

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
First Regular Session

**HOUSE BILL No. 0250**



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**Introduced by**  
**BAYAN MUNA Party-List Representatives FERDINAND R. GAITE,**  
**CARLOS ISAGANI T. ZARATE and EUFEMIA C. CULLAMAT,**  
**ACT TEACHERS Party-List Representative FRANCE L. CASTRO,**  
**GABRIELA Women's Party Representative ARLENE D. BROSAS**  
**and KABATAAN Party-List Representative SARAH JANE I. ELAGO**

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**AN ACT**  
**PROHIBITING THE PRIVATIZATION AND CORPORATIZATION OF PUBLIC**  
**HOSPITALS, PUBLIC HEALTH FACILITIES AND PUBLIC HEALTH SERVICES,**  
**AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF**

**EXPLANATORY NOTE**

This Bill seeks to protect the right to health of the Filipino people, the poor especially, by maintaining and upholding the public character of government hospitals, and, by prohibiting any form of privatization of public hospitals, public health facilities and public health services.

Article II, Section 15 of the 1987 Constitution mandates that "the State shall protect and promote the right to health of the people and instill health consciousness among them." Further, Article XIII Section 11 also mandates that the "State shall adopt an integral and comprehensive approach to health development and shall endeavor to make essential goods, health and other social services available to all the people at affordable cost."

The Right to Health is also enshrined in the World Health Organization constitution and in various United Nations' instrumentalities.

Yet, according to Asian Development Bank Country Partnership Strategy: Philippines 2011-2016, six (6) out of ten (10) Filipinos die without medical attention. The 2017 National Demographic and Health Survey showed that more than half of health care costs are paid out of pocket.

According to the Department of Health (DOH) in 2010, the poorest of the population are the main users of government health facilities. But public hospitals and health facilities have suffered neglect due to the inadequacy of health budgets in terms of support for upgrading to expand capacity and improve quality of services.



To address this, the DOH implemented so-called health reforms, which include, among others, the provision of fiscal autonomy to government hospitals by allowing collection of socialized user fees for services and converting these hospitals into government corporations. Upgrading of hospitals and health facilities were targeted through different mechanisms including the very disadvantageous public-private partnership (PPP) and income retention. These were consistently espoused in Health Sector Reform Agenda (1999), Formula One for Health (2005), and Aquino Health Agenda (2010).

Officials of the Department of Health claimed that such reforms do not constitute privatization. But the World Health Organization defines privatization in healthcare as “a process in which non-governmental actors become increasingly involved in the financing and/or provision of healthcare services.”<sup>1</sup> Based on this definition, privatization include the following: divestiture or outright sale of public sector assets in which the state divests itself of public assets to private owners; franchising or contracting out to private, for profit, or, not-for-profit providers; self-management, wherein providers are given autonomy to generate and spend resources; market liberalisation or deregulation to actively promote growth of the private health sector through various incentive mechanisms, and; withdrawal from state provision, wherein the private sector grows rapidly as a result of the failure on the part of the government to meet the healthcare demands of the people<sup>2</sup>.

Instead of alleviating the burden of poor patients, the health reforms implemented by the DOH contributed to further inaccessibility of health services, as previously free services and supplies in public hospitals and facilities were subjected to “user fees”. Most poor patients who are not qualified under the National Household Targeting System as sponsored PhilHealth members could not afford the present standard fees in government hospitals. However, the increasing cost of health services and non-availability of supplies, procedures and equipment in public hospitals greatly increase the out-of pocket payments of the people -- even those patients covered by PhilHealth -- resulting to their further impoverishment.

Cutbacks in the allotment for the Maintenance and Other Operating Expenses for public hospitals further increase the cost of services and result to the unavailability of equipments and supplies. Respirators in the emergency and intensive care units of most public hospitals, for instance, are provided by private companies and paid for by patients. Equipments such as X-ray machines and other equipment regularly breakdown thereby driving patients to private diagnostic facilities.

The increasing fees in public hospitals are already difficult to bear for families who earn a minimum daily wage of P537 in the National Capital Region, but more so for those who have no regular source of income, and yet are not considered “poorest of the poor” by the National Household Targeting System and, thus, are not covered by PhilHealth sponsored programs.

Meanwhile, corporatized hospitals, or government-owned and controlled corporation (GOCC) hospitals, source the funds for maintenance and other operating expenses, capital outlay and personal services from their corporate budget/income. Service patients in these GOCC hospitals are required to pay for everything except for doctors’ fees. As a result, in 2011, for example, thousands of patients in the Philippine Heart Center were waitlisted for operations until they were able to raise the cost of patients’ share ranging from tens of thousands to hundreds of thousand pesos. Also, in the same year, it was reported that patients who were not able to pay their bills at the Philippine Children’s Medical Center were made to surrender their valuables as collateral --

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<sup>1</sup> (J Muschell, Technical Briefing Note on Privatization in Health, 1995, WHO/TFHE/TBN/95.1, as cited by Peedell, [http://www.healthprofessionals4nhs.co.uk/wp-content/uploads/2012/01/Peedell-privatisation-is-inevitable-bmj.d2996.full\\_.pdf](http://www.healthprofessionals4nhs.co.uk/wp-content/uploads/2012/01/Peedell-privatisation-is-inevitable-bmj.d2996.full_.pdf))

<sup>2</sup> ES Savas, “A taxonomy of privatization strategies,” Policy Studies Journal, 1989, as cited by Peedell



“pawnshop style” -- before they were allowed to go home. Such practice of “collateral” for services was stopped only after such were exposed by patients.

Hospital directors of GOCC hospitals have, for several years during budget deliberations, been practically pleading for increased government allotment to better serve the patients especially the indigents. Despite these reports, the persistent attempts to privatize public hospitals nationwide have always been the government’s primary response.

On the other hand, health workers, patients, and health advocates opposing the privatization of the National Center for Mental Health, Fabella Hospital, and other hospitals also raise concerns on the displacement of indigent patients comprising the large majority of those who avail of the services given by these public hospitals. .

Undoubtedly, when public hospitals are opened to private investors, in whatever degree or form, the orientation of health care shifts from service to income and profit. When public hospitals are privatized, the general public, thus, suffers.

Public hospitals and public health facilities were built to serve the public. People’s taxes should be returned to the people in terms of adequate and free social services including health services especially for poor patients. Adequate and sustainable budget should be allotted to public hospitals and public health facilities -- to fully cover the expenses for maintenance and other operating expenses, personal services and capital outlay -- so that they can fulfill their mandate of serving the public especially the poor.

Health care must be made accessible, affordable, and appropriate to the needs of the people. Public hospitals, as part of the public health care delivery system, must be fully developed and strengthened by the government, not privatized.

This Bill which has been approved by the House of Representatives during the 17<sup>th</sup> Congress, is a major step to address the inaccessibility and inequity in health care made worse by privatization of public health services. As legislators, we are duty-bound to uphold the health and well-being of the people. In order to have a comprehensive and integrated health care delivery system as mandated by the Constitution of the Republic of the Philippines, the urgent approval of this bill is earnestly recommended.

*Approved,*



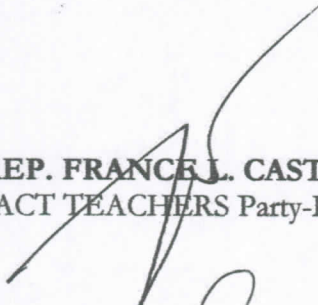
**REP. FERDINAND R. GAITE**  
BAYAN MUNA Partylist



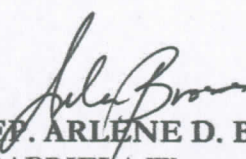
**REP. EUFEMIA C. CULLAMAT**  
BAYAN MUNA Partylist




**REP. CARLOS ISAGANI T. ZARATE**  
BAYAN MUNA Partylist



**REP. FRANCES L. CASTRO**  
ACT TEACHERS Party-List



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*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 "Anti-Privatization of Public Hospitals, Health Facilities and Health Services Act".

**SECTION 2. Declaration of Policy.** It is the declared policy of the State that it shall protect and promote the right to health of the people and instill health consciousness among them. Further, the State shall endeavor to make essential goods, health and other services available to all the people at affordable cost.

**SECTION 3. Definition of terms.** For purposes of this act, the following terms shall mean:

- a. **Indigent/service/poor patients** refer to those who have no source of income, or whose family income are below the mandated minimum daily wage and/or below the minimum monthly cost of living as set by appropriate government agencies.
- b. **Privatization** refers to the process in which non-governmental actors become increasingly involved in the financing and the provision of health care services which includes: outright sale; public-private partnership; corporatization; contracting out of equipment and services; joint venture; franchising; management control and/or corporatization; leasing; and user-charges.
- c. **Public hospitals** refer to all Department of Health (DOH) –retained and national hospitals, and provincial and regional hospitals under the local government.
- d. **Public health facilities** refer to health centers, lying-in, and barangay health stations under the national or local government.

- e. **Public health services** refer to all diagnostic, laboratory, medical, surgical, and health-related services provided by public hospitals and public health facilities to indigent, service or poor patients.

**SECTION 4. Prohibition of Privatization of Public Hospitals, Public Health Facilities, and Public Health Services** – No public hospital, public health facility, and public health services shall be privatized. Likewise, under no circumstance shall the Secretary of Health or any person, whether natural or juridical, initiate, cause, and approve the privatization of any public hospital, public health facility or public health services.

**SECTION 5. Bed allotment for indigent/service/poor patients in public hospitals.** At least 90% of the total bed capacity of all public hospitals shall be allotted for indigent/service/poor patients, pursuant to Republic Act No.1939, otherwise known as “An Act Prescribing the Appropriate Share of the National, Provincial, City and Municipal Governments in the Financial Contributions for the Operation and Maintenance of Free Beds in Government Hospitals and/or the Establishment of Additional Wards or Hospitals in the Philippines”..

**SECTION 6. Liability and Accountability**– Any person, whether natural or juridical, who initiates, causes or approves the privatization of any public hospital, public health facility or public health services shall be considered in violation of this Act.

**SECTION 7. Penalties**– Any person who violates any provisions of this Act shall be penalized accordingly:

- a. First Offense– A fine of not less than one hundred thousand pesos (P100,000.00) but not more than two hundred thousand pesos (P200,000) and suspension of one year to two years from public office;
- b. Second Offense- A fine of not less than two hundred thousand pesos (P200,000) but not more than five hundred thousand pesos (P500,000) and temporary disqualification from holding any public office of not less than three years but not more than six years; and
- c. Third Offense- A fine of not less than five hundred thousand pesos (P500,000)but not more than eight hundred thousand pesos (P800,000) and removal from public office and perpetual disqualification from holding any public position or office.

**SECTION 8. Implementing Rules and Regulations.** – The Secretary of the Department of Health shall promulgate the rules and regulations necessary to implement the provisions of this Act within ninety (90) days from its effectivity.

**SECTION 9. Separability Clause**– If any provisions of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

**SECTION 10. Repealing Clause** – All provisions of laws, orders, decrees, including rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

**SECTION 11. Effectivity Clause**– This Act shall take effect (15) days following its publication in the Official Gazette or in any newspaper of national circulation.

*Approved,*