

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



6219
House Bill No. _____

Introduced by Representative JOEY SARTE SALCEDA

**AN ACT GRANTING THE SECRETARY OF HEALTH POWERS TO SET
MAXIMUM PRICES FOR MEDICALLY NECESSARY ASSISTIVE EQUIPMENT
AND MEDICAL SUPPLIES, AMENDING FOR THE PURPOSE REPUBLIC ACT
NO. 9502, REQUIRING THE NEGOTIATION OF PRICES FOR MEDICINES,
MEDICALLY NECESSARY ASSISTIVE EQUIPMENT, AND MEDICAL SUPPLIES
PAID BY THE GOVERNMENT, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The Cheaper Medicines Act, or Republic Act No. 9502, provided for a market-based capping approach to the prices of drugs and medicines, allowing the Secretary of Health to set what we now call the Maximum Drug Retail Price. This was a critical step in ensuring that the increase in prices for drugs and medicines was mitigated in some manner.

The provision, however, does not consider the following:

1. The inclusion of medically-necessary assistive equipment and medical supplies among products where the power to cap prices applies;
2. That the government will eventually shift to a single-payer system under the Universal Health Care (UHC) Law.

Medically necessary assistive equipment such as wheelchairs and other therapy equipment are often just as necessary for many recovering patients as the drugs and medicines prescribed them. Including them in the price capping mechanism will ensure that persons-with-disabilities have access to affordable equipment necessary for their functioning or recovery.

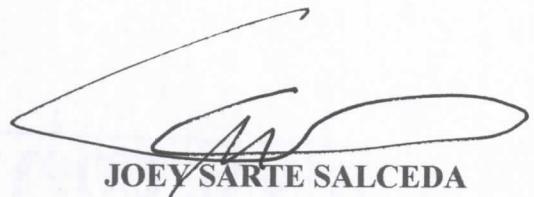
This bill will also include medical supplies in the price capping mechanism. The Secretary of Finance will be able to determine which medical supplies need to be price-capped. In view of the recent public health need for such supplies as surgical and N95 masks, allowing the

Secretary of Health to cap prices for these supplies will help safeguard against opportunistic market behavior.

Most critically, the bill also provides for negotiation of drug and medical supply prices to be paid for by the government. This would help lower costs for the Universal Health Care program. The provision also requires that the Philippine National Drug Formulary include best-practices in prescribing and discourage the use of ineffective, dangerous, or excessively costly medications when better alternatives are available. The Formulary shall also encourage the use of generics to the greatest extent possible.

This measure is a vital complement to the Universal Health Care program and maximizes the defining character of UHC as a single-payer system. By making use of the government's increased negotiating power under UHC, this bill will help ensure that UHC is financially sustainable for the Filipino taxpayer, while also making drug and medical supply prices more affordable for all.

In view of the foregoing, the approval of this bill is urgently sought.



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

SEC. 1. *Short Title.* – This Act shall also be known as the “Affordable Medicines, Medical Equipment and Supplies Act (AMMESA)”

SEC. 2. *Definition of Terms.* – As used in this Act:

- (a) “Medically necessary assistive equipment” shall refer to any item, piece of equipment, software or product system that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities and primarily used to serve a medical purpose.
- (b) “Medical supplies” shall refer to non-durable disposable health care materials ordered or prescribed by a physician, which is primarily and customarily used to serve a medical purpose and includes ostomy supplies, catheters, oxygen, and diabetic supplies.

SEC. 3. Power to negotiate prices paid by the Government for pharmaceuticals, medical supplies, and medically necessary assistive equipment. Section 19 of Republic Act No. 9502 is hereby amended to read as follows:

SEC. 19. *Functions and Responsibilities of the Secretary of the Department of Health.* - Pursuant to Section 18 of this Act, the Secretary of the Department of Health shall have the following powers:

(A) Power to Recommend the Maximum Retail Price of Drugs [and], Medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT Subject to Price Regulation - (1) Upon application or motu proprio when the public interest so requires, the Secretary of the Department of Health shall have the power to determine the maximum retail prices of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT which shall be recommended to the President of the Philippines for approval. In order that affordable prices of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT from the different manufacturers, importers, traders, distributors, wholesalers, or retailers shall be made available to the public, the Secretary of the Department of Health, as he/she may deem fit and after a proper determination, shall have such approved maximum retail prices of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT published;

(2) In recommending the maximum retail price, the Secretary of the Department of Health shall consider the following factors:

(a) Retail prices of drugs and medicines that are subject to regulation in the Philippines and in other countries;

(b) The supply available in the market;

(c) The cost to the manufacturer, importer, trader, distributor, wholesaler or retailer of the following, but not limited to:

(i) The exchange rate of the peso to the foreign currency with which the drug or any of its component, ingredient or raw material was paid for;

(ii) Any change in the amortization cost of machinery brought about by any change in the exchange rate of the peso to the foreign currency with which the machinery was bought through credit facilities;

(iii) Any change in the cost of labor brought about by a change in minimum wage; or

(iv) Any change in the cost of transporting or distributing the medicines to the area of destination;

(d) Such other factors or conditions which will aid in arriving at a just and reasonable maximum price; and

(3) No retailer shall sell drugs and medicines at a retail price exceeding the maximum retail price approved by the President of the Philippines as provided in Section 17 of this Act: Provided, That, the Secretary of the Department of Health shall immediately undertake a study on the prevailing prices of drugs and medicines subject to price regulation and provide an initial list of drugs and medicines, which maximum retail prices he/she shall recommend to the President of the Philippines.

(B) Power to Include Other Drugs, [and]Medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT in the List Subject to Price Regulation - Upon application or motu proprio when the public interest so requires and after proper determination, the Secretary of the Department of Health may order

the inclusion of drugs and medicines to the list subject of price regulation under Section 23 hereof.

(C) Power to Implement Cost-Containment and Other Measures - (1) The Secretary of the Department of Health shall have the power to implement the fair price of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT for purposes of public health insurance and government procurement based on the order of the President of the Philippines imposing maximum retail prices; and

(2) The Secretary of the Department of Health shall have the power to implement any other measures that the government may avail of to effectively reduce the cost of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT that shall include, but not limited to, competitive bidding, price volume negotiations, and other appropriate mechanisms that influence supply, demand and expenditures on drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT.

(D) Power to Impose Administrative Fines and Penalties - After due notice and hearing, the Secretary of the Department of Health shall have the power to impose administrative fines against any person, manufacturer, importer, trader, distributor, wholesaler, retailer, or any other entity, in such amount as it may deem reasonable, which in no case shall be less than Fifty thousand pesos (Php50,000.00) nor more than Five million pesos (Php5,000,000.00) for violations of the maximum retail price approved by the President of the Philippines pursuant to the provisions of this Chapter.

(E) Power to Deputize Government Entities - The Secretary of the Department of Health shall have the power to call upon and deputize any official, agent, employee, agency, or instrumentality of the national and local government for any assistance that it may deem necessary to carry out the purposes of this Chapter.

(F) Other Powers Necessary to Implement Provisions of this Chapter - The Secretary of the Department of Health shall exercise such powers and functions as may be necessary to implement and enforce the provisions of this Chapter of this Act, including the power to require the production and submission of records, documents, books of account, bills of lading, input documents, records of purchase and sale, financial statements, and such other documents, information and papers as may be necessary to enable the Secretary of the Department of Health to carry out its functions, duties, and responsibilities. Accordingly, within thirty (30) days from the effectivity of this Act and every December 31st of every year thereafter, every manufacturer, importer, trader, distributor, wholesaler, and retailer of a drug and medicine whether included in or excluded from the list of drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE

EQUIPMENT that are subject to price regulation shall furnish the Secretary of the Department of Health a list, containing on the minimum the corresponding prices and inventory, of all drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT it manufactures, imports, trades, distributes, wholesales, or retails, data pertaining to the factors enumerated under Section 19(A)(2), and any and all necessary information that the Secretary of the Department of Health may require.

SEC.4. Section 21 of Republic Act. No. 9502 is hereby amended to read as follows:

SEC. 21. Effectivity of the Decisions or Orders of the Secretary of the Department of Health. - All decisions or orders of the Secretary of the Department of Health pursuant to Section 19 Paragraphs (A) Power to Recommend the Maximum Retail Price of Drugs, [and]Medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT Subject to Price Regulation, (B) Power to Include Other Drugs, [and]Medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT in the List Subject to Price Regulation, (C) Power to Implement Cost-Containment and Other Measures, (D) Power to Impose Administrative Fines and Penalties, (E) Power to Deputize Government Entities, or (F) Other Powers Necessary to Implement Provisions of this Chapter, shall be immediately operative.

SEC. 5. Section 23 of Republic Act. No. 9502 is hereby amended to read as follows:

SEC. 23. *List of Drugs and Medicines that are Subject to Price Regulation.*

The list of drugs and medicines that are subject to price regulation shall include, *inter alia*:

- (a) All drugs and medicines indicated for treatment of chronic illnesses and life threatening conditions, such as, but not limited to, endocrine disorders, e.g., diabetes mellitus; gastrointestinal disorders, e.g., peptic ulcer; urologic disorders, e.g., benign prostatic hyperplasia (BPH); cardiovascular diseases, e.g., hypertension; pulmonary diseases, e.g., pulmonary tuberculosis (PTB), asthma; auto-immune diseases, e.g., systemic lupus erythematosus (SLE); skin diseases, e.g., psoriasis; neuro-psychiatric disorders; other infectious diseases, e.g., human immunodeficiency virus-acquired immune deficiency syndrome (HIV-AIDS); and other conditions such as organ transplants and neoplasm;
- (b) Drugs and medicines indicated for prevention of diseases, e.g., vaccines, immunoglobulin, anti-sera;
- (c) Drugs and medicines indicated for prevention of pregnancy, e.g., oral contraceptives;
- (d) Anesthetic agents;
- (e) Intravenous fluids;
- (f) Drugs and medicines that are included in the Philippine National Drug Formulary (PNDF) Essential Drug List; and

(g) All other drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT which, from time to time, the Secretary of the Department of Health determines to be in need of price regulation

SEC. 6. Section 26 of Republic Act. No. 9502 is hereby amended to read as follows:

SEC. 26. Display of Maximum Retail Price Fixed and Approved by Order of the President of the Philippines for Drugs, [and]Medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT Subject to Price Regulation. - (a) Within a reasonable period as may be determined by the Secretary of the Department of Health, and: Provided, That it conforms to existing drug product labeling requirements, every manufacturer, importer, distributor, wholesaler, trader, or retailer of a drug, [and]medicine, MEDICAL SUPPLY, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT intended for sale shall display the retail price which shall not exceed the maximum retail price approved by order of the President of the Philippines. The maximum retail price shall be printed on the label of the immediate container of the drug and medicine and the minimum pack thereof offered for retail sale with the words "RETAIL PRICE NOT TO EXCEED" preceding it, and "UNDER DRUG AND MEDICAL SUPPLY PRICE REGULATION" on a red strip.

(b) Within a period as may be determined by the Secretary of the Department of Health from time to time, every manufacturer, importer, or trader shall issue a price list to wholesalers, distributors, retailers and to the Secretary of the Department of Health, indicating the retail price, the maximum retail price, and such other information as may be required by the Secretary of the Department of Health.

SEC. 7. Section 30 of Republic Act. No. 9502 is hereby amended to read as follows:

SEC. 30. Reportorial and Public Notice Requirements. - (a) The Secretary of the Department of Health shall submit a bi-annual Monitoring Report of its performance on the implementation of this Act to the Office of the President. This report submitted to the Office of the President shall be published in a newspaper of general circulation within thirty (30) days upon submission.

(b) It shall also submit annually a report of its performance on the implementation of this Act to both Houses of Congress, within fifteen (15) days from the opening of the regular session. It shall also regularly report and comply immediately to any order of the Congressional Oversight Committee.

(c) The order of the President of the Philippines imposing maximum retail prices on drugs, [and]medicines, MEDICAL SUPPLIES, AND MEDICALLY NECESSARY ASSISTIVE EQUIPMENT, including the conditions implementing it, shall be published within fifteen (15) days from issuance in at least two (2) newspapers of general circulation. All wholesalers, manufacturers, distributors, importers, or traders shall have a copy of the order

of the President of the Philippines and provide the same to their clients and customers for every transaction.

(d) All drug outlets are required to post in a conspicuous area within its premises a clear copy of the order of the President of the Philippines which shall be easily accessible to the consuming public and updated regularly as the situation may warrant.

SEC. 8. Payments for prescription drugs and approved devices and equipment.

(a) NEGOTIATED PRICES.—The prices to be paid by the Government for pharmaceuticals, medical supplies, and medically necessary assistive equipment shall be negotiated annually by the Secretary of Health.

(b) PRESCRIPTION DRUG FORMULARY.—

(1) IN GENERAL.—The Secretary shall include in the Philippine National Drug Formulary (PNDF) best-practices in prescribing and discourage the use of ineffective, dangerous, or excessively costly medications when better alternatives are available.

(2) PROMOTION OF USE OF GENERICS.—The formulary under this section shall promote the use of generic medications to the greatest extent possible.

(3) FORMULARY UPDATES AND PETITION RIGHTS.—The formulary under this section shall be updated frequently and clinicians and patients may petition the Secretary to add new pharmaceuticals or to remove ineffective or dangerous medications from the formulary.

(4) USE OF OFF-FORMULARY MEDICATIONS.—The Secretary shall promulgate rules regarding the use of off-formulary medications which allow for patient access but do not compromise the formulary.

SEC. 9. *Implementing Rules and Regulations.* - The Department of Health, in consultation with the appropriate government agencies, within one hundred twenty (120) days from the effectivity of this Act, shall promulgate the rules and regulations necessary to effectively implement the provisions of this Act.

SEC. 10. *Separability Clause.* - Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

SEC. 11. *Repealing Clause.* - All laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national papers of general circulation.

Approved,