceutical products shall designate a licensed pharmacist who shall be responsible and accountable for compliance with the laws and FDA rules and regulations pertaining to product safety, efficacy and quality.

SECTION 9. *Online Pharmacy Responsibilities.* All online pharmacies, including the licensed and registered pharmacist under their employ, shall ensure at all times that pharmaceutical products satisfy the requirements of the laws and standards relevant to their activities, including the proper storage and warehousing of pharmaceutical products, and that effective control systems are in place to prevent or eliminate falsified medicines and activities.

Online pharmacies shall only sell original, genuine, licensed, or unexpired goods. If an online pharmacy considers or has reason to believe that a pharmaceutical product which it produced, processed, imported, distributed, sold, offered for sale, advertised is falsified, it shall immediately initiate the procedures to withdraw the product in question from the market and inform the regulatory authority.

Online pharmacies shall allow inspection of their physical store or in the case of purely online pharmacies, their warehouse or storage, and collaborate with the regulatory authority on actions taken to avoid risks posed by the falsified medicines they have supplied.

SECTION 10. *Service Provider Responsibilities.* All service providers shall at all times ensure and verify that the online merchants, sellers or retailers who are

engaged in the sale of pharmaceutical products in their respective platforms have the required LTO from the FDA, as mandated by Sec. 5 of this Act. Otherwise, the e-commerce platforms may temporarily or permanently suspend or restrict the online accounts of the erring online merchants, sellers or retailers.

E-Commerce platforms, e-marketplaces, and the like, shall verify if the medicines sold by online sellers or merchants, and e-retailers, in their respective platforms are regulated, original, genuine, licensed or unexpired.

In case of a prima facie violation of any pertinent laws or regulations committed in an online post by the online seller or merchant, e-retailer, e-commerce platform, e-marketplace, and the like, the FDA shall issue a notice giving the violator a maximum period of three (3) calendar days from receipt thereof, within which to take down such post, without prejudice to the filing of appropriate administrative actions against all violators. Failure to take down the online post within 3 calendar days shall be construed as an intentional and overt act that shall aggravate the offense charged.

E-commerce platforms, e-marketplaces, and the like, may appeal the take down notice, following the procedures set under the applicable laws if, in their reasonable determination, there is no violation of any law or regulation. However, no reposting may be allowed pending appeal.

All service providers shall also report to and cooperate with the FDA and the enforcement agencies by providing necessary information relating to the online merchants, sellers or retailers and the acts or omissions committed by them pursuant to Section 15 of this Act.

CHAPTER 3

FALSIFIED MEDICINES

SECTION 11. *Prevention of Falsified Medicines.* With the aim of preventing the falsification of medicines, including the active substances and excipients thereof, the FDA shall take the necessary measures to provide for:

- a) The training of healthcare professionals, service providers, police officers, customs authorities, other security officers and relevant regulatory authorities;
- b) The organization of awareness-raising campaigns for the general public in order to disseminate information about falsified medicines;
- c) The prevention of illegal supply of falsified medicines, active substances and excipients by establishing well-equipped and functional laboratories; and
- d) The use of appropriate technologies to detect falsified medicines.

SECTION 12. *Research and Data Collection, Exchange and Analysis.* The CDRR of the FDA shall provide for:

- a) The collection of statistical and other data and information on issues related to falsified medicines; and
- b) The facilitation of research into:
 - a. The causes, prevalence and impact of falsified medicines; and
 - b. The circumstances in which incidents involving falsified medicines occur.

SECTION 13. *Prohibited Acts.* The following acts are declared unlawful and therefore prohibited:

- a) Manufacturing falsified medicines;
- b) Trafficking falsified medicines, including offenses related to trafficking falsified medicines by electronic and distance selling through e-commerce platforms;
- c) Possession of falsified medicines intended to be used in manufacturing or placed in the distribution system, subject to the exemptions under Section 4(b) of R.A. No. 8203;
- d) Failure to report and conspiracy to commit any offense covered by this Act; and

- e) Obstruction of evidence or failure to comply with any reasonable request or demand made by the Director, in the exercise of his powers and the performance of his duties under this Act;

Provided, That nothing in this section shall apply to the import, subject to prescribed conditions, of small quantities of any medicine for the purpose of examination, test or analysis or for personal use;

For offenses under this Act, the knowledge, intention, aim, purpose or agreement referred to in each offense may be inferred from objective factual circumstances.

SECTION 14. *Parties Liable.* The following persons shall be liable for violation(s) of this Act:

- a) the manufacturer, importer or exporter of falsified medicines and their agents;
Provided, That the agents shall be liable only upon proof of actual or constructive knowledge that the drugs are falsified;
- b) the seller, distributor, trafficker, broker or donor and their agents, upon proof of actual or constructive knowledge that the medicines sold, distributed, offered or donated are falsified medicines;
- c) the service providers, as defined in this Act, that facilitates the online sale of falsified medicines through the e-commerce platforms and the distribution or delivery thereof; *Provided*, That the e-commerce platforms, e-marketplaces, and the like, shall be treated, and shall be held liable, in the same manner as online sellers, merchants and e-retailers, when the latter commits any violation under Section 13 of this Act; *Provided further*, That the delivery platforms shall be liable in the same manner as, online sellers, merchants, and e-retailers only upon notice that they are carrying or delivering falsified medicines.
- d) the possessor of falsified medicines as provided in Section 13 (c) of this Act;
- e) the manager, operator or lessee of the laboratory or laboratory facilities used in the manufacture of falsified medicines;

- f) the owner, proprietor, administrator or manager of the drugstore, hospital pharmacy or dispensary, laboratory or other outlets or premises where the falsified medicine is found who induces, causes or allows the commission of any act herein prohibited;
- g) the registered pharmacist of the outlet where the falsified medicine is sold or found, who sells or dispenses such medicines to a third party and who has actual or constructive knowledge that said medicine is falsified; and
- h) should the offense be committed by a juridical person, the president, general manager, the managing partner, chief operating officer or the person who directly induces, causes or knowingly allows the commission of the offense shall be penalized.

SECTION 15. Exclusion from Scope of Data Privacy Act. Section 4 of RA 10173 otherwise known as the Data Privacy Act of 2012 is hereby amended to read, thus:

SEC. 4. *Scope.* - This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided,* That the requirements of Section 5 are complied with.

This Act does not apply to the following:

x x x

(h) Information collected on any individual or entity gathered from service providers pursuant to an investigation of any public health violation.

SECTION 16. *Liability under Other Laws.* A prosecution under this Act shall be without prejudice to any liability for violation of any provisions of other laws.

SECTION 17. *Administrative Proceedings.* The FDA shall have jurisdiction over the administrative proceedings for offenses defined in this Act. The procedure

under the Implementing Rules and Regulations of R.A. No. 8203 shall apply unless the FDA adapts a more effective and efficient procedure. This, however, shall not preclude any interested party from initiating a criminal action against the party liable, whether connected with or independent of FDA.

The FDA is hereby further authorized to undertake the following administrative actions:

- a) **Procedure when falsified medicines are monitored in the market pursuant to a routine inspection of the FDRO.** If the FDRO, in the course of his/her routine/regular inspection of a factory, warehouse, establishment in which the medicines are manufactured, processed, packed, or held for introduction into domestic commerce, or vehicle, and all pertinent equipment, finished or unfinished materials, containers, and labeling therein, upon the authority conferred by Section 27 of Republic Act No. 3720, as amended, shall suspect certain stocks as falsified medicines, the FDRO shall conduct an inventory, segregate and seal the suspected stocks, and collect samples for examination as to the medicine's genuineness and authenticity;
- b) **Procedure when information is received about the presence of falsified medicines in the possession of any person or establishment:**
 - i. Any information, either referred by the government office or officer or from anonymous sources or persons requesting confidentiality of their identities, on the existence of suspected falsified medicines in the possession of any manufacturer, seller, distributor, or any other person shall undergo the verification process by the FDRO, or any officer deputized or authorized by the Director General. Verification process shall follow the existing system and procedure in the conduct of case build-up, investigation or other appropriate interventions adopted by the FDA.
 - ii. If the falsified medicines are located in an establishment:

1. Seize the falsified medicines and take them into custody;
and
 2. Proceed in filing a criminal complaint and or
administrative complaint.
- iii. If the falsified medicines are located in a private residence as
defined:
1. Secure a valid search warrant from a competent court;
 2. After having obtained the search warrant, inventory and
seize such falsified medicines and take them into custody;
and
 3. Proceed in filing a criminal complaint and/or
administrative complaint.

SECTION 18. *Hearing of Administrative Complaints and Officer Remedies.* -

- a) The FDA shall hear and decide administrative complaints filed before the
agency following the rules of procedure provided under Republic Act No.
3720, as amended, and its Implementing Rules and Regulations.
- b) Upon preliminary findings of the conduct of prohibited acts, the Director
General shall Issue the proper notices or orders to the person or persons
concerned and such person or persons shall be given an opportunity to be
heard before the FDA.
- c) Preventive Closure Order. If seizure cannot be reasonably effected, a
summons with preventive closure order shall be issued against the
warehouse, building, factory, store, shop or any other structure where the
said falsified medicines are contained or stored within fifteen (15) days
upon the filing of administrative complaint. This is for the purpose of
preventing the disposition or tampering of evidence, the continuance of acts
being complained of, and/or the flight of the Respondent. After the lapse

of the 30-day period, the preventive closure order is deemed lifted without prejudice to the resolution of the case.

- d) Filing of an appropriate proceeding against the registered pharmacist with the Professional Regulations Commission for imposition of the appropriate penalties as provided under Republic Act No. 10918 or the Philippine Pharmacy Act or its amendment;
- e) Filing of criminal charges against the violator(s), which can be instituted separately and independently from the administrative case: *Provided, That* the dismissal of the criminal case shall not lift the closure order or dismiss the administrative case: *Provided further, That* the withdrawal of the private criminal complaint shall not be a ground for the dismissal of the administrative proceedings.
- f) The Director General is hereby authorized to call on the assistance of any Department, Office, Agency, Organization, or Body for the effective implementation of the provisions of this Act.

SECTION 19. *Inter-Agency, Stakeholders and International Cooperation.* All relevant inter-agency, other stakeholders and international instruments, programs, cooperation, and arrangements agreed, whether in regulatory or criminal matters, to the widest extent possible for purposes of detection, investigation, suppression, proceedings or effective response concerning administrative or criminal offenses related to falsified medicines, or for the collection of evidence, shall be given full force and effect.

SECTION 20. *Rapid Alert System.* The rapid alert system in place for the notification of direct or indirect risk to humans due to falsified medicines shall be strengthened by the FDA.

Emphasis shall be made on the strengthening and full implementation of science-based risk analysis, emergency measures, crisis management and stakeholders' involvement and participation.

CHAPTER 4

PENALTIES

SECTION 21. *Administrative Penalties.* Upon finding that the medicine examined is falsified and upon the determination of the parties liable thereof, the FDA shall impose any or all of the following administrative penalties:

- a) **Minimum Penalty.** An administrative fine of not less than One hundred thousand pesos (PHP100,000.00) but not more than Five hundred thousand pesos (PHP500,000.00) shall be the minimum administrative penalty.
- b) **Medium Penalty.** An administrative fine of at least Three hundred thousand pesos (PHP300,000.00) but not more than Five hundred pesos (PHP500,000.00) and suspension or revocation of its license to do business shall be the medium administrative penalty.
- c) **Maximum Penalty.** An administrative fine of Five hundred thousand pesos (PHP500,000.00) and permanent closure of the establishment concerned as well as the revocation of its license to do business shall be the maximum administrative penalty.

Provided, That if any or all of the instances below occur the maximum imposable fine of Five hundred thousand pesos (PHP500,000.00), revocation of its license to do business, permanent closure of establishment, and permanent disqualification of the person concerned whether natural or juridical, from owning or operating a drug establishment or outlet, as the case may be, shall be imposed:

- a) If the Respondent or any of his officers or agents shall conceal, substitute, dispose or destroy any medicine that may have been segregated and sealed by the FDRO or any officer deputized or authorized by the Director General; or
- b) If the Respondent or any of his office or agents shall break, alter or tamper any mark or seal used by the FDA to identify those segregated medicines; or
- c) As a result of the use of the medicines found to be falsified, the illness sought to be cured is aggravated or physical injury or suffering results

therefrom, or be the proximate cause of death or permanent disability of the victim or patient.

Provided, That if any or all of the instances above occur and the falsified medicine was sold without a license to sell as required by Section 5 of this Act, the maximum imposable fine of Five hundred thousand pesos (PHP500,000.00), permanent closure of establishment, and permanent disqualification of the person concerned whether natural or juridical, from owning or operating a pharmaceutical establishment or outlet will be imposed upon the seller.

Provided further, That if the sale of falsified medicine without license to sell under Section 5 of this act was made through a service provider, said service provider shall likewise be administratively liable under this Act.

Any of the imposable penalties in sub-paragraphs (a), (b) and (c) above shall be accompanied by forfeiture, confiscation and destruction of the medicines found to be falsified in violation of this Act or its implementing rules and regulations.

SECTION 22. Criminal Penalties. The commission of any of the acts prohibited under Section 13 of this Act shall be punished by:

- a) Imprisonment of not less than six (6) months and one (1) day but not more than six (6) years from mere possession of falsified medicines as provided for in Section 13(c) of this Act;
- b) Imprisonment of six (6) years and one (1) day, but not more than twelve (12) years or a fine not less than One hundred thousand pesos (PHP100,000.00) but not more than Five hundred thousand pesos (PHP500,000.00) or both such imprisonment and fine at the discretion of the court in any other case mentioned in Section 13 of the Act: *Provided*, That in trafficking of falsified medicines through online sale over e-commerce platforms, the penalty imposable shall be one (1) degree higher than that provided under this Act;
- c) Imprisonment of not less than six (6) months and one (1) day, but not more than two (2) years and four (4) months if the falsified medicine is intended for animals;
- d) Imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years for any manufacturer, seller or distributor who shall conceal,

substitute, dispose or destroy any medicine as may have been segregated and sealed by the FDA, or who shall break, alter or tamper any mark or seal used by the FDA to identify those segregated medicines as provided for in Section 13 (a) of this Act. Any other person who breaks, alters or tampers any mark or seal used by the FDA to identify the segregated medicine shall suffer the penalty of not less than six (6) months and one (1) day, but not more than six (6) years imprisonment; or

- e) If, as a result of the use of the medicine found to be falsified, the illness sought to be cured is aggravated or physical injury or suffering results therefrom, a punishment of imprisonment from twelve years to fifteen (15) years and a fine ranging from One hundred thousand pesos (PHP100,000.00) to Five hundred thousand pesos (PHP500,000.00) shall be meted out; or
- f) Should the use of a falsified medicine be the proximate cause of death of a victim, who unknowingly purchased and took the same, the penalty of life imprisonment and a fine of Five hundred thousand pesos (PHP500,000.00) shall be imposed; and
- g) If the acts declared as unlawful and prohibited under Section 13 above involves economic sabotage, the penalty of life imprisonment and a fine of Five million pesos (PHP5,000,000.00) to Ten million pesos (PHP10,000,000.00) shall be imposed.

In case any act prohibited in Section 13 of this Act is also punishable under other laws, the offender shall, if warranted by the evidence, be prosecuted under the law prescribing the highest penalty.

CHAPTER 5

MISCELLANEOUS PROVISIONS

SECTION 23. *Interpretation and Construction in Favor of Protection of Public Health.* All doubts in the implementation and interpretation of the provisions of this Act, including its implementing rules and regulations, shall be resolved in favor of protecting public health.

SECTION 24. *Implementing Rules and Regulations (IRR).* Within one hundred twenty (120) days from the effectivity of this Act, the FDA shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SECTION 25. *Enforcement and Implementation.* The FDA is hereby authorized to administer and supervise the implementation of this Act subject to the applicable provisions of R.A. 10175 or the “Cybercrime Prevention Act of 2012”.

SECTION 26. *Reports and Information.* The FDA shall annually report to the President, DOH and Congress on its activities in carrying out the provisions of this Act, in addition to the regular bulletins it may publish for the same. The FDA shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public on falsified medicines.

SECTION 27. *Appropriations.* The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act for the year following its enactment and every year thereafter.

SECTION 28. *Separability Clause.* If any provision of this Act is declared unconstitutional, inoperative, the other provisions not so declared shall remain in force and effect.

SECTION 29. *Repealing Clause.* All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act or the rules and regulations promulgated pursuant thereto are hereby repealed or amended accordingly.

SECTION 30. *Effectivity Clause.* This Act shall take effect fifteen (15) days after publication in two (2) national newspapers of general circulation.

Approved,