

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Senate
Office of the Secretary

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SENATE
S. No. 1440

RECEIVED BY:

Introduced by Senator Jinggoy Ejercito Estrada

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

EXPLANATORY NOTE

There is a steady demand for Filipinos in the field of caregiving globally. The preference of employers for Filipino caregivers stems from qualities such as the high respect towards the elderly, close family ties, adaptability, hard work, *pakikisama*, and proficiency in the English language¹. In February of this year, the Philippine Overseas Employment Administration noted the high demand for Overseas Filipino Workers globally, pointing out in particular the United Kingdom's increased demand for caregivers and nurses². Data from the Department of Labor and Employment shows that in Taipei alone, the Philippine Overseas Labor Office processed around 2,400 requests for caretakers and household workers from May to August of this year³. This shows the apparent high regard for the Filipino caregivers abroad.

Locally, with the PIDS projection that the country will transition to an aging society in 2032, meaning by then, those aged 65 and older would comprise at least

¹ Imamura, T., Saito, I. & Miyagi, M. (2010). *The Characteristics and Skills of Filipino Caregivers: FOW as human resources for work life balance in Japan (2)*. Retrieved from <https://core.ac.uk/download/pdf/268585065.pdf>

² Demand for OFWs increasing, says POEA (2022, February 12). Retried from <https://newsinfo.inquirer.net/1553786/demand-for-ofws-increasing-says-poea>

³ Demand for Pinoy caregivers, HSWs still high in Taiwan (2022, August 15). Retried from <https://www.philstar.com/headlines/2022/08/15/2202702/demand-pinoy-caregivers-hsws-still-high-taiwan>

7% of the total population, the demand for caregivers will likely increase⁴. Furthermore, the study said that by 2069 the Philippines would become an aged society, with at least 14% of the population aged 65 and older.

According to the World Health Organization, by 2030, 1 in 6 people in the world will be aged 60 years and over—amounting to 1 billion in 2020 to 1.4 billion in 2030. By 2050 the number of those aged 60 years and over will double to 2.1 billion. This trend in population ageing started in high-income countries, and is now advancing to low- and middle-income countries. By 2050, the WHO projects that two-thirds of the world's population aged 60 and above will be residing in low-and middle-income countries. In 2020, the number of people aged 60 years and above outnumbered children younger than 5 years.

Filipinos have long answered the call to work in the caregiving sector. There is a high demand for their services here and abroad, yet they are not given what is due them in terms of benefits. Oftentimes caregivers are not given sufficient wages on time and subjected to carrying out their tasks beyond work hours. In cognizance of the vital work of our caregivers, it is only apt that the government recognize their profession to address the lack of employment protection and benefits.

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



JINGGOY EJERCITO ESTRADA


⁴ Abrigo, M. R. M., Racelis, R. H., Salans, J. M. I., Herrin, A. N., Ortiz, D. A. P., Tam, Z. C. (2018). *Are We Missing Out on the Demographic Dividend? Trends and Prospects*. Philippine Institute for Development Studies Discussion Paper Series No. 2018-43. Quezon City, Philippines: PIDS.



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**AN ACT
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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
6 caregivers whose standards of professional service shall be excellent and globally
7 competitive.

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

11 Sec. 3. *Definition of Terms.* – For purposes of this Act, the following terms
12 shall mean:

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

17 b. *Client* refers to a dependent infant, child, or adult;

- 1 c. *Employer* refers to any person who engages and controls the services of a
2 caregiver and is a party to the employment contract; and
3 d. *Private Employment Agency (PEA)* refers to any individual, legitimate
4 partnership, association, or organization accredited and licensed by the
5 Department of Labor and Employment (DOLE), corporation or entity
6 licensed to engage in recruiting and placement of caregivers for local
7 employment.

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

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

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

26 In cases where the employment of the caregiver is facilitated through a
27 private employment agency, the PEA shall keep a copy of all employment contracts
28 of their caregivers which shall be made available for verification and inspection by
29 the DOLE.

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

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

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

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

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

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

29 *Sec. 9. Payment of Wages.* – Wages shall be paid on time directly to the
30 caregiver to whom they are due once every two (2) weeks or twice a month at the
31 intervals not exceeding sixteen (16) days. The employer, unless allowed by the
32 caregiver through a written consent, shall make no deductions from the wages other

1 than what is mandated by law. No employer shall pay the wages of the caregiver by
2 means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object
3 other than the cash wage as provided for under the law.

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

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

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

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

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

28 Sec. 15. *Privileged Information.* – All information and communication
29 pertaining to the client, employer, or members of the household shall be treated as
30 privileged and confidential, and shall not be publicly disclosed by the caregiver
31 during and after employment.

1 Sec. 16. *Termination of Service.* – Neither the caregiver nor the employer
2 may terminate the contract before the expiration of the term except for grounds
3 provided for in Sections 17 and 18 of this Act.

4 If the caregiver is unjustly dismissed, the caregiver shall be paid the
5 compensation already earned plus the equivalent of fifteen (15) days work by way of
6 indemnity. The caregiver and the employer may mutually agree upon written notice
7 to pre-terminate the contract of employment to end the employment relationship.

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

- 11 a. Verbal or emotional abuse by the employer, client, or any member of the
12 household;
- 13 b. Inhuman treatment including physical abuse against the caregiver by the
14 employer, client, or any member of the household;
- 15 c. Commission of a crime or offense against the caregiver by the employer,
16 client, or any member of the household;
- 17 d. Violation of the terms and conditions of the employment contract by the
18 employer; and
- 19 e. Other causes analogous to the foregoing.

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

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

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

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

8 *Sec. 20. Protection of Caregivers Hired through PEAs.* – The Secretary of
9 Labor and Employment shall, through a system of licensing and regulation, ensure
10 the protection of the caregivers hired through PEAs.

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

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

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

- 19 a. Ensure that the caregivers are not charged or levied any recruitment or
20 placement fees whatsoever;
- 21 b. Ensure that the employment contract between the caregiver and the
22 employer stipulates the terms and conditions of employment and all the
23 benefits prescribed by this Act;
- 24 c. Provide a pre-employment orientation briefing to the caregiver and the
25 employer about their rights and responsibilities in accordance with this
26 Act;
- 27 d. Keep copies of employment contracts pertaining to recruited caregivers
28 which shall be made available during inspections or whenever required by
29 the DOLE;
- 30 e. Assist caregivers with respect to complaints or grievances against their
31 employers; and

1 f. Cooperate with government agencies in rescue operations involving
2 abused or exploited caregivers.

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

7 Sec. 23. *Separability Clause.* – If any provision, section, or part of this Act is
8 declared unconstitutional or invalid, such judgement shall not affect, invalidate, or
9 impair any other provisions, sections, or parts hereof.

10 Sec. 24. *Repealing Clause.* – All laws, decrees, orders, issuances, circulars,
11 rules and regulations or parts thereof, which are inconsistent with the provisions of
12 this Act are hereby repealed or modified accordingly.

13 Sec. 25. *Effectivity.* – This Act shall take effect fifteen (15) days after its
14 publication in the *Official Gazette* or in at least two (2) newspapers of general
15 circulation.

Approved,