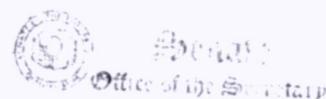


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE
S. B. No. 1089

RECEIVED BY

Introduced by Senator SONNY ANGARA

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

EXPLANATORY NOTE

Filipinos in the caregiving industry are known for their compassion and warmth. Apart from their good-natured characteristics, Filipino caregivers are also well-regarded for their exemplary work-ethic, knowledge and skills, which are all further enhanced by the various programs of the Technical Education and Skills Development Authority (TESDA). All these make our caregivers widely accepted and highly sought out around the world—making them among the country's many unsung heroes.

A "caregiver" refers to a paid or employed person, who is a graduate of a caregiving course from an accredited training institution that is recognized by the government, and who provides personal care support and assistance to an infant, child or dependent adult whose health is impaired by sickness or old age.

It is foreseen that the demand for caregiving services in the Philippines would continue because of the country's aging population and the increase of Filipinos with medical concerns and functional limitations. In recognition of the vital work of our caregivers in nation building, it is only fitting that the government recognize their profession so that they will be protected from any kind of abuses and maltreatment.

This bill seeks to institute policies for the protection and welfare of caregivers who are employed and working in the country against harassment, violence and economic exploitation. Further, the proposed measure enumerates the specific benefits that are due them, and promotes their welfare towards a decent and safe working condition.

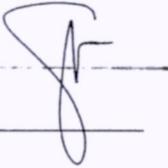
In view of the foregoing, immediate passage of this bill is earnestly sought.

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a long, sweeping horizontal line that tapers to the right.

SONNY ANGARA

SENATE
S. B. No. 1089

RECORDED



Introduced by Senator SONNY ANGARA

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:

1 Section 1. *Short Title.* – This Act shall be known as the "*Caregivers Welfare*
2 *Act.*"

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 recognize the role of caregivers in national development and to institute policies in
5 the practice of the profession with the end in view of developing competent caregivers
6 whose standards of professional service shall be excellent and globally competitive.
7 The State also recognizes the need to protect the rights of the caregivers towards a
8 decent employment and income, and adheres to a policy of protecting caregivers
9 against abuse, harassment, violence, and economic exploitation.

10 Sec. 3. *Definition of Terms.* – As used in this Act:

- 11 a) *Caregiver* refers to a graduate of a caregiving course from an accredited
12 training institution that is recognized by the government or is certified
13 competent by that same institution, and renders caregiving services as
14 stipulated in Section 6 of this Act;
- 15 b) *Client* refers to a dependent infant, child or adult;
- 16 c) *Employer* refers to any person who engages and controls the services of a
17 caregiver, and is a party to the employment contract; and

1 d) *Private employment agency (PEA)* refers to any individual, legitimate
2 partnership, association, corporation or entity licensed to engage in the
3 recruiting and placement of caregivers for local employment.

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

- 9 a) Duties and responsibilities of the caregiver;
- 10 b) Period of employment;
- 11 c) Compensation;
- 12 d) Authorized deductions;
- 13 e) Hours of work and proportionate additional payment or overtime pay;
- 14 f) Rest days and allowable leaves;
- 15 g) Board, lodging and medical attention;
- 16 h) Other benefits as stipulated under Section 12 of this Act;
- 17 i) Termination of employment; and
- 18 j) Any other lawful condition agreed upon by both parties.

19 The DOLE shall develop a model employment contract for caregivers which
20 shall be made available at all times post on website, free of charge to caregivers,
21 employers, and the general public.

22 In case where the employment of the caregiver is facilitated through a private
23 employment agency, the PEA shall keep a copy of all employment contracts of their
24 caregivers which shall be made available for verification and inspection by the DOLE.

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

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

1 *Sec. 6. Duties of the Caregivers.* – The caregiver may provide any of the
2 following services:

- 3 a) Provide personal care support and assistance to clients with physical
4 impairment or disabilities in private homes, nursing or geriatric care facilities,
5 and other residential settings;
- 6 b) Help clients with their daily activities and mobility restrictions;
- 7 c) Provide some basic health-related services, such as checking a client’s pulse
8 rate, temperature and respiration rate;
- 9 d) Help clients with simple prescribed exercises, and assist in the administration
10 of home medications as prescribed by the physician, provided that assistance
11 in the administration of intravenous medications shall be upon written consent
12 of the physician;
- 13 e) Advise clients and their families on cleanliness and household tasks;
- 14 f) Accompany clients to appointments with doctors or on other errands;
- 15 g) Assist in housekeeping tasks within the client’s room;
- 16 h) Prepare food for clients; and
- 17 i) Other tasks directly related to the needs of the clients.

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

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

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

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

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

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

9 Sec. 12. *Other Benefits.* – A caregiver shall be covered by the Social Security
10 System (SSS), the Philippine Health Insurance Corporation (PhilHealth), and the Home
11 Development Mutual Fund (Pag-Ibig), and shall be entitled to all benefits in
12 accordance with the pertinent provisions of law. The effective date of coverage shall
13 be on the first day of employment.

14 Sec. 13. *Non-Diminution of Benefits.* – All existing arrangements between a
15 caregiver and the employer shall be adjusted to conform to the minimum standards
16 set by this Act. Nothing in this Act shall be construed to cause the diminution or
17 substitution of any benefit or privilege currently enjoyed by the caregiver hired directly
18 or through a PEA.

19 Sec. 14. *Basic Necessities.* – The employer of a household-based caregiver shall
20 provide for basic necessities which shall include at least three (3) adequate meals a
21 day, and humane sleeping arrangement. The employer shall also provide appropriate
22 rest periods, and assistance in case of illnesses and injuries sustained during the
23 exercise of the caregiver's duties and responsibilities without loss of benefits.

24 Sec. 15. *Privileged Information.* – All information and communication pertaining
25 to the patient or employer or members of the household shall be treated as privileged
26 and confidential, and shall not be publicly disclosed by the caregiver during and after
27 employment.

28 Sec. 16. *Termination of Service.* – Neither the caregiver nor the employer may
29 terminate the contract before the expiration of the term except for grounds provided
30 for in Sections 17 and 18 of this Act. If the caregiver is unjustly dismissed, the
31 caregiver shall be paid the compensation already earned plus the equivalent of fifteen
32 (15) days of work by way of indemnity. The caregiver and the employer may mutually

1 agree upon written notice to pre-terminate the contract of employment to end the
2 employment relationship.

3 *Sec. 17. Termination of Contract by the Caregiver.* – A caregiver may terminate
4 the employment relationship at any time before the expiration of the contract for any
5 of the following reasons:

- 6 a) Verbal or emotional abuse by the employer, client or any member of the
7 household;
- 8 b) Inhumane treatment including physical abuse against the caregiver by the
9 employer, client or any member of the household;
- 10 c) Commission of a crime or offense against the caregiver by the employer, client
11 or any member of the household;
- 12 d) Violation of the terms and conditions of the employment contract by the
13 employer; and
- 14 e) Other causes analogous to the foregoing.

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

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

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

1 Ordinary crimes or offenses committed under the Revised Penal Code and other
2 special penal laws by either party shall be filed with the regular courts.

3 *Sec. 20. Protection of Caregiver Hires through PEAs.* – The Secretary of Labor
4 and Employment shall, through a system of licensing and regulation, ensure the
5 protection of the caregivers hired through PEAs.

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

8 The provision of the Labor Code of the Philippines on the qualifications of a
9 PEA with regards to nationality, net worth, owners and officers, office space, and
10 other requirements, as well as non-transferability of license, and commissions of
11 prohibited practices shall apply.

12 *Sec. 21. Responsibilities of PEAs.* – In addition, the PEAs shall have the
13 following responsibilities:

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

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

1 Sec. 23. *Separability Clause.* – If any portion or provision of this Act is
2 subsequently declared invalid or unconstitutional, other provisions hereof which are
3 not affected thereby shall remain in full force and effect.

4 Sec. 24. *Repealing Clause.* – All other laws, acts, presidential decrees, executive
5 orders, presidential proclamations, issuances, rules and regulations, or parts thereof
6 which are contrary to or inconsistent with any of the provisions of this Act are hereby
7 repealed, amended, or modified accordingly.

8 Sec. 25. *Effectivity.* – This Act shall take effect fifteen (15) days after its
9 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,