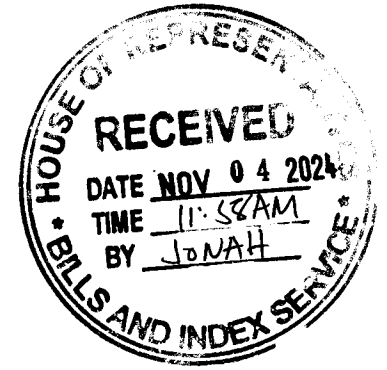


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



NINETEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 11005

Introduced by
Akabay Representative Percival Cendaña

Prefatory Statement


Every human being has the right to the highest attainable standard of physical and mental health. It is therefor an obligation of States to develop and implement legislation and policies that guarantee universal access to quality health services and address the root causes of health disparities, including poverty, stigma and discrimination.

Partners of people of diverse sexual orientation and gender identity and expression and sex characteristics (SOGIESC) often experience discrimination in the healthcare setting when they are not allowed to act as primary care givers and denied access to information and decision-making processes necessary to save their partner's lives.

The Right to Care is fundamentally about the right to health. It recognizes that the most compassionate and effective care comes from our chosen partners and significant others. In this proposed legislation, the patient-principal designates their partner-agent to make critical health decisions and receive vital health information on their behalf in times of incapacity.

It is time for the Philippine government to make healthcare more accessible to and inclusive of persons of diverse SOGIESC by recognizing their chosen heath care partner as their primary caregiver.

The passage of this bill is earnestly sought.



REP. PERCIVAL V. CENDAÑA
Akabay Partylist

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NINETEENTH CONGRESS
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HOUSE BILL NO. 11005

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**AN ACT REQUIRING THE RECOGNITION OF HEALTHCARE PROXIES
BY ALL HEALTH FACILITIES THROUGH THE ISSUANCE OF A “RIGHT
TO CARE CARD” AND APPROPRIATING FUNDS THEREFOR**

*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 “Right to Care Act.”
2

3 **SEC.2. Declaration of Policy.** Article III, Section 1 of the 1987 Philippine Constitution
4 states that, “[n]o person shall be deprived of life, liberty, or property without due
5 process of law, nor shall any person be denied the equal protection of the laws.”
6

7 Moreover, Article III, Section 10 provides that, “[n]o law impairing the obligation of
8 contracts shall be passed.”
9

10 Furthermore, the Universal Declaration of Human Rights recognizes that, “[human
11 rights are inherent in all persons regardless of gender, race, culture, religion, and any
12 other status and all human beings are born free and equal in dignity and rights.”
13

14 Every human being has the right to the highest attainable standard of physical and
15 mental health. It is an obligation of the State to develop and implement legislation
16 and policies that guarantee universal access to quality health services and address
17 the root causes of health disparities, including poverty, stigma and discrimination.
18

19 It is the policy of the State to make healthcare more accessible to and inclusive of
20 persons of diverse sexual orientation and gender identity and expression and sex
21 characteristics (SOGIESC) by recognizing their chosen health care partner as their
22 primary caregiver.
23

1 **SEC.3. Definition of Terms.**

- 2
- 3 A. **Adult** - a natural person who is eighteen (18) years of age or older.
- 4
- 5 B. **Health Care** - any treatment, service, or procedure to diagnose or treat an
- 6 individual's physical or mental condition.
- 7
- 8 C. **Health Care Agent** - any Adult and/or a partner of a qualified Principal
- 9 authorized to make Health Care Decisions on behalf of a Principal under a
- 10 Health Care Proxy.
- 11
- 12 D. **Health Care Decision** - any decision to consent or refuse to consent to Health
- 13 Care.
- 14
- 15 E. **Health Care Provider** - an individual or facility licensed, certified, or otherwise
- 16 authorized or permitted by law to administer or provide Health Care in the
- 17 ordinary course of business or practice. Unless the context otherwise requires
- 18 or is otherwise specified, references to Health Care Provider include their
- 19 agents and employees.
- 20
- 21 F. **Health Care Proxy** - a document in which a Principal delegates to a Health
- 22 Care Agent the authority to make Health Care Decisions on the former's
- 23 behalf.
- 24
- 25 G. **Principal** - any Adult, Single or Legally Separated, who is a partner of a
- 26 qualified Health Care Agent, authorizing a Health Care Agent to act in their
- 27 place through a Health Care Proxy.
- 28

29 **SEC. 4. Health Care Proxy.** The Department of Health shall facilitate applications

30 for the Right to Care Card in order to legally execute Health Care Proxies. Healthcare

31 proxies shall (a) identify the Principal and the Health Care Agent; and (b) indicate

32 that the Principal intends for the Health Care Agent to have authority to make

33 Health Care Decisions on behalf of the Principal.

34

35 **SEC. 5. Health Care Agent.** A Health Care Agent designated in the Right to Care

36 Card shall on behalf of the Principal named therein, have the authority for the

37 following:

38

- 39 a. Scope of Authority - subject to any express limitations in the Health Care
- 40 Proxy, a Health Care Agent shall have the authority to make any and all
- 41 Health Care Decisions on the Principal's behalf.
- 42
- 43 b. Disclosure of information - the Health Care Agent shall have the right to
- 44 receive medical information and records necessary to make informed decisions

1 regarding the Principal's Health Care.
2

3 c. Primary Care Giver - Health Care Decisions by the Health Care Agent on
4 the Principal's behalf shall have priority over decisions by any other person,
5 except as otherwise provided in the Health Care Proxy.
6

7 **SEC. 6. Capacity.** The authority of the Health Care Agent to make Health Care
8 Decisions shall commence upon due determination, in accordance with applicable
9 laws, rules, or regulations, that the Principal lacks capacity to make Health Care
10 Decisions. In the event that there is a due determination that the Principal has
11 regained capacity, the authority of the Health Care Agent to make Health Care
12 Decisions shall cease, but shall recommence if the Principal subsequently loses
13 capacity.
14

15 The foregoing notwithstanding, where the Principal objects to the determination of
16 incapacity or to a Health Care Decision made by the Health Care Agent, the
17 Principal's objection or decision shall prevail unless the Principal is determined by a
18 court of competent jurisdiction to lack capacity to make Health Care Decisions.
19

20 **SEC. 7. Expiration and Revocation.** A Health Care Proxy may provide that it expires
21 after a specified period or upon the occurrence of a certain condition, otherwise, the
22 Health Care Proxy shall be deemed to remain in effect until revoked. If, prior to the
23 expiration of a Health Care Proxy, the authority of the Health Care Agent has
24 commenced, the Health Care Proxy shall not expire while the Principal lacks
25 capacity.
26

27 The issuance of a new Right to Care Card and/or Special Power of Authority to the
28 same Principal shall be deemed as an automatic revocation of any Right to Care Card
29 previously issued to such Principal. Such revocation of a Right to Care Card shall be
30 deemed as an automatic revocation of the Health Care Proxy attached thereto,
31 regardless of any period or condition specified therein.
32

33 **SEC. 8. Health Care Provider Obligations.** Health Care Providers are required to
34 observe the following:
35

36 a. A Health Care Provider who is presented with a Right to Care Card of Health
37 Care Proxy, or who finds such card or proxy on the person of the Principal-
38 patient, shall recognize and be charged with due knowledge that a Health Care
39 Proxy has been executed by the Principal-patient. In the case of Right to Care
40 Cards, the Health Care Provider shall access the Health Care Proxy linked to
41 the Right to Care Card, and include such linked proxy in the Principal-
42 patient's medical records.
43

44 In the event that the Principal-patient is unaccompanied by the Health Care

1 Agent designated in the Right to Care Card or Health Care Proxy, Health Care
2 Providers shall exert reasonably diligent efforts to notify such agent, through
3 the contact details provided in the card or proxy, of the circumstances by which
4 the Principal-patient is under their care.

5
6 b. A Health Care Provider shall comply with the Health Care Decisions made
7 by the designated Health Care Agent in good faith under a Right to Care Card
8 or a Health Care Proxy to the same extent as if such decisions had been made
9 by the Principal-patient, subject to any limitations in the Health Care Proxy
10 and in this Ordinance.

11
12 c. A Principal-patient may revoke a Health Care Proxy by notifying the Health
13 Care Provider orally or in writing or by any other act evidencing a specific
14 intent to revoke such proxy. In such cases, the Health Care Provider shall
15 record such revocation in the Principal-patient's medical records, and notify its
16 relevant agents and employees, and the Health Care Agent of such revocation.

17
18 **SEC. 9 Immunity.** Health Care Providers, or any of its agents or employees, shall be
19 free from any liability for honoring in good faith a Health Care Decision by a Health
20 Care Agent, or for other actions taken in good faith pursuant to this Act. Further, the
21 Health Care Agent shall be free from any liability for making a Health Care Decision
22 in good faith pursuant to this Act.

23
24 **SEC. 10. Health Care Cost.** Liability for the cost of Health Care provided pursuant to
25 a Health Care Agent's Health Care Decisions shall be the same as if the Health Care
26 were provided pursuant to the Principal's Health Care Decisions.

27
28 **SEC.11. Allied Services.** No person may require or prohibit the execution of a Health
29 Care Proxy as a condition for providing Health Care services or insurance to an
30 individual.

31
32 **SEC.12. Non-limitation.** Nothing in this Act creates, expands, diminishes, impairs or
33 supersedes any authority that a principal may have under law to make or express
34 decisions, wishes, or instructions regarding health care, whether or not expressed in
35 a Health Care Proxy. Further, nothing herein shall be construed to permit a Health
36 Care Agent to consent to any act or omission to which the Principal could not consent
37 under law.

38
39 **SEC.13. Penalties.** The Department of Health, the Professional Regulation
40 Commission, and any other relevant government agencies may suspend or revoke the
41 licenses or certifications of Health Care Providers and any of its agents and
42 employees that violate the provisions of this Act.

43
44 **SEC. 14. Implementing Rules and Regulations.** The Department of Health shall

1 formulate the necessary rules and regulations for the implementation of this Act
2 within ninety (90) days upon its effectivity.

3

4 **SEC.15. Appropriations.** Appropriations for the implementation of this Act shall be
5 sourced from the general appropriations of the Department of Health under its
6 Gender and Development fund.

7 **SEC. 16. Separability Clause.** If any section or provision of this Act is held
8 unconstitutional or invalid, the remaining sections or provisions with the provisions
9 not affected thereby shall continue to be in full force and effect.

10 **SEC. 17. Repealing Clause.** All laws, decrees, executive orders, rules and
11 regulations, issuance or parts thereof inconsistent with this Act are hereby repealed
12 or modified accordingly.

13 **SEC. 18. Effectivity.** - This Act shall take effect fifteen (15) days after publication in
14 the Official Gazette or two (2) newspapers of general circulation.

Approved,