

EXECUTIVE ORDER NO. 51 October 20, 1986

ADOPTING A NATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND RELATED PRODUCTS, PENALIZING VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

WHEREAS, in order to ensure that safe and adequate nutrition for infants is provided, there is a need to protect and promote breastfeeding and to inform the public about the proper use of breastmilk substitutes and supplements and related products through adequate, consistent and objective information and appropriate regulation of the marketing and distribution of the said substitutes, supplements and related products;

WHEREAS, consistent with Article 11 of the International Code of Marketing of Breast-milk Substitutes, the present government should adopt appropriate legislation to give effect to the principles and aim of the aforesaid International Code;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

Sec. 1. Title. This Code shall be known and cited as the "National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Other Related Products".

Sec. 2. Aim of the Code The aim of the Code is to contribute to the provision of safe and adequate nutrition for infants by the protection and promotion of breastfeeding and by ensuring the proper use of breastmilk substitutes and breastmilk supplements when these are necessary, on the basis of adequate information and through appropriate marketing and distribution.

Sec. 3. Scope of the Code The Code applies to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; feeding bottles and teats. It also applies to their quality and availability, and to information concerning their use.

Sec. 4. Definition of Terms. For the purposes of this Code, the following definition of terms shall govern:

(a) "Breastmilk Substitute" means any food being marketed or otherwise represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose.

(b) "Complementary Food" means any food, whether manufactured or locally prepared, suitable as a complement to breastmilk or to infant formula, when either becomes insufficient to satisfy the nutritional requirements of the infant. Such food is also commonly called "weaning food" or "breastmilk supplement."

(c) "Container" means any form of packaging of products for sale as a normal retail unit, including wrappers.

(d) "Distributor" means a person, corporation or any other entity in the public or private sector engaged

in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product within the scope of this Code. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker.

(e) "Infant" means a person falling within the age bracket of 0-12 months.

(f) "Health care system" means governmental, non-governmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or child care institutions. It also includes health workers in private practice. For the purpose of this Code, the health care system does not include pharmacies or other established sales outlets.

(g) "Health Worker" means a person working in a component of such health care system, whether professional or non-professional, including volunteer workers.

(h) "Infant Formula" means a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards to satisfy the normal nutritional requirements of infants up to between four to six months of age, and adapted to their physiological characteristics. Infant formula may also be prepared at home in which case it is described as "home-prepared".

(i) "Label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of any product within the scope of this Code.

(j) "Manufacturer" means a corporation or other entity in the public or private sector engaged in the business or function (whether directly or through an agent or an entity controlled by or under contract with it) of manufacturing a product within the scope of this Code.

(k) "Marketing" means product promotion, distribution, selling, advertising, product public relations, and information services.

(l) "Marketing personnel" means any person whose functions involve the marketing of a product or products coming within the scope of this Code.

(m) "Sample" means single or small quantities of a product provided without costs.

(n) "Supplies" means quantities of a product provided for use over an extended period, free or at a low price, for social purposes, including those provided to families in need.

Sec. 5. Information and Education

(a) The government shall ensure that objective and consistent information is provided on infant feeding, for use by families and those involved in the field of infant nutrition. This responsibility shall cover the planning, provision, design and dissemination of information, and the control thereof, on infant nutrition.

(b) Information and educational materials, whether written, audio, or visual, dealing with the feeding of infants and intended to teach pregnant women and mothers of infants, shall include clear information on

all the following points: (1) the benefits and superiority of breastfeeding; (2) maternal nutrition, and the preparation for and maintenance of breastfeeding; (3) the negative effect on breastfeeding of introducing partial bottle-feeding; (4) the difficulty of reversing the decision not to breastfeed; and (5) where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. When such materials contain information about the use of infant formula, they shall include the social and financial implications of its use; the health hazards of inappropriate foods or feeding methods; and, in particular, the health hazards of unnecessary or improper use of infant formula and other breastmilk substitutes. Such materials shall not use any picture or text which may idealize the use of breastmilk substitutes.

Sec. 6. The General Public and Mothers

(a) No advertising, promotion or other marketing materials, whether written, audio or visual, for products, within the scope of this Code shall be printed, published, distributed, exhibited and broadcast unless such materials are duly authorized and approved by an inter-agency committee created herein pursuant to the applicable standards provided for in this Code.

(b) Manufacturers and distributors shall not be permitted to give, directly, or indirectly, samples and supplies of products within the scope of this Code or gifts of any sort to any member of the general public, including members of their families, to hospitals and other health institutions, as well as to personnel within the health care system, save as otherwise provided in this Code.

(c) There shall be no point-of-sale advertising, giving of samples or any other promotion devices to induce sales directly to the consumers at the retail level, such as special displays, discount coupons, premiums, special sales, bonus and tie-in sales for the products within the scope of this Code. This provision shall not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long term basis.

(d) Manufacturers and distributors shall not distribute to pregnant women or mothers of infants any gifts or articles or utensils which may promote the use of breastmilk substitutes or bottle feeding, nor shall any other groups, institutions or individuals distribute such gifts, utensils or products provided by this Code.

(e) Marketing personnel shall be prohibited from advertising or promoting in any other manner the products covered by this Code, either directly or indirectly, to pregnant women or with mother of infants, except as otherwise provided by this Code.

(f) Nothing herein contained shall prevent donations from manufacturers and distributors of products within the scope of this Code upon request by or with the approval of the Ministry of Health.

Sec. 7. Health Care System

(a) The Ministry of Health shall take appropriate measures to encourage and promote breastfeeding. It shall provide objective and consistent information, training and advice to health workers on infant nutrition, and on their obligations under this Code.

(b) No facility of the health care system shall be used for the purpose of promoting infant formula or

other products within the scope of this Code. This Code does not, however, preclude the dissemination of information to health professionals as provided in Section 8(b).

(c) Facilities of the health care system shall not be used for the display of products within the scope of this Code, or for placards or posters concerning such products.

(d) The use by the health care system of "professional service" representatives, "mothercraft nurses" or similar personnel, provided or paid for by manufacturers or distributors, shall not be permitted.

(e) In health education classes for mothers and the general public, health workers and community workers shall emphasize the hazards and risks of the improper use of breastmilk substitutes particularly infant formula. Feeding with infant formula shall be demonstrated only to mothers who may not be able to breastfeed for medical or other legitimate reasons.

Sec. 8. Health Workers

(a) Health workers shall encourage and promote breastfeeding and shall make themselves familiar with objectives and consistent information on maternal and infant nutrition, and with their responsibilities under this Code.

(b) Information provided by manufacturers and distributors to health professionals regarding products within the scope of this Code shall be restricted to scientific and factual matters and such information shall not imply or create a belief that bottlefeeding is equivalent or superior to breastfeeding. It shall also include the information specified in Section 5(b).

(c) No financial or material inducements to promote products within the scope of this Code shall be offered by manufacturers or distributors to health workers or members of their families, nor shall these be accepted by the health workers or members of their families, except as otherwise provided in Section 8(e).

(d) Samples of infant formulas or other products within the scope of this Code, or of equipment or utensils for their preparation or use, shall not be provided to health workers except when necessary for the purpose of professional evaluation or research in accordance with the rules and regulations promulgated by the Ministry of Health. No health workers shall give samples of infant formula to pregnant women and mothers of infants or members of their families.

(e) Manufacturers and distributors of products within the scope of this Code may assist in the research, scholarships and continuing education, of health professionals, in accordance with the rules and regulations promulgated by the Ministry of Health.

Sec. 9. Persons Employed by Manufacturers and Distributors Personnel employed in marketing products within the scope of this Code shall not, as part of their job responsibilities, perform educational functions in relation to pregnant women or mothers of infants.

Sec. 10. Containers/Label

(a) Containers and/or labels shall be designed to provide the necessary information about the

appropriate use of the products, and in such a way as not to discourage breastfeeding.

(b) Each container shall have a clear, conspicuous and easily readable and understandable message in Pilipino or English printed on it, or on a label, which message can not readily become separated from it, and which shall include the following points:

(i) the words "Important Notice" or their equivalent;

(ii) a statement of the superiority of breastfeeding;

(iii) a statement that the product shall be used only on the advice of a health worker as to the need for its use and the proper methods of use; and

(iv) instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation.

(c) Neither the container nor the label shall have pictures or texts which may idealize the use of infant formula. They may, however, have graphics for easy identification of the product and for illustrating methods of preparation.

(d) The term "humanized", "maternalized" or similar terms shall not be used.

(e) Food products within the scope of this Code marketed for infant feeding, which do not meet all the requirements of an infant formula but which can be modified to do so, shall carry on the label a warning that the unmodified product should not be the sole source of nourishment of an infant.

(f) The labels of food products within the scope of this Code shall, in addition to the requirements in the preceding paragraphs, conform with the rules and regulations of the Bureau of Food and Drugs.

Sec. 11. Quality

(a) The quality of products is an essential element for the protection of the health of infants, and therefore shall be of high recognized standard.

(b) Food products within the scope of this Code shall, when sold or otherwise distributed, meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Code of Hygienic Practice for Foods for Infants and Children.

(c) To prevent quality deterioration, adulteration or contamination of food products within the scope of this Code, distribution outlets, including the smallest sari-sari store, shall not be allowed to open cans and boxes for the purpose of retailing them by the cup, bag or in any other form.

Sec. 12. Implementation and Monitoring

(a) For purposes of Section 6(a) of this Code, an inter-agency committee composed of the following members is hereby created:

Minister of Health Chairman

Minister of Trade and Industry Member

Minister of Justice Member

Minister of Social Services and Development ... Member

The members may designate their duly authorized representative to every meeting of the Committee.

The Committee shall have the following powers and functions:

(1) To review and examine all advertising, promotion or other marketing materials, whether written, audio or visual, on products within the scope of this Code;

(2) To approve or disapprove, delete objectionable portions from and prohibit the printing, publication, distribution, exhibition and broadcast of, all advertising promotion or other marketing materials, whether written, audio or visual, on products within the scope of this Code;

(3) To prescribe the internal and operational procedure for the exercise of its powers and functions as well as the performance of its duties and responsibilities; and

(4) To promulgate such rules and regulations as are necessary or proper for the implementation of Section 6(a) of this Code.

(b) The Ministry of Health shall be principally responsible for the implementation and enforcement of the provisions of this Code. For this purpose, the Ministry of Health shall have the following powers and functions:

(1) To promulgate such rules and regulations as are necessary or proper for the implementation of this Code and the accomplishment of its purposes and objectives.

(2) To call the assistance of government agencies and the private sector to ensure the implementation and enforcement of, and strict compliance with, the provisions of this Code and the rules and regulations promulgated in accordance herewith.

(3) To cause the prosecution of the violators of this Code and other pertinent laws on products covered by this Code.

(4) To exercise such other powers and functions as may be necessary for or incidental to the attainment of the purposes and objectives of this Code.

Sec. 13. Sanctions

(a) Any person who violates the provisions of this Code or the rules and regulations issued pursuant to this Code shall, upon conviction, be punished by a penalty of two (2) months to one (1) year imprisonment or a fine of not less than One Thousand Pesos (P1,000.00) nor more than Thirty

Thousand Pesos (P30,000.00) or both. Should the offense be committed by a juridical person, the chairman of the Board of Directors, the president, general manager, or the partners and/or the persons directly responsible therefor, shall be penalized.

(b) Any license, permit or authority issued by any government agency to any health worker, distributor, manufacturer, or marketing firm or personnel for the practice of their profession or occupation, or for the pursuit of their business, may, upon recommendation of the Ministry of Health, be suspended or revoked in the event of repeated violations of this Code, or of the rules and regulations issued pursuant to this Code.

Sec. 14. Repealing Clause. All laws, orders, issuances, and rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

Sec. 15. Separability Clause. The provisions of this Executive Order are hereby deemed separable. If any provision thereof be declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions which shall remain in full force and effect.

Sec. 16. Effectivity This Executive Order shall take effect thirty (30) days following its publication in the Official Gazette.

Done in the City of Manila, this 20th day of October, in the year of Our Lord, nineteen hundred and eighty-six.

The Lawphil Project - Arellano Law Foundation
(http://www.lawphil.net/executive/execord/eo1986/eo_51_1986.html)