

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

Twentieth Congress
First Regular Session

House Bill No. 2786



**Introduced by AKBAYAN Representatives Percival Cendaña, Atty. Jose Manuel
"Chel" Diokno, and Dadah Kiram Ismula and Dinagat Islands Representative
Kaka Bag-ao**

Prefatory Statement

Every human being has the right to the highest attainable standard of physical and mental health. It is therefore an obligation of States to develop and implement legislation and policies that guarantee universal access to quality health services and address the root causes of health disparities, including poverty, stigma and discrimination.

Partners of people of diverse sexual orientation and gender identity and expression and sex characteristics (SOGIESC), solo parents, and people from non-traditional households, often experience discrimination in the healthcare setting when they are not allowed to act as care givers and denied access to information and decision-making processes necessary to save the lives of their loved ones.

The Right to Care is fundamentally about the right to health. It recognizes that the most compassionate and effective care comes from our chosen partners and significant others. In this proposed legislation, the patient-principal designates their partner-agent to make critical health decisions and receive vital health information on their behalf in times of incapacity.

It is time for the Philippine government to make healthcare more accessible and inclusive. The passage of this bill is earnestly sought.



Rep. Percival Cendaña

AKBAYAN Party-list



Rep. Kaka Bag-ao

Lone District of Dinagat Islands



Rep. Jose Manuel Tadeo “Chel” Diokno

AKBAYAN Party-list



Rep. Dadan Kiram Ismula

AKBAYAN Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 2786

Introduced by AKBAYAN Representatives Percival Cendaña, Atty. Jose Manuel “Chel” Diokno, and Dadah Kiram Ismula and Dinagat Islands Representative Kaka Bag-ao

**AN ACT REQUIRING THE RECOGNITION OF HEALTHCARE PROXIES
BY ALL HEALTH SERVICE PROVIDERS AND APPROPRIATING FUNDS
THEREFOR**

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

1 **SECTION 1. Short Title.** This Act shall be known as the “Right to Care Act.”

2
3 **SEC.2. Declaration of Policy.** Article III, Section 1 of the 1987 Philippine Constitution
4 states that, “[n]o person shall be deprived of life, liberty, or property without due
5 process of law, nor shall any person be denied the equal protection of the laws.”

6
7 Moreover, Article III, Section 10 provides that, “[n]o law impairing the obligation of
8 contracts shall be passed.”

9
10 Furthermore, the Universal Declaration of Human Rights recognizes that, “[h]uman
11 rights are inherent in all persons regardless of gender, race, culture, religion, and any
12 other status and all human beings are born free and equal in dignity and rights.”

13
14 Every human being has the right to the highest attainable standard of physical and
15 mental health. It is an obligation of the State to develop and implement legislation
16 and policies that guarantee universal access to quality health services and address
17 the root causes of health disparities, including poverty, stigma and discrimination.

18
19 It is the policy of the State to make healthcare more accessible to and inclusive of
20 persons of diverse sexual orientation and gender identity and expression and sex
21 characteristics (SOGIESC), solo parents, and other eligible individuals by recognizing
22 their chosen health care agent as their legally recognized representative in the

healthcare setting.

SEC.3. Definition of Terms.

- A. **Adult** - a natural person who is eighteen (18) years of age or older.
- B. **Health Care** - any treatment, service, or procedure to diagnose or treat an individual's physical or mental condition.
- C. **Health Care Agent** - any Adult who is the chosen representative of a qualified Principal authorized to make Health Care Decisions on behalf of a Principal under a Health Care Proxy.
- D. **Health Care Decision** - any decision to consent or refuse to consent to Health Care.
- E. **Health Care Provider** - an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer or provide Health Care in the ordinary course of business or practice. Unless the context otherwise requires or is otherwise specified, references to Health Care Provider include their agents and employees.
- F. **Health Care Proxy** - a document in which a Principal delegates to a Health Care Agent the authority to make Health Care Decisions on the former's behalf.
- G. **Principal** - any Adult, Single or Legally Separated, Solo Parent, or any other eligible individuals designating a Health Care Agent as their legally recognized representative in the healthcare setting through a Health Care Proxy.
- H. **Solo Parent** - any individual defined as such by Republic Act. No.11861 or the Expanded Solo Parent Act.

SEC. 4. Health Care Proxy. The Philippine Health Insurance Corporation (PhilHealth) shall provide for a Health Care Proxy for every Philhealth Member. Health Care Proxies under PhilHealth shall (a) identify the Principal and the Health Care Agent; (b) indicate that the Principal intends for the Health Care Agent to have authority to make Health Care Decisions on behalf of the Principal; and (c) A Health Care Agent shall be considered a Dependent of the Principal.

The designation of a Health Care Agent shall be included in the PhilHealth Membership Forms and shall be indicated in the PhilHealth Identification Cards. Health Care Proxies shall likewise be integrated into the PhilHealth Information

1 Systems.

2
3 **SEC. 5. Health Care Agent.** A Health Care Agent designated in the Health Proxy
4 shall on behalf of the Principal named therein, have the authority for the following:

5
6 a. Scope of Authority - subject to any express limitations in the Health Care
7 Proxy, a Health Care Agent shall have the authority to make any and all
8 Health Care Decisions on the Principal's behalf, including but not limited to
9 the following:

10
11
12 i. Authority to provide or give consent to bedside and nursing care services;

13
14 ii. Authority to give consent to perform or administer emergency medical
15 and/or management;

16
17 iii. Authority to give consent to perform diagnostic and/or therapeutic
18 procedure;

19
20 iv. Authority to give consent to hook to lifesaving devices such as but not
21 limited to a ventilator;

22
23 v. Authority to give consent to declare Do Not Resuscitate (DNR); and

24
25 vii. Authority to give consent to intubate.

26
27 Health Care Decisions made by the Health Care Agent on the Principal's
28 behalf shall have priority over decisions by any other person. The authority of
29 the Health Care Agent shall be limited in application to the healthcare setting
30 and shall not in any way affect succession rights provided by the Civil Code.

31
32 b. Disclosure of information - the Health Care Agent shall have the right to
33 receive medical information and records necessary to make informed decisions
34 regarding the Principal's Health Care.

35
36 **SEC. 6. Capacity.** The authority of the Health Care Agent to make Health Care
37 Decisions shall commence upon due determination, in accordance with applicable
38 laws, rules, or regulations, that the Principal lacks capacity to make Health Care
39 Decisions. In the event that there is a due determination that the Principal has
40 regained capacity, the authority of the Health Care Agent to make Health Care
41 Decisions shall cease, but shall recommence if the Principal subsequently loses
42 capacity.

43
44 The foregoing notwithstanding, where the Principal objects to the determination of

1 incapacity or to a Health Care Decision made by the Health Care Agent, the
2 Principal's objection or decision shall prevail unless the Principal is determined by a
3 court of competent jurisdiction to lack capacity to make Health Care Decisions.

4
5 **SEC. 7. Expiration and Revocation.** A Health Care Proxy shall be deemed to remain
6 in effect until revoked. If, prior to the expiration of a Health Care Proxy, the authority
7 of the Health Care Agent has commenced, the Health Care Proxy shall not expire
8 while the Principal lacks capacity.

9
10 The amendment of the Health Care Proxy in the PhilHealth Membership Forms
11 and/or issuance of a Special Power of Authority, shall be deemed as automatic
12 revocation of any Health Proxy previously issued to such Principal.

13
14 **SEC. 8. Health Care Provider Obligations.** Health Care Providers are required to
15 observe the following:

16
17 a. A Health Care Provider who is presented with a Health Care Proxy, or who
18 finds such proxy on the person of the Principal-patient, or in the PhilHealth
19 Identification Card of the Principal-patient, shall recognize and be charged
20 with due knowledge that a Health Care Proxy has been executed by the
21 Principal-patient.

22
23 In the event that the Principal-patient is unaccompanied by the Health Care
24 Agent designated in the Health Care Proxy, Health Care Providers shall
25 exert reasonably diligent efforts to notify such Health Care Agent, through
26 the contact details provided in the PhilHealth Membership Form, of the
27 circumstances by which the Principal-patient is under their care.

28
29 b. A Health Care Provider shall comply with the Health Care Decisions made
30 by the designated Health Care Agent in good faith under a Health Care Proxy
31 to the same extent as if such decisions had been made by the Principal-patient,
32 subject to any limitations provided in this Act.

33
34 c. A Principal-patient may revoke a Health Care Proxy by notifying the Health
35 Care Provider orally or in writing or by any other act evidencing a specific
36 intent to revoke such proxy. In such cases, the Health Care Provider shall
37 record such revocation in the Principal-patient's medical records, and notify its
38 relevant agents and employees, as well as the Health Care Agent of such
39 revocation.

40
41 d. The Department of Health (DOH) shall issue guidelines for Health Care
42 Providers including health insurance companies, health maintenance
43 organizations (HMOs) and other facilities, institutions, and/or professionals in
44 the healthcare system to recognize the Health Proxy of Principal-patients, the

1 Health Care Agents as the legally recognized representative of the Principal-
2 patients, and to act in accordance thereto.
3

4 **SEC. 9 Immunity.** Health Care Providers, or any of its agents or employees, shall be
5 free from any liability for honoring in good faith a Health Care Decision by a Health
6 Care Agent, or for other actions taken in good faith pursuant to this Act. Further, the
7 Health Care Agent shall be free from any liability for making a Health Care Decision
8 in good faith pursuant to this Act.
9

10 **SEC. 10. Health Care Cost.** Liability for the cost of Health Care provided pursuant to
11 a Health Care Agent's Health Care Decisions shall be the same as if the Health Care
12 were provided pursuant to the Principal's Health Care Decisions.
13

14 **SEC.11. Allied Services.** No person may require or prohibit the execution of a Health
15 Care Proxy as a condition for providing Health Care services or insurance to an
16 individual.
17

18 **SEC.12. Non-limitation.** Nothing in this Act creates, expands, diminishes, impairs or
19 supersedes any authority that a Principal-patient may have under law to make or
20 express decisions, wishes, or instructions regarding health care, whether or not
21 expressed in a Health Care Proxy. Further, nothing herein shall be construed to
22 permit a Health Care Agent to consent to any act or omission to which the Principal-
23 patient could not consent under law.
24

25 **SEC.13. Penalties.** The DOH, the Professional Regulation Commission, the
26 PhilHealth and any other relevant government agencies may suspend or revoke the
27 licenses or certifications of Health Care Providers and any of its agents and
28 employees that violate the provisions of this Act.
29

30 **SEC. 14. Implementing Rules and Regulations.** The DOH together with PhilHealth
31 shall formulate the necessary rules and regulations for the implementation of this
32 Act within ninety (90) days upon its effectivity.
33

34 **SEC.15. Appropriations.** Appropriations for the implementation of this Act shall be
35 sourced from the general appropriations of the PhilHealth under its Gender and
36 Development fund.

37 **SEC. 16. Separability Clause.** If any section or provision of this Act is held
38 unconstitutional or invalid, the remaining sections or provisions with the provisions
39 not affected thereby shall continue to be in full force and effect.

40 **SEC. 17. Repealing Clause.** All laws, decrees, executive orders, rules and
41 regulations, issuance or parts thereof inconsistent with this Act are hereby repealed
42 or modified accordingly.

1 **SEC. 18. Effectivity.** - This Act shall take effect fifteen (15) days after publication in
2 the Official Gazette or two (2) newspapers of general circulation.

Approved,