



Republic of the Philippines
Department of Health
OFFICE OF THE SECRETARY

12 May 2010

ADMINISTRATIVE ORDER

No. 2010 - 0013

SUBJECT: **REQUIRING GRAPHIC HEALTH INFORMATION ON TOBACCO PRODUCT PACKAGES, ADOPTING MEASURES TO ENSURE THAT TOBACCO PRODUCT PACKAGING AND LABELLING DO NOT PROMOTE TOBACCO BY ANY MEANS THAT ARE FALSE, MISLEADING, DECEPTIVE OR LIKELY TO CREATE AN ERRONEOUS IMPRESSION, AND MATTERS RELATED THERETO**

I. RATIONALE/BACKGROUND

The right to health is one of the fundamental rights enshrined in Article II of the Constitution. Section 15 states that "the State shall protect and promote the right to health of the people and instill health consciousness among them." Likewise, under Republic Act No. 7394 or the Consumer Protection Act, Filipinos have the right to obtain accurate information as to the nature, quality and quantity of the contents of consumer products, as well as the right to be protected from deceptive, unfair and unconscionable sales acts or practices.

As a State-Party to the International Covenant on Economic, Social and Cultural Rights, the Philippines recognized the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. . The right to health includes the right to health-related education and information. Access to information, including the right to seek, receive and impart information and ideas concerning health issues is considered an integral component of the right to health.

There is unequivocal scientific evidence establishing that death, disease and disability result from tobacco consumption and exposure to tobacco smoke. At present, there are about 5 million deaths a year worldwide directly related to tobacco and WHO estimates this to double by 2020, if present trends continue unchecked. By then, 70% of mortality would be taking place in

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developing countries. In the Philippines, 240 Filipinos die everyday or over 87,000 a year from what is clearly a preventable disease. Tobacco products contain toxic compounds and over forty carcinogens, including carbon monoxide, arsenic, benzene, butane, formaldehyde, lead, toluene, and nicotine, among others. Nicotine, a by-product unique only to tobacco, is the substance that eventually leads the smoker to addiction.

Recognizing the magnitude of the tobacco epidemic, the Philippines, along with other States, signed the Framework Convention on Tobacco Control (FCTC) — the only public health treaty initiated by the World Health Organization (WHO). The FCTC requires State parties to adopt a comprehensive range of measures designed to reduce the devastating health and economic impacts of tobacco.

On 4 September 2005, following its ratification through the concurrence of two-thirds of the Philippine Senate in accordance with the Constitution, the FCTC was transformed into municipal law. As such, the FCTC became legally binding upon state organs.

As a State Party to the FCTC, the Philippines is duty-bound to comply with FCTC provisions in good faith, in observance of the principle of *pacta sunt servanda*, such that, the failure of the Philippines to perform its treaty obligations under the FCTC constitutes an internationally wrongful act under the doctrine of state responsibility, a norm of general international law that every internationally wrongful act of a State entails international responsibility of that State.

Article 11 of the FCTC provides that Parties shall, within three years after entry into force of the treaty, adopt, and implement effective measures to ensure that each unit packet and package of tobacco products and any outside packaging and labelling of such products (i) carry rotating health warnings that shall, among others, cover 50% or more but no less than 30% of the principal display area, placed in the principal language or languages and may be in the form of pictures or pictograms, and approved by the competent national authority; and (ii) do not promote tobacco products by means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards, or emissions. The inclusion of a specific timeframe of three years in Article 11 underscores the mandatory and prescriptive nature, as well as the exigency, of the Philippines' obligation to adopt and implement effective measures in compliance with said provision.

Article 5.2 of the FCTC mandates Parties to adopt and implement not just effective legislative, but also executive, administrative and/or other measures in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.



Under the Constitution and the Administrative Code of 1987, the Department of Health (Department) is the competent national authority mandated to ensure the propagation of health information. In its discussion of the Department's power to regulate private industries in the area of health information, the Supreme Court held that "[h]ealth is a legitimate subject matter for regulation by the DOH (and certain other administrative agencies) in exercise of police powers delegated to it. The sheer span of jurisprudence on that matter precludes the need to further discuss it." The Supreme Court, in its examination of the nature, purpose, and depth of the regulatory powers of the Department, cited the Administrative Code, which tasked the Department to carry out the state policy pronounced under Section 15, Article II of the 1987 Constitution, which is "to protect and promote the right to health of the people and instill health consciousness among them." To this end, the Department was "granted under Section 3 of the Administrative Code the power to propagate health information and educate the population on important health, medical and environmental matters which have health implications."

The Department is likewise mandated, under the Consumer Protection Act, to protect the interests of the consumer, promote his general welfare, and establish standards of conduct for business and industry. To this end, the Department has the duty to implement measures that ensure the provision of information necessary for the protection of public health and the protection of consumers against deceptive practices.

Evidence shows that health information with pictures communicates health risks better especially to children and young people as well as the illiterate, and increase the motivation of tobacco users to quit and to decrease their tobacco consumption.

Pursuant to Department Order 2009-0116, the Department may promulgate an Administrative Order (Order) that prescribes policies, rules and regulations, and procedures in accordance with or pursuant to law to supplement provisions of the law or provides means for carrying them out, and is primarily applicable to individuals and organizations outside the Department.

Through this Order, the Philippines, through the Department, is taking a definitive step towards complying with its binding international obligations under the FCTC.

Through this Order, the Department underscores the primacy of public health and affirms its primary function to promote, protect, preserve, and restore the health of the people.



II. OBJECTIVES

It is the policy of the State to promote the right to health of all the people and instill health consciousness among them. The State affirms this as one of the fundamental rights of a human being. Towards this end, the State shall implement effective measures to achieve the following objectives:

- a. Provide necessary information about the health consequences, addictive nature, and mortal threat posed by tobacco consumption and exposure to tobacco smoke through measures that are scientifically proven to be effective in increasing public awareness of the health effects of tobacco use and in reducing tobacco consumption;
- b. Protect consumers from deceptive labels, packaging, descriptions and practices related to tobacco use;
- c. Implement measures to prohibit means that are false, misleading, deceptive or likely to create an erroneous impression about the characteristics of tobacco, its health effects, hazards or emissions, so as to promote tobacco products in tobacco product packages.

To achieve these objectives, the Department shall ensure that effective, distinct, and highly visible graphic health information is placed on tobacco product packages.

Moreover, the Department shall ensure that tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive, or likely to create an erroneous impression about the product and its characteristics, health effects, hazards or emissions.

III. SCOPE AND COVERAGE

These policies and guidelines shall apply to all tobacco products and to all tobacco manufacturers, importers, exporters, wholesalers, distributors, retailers, concessionaires, and other sellers of tobacco products, as well as their agents and representatives, which are operating, existing, and/or found within the Republic of the Philippines.



IV. DEFINITION OF TERMS

- a. ***“Graphic Health Information”*** means statements, and/or other information, accompanied by related full-color pictures or pictograms, which inform about the contents and substances, in descriptive form, of tobacco products as well as inform against health dangers and other problems related to tobacco products, tobacco consumption, exposure to tobacco smoke, or other effects of tobacco use.
- b. ***“Tobacco Product Package”*** means the packet and package of tobacco products and any outside packaging and labelling of tobacco products for sale, distribution, exportation, importation, trade, exchange, or exhibition, such as, but not limited to, packs, tins, boxes, pouches, flip-tops, slide and shell packages, cartons, transparent wrappers, clear packaging, packages containing one product unit, master cases, or other containers of tobacco products.
- c. ***“Tobacco Products”*** means products entirely or partly made of leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing, or by any other means of consumption.
- d. ***“Insert”*** means any communication inside an individual package and/or carton purchased at either wholesale or retail by consumers, such as a leaflet or brochure.
- e. ***“Onsert”*** means any communication affixed to the outside of an individual package and/or carton purchased at either wholesale or retail by consumers, such as a brochure beneath the outer cellophane wrapping or glued to the outside of the cigarette package.

V. SPECIFIC PROVISIONS

The Department hereby promulgates the following rules and regulations governing packaging and labelling of tobacco products:

A. Graphic Health Information

- 1. ***Scope of Graphic Health Information.*** - Each unit packet and package of tobacco products, including package inserts and onserts, and any outside packaging and labelling of such products for sale, distribution or importation within the country, shall bear large, clear, visible, and legible full-color graphic health information, as attached in *Annex I*.



2. ***Size and Position of Graphic Health Information.*** - The graphic health information shall occupy the upper portions of each tobacco product packet or package and no less than thirty percent (30%) of the front panel and sixty percent (60%) of the back panel (or all corresponding panels of the unit packet or package if in non-standard packaging) in a manner that ensures maximum visibility.
3. ***Rotation.*** - There shall be a minimum of eight (8) variations of graphic health information that shall appear concurrently within a twenty four (24) month period. The variations shall appear on an equal number of retail tobacco product packages for each brand and for each package size and type.
4. ***Transitions.*** - During transition periods, when an old set of graphic health information is being replaced by a new set, there shall be a phase-in period of sixty (60) days between sets of graphic health information, during which time both sets may be used concurrently.
5. ***Templates.*** - The templates of graphic health information, which contain specific printing and other requirements, shall be issued by the Department on its own, or upon consultation with organizations with established track record of, and expertise in public health policies and duly recognized by the Department as such. The template(s) shall be approved by the Secretary within thirty (30) days from its submission and shall be deemed automatically approved if not acted upon thereafter.

These templates shall be issued by the Department every two (2) years or as the need for it arises.
6. ***Strict Adherence.*** - The tobacco manufacturers, importers, exporters, wholesalers, distributors, retailers, concessionaires, and other sellers, shall strictly follow the templates and shall submit their packagings and labelings for approval to the Department no later than three (3) months before they are to be used. The Department shall act on the packaging and labeling of the unit packet and package of tobacco products within thirty (30) days from its submission and shall be deemed automatically approved if not acted upon thereafter.

B. Misleading Descriptors

1. **General Prohibition.** - Each unit packet and package of tobacco products, including package inserts and onserts, and any outside packaging and labelling of such products for sale, distribution or importation within the country shall not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about the product's characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign (including colors, images, or numbers) or any package or product design feature that directly or indirectly create or are likely to create the false impression that a particular tobacco product or brand is less harmful than any other tobacco product or brand.

Use of misleading descriptors on tobacco product packages such as, but not limited to, "low tar", "light", "ultra-light," "mild," "extra," "ultra," and similar terms in any language that might mislead consumers, is prohibited. Use of corresponding symbols or colors signifying the same is also prohibited. No misleading descriptor shall be used as part of a brand name or trademark for tobacco products introduced after the effectivity of this Order.

2. **Prohibition on Misleading Information.** - Information that may imply that one variant or brand is safer than the other is prohibited, such as statements indicating that the tobacco product contains "reduced levels" of contents, substances, and emissions. Figures for emission yields, such as for tar, nicotine and carbon monoxide, shall be prohibited, including when used as part of a brand name or trademark.

VI. COMMON PROVISIONS

1. **Compliance.** - Tobacco product packages that do not comply with this Order shall be prohibited after ninety (90 days) from the effectivity of this Order. Non-compliant products must be withdrawn no later than such date. Absolutely no extensions of time to comply with the provisions of this Order shall be granted to tobacco manufacturers or any other affected party.

Imported tobacco products meant to be sold in the Philippines, even if they are in product packages that carry graphic health information compliant with the country of origin shall comply with this Order within thirty (30) days from this Order's effectivity.



2. ***Duty Not to Sell/Display Non-compliant Products.*** - Manufacturers, importers, exporters, wholesalers, distributors, retailers, concessionaires and other sellers shall not sell and/or display tobacco products that do not comply with this Order.
3. ***Burden of Costs on Tobacco Companies.*** - All costs relative to the packaging and labelling of tobacco products shall be borne by the respective tobacco manufacturers, importers, and/or exporters responsible for packaging and labelling of the products.
4. ***Monitoring Teams.*** - There shall be Monitoring Teams at the national, regional, provincial, city, municipal, and barangay levels (in coordination with respective Local Government Units), as well as in civil society, to ensure compliance with, and implementation of, this Order.

Monitoring Teams shall be composed of:

- a. National Level:
 - i. National Center for Health Promotion (NCHP)
 - ii. Non-Government Organizations (NGOs) as deputized by the Department.
 - iii. Any other office/agency designated by the Department.
 - b. Regional/Provincial/City/Municipal/Barangay Level:
 - i. Centers for Health Development (CHDs)
 - ii. Provincial Health Offices
 - iii. City Health Offices
 - iv. Municipal Health Offices/ Rural Health Units
 - v. Barangay Health Offices
 - vi. NGOs as deputized by the Department
 - vii. Any other office/agency designated by the Department.
5. ***Monitoring Teams; Functions and Responsibilities.*** - Monitoring teams shall have the following responsibilities:
 - a. Monitor compliance with, as well as problems encountered in, the implementation of this Order and submit timely reports thereon;



- b. Monitor labels and packages of tobacco products within the scope of the Order and marketing practices in various distribution centers and points of sale establishments;
 - c. Verify reports of violations of this Order;
 - d. Submit timely reports on their monitoring and verification and follow-up on the actions and/or resolutions with the concerned office/agency; and
 - e. Such other functions and responsibilities as may be assigned by the Department.
6. ***Contents of Violation Reports.*** - Reports of alleged violations shall include: (i) the specific location where the violation was found and the corresponding date; (ii) a picture or sample of the violative label or packaging; (iii) as much as possible, a picture of the violative product as displayed in the point of sale/distribution outlet; and (iv) such other information as the Department may later require. Monitoring Teams shall keep proper documentation of all reported violations, which documentation may be made available to the public.
7. ***Cooperation/Coordination with Organizations.*** – The Department and Official Monitoring Teams may engage other civil society organizations, individuals, and other agencies, to closely monitor implementation of and compliance with this Order in their respective areas of jurisdiction, and submit timely reports to the Department or the monitoring teams of any alleged violation.
8. ***Public Vigilance.*** – The Department, monitoring teams, other agencies, and stakeholders, shall encourage the public to report what they deem to be violations under this order.
9. ***Where to Report.*** - Reports of violations shall be submitted to the Office of the Secretary, or any other office/agency designated by the Secretary, at the national level, and to the CHDs at the local level. The concerned office/agency shall provide immediate feedback within five (5) working days on actions taken based on the received reports of alleged violations.



VII. VIOLATIONS

The Department, or any office designated by the Secretary of Health, shall investigate any reported violations of this Order, and after due notice and hearing, if found responsible thereof, apply such administrative sanctions and penalties, including seizure, recall and condemnation, where appropriate, on the concerned manufacturers, importers, exporters, wholesalers, distributors, retailers, concessionaires, sellers, or other concerned individuals/entities.

VIII. SEPARABILITY CLAUSE

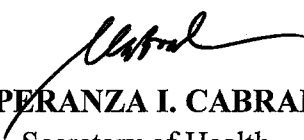
If, for any reason, any section or provision of this Order is declared invalid, illegal or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of this Order, which shall remain in full force and effect.

IX. REPEALING CLAUSE

The provisions of other existing provisions or issuances found inconsistent or contrary with this Order are hereby repealed or modified accordingly.

X. EFFECTIVITY

This Order shall take effect fifteen (15) days following the date of its publication in a newspaper of general circulation.


ESPERANZA I. CABRAL, MD
Secretary of Health

ANNEX 1

Template in Implementation of Administrative Order No. 2010-0013 (Requiring Graphic Health Information on Tobacco Product Packages, Adopting Measures to Ensure that Tobacco Product Packaging and Labeling do not Promote Tobacco Products by any Means that are False, Misleading, Deceptive or Likely to Create an Erroneous Impression, and Matters Related Thereto)

Pursuant to Section V(A)(5) of Administrative Order No. 2010-0013, this template shall govern specifications regarding graphic health information, packaging and labelling of unit packets and packages of tobacco products, including package inserts and onserts, and any outside packaging and labelling of tobacco products

1. ***Size and Position of Graphic Health Information.*** - The graphic health information shall occupy the upper portions of each tobacco product packet or package, including package inserts and onserts, and any outside packaging and labelling of such products for sale, distribution or importation within the country, and no less than thirty percent (30%) of the front panel and sixty percent (60%) of the back panel (or all corresponding panels of the unit packet or package if in non-standard packaging) in a manner that ensures maximum visibility.

The graphic health information shall not be obscured, covered, or undermined, in part or in whole, or obliterated or obscured when the tobacco packet or package is opened or closed.

2. ***Specifications.*** – The graphic health information shall conform to the following specifications:
 - a. The graphic health information shall be printed in full color, with the minimum resolution of 400 dpi using at least 4-color printing.
 - b. The graphic health information shall in no case measure less than 1,290 square millimeters (approximately 2 square inches) in size, with the shortest side measuring no less than 25 millimeters (approximately 1 inch), for the front panel, and no less than 2580 sq mm (approximately 2 sq inches) for the back panel, with the shortest side measuring no less than 50 millimeters (approximately 2 inches), regardless of the type of packaging and labeling for cigarettes.
 - c. The statement forming part of the graphic health information shall be placed on a location where it will be prominently displayed. The statement shall use up no more than thirty percent (30%) of the entire area of the graphic health information and shall be in clearly legible type and in contrast by typograph, layout and colors. In no case shall the statement obscure the picture or pictogram.

Variations. - The following variations shall be strictly applied, in compliance with the provisions of Administrative Order No. 2010 – 0013.

