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www.disini.ph

**ATTORNEYS**

JESUS P. DISINI  
jess@disini.ph

June 25, 2007

DOMINGO P. DISINI  
doming@disini.ph

JJ DISINI  
jj@disini.ph

PHILIPPINE COLLEGE OF SURGEONS  
3<sup>rd</sup> Floor, PCS Building  
992 EDSA, Quezon City

ROWENA S. DISINI  
owens@disini.ph

Attn: Isaac David E. Ampil II, MD  
Acting Secretary

*SPECIAL COUNSEL:*

PATRICK V. SANTO  
patrick@disini.ph

Re: Admission of Foreigners into  
Surgical Training

MA. ARMEE M. JAVELLANA  
armee@disini.ph

Gentlemen,

We refer to your letter dated May 30, 2007 containing various queries on the referenced matter.

BEVERLY ANN C. NORIEGA  
bevs@disini.ph

At the outset, it should be stressed that the practice of professions is Constitutionally restricted to Filipino citizens<sup>1</sup>. Therefore, no foreign citizen can practice medicine in this jurisdiction<sup>2</sup>. For purposes of our opinion, we have concluded that the functions performed by surgical residents and the role they play in patient care constitutes the *practice of medicine* which is broadly defined in the Medical Act of 1959<sup>3</sup>.

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<sup>1</sup> Sec. 14, Art. XII, Constitution.

<sup>2</sup> The issue of licensing implicit in your query is largely irrelevant. Even if the foreign citizen passes the local board exam, he will not be issue a license to practice on the ground that it is Constitutionally prohibited.

<sup>3</sup> See Sec. 10, Republic Act No. 2382 (1959).

However, the Constitution allows exceptions in cases provided by law. Such exceptions are contained in PRC Resolution No. 547-98 issued on January 20, 1998 which permits the following foreign professionals to practice in the Philippines:

1. Foreigners who are allowed to take professional licensure examinations and/or to practice the regulated professions through **reciprocity**;
2. Foreign professionals **called by the Government for consultation** or for specific designs, installations, constructions, demonstrations, specific investigations, assignments or projects or **to be employed as exchange professors or instructors** in specialized branches of the professions or **who are attached to international bodies or organizations** assigned to perform certain definite work in the Philippines.
3. Foreign professionals who are **internationally known to be outstanding experts in their chosen professions** or well-known specialists in its branches.
4. Foreign professionals who are **brought in the Philippines as experts, consultants, or advisers by foreign parties who extend loans to the Philippine Government** or its instrumentalities which are allowed by law to contract/secure such loans to finance or fund infrastructure projects of the Government; or **brought in by foreign parties who, by authority of law, are allowed to enter into contracts with the Philippine Government** or its instrumentalities to undertake the construction or reconstruction of government infrastructure or other projects or **brought in by foreign parties who invest in the Philippines to work in investment enterprise where said foreign parties have invested**.
5. Foreign professionals who come in the Philippines and practice their professions by virtue of the provisions of **International Conventions** and/or Agreements which the Philippines is a party or signatory or to which the Philippines has acceded.
6. Other foreign professionals not included in or covered under any of the above-listed foreign professionals but also **desire to practice their professions** in the Philippines.

From the above enumeration, foreign surgical residents may be permitted to practice their profession here: (a) if allowed by reciprocity; (b) if allowed by International Convention; or, (c) if they so desire to practice in the Philippines<sup>4</sup>. For cases falling under (b) and (c), the PRC will only issue a temporary special permit to the foreigner to practice medicine. In situations covered by (a), the foreign citizen must take the local board examinations but it should be stressed that those persons wishing to take advantage of reciprocity must show that they have resided in the Philippines at least 3 years prior to the filing of the application with the PRC.

We are currently not aware of any other country with which the Philippines enjoys reciprocity as regards the practice of medicine. We are likewise unaware of any International Convention that obliges the Philippines to allow foreigners to practice medicine here.

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<sup>4</sup> All other instances listed involve experts who presumably will not apply for a surgical residency.

Anent your queries respecting the liabilities surrounding the admission of an unlicensed foreign citizen into a surgical residency program, there are administrative as well as criminal liabilities. The foreign citizen will be engaged in the illegal practice of medicine which is penalized by imprisonment as long as 5 years<sup>5</sup>. The hospital that permits the said foreign resident to practice may have its license suspended or revoked by the Department of Health<sup>6</sup>. The doctor who facilitates the foreign citizen's practice of medicine without a license is subject to a reprimand, or the suspension or revocation of his certificate of registration<sup>7</sup>. Such a doctor may also be criminal liable under the Anti-Dummy Law for aiding a foreigner to practice in the Philippines. In all cases, civil damages may be sued for by any plaintiff who suffers injury as a result of the actions of the unlicensed foreign resident.

We trust the foregoing sufficiently answers your queries. Should you have any questions or require additional assistance, please do not hesitate to contact us.

Very truly yours,

DISINI & DISINI

By:

A handwritten signature in black ink, appearing to read 'JJ Disini', written over a horizontal line.

JJ DISINI

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<sup>5</sup> See Sec. 28, The Medical Act of 1959.

<sup>6</sup> See Sec. 11, Republic Act No. 4225 ("The Hospital Licensure Act").

<sup>7</sup> See Sec. 24(11), Republic Act No. 2382.