



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

TWENTIETH CONGRESS
Second Regular Session

HOUSE BILL NO. 10844



Introduced by 4Ps Partylist Representative
JC M. ABALOS

EXPLANATORY NOTE

This bill aims to institutionalize a Magna Carta for Private Health Workers, extending to health personnel in the private sector protections comparable to those enjoyed by their counterparts in government service under Republic Act (RA) No. 7305, otherwise known as the Magna Carta of Public Health Workers. The measure finds constitutional anchor in Article II, Sections 15 and 18, which mandate the government to protect public health and uphold the welfare and rights of workers. Furthermore, Article XIII, Sections 3, 11, and 14 of the 1987 Constitution, which respectively mandate the State to afford full protection to labor, to ensure the delivery of quality and affordable health services, and to promote equal work opportunities regardless of sex, disability, or other status.

The Philippine Government has continuously underscored the critical roles of health workers in carrying out health programs and projects. The Department of Budget and Management (DBM) issued DBM Budget Circular 2020-4 on July 17, 2020, which implemented the Supreme Court ruling to upgrade entry-level government nurses (Nurse I) from Salary Grade 11 to Salary Grade 1. Although this was a milestone for our public health workers, this has resulted in a disparity of benefits and privileges between public health workers and private health workers.

The Magna Carta of Private Health Workers aims to level the playing field between public and private health workers, and seeks to afford them the benefits and safeguards they deserve. While it will substantially mirror the Magna Carta of Public Health Workers, this proposed measure seeks to implement a minimum wage rate for nurses and other health workers, subject to the increases deemed appropriate by a tripartite body.

This proposed measure seeks to:

- a) Align its labor standards provisions (probationary employment, hours of work, overtime, holiday and rest-day pay, wage-fixing, legal interest, and due process) with the Labor Code of the Philippines, as renumbered by Department of Advisory No. 01-15, and with prevailing Supreme Court jurisprudence;
- b) Reconcile the proposed statutory minimum wage with the wage-fixing machinery under Republic Act No. 6727 (Wage Rationalization Act) by treating it as a national floor without prejudice to more favorable Regional Tripartite Wages and Productivity Board (RTWPB) wage orders;
- c) Qualify the right to self-organization and to strike with the Secretary of Labor and Employment's power to assume jurisdiction over labor disputes in industries indispensable to the national interest under Article 278(g) of the Labor Code, and with the concomitant duty to maintain an unhampered skeletal workforce in hospitals and clinics, in order to safeguard patients' constitutional right to life and health; and
- d) Clarify that the funds to be appropriated under this Act are for the Department of Labor and Employment's administrative and enforcement functions, and not a government subsidy for private-sector wages and benefits, which remain the obligation of private employers.

In view of the foregoing, the immediate passage of this legislative measure is earnestly sought.



JC M. Abalos
Representative
4Ps Party-list



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AN ACT INSTITUTING A MAGNA CARTA FOR PRIVATE HEALTH WORKERS, PROVIDING FUNDS FOR ITS IMPLEMENTATION AND ENFORCEMENT, AND FOR OTHER PURPOSES

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 of Private Health Workers."

SEC. 2. Declaration of Policy.- The State values the health of the people above all else. Pursuant to Article II, Sections 15 and 18, and Article XIII, Sections 3, 11, and 14 of the 1987 Constitution, the State shall protect and promote the right to health of the people, afford full protection to labor, ensure the delivery of quality and affordable health services, and promote equal opportunities for private health workers regardless of sex, disability, religion, or similar status. Towards this end, this Act aims to:

- a) Promote and improve the social and economic well-being of private health workers, their living and working conditions, and their terms of employment;
- b) Develop the skills and capabilities of private health workers so that they are more responsive to, and better equipped for, the delivery of health goods, services, and programs; and
- c) Achieve parity of treatment, to the extent reasonable and consistent with the nature of private enterprise, between private health workers and public health workers covered by Republic Act (RA) No. 7305 or the Magna Carta of Public Health Workers, without diminishing the latter's existing benefits.

SEC. 3. *Definition of Terms.*- For purposes of this Act:

a) *Private Health Worker* refers to any person who, for compensation, renders health or health-related work in a private health care institution, whether rank-and-file, supervisory, or managerial, and regardless of employment status: *Provided*, That the term excludes personnel already covered by RA No. 7305 and personnel whose functions are purely administrative, financial, or clerical and are not directly related to the delivery of health care services.

b) *Private Health Care Institution* refers to a hospital, infirmary, health center, clinic, diagnostic or laboratory center, dialysis center, hospice, drug and alcohol rehabilitation center, or other health-related establishment that is privately owned or operated and duly licensed by the Department of Health (DOH).

c) *Transfer* refers to a movement from one position to another of equivalent rank, level, or salary, without break in service.

d) *Geographical Reassignment or reassignment* refers to a movement of a private health worker from one geographical work location to another.

e) *On-Call Status* refers to a condition where a private health worker, while not physically required to be at the workplace, must remain reachable and able to report promptly to respond to an urgent or immediate need for health or medical assistance or relief work during emergencies, such that he/she cannot devote the time to purely personal pursuits.

f) *Hazard Pay* refers to the additional compensation for private health workers who are exposed to hazardous working conditions, including but not limited to exposure to infectious or communicable diseases, radiation, or physical, chemical, or biological hazards inherent in their work.

SEC. 4. *Coverage.*- This Act shall apply to all private health workers as defined herein, whether Filipino or foreign nationals lawfully employed in the Philippines and subject to existing immigration and alien employment laws, and to all private health care institutions employing them, without prejudice to more favorable terms and conditions of employment already granted under existing company policy, collective bargaining agreements, or contracts.

SEC. 5. *Recruitment and Qualification.*- The recruitment policy and minimum requirements for the selection and appointment of a private health worker shall be developed by the concerned employer in accordance with the

policies and standards of the Department of Labor and Employment (DOLE) and applicable professional regulatory laws. Probationary employment shall not exceed six (6) months from the date the private health worker started working, pursuant to Article 296 of the Labor Code, unless a shorter period is agreed upon by the parties or a different period is fixed by an apprenticeship agreement: Provided, That the reasonable standards for regularization shall be made known to the private health worker at the time of his/her engagement, failing which he/she shall be deemed a regular employee.

SEC. 6. *Transfer or Geographical Reassignment of Private Health Workers.*- A private health worker shall not be transferred and/or reassigned except when made in the interest of public service or of patient care, in which case the health worker concerned shall be informed in writing of the reasons therefor.

If the private health worker believes that there is no justification for the transfer and/or reassignment, he/she may appeal the matter to the DOLE, which shall cause the implementation of the transfer or reassignment to be held in abeyance pending resolution of the appeal, without prejudice to the health worker's right to contest the transfer or reassignment as constructive dismissal before the National Labor Relations Commission (NLRC). The necessary and reasonable expenses of the transfer or reassignment, including those of the employee's immediate family who relocate with him/her, shall be paid by the employer.

SEC. 7. *Married Health Workers.*- To the extent reasonable and consistent with the prevailing working conditions of the private health care institution, and without disrupting health care services, the employer shall take steps to enable married couples who are both private health workers to be employed or assigned in the same unit, section, department, or division of the institution, giving primordial consideration to patient care and operational requirements.

SEC. 8. *Right to Security of Tenure.*- All private health workers shall enjoy security of tenure in their employment as provided by law. Their services shall not be terminated except for just or authorized causes under the Labor Code, as amended, and only after compliance with statutory due process. A private health worker found by final judgment or resolution to have been unjustly dismissed shall be entitled to reinstatement without loss of seniority rights, full back wages, and other benefits, computed from the time compensation was withheld up to actual reinstatement, plus legal interest at the rate prescribed by the Bangko Sentral ng Pilipinas (BSP) and applicable Supreme Court jurisprudence.

SEC. 9. *Nature of Employment; Contracting and Subcontracting.*

When an employer contracts or subcontracts the performance of work that is necessary or desirable to the operations of the hospital or health facility, the arrangement shall be governed by the Labor Code and its implementing rules on contracting and subcontracting, including the prohibition on labor-only contracting. Workers supplied by a legitimate job contractor to perform such work shall enjoy all the rights and benefits granted under this Act and other applicable laws.

Project-based private health workers are considered regular employees for the duration of the project. *Project-based employment* refers to employment in a project or undertaking that is temporary in nature and whose completion or termination has been determined and made known to the employee at the time of engagement.

SEC. 10. *Discrimination Prohibited.* No private health worker shall be discriminated against on the basis of age, sex, gender identity or expression, sexual orientation, civil status, pregnancy, disability, health status (including HIV status, consistent with RA No. 11166 or the Philippine HIV and AIDS Act), creed, religious or political belief, or ethnicity, in the exercise of his/her profession or in any term or condition of employment.

SEC. 11. *No Understaffing or 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 ensure the sustained delivery of quality health care at all times, without overworking the private health worker or over-extending his/her duty and service. Health students, trainees, and apprentices shall be engaged only for training and education purposes and shall not perform tasks beyond their academic and practical curriculum.

A substitute officer or employee shall be provided in place of an officer or employee who is on leave for more than three (3) months.

The DOLE, in coordination with the DOH and in consultation with professional and health workers' organizations or unions, shall define the parameters for determining the existence of understaffing or overloading through the implementing rules and regulations of this Act.

SEC. 12. *Administrative Due Process.* No private health worker shall be subjected to any disciplinary or administrative sanction except for just cause and after due process, consisting at minimum of:

- a) a written notice specifying the ground(s) for the charge and giving the health worker reasonable opportunity to explain his/her side;

b) an opportunity to be heard, with the assistance of a representative or counsel if he/she so desires; and

c) a written notice of the decision, stating the facts and grounds relied upon.

Administrative charges are encouraged to be heard by a committee composed of an ethics and/or grievance committee, a union representative where the private health worker belongs, a representative of any existing employees' association or union, and/or a representative of a national or provincial health workers' organization. The committee shall submit its findings and recommendations to the concerned administrative body within thirty (30) days from termination of the hearings.

SEC. 13. *Duties and Obligations.*- A private health worker shall discharge his/her duty humanely, with conscience and dignity, and shall perform his/her duty with utmost respect for life, irrespective of race, gender, religion, nationality, political affiliation, social standing, or capacity to pay.

SEC. 14. *Regular Hours of Work.*- The regular hours of work of any private health worker shall not exceed eight (8) hours a day, five (5) days a week, or a total of forty (40) hours a week, exclusive of time for meals. "Hours worked" shall include: i) all time during which a private health worker is required to be on duty or to be at a prescribed workplace; and (ii) all time during which a private health worker is suffered or permitted to work: *Provided*, That time spent on On-Call status, as defined in Section 3(e) hereof, shall not be considered hours worked but shall entitle the private health worker to On-Call pay equivalent to one hundred percent (100%) of his/her applicable hourly wage for each hour of such status, without prejudice to full compensation at applicable overtime rates for any time actually spent rendering work while on-call.

SEC. 15. *Overtime Work.*- Where the exigencies of the service so require, such as force majeure, a national health threat, or imminent loss of life, a private health worker may be required to render service beyond eight (8) hours a day or on a rest day. In such cases, the private health worker shall be paid additional compensation at rates not lower than those fixed under Article 87 of the Labor Code and other applicable laws and issuances.

SEC. 16. *Work on Rest Days and Holidays.*- A private health worker made to work on his/her scheduled rest day, on a regular holiday, or on a special (non-working) day shall be paid additional compensation at rates not lower than those fixed under Articles 91 to 94 of the Labor Code and other applicable laws. Where such work falls on the worker's scheduled rest day

and coincides with a holiday, the corresponding premium rates shall be cumulative as provided by law.

SEC. 17. *Minimum Wages.*- A minimum wage for private health workers is hereby established, which shall be adequate to maintain the minimum standard of living necessary for their health, efficiency, and general well-being, taking into consideration the circumstances of their government counterparts under the Magna Carta of Public Health Workers.

Without prejudice to existing benefits and to any Wage Order issued by the Regional Tripartite Wages and Productivity Board (RTWPB) that fixes a higher rate pursuant to RA No. 6727 or the Wage Rationalization Act, the wages of private health workers for all actual hours and days worked shall not be lower than Thirty-Five Thousand Pesos (Php35,000.00) entry monthly salary for nurses, and Eight Hundred Fifty Pesos (Php850.00) per day for other private health workers, multiplied by the actual number of days worked in a month. The rates fixed in this Section constitute a nationwide statutory floor and shall not be construed to reduce any higher wage rate already being received or already fixed by a Wage Order in a given region.

Wages shall be paid at least once every two (2) weeks or twice a month, at intervals not exceeding sixteen (16) days, consistent with Article 103 of the Labor Code. Private health workers already receiving wages higher than the minimum set herein shall have their wages correspondingly adjusted upward where required by law.

The rates fixed in this Section shall be reviewed and, if warranted, adjusted by the DOLE, through the National Wages and Productivity Commission and the RTWPBs, at least once every two (2) years from the effectivity of this Act, in order to maintain their adequacy.

SEC. 18. *Other Benefits.*- Private health workers shall be entitled to all benefits provided under the Labor Code and other applicable laws, rules, and regulations, including but not limited to overtime pay, night-shift differential, on-call pay, hazard pay, longevity pay, subsistence allowance, special risk allowance, housing allowance, laundry allowance, remote-assignment allowance, cash gifts, mental health leave as provided under Section 20 hereof, a free annual physical examination, and free hospitalization for work-related injury or illness, at levels that are, to the extent reasonable for private enterprise, comparable to those enumerated for public health workers under RA No. 7305 or the Magna Carta of Public Health Workers.

SEC. 19. *Hazard Pay.*- All private health care institutions shall grant hazard pay, at their own cost as part of their operating expenses, to personnel who physically report for work during a declared community quarantine or

public health emergency, or who, by the nature of their work, are subjected to health hazards or occupational risks, regardless of their degree of exposure.

Private health workers shall be entitled to a monthly hazard pay of at least Ten Thousand Pesos (Php10,000.00), without prejudice to a higher amount depending on existing exigencies or the nature of the work, as may be fixed by the DOLE.

SEC. 20. *Mental Health Leave.*- Consistent with the policy of the State to value the mental health of workers under RA No. 11036, or the Mental Health Act, and in keeping with the parity of treatment intended under Section 2(c) hereof, every private health worker shall be entitled to a Mental Health Leave of five (5) days with full pay in each calendar year, comparable to the Wellness Leave granted to government officials and employees, including public health workers, under Civil Service Commission (CSC) Resolution No. 2501292 and its implementing guidelines.

The Mental Health Leave may be availed of for mental health care, consultation, or treatment, or for a general break from work necessary to prevent or address work-related stress, burnout, or other mental health concerns arising from the nature of health care work: Provided, That it may be taken consecutively for a maximum of three (3) days at a time, or on separate, non-consecutive days, within the calendar year.

The Mental Health Leave shall be separate and distinct from the vacation leave, sick leave, service incentive leave, and other leave benefits already granted to the private health worker, and shall not be charged against the latter. It shall be non-cumulative and non-commutable to cash, and shall be forfeited if not availed of within the calendar year: Provided, That the employer may adopt more liberal accumulation or commutation rules.

Applications for Mental Health Leave shall be filed at least five (5) days before the intended date of availment: Provided, That in urgent or emergency cases, the application may be filed immediately upon the health worker's return to work.

All information relating to a private health worker's mental health condition disclosed in connection with the availment of this leave shall be treated with strict confidentiality, consistent with RA No. 10173 or the Data Privacy Act of 2012, and shall not be used as a ground for any discriminatory or adverse employment action.

The DOLE, in coordination with the DOH, shall issue the guidelines for the implementation of this Section, taking into account the operational

requirements of private health care institutions in ensuring continuity of patient care.

SEC. 21. *Right to Self-Organization.*- All private health workers have the right to self-organize, and to form, join, or assist an employees' union for purposes of collective bargaining and mutual aid and protection, consistent with the Labor Code and Article XIII, Section 3 of the Constitution.

SEC. 22. *Right to Strike; Limitations in Health Care Settings.*- Private health workers and their unions have the right to strike and to engage in other peaceful concerted activities in accordance with the Labor Code, in order to defend and protect their rights and welfare and to seek redress of grievances.

Considering that private health care institutions provide services indispensable to the national interest, this right shall be exercised subject to Article 278(g) of the Labor Code, under which the Secretary of Labor and Employment may assume jurisdiction over, or certify to the NLRC for compulsory arbitration, a labor dispute in the sector, with the effect of automatically enjoining the intended or impending strike or lockout.

In any labor dispute adversely affecting a private health care institution, it shall be the duty of the striking union and/or the locking-out employer to maintain an effective and unhampered skeletal workforce of medical and other health personnel sufficient to ensure the proper and adequate protection of the life and health of patients, especially emergency and critical cases, for the duration of the strike or lockout, consistent with Article 278(g) of the Labor Code.

SEC. 23. *Freedom from Interference or Coercion.*- It shall be unlawful for any person to commit any of the following acts of interference or coercion:

- a) Requiring, 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) Discriminating in regard to hiring, tenure of employment, or any term or condition of employment, in order to encourage or discourage membership in any health workers' organization or union;
- c) Preventing a health worker from carrying out the duties of his/her position in the organization or union, or penalizing him/her for actions undertaken in such capacity;
- d) Interfering with the discharge of a health worker's functions when calculated to intimidate or prevent the performance of his/her duties and responsibilities;

e) Requiring membership in any professional association, other than valid professional licensure or accreditation required by law under RA No. 10912 or the Professional Regulation Commission Modernization Act or a specific profession's regulatory law, as a condition for employment;

f) Interfering in the establishment, functioning, or administration of a health workers' organization or union through acts designed to place it under the control of the employer or of a government authority; and

g) Harassing or bullying a health worker in the workplace at any time and under any circumstance.

SEC. 24. *Consultation with Health Workers' Organizations.*- In formulating national policies governing the social security and welfare of private health workers, the Secretary of Labor and Employment shall consult professional and health workers' organizations or unions, as well as other appropriate government agencies. For this purpose, a Tripartite Council shall be established and made operational at the national, regional, and other appropriate levels.

SEC. 25. *Health Human Resource Development.*- The DOLE shall conduct a periodic health human resource development and management study covering, among others:

a) the adequacy of facilities and supplies for quality health care;

b) opportunities for health workers to grow professionally and experience dignity in their work; access to free legal assistance for work-related cases and mechanisms for democratic consultation in private health institutions;

c) staffing patterns and standards of care, which shall be immediately and strictly enforced;

d) means of enabling rank-and-file workers to access education for personal growth;

e) the upgrading of working conditions, position reclassification, and salaries of private health workers to correct disparities vis-à-vis comparable professions;

f) and an assessment of the national policy on the deployment of skilled health human resources abroad, with a view toward retaining and utilizing these resources for the country's needs.

The employer shall ensure career opportunities for health workers to grow professionally. A private health worker who completes a post-graduate degree relevant to his/her work shall be entitled to a corresponding upgrade in position or pay, granted not more frequently than once every two (2) years.

SEC. 26. Implementing Rules and Regulations.- Within ninety (90) days from the effectivity of this Act, the Secretary of Labor and Employment, after consultation with the DOH and other appropriate agencies, professional regulatory boards, and health workers' organizations or unions, shall promulgate the rules and regulations necessary to implement this Act, including a Code of Conduct for Private Health Workers, which shall be disseminated to all private health care institutions.

SEC. 27. Prohibition Against Double Recovery of Benefits.- Whenever other laws provide 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: Provided, That if the benefits chosen are less than those provided under this Act, he/she shall be paid only the difference.

SEC. 28. Prohibition Against Elimination and/or Diminution of Benefits.- Consistent with Article 100 of the Labor Code, nothing in this Act shall be construed to eliminate or in any way diminish benefits being enjoyed by private health workers at the time of its effectivity.

SEC. 29. Prohibition Against Retaliation.- No private health care institution shall discharge, terminate the employment of, reduce the compensation of, or otherwise discriminate or take adverse action against any private health worker for opposing any act or practice made unlawful by this Act, for participating in proceedings related to this Act, for seeking to enforce rights under this Act, or for otherwise asserting rights under this Act.

SEC. 30. No Waiver of Rights.- Any waiver by a private health worker of any provision of this Act, or of the rights or protections afforded under its authority, is contrary to public policy and shall be void and unenforceable.

SEC. 31. Suppletory Application.- In all matters not specifically covered by this Act, the applicable provisions of the Labor Code of the Philippines, as amended, and other relevant social legislation shall apply suppletorily.

SEC. 32. Appropriations.- The amount necessary for the initial implementation of this Act by the DOLE, including the conduct of studies, monitoring, inspection, and the operation of the Tripartite Council under Section 24 hereof, shall be charged against the current year's appropriations of the DOLE. Thereafter, such sums as may be necessary for its continued

implementation shall be included in the annual General Appropriations Act. For clarity, this Section funds only the government's administrative and enforcement functions under this Act; the wages, benefits, and other monetary obligations of private health care institutions to private health workers under this Act shall remain the responsibility of the private employer.

SEC. 33. *Penal Provision.*- Any person or private health care institution that willfully interferes with, restrains, or coerces a private health worker in the exercise of his/her rights under this Act, or otherwise violates any provision of this Act, shall, after due notice and hearing, be liable for an administrative fine of not less than One Hundred Thousand Pesos (Php100,000.00) nor more than One Million Pesos (Php1,000,000.00) for each violation, to be imposed by the DOLE, without prejudice to any appropriate criminal action under the Labor Code and other applicable penal laws.

If the offender is a public official, the court, upon conviction, may impose the additional penalty of disqualification from public office.

A private health worker who is a victim of a violation of this Act shall be entitled to back wages and full payment of unpaid benefits, as well as reimbursement of attorney's fees reasonably incurred in enforcing his/her claim under this Act.

SEC. 34. *Coexistence with Other Available Reliefs.*- Nothing in this Act shall be construed to limit any private health worker's right to any relief to which he/she may be entitled at law or in equity.

SEC. 35. *Separability Clause.*- If any provision of this Act is declared invalid, the remaining provisions not affected thereby shall remain in force and effect.

SEC. 36. *Repealing Clause.*- All laws, presidential decrees, executive orders, and their implementing rules and regulations, or parts thereof, inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 37. *Effectivity.*- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,