

IMPROVING ACCESS TO HEALTHCARE THROUGH THE REGULATION OF PRICES IN THE RETAIL OF DRUGS AND MEDICINES

EXECUTIVE ORDER NO. 104, February 17, 2020

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WHEREAS, Article II, Section 15 of the Constitution provides that the State shall protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, Article XIII, Section 11 of the Constitution declares that the State shall adopt an integrated and comprehensive approach to health development, which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost;

WHEREAS, Section 2 of Republic Act (RA) No. 9502 or the "Universally Accessible Cheaper and Quality Medicines Act of 2008," declares it a policy of the State to protect public health and, when the public interest or circumstances of extreme urgency so require, to adopt appropriate measures to promote and ensure access to affordable quality drugs and medicines for all;

WHEREAS, Executive Order (EO) No. 821 (s. 2009) imposed maximum retail prices on certain drug molecules through a fifty percent (50%) reduction on their retail prices;

WHEREAS, drugs and medicines contribute to the huge out-of-pocket health expenditure of Filipinos;

WHEREAS, the government acknowledges that expensive healthcare, including costly medicines, pushes a significant number of Filipinos to poverty, discourages them from seeking the appropriate medical treatment, leads to drug and medicine resistance, as well as endangers lives, thereby increasing the morbidity and mortality rates across the different socio-economic classes;

WHEREAS, there is a need to revisit and update existing policies to improve access to healthcare including the affordability and accessibility of drugs and medicines, and formulate both short-term and long-term measures that are sensitive to all stakeholders; and

WHEREAS, consistent with the foregoing mandate, the Department of Health (DOH) proposed to regulate the retail prices of 122 drug molecules or 205 drug formulas;

NOW, THEREFORE, I, RODRIGO RGA DUTERTE, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. Price Regulation in the Retail of Drugs and Medicines. Price regulation through a Maximum Retail Price (MRP) and/or Maximum Wholesale Price (MWP) is hereby imposed on certain drugs and medicines, selected based on the following criteria:

- a. Drugs that address the health priorities of the general public especially those that account for the leading causes of morbidity and mortality;
- b. Drugs that have high price differentials/arbitrage compared to international prices;
- c. Drugs that have limited competition in terms of lack of generic counterparts or lack of market access to these

products; and

d. Drugs where the innovator product is the most expensive yet most prescribed and/or dispensed in the market.

After considering the factors provided in Section 19(A)(2) of RA No. 9502, as amended, among others, an MRP and/or MWP were determined and are now imposed on select drugs and medicines totalling to 86 drug molecules or 133 drug formulas annexed to this Order.

Within thirty (30) days from the issuance of this Order, a technical working group composed of representatives from the DOH and Department of Trade and industry (DTI) shall convene and review, in consultation with stakeholders, the prices of the remaining 36 drug molecules or 72 drug formulas previously proposed to be subject of the MRP and/or MWP.

Section 2. Applicability. The MRP and MWP shall apply to all medicines specifically referred to under Section 1 : which are currently registered with the Food and Drug Administration and available in the market.

The MRP of all drugs and medicines specifically referred to under Section 1 shall be imposed on all public and private retail outlets, including drugstores, hospitals and hospital pharmacies, health maintenance organizations, convenience stores and supermarkets, and the like.

The MWP of all drugs and medicines shall be imposed on all manufacturers, wholesalers, traders, distributors, and the like.

No public or private entity shall be allowed to sell, reimburse or demand from the public or patients payment in an amount higher than the MRP or MWP, as the case may be.

Section 3. Review. The list of .drugs subject of MRPs and/or MWPs shall be subject to review by the DOH, in consultation with the DTI, within six (6) months from the effectivity of this Order and every six (6) months thereafter.

Section 4. Measures to improve Access to Medicines. The DOH, in consultation with relevant government agencies, including the DTI and the Philippine Competition Commission, is hereby directed to study and propose measures, including, but not limited to pooled procurement, price negotiation and other mechanisms, which will influence the supply, demand and expenditure on drugs and medicines, in accordance with RA No. 9502, and other relevant laws and regulations.

Section 5. Implementing Guidelines. As may be necessary, the DOH shall formulate guidelines for the effective implementation of this Order.

Section 6. Agency Support. The Presidential Communications Operations Office is hereby directed to provide the necessary support and assistance to the DOH for the dissemination of information relative to this Order.

All other government agencies and instrumentalities including government-owned or -controlled corporations, government financial institutions., and state colleges and universities, are hereby directed to provide the necessary support to the DOH in the information dissemination, enforcement and implementation of this Order.

Section 7. Violations. Any violation of this Order shall be dealt with in accordance with RA No. 9502. and other related laws.

Section 8. Transition. Within a non-extendable period of ninety (90) days from the effectivity of this Order, existing inventory stock shall be allowed to be disposed of at prevailing prices. Thereafter regardless of the status of existing inventory stock, MRP and/or MWP under this Order shall be strictly implemented.

Section 9. Separability. If any part or provision of this Order shall be held unconstitutional or invalid, other parts not affected thereby shall continue to be in full force and effect.

Section 10. Repeal. All executive issuances, orders : rules and regulations or parts thereof inconsistent with this Order are hereby revoked or modified accordingly.

Section 11. Effectivity. This Order shall take effect upon its complete publication in a newspaper of general circulation or the Official Gazette.

DONE, in the City of Manila, this 17 th day of February in the Year of Our Lord, Two Thousand and Twenty.

(SGD.) RODRIGO ROA DUTERTE

By the President:

(SGD.) SALVADOR C. MEDIALDEA
Executive Secretary

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