

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

EIGHTEENTH CONGRESS
First Regular Session

4207
HOUSE BILL NO. _____



INTRODUCED BY REPRESENTATIVE ALFRED VARGAS

EXPLANATORY NOTE

A "caregiver" refers to a paid or employed person who regularly attends to the physical and psychological needs of an infant, child or dependent adult who is disabled or whose health is impaired by old age, diseases, mental disorder, and other disabilities particularly with their activities of daily living whether outside or within their home.

The demand for caregiving services is rising due to the rapid increase in the number of children being born with medical issues and prevalent illnesses. Moreover, the results of the 2010 Census of Population and Housing (CPH) show that of the household population of 92.1 million, 1.57% Filipinos have a disability¹. Hence, there has been an imperative call for professional and responsible caregiving in the Philippines. On a global scale, the Filipino culture has known to provide remarkable hospitality and care. This is why citizens of the United States, Asia, the Middle East, and many other countries prefer Filipino caregivers.

The sudden increase in the popularity of caregivers in the Philippines and abroad has prompted the government to require all caregiving schools in the country to register caregiving programs to the Technical Education and Skills Development Authority (TESDA), which is tasked to manage and supervise their education, training, and skills development. That being so, TESDA has been well-equipped with these various programs that provide caregivers with the knowledge and skills

¹<https://www.doh.gov.ph/persons-wlth-dtsabilltles>

necessary to perform their duties with modesty and coherence.

In recognition of the vital role of caregivers in national development, policies in the practice of this profession must be instituted to protect their rights and promote welfare towards a decent employment.

Furthermore, caregivers must be protected against abuse, harassment, and violence. These proposed policies must be enacted into law to maintain excellent and globally competitive standards for the professional services of Filipino caregivers.

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



ALFRED VARGAS

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AN ACT

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

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

Section 1. Short Title. -This Ad shall be known as the "Caregivers
Welfare Act of 2019".

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

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

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

a) Caregiver refers to a graduate of a caregiving course from an
accredited training institution that is recognized by the government
or is certified competent by that same institution, and renders
caregiving services as stipulated in Section 6 of this Act;

- b) Client refers to a dependent infant, child, or adult;
- c) Employer refers to any person who engages and controls the services of a caregiver and is a party to the employment contract; and
- d) *Private Employment Agency (PEA)* refers to any individual, legitimate partnership, association or organization accredited and licensed to engage in the recruiting and placement of caregivers for local employment.

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

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

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

In case where the employment of the caregiver is facilitated through a private employment agency, the PEA shall keep a copy of all

employment contracts of their caregivers which be made available for verification and inspection by the DOLE.

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

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

Sec. 6. *Duties of the Caregivers.* -The caregivers may provide any of the following services:

- a) Provide personal care support and assistance to clients with physical impairment r disabilities in private homes, nursing or geriatric care facilities, and other residential settings;
- b) Help clients with their daily activities and mobility restrictions;
- c) Provide some basic health-related services, such as checking the clients' pulse rate, temperature and respiration rate;
- d) Help clients with simple prescribed exercises, and assist them with home medications as prescribed by the physician, Provided, that assistance in the administration of intravenous medications shall be upon written consent of the physician;
- e) Advise clients and their families on cleanliness and household tasks;
- f) Accompany clients to appointments with doctors or on other errands;
- g) Assist in housekeeping tasks within the clients' room;
- h) Prepare meals for clients; and
- i) Other tasks directly related to the needs of the clients.

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

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

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

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

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

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

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

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

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

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

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

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

- a) Verbal or emotional abuse by the employer, client or any member of the household;
- b) Inhuman treatment including physical abuse by the employer, client or any member of the household;

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

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

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

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

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

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

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

Sec. 21. Responsibilities of the PEAS. - In addition, the PEAS shall have the following responsibilities:

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

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

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

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

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

Approved,