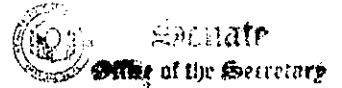


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



20 SEP -1 P2:10

SENATE

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COMMITTEE REPORT NO. 107

Submitted by the Committee of the Whole on SEP - 1 2020

Re: P.S. Res. Nos. 461, 474 and 475

Recommending the adoption of the recommendations contained therein and their Immediate implementation.

Sponsors: Senators Sotto III, Lacson, De Lima, and Pangilinan

MR. PRESIDENT:

The Committee of the Whole to which was referred **P.S. Res. No. 461**, introduced by Sen. Leila M. De Lima, entitled:

"RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED FAILURE OF THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH) TO RELEASE INSURANCE CLAIMS TO ITS ACCREDITED HOSPITALS WHICH MAY RESULT INTO THE CLOSURE OF THE SAID INSTITUTIONS THAT CAN SERIOUSLY AFFECT OUR PUBLIC HEALTH SERVICE DELIVERY AND RESPONSE TO THE COVID-19 PANDEMIC"

P.S. Res. No. 474, introduced by Sen. Francis N. Pangilinan, entitled:

"RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE WIDESPREAD CORRUPTION IN THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH), AS ALLEGED BY A RESIGNED PHILHEALTH OFFICER, FURTHER JEOPARDIZING THE COUNTRY'S HEALTH CARE SYSTEM DURING THE COVID-19 PANDEMIC", and

P.S. Res No. 475, introduced by Sen. Vicente C. Sotto III, Panfilo "Ping" M. Lacson, Dela Rosa, Ronald "Bato", Villar, Cynthia A., Drilon, Franklin M., Villanueva, Joel, Pangilinan, Francis "Kiko" N., Binay, Maria Lourdes Nancy S., Cayetano, Pia S., Recto, Ralph G., Angara, Sonny, Marcos, Imee R., Hontiveros, Risa, Revilla Jr., Ramon Bong,

Zubiri, Juan Miguel "Migz" F., Pacquiao, Emmanuel "Manny" D., Gatchalian, Win, and Poe, Grace entitled:

"RESOLUTION CALLING FOR THE CONSTITUTION OF THE SENATE COMMITTEE OF THE WHOLE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED RAMPANT CORRUPTION, INCOMPETENCE AND INEFFICIENCY IN THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH) AMIDST THE COVID-19 PANDEMIC THAT MAY LEAD TO THE FINANCIAL COLLAPSE OF THE INSTITUTION TO THE PREJUDICE OF THE FILIPINO PEOPLE",

has considered the same and has the honor to report them back to the Senate with the attached finding and recommendations.

Respectfully submitted:

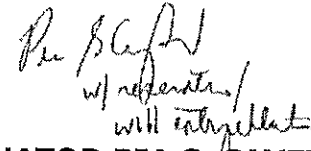
Chairperson


SENATOR VICENTE C. SOTTO III
Senate President

Vice-Chairperson


SENATOR PANFILO M. LACSON
Members


SENATOR SONNY ANGARA*


SENATOR PIA S. CAYETANO


MA. LOURDES NANCY S. BINAY

SENATOR LEILA M. DE LIMA



SENATOR RONALD "BATO" DELA
ROSA



SENATOR WIN GATCHALIAN



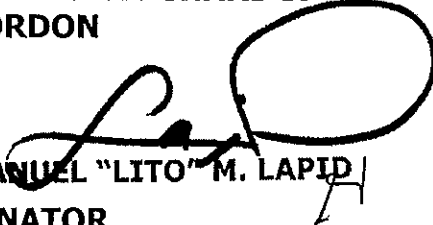
SENATOR CHRISTOPHER LAWRENCE
T. GO

WITH RESERVATIONS



SENATOR RICHARD J.
GORDON

Ritortivosa awaquil
SENATOR RISA HONTIVEROS *



MANUEL "LITO" M. LAPID
SENATOR



SENATOR IMEE R. MARCOS



SENATOR GRACE POE



SENATOR EMMANUEL "MANNY" D.
PACQUIAO



SENATOR RAMON BONG
REVILLA JR.

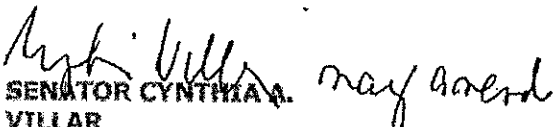


SENATOR FRANCIS "KIKO" N.
PANGILINAN**



SEN. JOEL VILLANUEVA*

SENATOR AQUILINO "KOKO"
PIMENTEL III



SENATOR CYNTHIA A.
VILLAR

SENATOR RONALD "BATO" DELA
ROSA

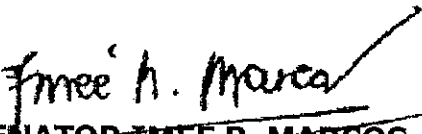
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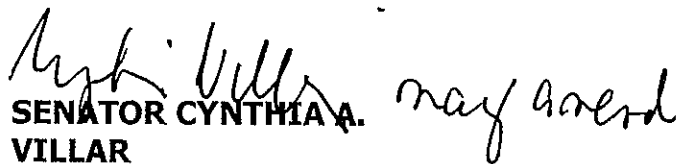
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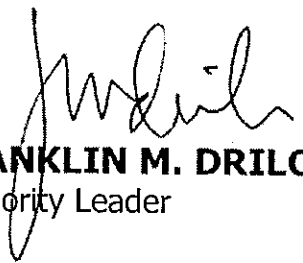
SENATOR FRANCIS "TOL" N.
TOLENTINO


**SENATOR FRANCIS "TOL" N.
TOLENTINO**

Ex-Officio Members


SENATOR RALPH G. RECTO**
President Pro-Tempore


SENATOR JUAN MIGUEL F. ZUBIRI
Majority Leader


SENATOR FRANKLIN M. DRILON
Minority Leader

* May amend/interpellate

** May amend

I. PREFATORY STATEMENT

There is a spectre that is haunting the Philippines - the spectre of SARS-CoV-2. As of latest count, this virus has slain in its path nearly three and a half thousand, rendered ill more than two hundred thousand, and still counting. COVID-19 has left many families orphaned, grieving, and suffering. It has deprived an innumerable, left with no one to support them. The human cost is immeasurable.

Compounding this despairing reality, the economy has suffered immensely: a heretofore unimaginable 45.5% adult unemployment at 27.3 million Filipinos ; and a whopping Php2.2 trillion in estimated economic losses .

This virus-borne disease and the resultant suffering is more than enough to make a people fall on its knees, in prayer and abject surrender.

Alas, for us, this is not the only disaster to be. As if this cataclysm that has befallen us is not devastating enough, we are made to suffer another catastrophe, man-made this time - the endemic corruption and gross mismanagement of PhilHealth which if not corrected or eradicated will pose grave risks not only to health; but also the lives of all Filipinos.

The Committee of the Whole which was constituted last July 28, 2020 to conduct an inquiry, in aid of legislation, on the alleged rampant corruption, incompetence and inefficiency in the PHILIPPINE HEALTH INSURANCE CORPORATION (PhilHealth); conducted three (3) public hearings on Proposed Senate Resolution Nos. 461, 474 and 475 held last August 04, 11 and 18, 2020.

The first measure authored by Senator Leila de Lima, dealt on the allegations on the failure of the PHILHEALTH to release insurance claims to its accredited hospitals which may result into the closure of the said institutions, while the second and third measures authored by Senate President Sotto III, Lacson, and Pangilinan, urged to look into the alleged widespread corruption, incompetence and inefficiencies in

PhilHealth that may eventually lead to financial collapse of the corporation to prejudice the Filipino people.

The nature of the three resolutions included in the agenda of the hearings hinted on the probable administrative and criminal culpability of some personalities from the President and Chief Executive Officer, Senior Vice Presidents, Regional Vice Presidents down to numbers of ranking officials of PhilHealth. These serious allegations have put into question whether there are indeed legitimate reasons that lead to the stepping down of no less than PhilHealth's Anti-fraud legal officer after complaining about his delayed salaries presumptively after he started investigating the probable breach of some PhilHealth's ranking officials.

The discussions during the hearings were both investigative and inquiries in aid of legislation intended to reform the administrative operations of PhilHealth. The conducted hearings also intend to look into the proposal to come up with sound recommendations to put an end to the allegation of corruption and put into place reforms in the administration of the country's premier health care provider through possible filing of bills to amend the PhilHealth law.

The controversies surrounding PhilHealth have long been surfaced as early as 2015 that lead to the reported loss of billions of pesos due to some unscrupulous practices like ghost dialysis, unnecessary cataract surgeries, case upscaling, questionable rise in claims, bloated budget proposals for ICT projects, just to name some.

In fact, sometime in 2018, PhilHealth employees all around the country simultaneously staged a protest to denounce the corporation's widespread corruption and inefficient management of its operations.

It is the main concern of the committee that the duty of the government to serve, protect and promote the people's right to health and maintain honesty and

integrity in the public service as guaranteed by the constitution, shall be upheld at all times.

The principal consideration and objective of the Committee of the Whole in hearing the aforementioned resolutions is to gather sufficient data and information that will serve as indicators on the need to reshuffle or to totally reorganize the entire PHILHEALTH Bureaucracy, provide for stiffer penalties as a means of stopping the widespread frauds, as well as recommend to appropriate agencies in the government to investigate and ultimately file the necessary charges to whoever is involved in the alleged malversation if necessitated.

Moreover, the committee would like to determine the efficacy of the existing PhilHealth law with the hope of introducing administrative reforms on the ways and means to improve its operations and uphold its mandate in providing help to the Filipino people who are in dire need of medical assistance.

After gathering necessary information to come up with a proposed legislation, the Committee of the Whole has the honor to submit the results of the three (3) public hearings to the Senate with the following findings, conclusions, and recommendations.

Here is our Report --

The National Health Insurance Program was established to provide health insurance coverage and ensure affordable, acceptable, available and accessible health care services for all citizens of the Philippines. It shall serve as the means for the healthy to help pay for the care of the sick and for those who can afford medical care to subsidize those who cannot. It shall initially consist of Programs I and II or Medicare and be expanded progressively to constitute one universal health insurance program for the entire population (*Article III, Section 5 of RA 7875 as amended*).

Its powers and functions are found in RA 7875, as amended by RA 10606, Article IV, Section 16. We have placed here a list of PhilHealth's authority as may be relevant to this proceeding:

"SEC. 10. Section 16 of the same Act is hereby amended to read as follows:

"SEC. 16. Powers and Functions. – The Corporation shall have the following powers and functions:

"x x x

"(c) To supervise the provision of health benefits and to set standards, rules, and regulations necessary to ensure quality of care, appropriate utilization of services, fund viability, member satisfaction, and overall accomplishment of Program objectives;

"x x x

"(j) To negotiate and enter into contracts with health care institutions, professionals, and other persons, juridical or natural, regarding the pricing, payment mechanisms, design and implementation of administrative and operating systems and procedures, financing, and delivery of health services in behalf of its members;

"x x x

"(m) To visit, enter and inspect facilities of health care providers and employers during office hours, unless there is reason to believe that inspection has to be done beyond office hours, and where applicable, secure copies of their medical, financial, and other records and data pertinent to the claims, accreditation, premium contribution, and that of their patients or employees, who are members of the Program;

"x x x

- “(p) To keep records of the operations of the Corporation and investments of the National Health Insurance Fund;
- “(q) To establish and maintain an electronic database of all its members and ensure its security to facilitate efficient and effective services;
- “(r) To invest in the acceleration of the Corporation’s information technology systems;
- “(s) To conduct an information campaign on the principles of the NHIP to the public and to accredited health care providers. This campaign must include the current benefit packages provided by the Corporation, the mechanisms to avail of the current benefit packages, the list of accredited and disaccredited health care providers, and the list of offices/branches where members can pay or check the status of paid health premiums;
- “(t) To conduct post-audit on the quality of services rendered by health care providers;
- “(u) To establish an office, or where it is not feasible, designate a focal person in every Philippine Consular Office in all countries where there are Filipino citizens. The office or the focal person shall, among others, process, review and pay the claims of the overseas Filipino workers (OFWs);
- “(v) Notwithstanding the provisions of any law to the contrary, to impose interest and/or surcharges of not exceeding three percent (3%) per month, as may be fixed by the Corporation, in case of any delay in the remittance of contributions which are due within the prescribed period by an employer, whether public or private. Notwithstanding the provisions of any law to the contrary, the Corporation may also compromise, waive or release, in whole or in part, such interest or surcharges imposed upon employers regardless of the amount involved under such valid terms and conditions it may prescribe;
- “(w) To endeavor to support the use of technology in the delivery of health care services especially in far flung areas such as, but not limited to,

telemedicine, electronic health record, and the establishment of a comprehensive health database;

“(x) To monitor compliance by the regulatory agencies with the requirements of this Act and to carry out necessary actions to enforce compliance;

“(y) To mandate the national agencies and LGUs to require proof of PhilHealth membership before doing business with a private individual or group;

“(z) To accredit independent pharmacies and retail drug outlets; and

“(aa) To perform such other acts as it may deem appropriate for the attainment of the objectives of the Corporation and for the proper enforcement of the provisions of this Act.”

PhilHealth is commanded to cover all citizens of the Philippines. “In accordance with the principles of universality and compulsory coverage enunciated in Section 2 (b) and 2(1) hereof, implementation of the Program shall ensure sustainability of coverage and continuous enhancement of the quality of service : Provided, That the Program shall be compulsory in all provinces, cities and municipalities nationwide, notwithstanding the existence of LGU-based health insurance programs: Provided, further, That the Corporation, Department of Health (DOH), local government units (LGUs), and other agencies including nongovernmental organizations (NGOs) and other national government agencies (NGAs) shall ensure that members in such localities shall have access to quality and cost-effective health care services.”¹

PhilHealth serves its members and the people by way of benefit packages:

“(S)ubject to the limitations specified in this Act and as may be determined by the Corporation, the following categories of personal health services granted to the member or his dependents as medically necessary or appropriate shall include: (a) Inpatient hospital care: (1) room and board; (2) services of health

¹ Section 4 of RA 10606, amending Section 6 of RA 7875 (National Health Insurance Act of 1995)

care professionals; (3) diagnostic, laboratory, and other medical examination services; (4) use of surgical or medical equipment and facilities; (5) prescription drugs and biologicals; subject to the limitations stated in Section 37 of this Act; (6) inpatient education packages; (b) Outpatient care: (1) services of health care professionals; (2) diagnostic, laboratory, and other medical examination services; (3) personal preventive services; and (4) prescription drugs and biologicals, subject to the limitations described in Section 37 of this Act; (c) Emergency and transfer services; and (d) Such other health care services that the Corporation shall determine to be appropriate and cost-effective:

The Corporation is funded through the creation of the National Health Insurance Fund "that shall consist of: (a) Contributions from Program members; (b) Current balances of the Health Insurance Funds of the SSS and the GSIS collected under the Philippine Medical Care Act of 1969, as amended, including arrearages of the Government of the Philippines with the GSIS for the said Fund; (c) Other appropriations earmarked by the national and local governments purposely for the implementation of the Program; (d) Subsequent appropriations provided for under Sections 46 and 47 of this Act; (e) Donations and grants-in-aid; and (f) All accruals thereof."²

The series of hearings unearthed the following grave issues:

- I. The Interim Reimbursement Mechanism (IRM): Legal bases or lack of it, and its shoddy - or shady – implementation
- II. The ICT project as an anatomy of corruption
- III. The PhilHealth Financial Status, specifically
 - The Alleged manipulation of PhilHealth's financial statements, earlier flagged by the Commission on Audit and
 - Its Actuarial life: examining further the claim that "PhilHealth will die in 2021 or 2022"
- IV. Irregularities in the Legal Sector

² Section 25, Article VI of RA 7875

I. INTERIM REIMBURSEMENT MECHANISM

STATEMENT OF FACTS

PhilHealth, in its effort to support government response to fight the COVID-19 threat, has instituted the **Interim Reimbursement Mechanism or IRM³**, defined as *"a special privilege for the provision of substantial aid to an eligible HCIs **directly hit by a fortuitous event** with clear and apparent intent to continuously **operate and/or rebuild** the HCI in order to provide continuous health care services to adversely affected Filipinos".* This allows PhilHealth to grant advance **payment up to three months to Health Care Institutions (HCIs)** to support their continuous operation.

PCEO Ricardo Morales cited paragraphs **(c),(d) and (j) of Section 16** of the **Republic Act 7875**, As Amended, Otherwise Known As the National Health Insurance Act of 1995 as the legal basis for the implementation of the IRM.

PhilHealth Circular 0034, s. 2013⁴, or the "Guidelines on the Provision of Special Privileges to those Affected by a Fortuitous event", signed by then PCEO Alexander Padilla, served as the impetus of the IRM. Under the said circular, **fortuitous events are described as "acts of God" like floods or typhoons; or an "act of man" such as rebellions, insurgencies and wars.**

Based on the Circular 2020-0007, the rationale of the IRM is premised on Section 1 (p). Public Health Services of Republic Act 7875 as amended by RA 9241 and RA 10606, otherwise known as the National Health Insurance Act of 2013:

"The Government shall be responsible for providing public health services for all groups such as women, children, indigenous people, displaced communities and communities in

³ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH Circ. No. 2020-0007

⁴ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH Circ. No. 0034, s. 2013

environmentally endangered areas, while the Program shall focus on the provision of personal health services. Preventive and promotive public health services are essential for reducing the need and spending for personal health services;" (emphasis supplied)

As clearly seen from the statement of objectives of PhilHealth Circular 2020-0007, the same is intended to "**ensure continuous access to PhilHealth benefits and be able to provide substantial aid to HCIs in rebuilding their critically damaged healthcare system in order to provide continuous provision of health care services to all Filipinos adversely affected by fortuitous event**".

During the August 11, 2020 Committee of the Whole hearing, Atty. Roberto Labe Jr., the Corporate Legal Counsel, stated that there has been a decrease in patient census and increase of cost of hospitals, hence the IRM response. This is to ensure that hospitals will be able to continue its operations during the pandemic even if these hospitals have no/ low COVID-19 cases.

The IRM has been implemented in the past to facilitate the recovery of affected HCIs to make them operational for members.

a) In 2009, the payment scheme for IRM was implemented for **accredited health care providers** in NCR and Rizal Province, which have incurred destruction of facilities and equipment due to **Typhoon Ondoy** as **identified and validated by the Corporation (PC No. 36, s. 2009)**⁵.

b) In 2017, IRM was used to provide substantial aid in rebuilding **critically damaged** healthcare systems of **accredited HCIs** affected by the armed conflict in **Marawi (PC No. 2017-0026)**⁶.

c) In January 2020, PhilHealth claimed that more than a billion pesos was made available to **accredited hospitals, primary care facilities, ambulatory surgical clinics, freestanding dialysis centers, and**

⁵ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH Circ. No. 36, s. 2009

⁶ Refer to the records of the Committee of the Whole for the copy PHILHEALTH Circ. No. 2017-0026

maternity package providers in the aftermath of the **Taal eruption (Press release on 29 January 2020). PC No. 0034, s. 2013**⁷,

d) On 20 March 2020, PhilHealth released PCR No. 2020-007 on the implementation of the IRM for the COVID-19 response. Premised on the said circular, COVID19-related IRM implementation appears questionable following its stated objective *"to ensure continuous access to PhilHealth benefits and be able to provide substantial aid to HCIs in rebuilding their critically damaged healthcare system in order to provide continuous provision of health care services to all Filipinos adversely affected by fortuitous event"*. **PhilHealth Circular No. 2020-0007**⁸.

What is noteworthy in these previous IRM versions is the fact that HCI beneficiaries suffered serious infrastructure and recorded damages due to the occurrence of a fortuitous event. Thousands of claim records sustained flood damages that would have taken months to reconstitute. The situation demanded emergency payment arrangements to ensure the unimpeded provision of financial risk protection to members. Moreover, as differentiated from PHC 2020-0007, which authorizes PhilHealth to make advance payments to HCIs, in the three previous IRMs, PhilHealth did not advance any amount to any HCIs but only ensured **"accelerated reimbursements"** of HCIs claim subject to certain condition.

Confronted with a copy of an **unnumbered PhilHealth Board Resolution**⁹ during the second Senate Committee of the Whole hearing last 11 August 2020, PhilHealth Corporate Secretary Atty. Jonathan Mangaoang referred to it as **PBR No. 2515**, which he said was adopted on 31 March 2020, **"Ratifying the Interim Reimbursement Mechanism (IRM) Nationwide due to Coronavirus Disease (Covid 19)"**.

⁷ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH Circ. No. 0034, s. 2013

⁸ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH Circ. No. 2020-0007

⁹ Refer to the records of the Committee of the Whole for the copy of the PHILHEALTH Board Reso. No. 2515

On **22 April 2020**, disseminated through the Outlook Mail of PhilHealth, was the **Standard Operating Procedures (SOP) on the releases of IRM¹⁰**. It must be noted that the SOP's effectivity was dated 21 March 2020.

As of 09 June 2020, the total IRM releases amount to **14,038,393,329.14** disaggregated as follows:

HOSPITAL CLASSIFICATION	NO. OF HCIs	TOTAL IRM RELEASED
LEVEL 1	244	2,346,521,290.22
LEVEL 2	185	4,166,735,642.48
LEVEL 3	92	7,157,075,358.24
Free-Standing Dialysis	48	226,380,912.20
Maternity Care Package	4	4,772,163.00
Infirmaries	59	136,907,963.00
		14,038,393,329.14

Top 10 hospitals or HCIs, ranked according to amount received¹¹

Hospital	Amount Received from IRM (Php)	Date of Fund Transfer¹²
Southern Philippines Medical Center (SPMC)	325.755 Million	8 April 2020
UP-PGH	263.3 Million	30 Mar 2020
Davao Regional Medical Center	209 Million	8 April 2020
Vicente Sotto Memorial Medical Center (Cebu City)	204 Million	7 April 2020
Jose B. Lingad Memorial Regional Hospital (San Fernando, Pampanga)	201 Million	14 April 2020
National Kidney and Transplant Institute	179 Million	8 April 2020

¹⁰ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH SOP-02-02-008

¹¹ TSN, Committee of the Whole, 11 August 2020 p.25

¹² List of Official Receipt from Health Care Institutions, IRM Disbursements, submitted to Comm. of the Whole

Baguio General Hospital and Medical Center,	165 Million	7 April 2020
Northern Mindanao Medical Center,	150.2 Million	6 April 2020
Quirino Memorial Medical Center,	150 Million	1 April 2020
Eastern Visayas Regional Medical Center	146 Million (150.675) ¹³	30 Mar 2020

From the record of PhilHealth IRM releases, **P226,380,912.20** was released to 48 Freestanding Dialysis nationwide, **P136,907,963.00** was released to infirmaries, while a total of **P4,772,163** was provided to four (4) Maternity Care Package (MCP) Providers.

However, the Committee noted that such releases were considered illegal considering the provision on the Effectivity of PhilHealth Circular No. 2020-0007, which explicitly provides that:

*"This Circular shall take effect immediately from its publication in a newspaper of general circulation **AND** three (3) certified true copies had been furnished the Office of National Administrative Register (ONAR) of the UP Law Center."*
(emphasis supplied)

A. IRM: A CASE OF VOID AND DEFECTIVE POLICY

It must be underscored that in all of the **legal basis** cited by PhilHealth officials, the reference for provision of health benefits pertains to the regular benefit claims payments of PhilHealth (paragraphs c, d, j of Section 16) and **displaced communities and communities in environmentally endangered areas** (paragraph O of Section 1). PhilHealth Circular No. 2020-0007 also mentions substantial aid to HCIs in rebuilding their critically damaged healthcare system xxx adversely affected by a fortuitous event.

¹³ List of Official Receipt from Health Care Institutions, IRM Disbursements, submitted to Comm. of the Whole

More so, in the prior implementation of IRM, corresponding circulars set the **requirement for PhilHealth accreditation, sustained critical damage in infrastructure, and identification and validation of the Corporation of the magnitude of damage/destruction of the HCIs.** These circumstances are lacking or absent in the implementation of the present IRM in response to the pandemic, thus rendering its implementation **void** from the beginning.

The **Standard Operating Procedures (SOP) on the releases of IRM** was only *disseminated* almost a month after Circular 2020-0007, or on 22 April 2020 through the Outlook Mail of PhilHealth. Notwithstanding the late dissemination of the document, the effectivity of the SOP was retroactively dated to 21 March 2020. Drawing from the late dissemination of the document, **it is the Committee's submission that the SOP was antedated to support and justify the immediate execution of MOAs (as early as March 23) and release of IRMs (on March 25) to some favored HCIs.**

There were already **279 hospitals which received IRM funds as early as March 25 to April 22.** If indeed the SOP, a requisite document in the implementation of the IRM, was belatedly enacted and signed on 22 April 2020 and made to apply retroactively to 21 March 2020, then we submit that the IRM releases to these 279 hospitals prior to such time, i.e. 22 April 2020 were irregularly made as they did not have the SOP on how the same will be released and processed at that time.

Another factor that contributes to our assumption of illegality in the enactment and implementation of the Interim Reimbursement Mechanism (IRM) by the PhilHealth was the belated adoption by the PhilHealth Board of PBR 2515, entitled, "**Resolution Ratifying the Interim Reimbursement Mechanism (IRM) Nationwide due to CoronaVirus Disease (COVID 19)**". This Resolution was **only adopted by the Board on 31 March 2020.** Hence, we submit that PhilHealth **does not have any legal justification when they implemented Circular 2020-0007 as early as 20 March 2020** which for all intents and purposes was considered an "**ultra vires**" act of the corporation.

On the effectivity of PhilHealth Circular 2020-0007, Article VII of the Circular clearly states that "This Circular shall take effect immediately from its publication in a newspaper of general circulation **AND three (3) certified true copies had been furnished the Office of National Administrative Register (ONAR) of the UP Law Center.**" Emphasis is made on the requirement for the certified true copies furnished to ONAR for the Circular's effectivity. Upon the request of the Office of Senator Lacson, ONAR of the UP Law Center issued a **Certification that PhilHealth Circular 2020-0007 was filed on JUNE 11, 2020**¹⁴. If we are to consider the effectivity date of IRM based not only from its publication in a newspaper of general circulation **but also** on its submission of PhilHealth Circular No. 2020-0007 to ONAR, this would mean that the IRM effectivity is deemed valid only on 11 June 2020. Thus, we submit that the total IRM releases amounting to **P14,038,393,329.14 from March 25 (earliest date of fund release) until 9 June 2020 were deemed illegal and invalid.**

Furthermore, **SVP for Legal Sector, Atty Rodolfo "Jojo" Del Rosario**, agreed that the **IRM fund releases were illegal** in the hearings conducted by both the Senate and House of Representatives. He stated that it would appear that the IRM funds were not released based on the prerequisite set by the circular on publication and furnishing of copies to the ONAR.

These submissions are supported by the case of ***Republic of the Philippines vs. Pilipinas Shell Petroleum Corporation (G.R. No. 173918)***, where the Supreme Court ruled that both the requirements of publication and filing of administrative issuances intended to enforce existing laws are mandatory for the effectivity of said issuances. Failure to observe the proper requirements makes administrative issuances to **HAVE NO FORCE AND EFFECT.**

B. QUESTIONABLE IRM FUND RELEASES TO HCIs

¹⁴ Refer to the records of the Committee of the Whole for the copy of Certification of filing of PHILHEALTH Circ. No. 2020-0007 from UP Law Center

B.1. Invalid and Irregular IRM Fund

As of 9 June 2020 releases, there are **339 HCIs** which received IRM funds amounting to more than P8.8 million in addition to several other HCIs that received various amounts under this program.

HOSPITAL CLASSIFICATION	NO. OF HCIs (with IRM funds exceeding P8.8 million)
LEVEL 1	89
LEVEL 2	154
LEVEL 3	90
Free-Standing Dialysis	5
Infirmaries	1
TOTAL	339

B.2. Releases to Non-COVID19 Facilities

Unlike previous IRM releases to recipient-HCIs with sustained damages from fortuitous events, there was **no set of criteria on which HCI will receive IRM funds**. Lack of such qualifiers would mean that the funds were either indiscriminately distributed or that the agency was being generous to the point of being ludicrous. The Committee is not adverse to helping these other HCIs but they should have been covered by the regular benefit packages of PhilHealth and not through this IRM.

It has also been established during the hearings that the implementation of IRM is questionable after PhilHealth extended the coverage of the IRM distribution to **HCI beneficiaries which were not included in the objective** set forth in the PhilHealth Circular 2020-0007. Moreover, the statement of PCEO Morales that IRM became COVID-19 specific was made only sometime in May when the continuous implementation of this IRM became untenable for lack of funds.

To reiterate, from the **record of PhilHealth IRM releases as of 9 June 2020¹⁵**, the total sum of **P226,380,912.20** was released to **48 Freestanding**

¹⁵ Refer to the records of the Committee of the Whole for the copy of PHILHEALTH IRM releases as of 9 June 2020

Dialysis nationwide, P136,907,964 for 59 infirmaries, and P4,772,163 were released to **four (4) Maternity Care Package (MCP) Providers**. An official submission of the updated data on IRM releases should be provided by PhilHealth to validate the said figures.

On Free-standing Dialysis, the Committee took particular concern to **B. Braun Avitum Dialysis Center**. In a span of 7 days, PhilHealth released almost 15.4 million and 4.2 million to TWO (2) B. Braun Avitum Dialysis Center Branches in Tondo, Manila. Also, its 2 branches located in the 2nd District of Quezon City received the amount of P8.95 million and P5.3 M respectively. Note should also be made that the date when the MOAs of these branches of B. Braun Avitum Philippines were filed on the same dates (April 15 for the 2 branches in Tondo, Manila and April 22 for the 2 branches in Quezon City) and their IRMs were released on the same dates (April 23 for the 2 branches in Tondo, Manila and May 4 for the 2 branches in Quezon City).

The photos that the Office of Senator Panfilo Lacson has taken from the B. Braun Avitum Philippines, Inc. in Delpan Street, Tondo¹⁶ on 10 August showed that the center has **no isolation area and only caters to out-patient services**. Further to our inquiry, suspected or confirmed COVID19 patients are referred to the nearby Gat Andres Memorial Hospital.

Further, B. Braun has released **Patient Announcement¹⁷** relative to PHILHEALTH Circular 2020-007 stating that while the circular mentions the "Exemption from the 45-day benefit limit and Single Period Confinement for admissions..xxx", **"it does NOT specifically states that it applies to all case rates, including dialysis treatments."** Hence, **B. Braun still requires patients who have already exhausted the 90-treatment PhilHealth benefit to pay in cash** based on the prevailing rates pending PhilHealth issuance of new circular.

The foregoing disproves PhilHealth executives' emotive assertions during the hearing that IRM releases also cover dialysis centers because as the document shows, **A. Braun Avitum still does not grant "privileges" to dialysis patients** (i.e.

¹⁶ Refer to the records of the Committee of the Whole for the copy of pictures of B. Braun Avitum Tondo

¹⁷ Refer to the records of the Committee of the Whole for the copy of the Patient Announcement of B. Braun Avitum in Tondo

Exemption from the 45-day benefit limit and Single Period Confinement for admissions) who are directly or indirectly related to fortuitous events, as clearly stated in the PhilHealth Circular 2020-007 -- the very basis of B. Braun's over 45-million IRM releases.

B.3. Preferential Treatment to HCIs

One of the contentions of IRM as a policy is that the determination of IRM amounts for HCIs and its consequent approval and fund releases are very **centralized**. It follows that the preference and prioritization of which hospitals will receive the IRM funds remain at the Central Office.

In fact, according to Region VIII Acting Regional Vice President Michael Jibson Hernandez during the 11 August hearing, Regional Offices are only authorized to review requisite documents such as the Letter of Intent and Memorandum of Agreement. Once complete, they will forward the said documents to the Central Office and await for the approval which will go through the office of Dr. Ish Pargas (Policy Sector) and SVP Renato Limsiaco (Fund Management Sector) to the office of HEA Laborte and finally to the desk of PCEO Morales. These are all reflected in the document called "Document Review and Approval Request Form" (DRAR). After the receipt of the letter of approval and the signed MOA from the Central Office, the RVPs will then request for fund transfer from the office of SVP Limsiaco before they can process the release of the amount to the hospitals.

The issue of non-releases of IRM funds to HCIs in Region VI Region VIII, was raised by Senators Drilon and Lacson, respectively. PCEO Morales was quick on pointing fingers, saying that the Regional Vice President for Region VI, Atty Val Hollero, should be blamed for such apparent inaction.

A review of the documents provided by Atty. Valerie Hollero, Regional Vice President of Region VI, would show, however, that recommendations for IRM requests were made as early as April 8 and consequently, on April 15 for a total of 16 hospitals. Subsequent follow-up letters and correspondence, notwithstanding, there was still no fund release approved by the Central Office. Local hospitals dealing with a surge in

cases of new coronavirus disease (COVID-19) have yet to collect P521 million from Philippine Health Insurance Corp. (PhilHealth), according to Mayor Jerry Treñas. Treñas, in an Aug. 3 letter to PhilHealth Western Visayas vice president, Valerie Anne Hollero, called the agency's attention regarding the claims of seven private and two government hospitals.¹⁸

Meanwhile, raised during one of the hearings was the concern of **Eastern Samar Governor Ben Evardone** who claimed that government hospitals did not receive IRM funds from PhilHealth. IRM HCIs' transaction history of Region 8 shows that as early as 20 March 2020, PRO 8 Office already has submissions to the Central Office of hospitals' Letter of Intent and Memoranda of Agreement, which are requirements for IRM releases. In fact, from 20 March to April 20, **81 Hospitals** with IRM requests were already submitted to the Central Office for approval.

Among the hospitals PhilHealth Regional Office (PRO) **endorsed to the Central Office on March 23** were **10 government hospitals in Eastern Samar**. The Central Office subsequently approved the endorsement on April 27, 2020 but has not acted upon it since then. Hence, these government hospitals have yet to receive any IRM releases as of date.

Meanwhile, based on the record of PRO 8, four (4) private hospitals in Eastern Samar received IRM releases amounting to the sum of **P21,504,564.50**. Immaculate Concepcion Clinic and Hospital received its IRM funds on April 24 while Domingo Casano Hospital's IRM fund amounting to P12.5 million, the highest in Eastern Samar, was released on May 5.

During the 11 August hearing, some members of the Committee also raised the case of **Ospital ng Maynila (OSMA)** which did not receive its IRM fund amounting to **P19,382,108.00**. During the interpellation, PCEO Morales insisted that PhilHealth already released 19.3 million to OSMA on June 23.

¹⁸ <https://newsinfo.inquirer.net/1328073/philhealth-still-owes-iloilo-city-hospitals-p521m>

The assertions of Morales contradicted the letter of OSMA, through **OIC-Hospital Director Karm Oliver Laqui dated 9 July 2020**¹⁹, inquiring for an update on the IRM application of the hospital submitted on 20 March 2020.

Contrary to the submission of PhilHealth SVP Renato Limsiaco to the Committee of a document, "**Authority for Fund Transfer**"²⁰, showing transfers to several hospitals including OSMA on **23 June 2020**, based on the official receipt (MLA 9575808) from the Office of the City Treasurer of Manila showing that the amount of P19,382,108.00 was only paid out by PhilHealth on **11 August 2020**.

B.4. Hasty Payment Releases under IRM

The haste in payment releases under IRM is also noteworthy, particularly, to Level 3 hospitals in Regions V and VIII which had records of low COVID-19 cases at the time of filing for IRM. To underscore, three Level 3 hospitals (Bicol Medical Center, Bicol Regional Training, and Teaching Hospital and Universidad De Sta. Isabel De Naga Inc.) from Region V with a record of only one COVID-19 patient filed claims under IRM on 23 March 2020 and just two weeks later, the fund amounting to Php247.46 million was released to said hospitals. Meanwhile, two hospitals, Eastern Visayas Regional Medical Center and Divine Word Hospital, in Region VIII with a record of only one COVID-19 patient at that time, received an accumulated fund releases amounting to Php196.5 million in just a span of only one week from their filing of IRM claims on 23 March 2020.

During the August 18, 2020 hearing, Duque averred that IRM is not specific only to COVID cases because it is based on the provisions of the National Health Insurance Act and Universal Health Care Act that gives PhilHealth the flexibility to implement financing mechanisms. (N.B.THE RELEASE OF FUNDS FROM BAYANIHAN ACT 1 IS SPECIFIC TO COVID CASES) If that was so relying on very same Act as basis for PhilHealth memo circulars, would have made that gargantuan amount of money disappear faster than the blink of an eye.

¹⁹ Refer to the records of the Committee of the Whole for the copy of the 9 July 2020 letter of Dir. Laqui of OSMA

²⁰ Refer to the records of the Committee of the Whole for the copy of the Authority for Fund Transfer presented by SVP Limsiaco

Non-hospitals became beneficiaries likewise of PhilHealth's largesse. IRMs worth Php19.6 million were released to two B. Braun Avitum branches in Tondo, 8 days from the submission of a MOA. IRMs worth Php14.25 million were released to the two branches of B. Braun Avitum Dialysis Center in Quezon City, 12 days from the submission of MOA.

On Free-standing Dialysis, we take particular concern of B. Braun Avitum Dialysis Center. In a span of 7 days, PhilHealth released almost Php15.4 million and Php4.2 million to TWO (2) Braun Avitum Dialysis Center Branches in Tondo, Manila. Also, its 2 branches located in the 2nd District of Quezon City received the amount of Php8.95 million and Php5.3 M respectively. Note should also be made that the date when the MOAs of these branches of Braun Avitum Philippines were filed on the same dates (April 15 for the 2 branches in Tondo, Manila and April 22 for the 2 branches in Quezon City) and their IRMs were released on the same dates (April 23 for the 2 branches in Tondo, Manila and May 4 for the 2 branches in Quezon City).

The B. Braun Avitum Philippines, Inc. on Delpan Street, Tondo has no isolation area and only caters to out-patient services. Suspected or confirmed COVID-19 patients are referred by the clinic to the nearby Gat Andres Memorial Hospital.

On the issue of IRM releases to facilities without COVID-19 cases and facilities which do not cater to COVID patients such as maternity clinics and dialysis centers, PhilHealth said that "COVID-19 has heavily disrupted health service delivery in the country. All facilities were affected not only hospitals which are directly catering to COVID-19 cases, but also primary health care facilities. Hospitals have seen their daily census decrease due to the pandemic, where the ECQ restrictions may have prevented patients from going out or may be because these patients may have avoided hospitals who accepted COVID-19 positive patients. There were also no elective surgeries and outpatient clinics and yet they had increased expenditures due to stringent disinfection measures and provision of PPEs and hazard pay for health care workers."

“Along with the anticipated surge of COVID-19 patients in hospitals, a huge shift in the provision of other urgent medical procedures such as maternity and dialysis care now rests with the primary care facilities. The expected increase in the number of patients in Maternity Care Package facilities and dialysis centers on top of the need to comply with infection prevention and control protocols greatly affects the available financial resources of primary providers.”

On 27 March 2020, DOH issued Department Circular No. 2020-0167 directing the continuous provision of essential health services including maternal and newborn care and life saving services for non-communicable diseases among others. The situation presented by this novel infection and the need to finance continuous provision of essential and lifesaving services are the basis for PhilHealth to release IRM to a wide range healthcare providers. Such may have been PhilHealth and Duque’s intent, but as we already concluded, the IRM, was at the onset an *ultra vires* act; or illegal even.

During the 18 August 2020 hearing, Secretary Duque admitted that IRM funds released to B. Braun Avitum was illegal and they will rectify it. Given that admission, and given SVP del Rosario’s admission, who will now be held responsible, liable, and accountable for this major fiasco?

From the record of PhilHealth IRM releases, Php226,380,912.20 was released to 48 Freestanding Dialysis nationwide, Php136,907,963.00 was released to infirmaries, while a total of Php4,772,163 was provided to four (4) Maternity Care Package (MCP) Providers.

B.5 HCIs with no Accreditation and with Pending Cases

Worse, the IRM was even disbursed to HCIs which are **not accredited by PhilHealth, and have pending cases for violations of its warranties of accreditation:**

a) **Catarman Doctors Hospital** in Northern Samar in the amount of **P9.62 million** which was released on 15 April 2020;

b) **St. Benedict Hospital** in Davao del Sur in the amount of **P11.73 million** which was released on 05 May 2020

On **March 31, 2020, Acting Regional Vice President (RVP) Hernandez** endorsed the IRM fund availment of Catarman Doctors Hospital amounting to **P9,617.412.00, with a note purposely indicating that the hospital is currently under Temporary Suspension of Payments** sanction to notify the Central Office that said HCI has a pending case with PhilHealth. Hernandez asserted that Catarman's IRM fund release was **recommended per IRM policy that includes HCIs under sanctions as qualified to avail the IRM.**

Document Review and Approval Request Form (DRAR) for Catarman shows that SVPs **Pargas and Limsiaco signed on April 7, 2020,** while **Laborte and Morales' date of signing was only on April 13, 2020.**

On **8 April 2020, PCEO Morales signed the memorandum approving the release of funds for the IRM request of Catarman Doctors Hospital.**

Considering the timeline, it is highly questionable why the Memorandum on the Approval of the Release of Fund signed by PCEO Morales for Catarman Doctors Hospital Inc., was **dated April 8, 2020, or 5 days earlier than his supposed document review and approval of Catarman's request.** In the course of the hearing **it was established that SVP Limsiaco has a close relative in the Catarman Doctors Hospital Inc.** If this is not a case of "**palakasan**" this Committee does not know what is. On **22 April,** the fund was released to Catarman Doctors Hospital.

C. IRM Allocations Far Exceeded the Estimated Cost of COVID-19 Hospital Admissions

On another exasperating discovery: PhilHealth made a huge mistake when its planned disbursement for IRM-COVID was way higher than its assumptions of how many patients to eventually cover--

IRM allocations far exceeded the estimated cost of COVID-19 hospital admissions:

- PhilHealth estimates 209k COVID-19 cases for 2020
- About 20% of COVID cases develop difficulty breathing and require hospital care (World Health Organization)
- Breakdown of COVID patients by case type (DOH):
 - Mild: 90.3%
 - Severe: 0.9%
 - Critical: 0.6%

Total estimated cost for COVID in 2020: 3.3 billion pesos...

Case type	Estimated no. of hospital admissions	PhilHealth case rate	Estimated Cost (Php)
Critical	1,254	786,384	986,156,450
Severe	1,881	333,519	627,368,906
Mild	38,665	43,667	1,688,380,263
	41,800		3,301,905,619

But PhilHealth set aside Php26.8 billion pesos. Why did it do so? This bolsters the argument that the 90-day historical claims of hospitals as metrics was not really based on facts; but on surmises plucked from ether.

PhilHealth explains that its approach to IRM was a holistic response to COVID-19.

PhilHealth explains that IRM is open to facilities who want to continue operations during the pandemic regardless if it caters to COVID-19 cases or not. It is

a privilege granted to hospitals based on PhilHealth's determination. It provides substantial financial aid and it is provided to health care institutions who have clear and apparent intent to continuously operate during the pandemic.²¹

Health Secretary Francisco Duque explained that IRM is not specific only to the COVID-19 pandemic as it is based on the provisions of the National Health Insurance Act and the UHC Act that gives PhilHealth the flexibility to implement financing mechanisms to ensure provisions of benefits for Filipinos. The national state of calamity and the state of public health emergency due to COVID-19 pandemic compelled PhilHealth to make the IRM available for all HCIs consistent with the Bayanihan to Heal as One Act. It allegedly provides prepayment for hospitals to address the increased burden to them and to cushion the impact of the pandemic on their capacity to ensure continuous provision of care for Filipinos.²² We find this justification not convincing, the demand was for a Covid-19 response. In fact hospital admissions, in areas not devastated by Covid-19 was down, there was an even earlier admission that free-standing centers were given money because people were afraid to go to hospitals, for fear of the virus.

D. NON-LIQUIDATION OF IRM RELEASES

We now go to the fund's liquidation. On **24 June 2020**, President and CEO Morales signed a **Memorandum on the Deferment of IRM liquidation activities**²³. Citing Execom agreements and to further support the operations of HCIs under the State of Public Health Emergency due to COVID-19 pandemic, **he ordered the deferment of fund liquidation in effect for the claims of HCIs originally granted with IRM from its supposed reckoning date of 16 March 2020 to a later date.** Considering that PhilHealth deferred liquidation of IRM funds, while directing payment of claims covered by IRM schedules, this might invite adverse Audit Observation Memos (AOMs) or Notice of Disallowance from the COA. Paying the claims

²¹TSN, Committee of the Whole, 11 Aug 2020 p.23

²² TSN, Committee of the Whole, 18 Aug 2020 p.17-19

²³ Refer to the records of the Committee of the Whole for the copy of 16 June 2020 Memorandum on Deferment of IRM Liquidation

already covered by the IRM fund (advance payment) is tantamount to overlapping of payments.

In implementing this Memorandum of President Morales on the deferment of the Interim Reimbursement Mechanism (IRM) Liquidation Activities, Mr. Arnel F. De Jesus, Executive Vice President and Chief Operating Officer of PhilHealth, issued **OCOO Memorandum No. 2020-032 dated 15 July 2020**²⁴ stating that PhilHealth Regional Offices (PROs) were given the option on the matter of liquidation of the IRM. In other words, there were no concrete guidelines in the matter of liquidation of the IRM. Note that the memorandum stated that the deferment was "Relative to Corporate Memorandum xxx and **as requested by several PhilHealth Regional Offices (PROs)...**";

The "optional liquidation" directive stated under Memorandum Order No. 2020-032 contradicts Item 10 (g.1) of Memo Circular 2020-007 which provides that for additional IRM Fund to be requested, the **previously released IRM fund has to be liquidated by at least 80%** (on or prior to the 90 days after the occurrence of an event).

It would appear that PhilHealth still has no guidelines for a reconciliation program or a workable mechanism to recover the millions advanced to Health Care Institutions. PhilHealth SVP Israel Pargas confirmed that liquidation was deferred to a later date which will still be announced.²⁵

MR. PARGAS: As of today, sir, we do not have the exact date on when to liquidate, according to the policy or to the memo, but we were already given an instruction to have the liquidation immediately.²⁶

²⁴ Refer to the records of the Committee of the Whole for the copy of OCOO Memo 2020-032 15 July 2020

²⁵ TSN, Committee of the Whole, 18 Aug 2020 p.105

²⁶ TSN, Committee of the Whole, 18 Aug 2020 p.106

On the other hand, on 18 August 2020, PhilHealth SVP Renato Limsiaco reported that Php2.3 Billion has been liquidated.²⁷ Assuming this to be true, this is only 15% of the Php14.96 Billion released. Now, between Mr. Pargas and Mr Limsiaco, who do we believe?

E. WITHHOLDING TAXES FROM IRM FUND

PhilHealth is considered a withholding tax agent on income tax payments and for withholding taxes and business taxes — value added tax and other percentage tax by the BIR. Considering that IRM releases are considered “advance payments”, the agency must withhold the tax due on HCIs and medical practitioners.

SVP Renato Limsiaco, during the 11 August 2020 hearing, responded adversely stating that:

Limsiaco: Relative to withholding tax, ang withhold natin ay private. Sa government hindi tayo nagwi-withhold. Total P14.97B lahat kalahati ang subject to withholding tax.

SENATOR LACSON: Sa private naka-withhold kayo?

Limsiaco: Sa private lang po.

SVP Limsiaco further said that they already withheld taxes amounting to P156 million and remitted the same to BIR on August 3. However, it appeared that the said amount was not automatically charged against IRM funds released to HCIs. He also insisted that they did not know that they could deduct this tax before the release of funds because IRM is in the form of “advance payments”. Hence, the BIR payments made were charged against the Corporate Operating Budget (COB) to be recouped during the liquidation of HCIs:

SEN. LACSON: Saan nyo charge? (withholding taxes)

²⁷ TSN, Committee of the Whole, 18 Aug 2020 p.102

Limsiaco: Yan kasama sa charge natin sa COB natin for the benefit

SEN. LACSON: No, dapat withhold nyo yan from private hospitals or HCIs. Di nyo withhold kaya nag-abono PhilHealth?

Limsiaco: Yes. During liquidation doon natin kukunin ang bayad natin...

SEN LACSON: I cannot understand that. Alam nyo dapat mag-withhold at least sa private, bakit di nyo withhold?

Limsiaco: Di namin alam mag-withhold kami sa umpisa.

We got a hold of documents showing that on **7 August 2020**, Cherie Carmen Divina, ASM of Comptrollership Department **requested for the review of a Corporate Memorandum with subject, "Withholding of 2% Expanded Withholding Tax (EWT) and Issuance of BIR 2307."** The Memorandum is for Area Vice President and Regional Vice Presidents. It states in part:

"In compliance with the directive of the Board to withhold taxes on the released IRM as of July 31, 2020, the corresponding taxes, computed at 2% EWT, were remitted last August 3, 2020 at the Pasig RDO. Hence, the IRM amount initially released shall be considered as net of tax.

*Effective August 1, 2020 and thereafter, a 2% EWT shall be withheld **upon release** of the IRM fund and not during liquidation. With this new procedure, we have requested the HFPS-PMT for Claims for the enhancement of the system. (emphasis indicated in the Memo)*

For those PROs who previously set aside withholding tax for the liquidations made by the HCIs, please reverse the entries made.

Instead the appropriate entry should be made reflecting the withheld amount per HCI based on the amount of tax remitted by the Central Office."

The **draft Memo** explicitly states that the IRM funds initially released is considered "**net of tax**" and that Regional Offices should issue **BIR Form 2307, a certification that taxes have been withheld**. Considering that the taxes due to the IRM releases was paid to BIR by the Central Office and not the Regional Offices, it would be a form of document tampering if not outright falsification of public document, if the Regional Offices will be ordered to release BIR Form 2307 to the HCIs within their area of responsibility considering that the taxes due to the IRMs released to the HCIs have not in fact been withheld and collected by PhilHealth.

The **subject August 7 Draft Memorandum**²⁸ was reviewed and approved by Renato Limsiaco (SVP-FMS) and Nerissa Santiago (Acting SVP, ASRMS) on August 10, 2020 but bore no signature of EVP/COO Arnel De Jesus and PCEO Morales. The *draft copy of the memo* regarding the BIR Form 2307 issuance to all HCIs with IRM payments was emailed to concerned PhilHealth officials on **August 10, 2020**.

Considering the existence of the said memo prior to the hearing on 11 August, the response of SVP Renato Limsiaco stating that "***Di namin alam mag-withhold kami sa umpisa***" during the **11 August** hearing appeared unintelligible and negligent. Limsiaco's response runs afoul to the prevailing memorandum which explicitly states that "effective August 1, 2020 and thereafter, a 2% EWT shall be withheld **upon release** of the IRM fund and not during liquidation."

The fact that PhilHealth withheld taxes for COVID-19 IRM releases on August 3 appeared to be an *after-thought* following the Senate Resolution dated July 26, which raised the issue of withholding taxes as one of the matters to be discussed. In fact, Limsiaco mentioned that taxes for **IRM releases in prior years were withheld not prior but during the liquidation of hospitals:**

²⁸ Refer to the records of the Committee of the Whole for the copy of the 7 August 2020 Draft memo Re Withholding of 2% Tax

Limsiaco: Withholding tax sa IRM as mentioned kanina meron tayong Marawi, Yolanda, Taal. And sabi ko nag-withhold kami roon, I'm sorry di namin naabot sa aming kaalaman mag-withhold. **Ang liquidation, ang withholding tax ginawa natin during liquidation.** Naka-remit naman po ang taxes intended for our BIR. Ang sistema... ito ay ... HCI, wala ... HCI lang. Wala tayong withholding tax sa professional dito dahil payment ni PhilHealth binibigay natin sa hospitals, facilities. Up to HCI to withhold taxes sa ating doctors.

A signed memorandum of PCEO Morales, dated 7 August 2020, was released 13 August 2020. A perusal of the documents would show the changes in the first paragraphs thereof. The first paragraph of the draft memo mentioned that it is made "in compliance with the directive of the Board" to withhold taxes on the released IRM as of July 31. More so, it mentions that the "IRM amount initially released shall be considered as net of tax."

Meanwhile the signed memorandum omitted the reference to the directive of the Board and instead, mentioned that it is "the Management, in consideration of the tax consultant's advice" which directs the withholding tax. It also deleted the last sentence pertaining to the initial IRM releases as net of tax.

For their failure to withhold the tax due on the IRM releases at source, **the responsible official of Philhealth particularly SVP Renet Limsiaco should be charged for violation of Sections 251, 255 and 272 of the National Internal Revenue Code of 1997** as amended.

II. INFORMATION TECHNOLOGY ISSUES

The reliability and efficiency of a credible Information Technology system has been proven to simplify processes and to increase transparency in transactions. Example of which is the computerization of the Government Insurance System, the Bureau of Internal Revenues and other government agencies which aims to benefit

from IT for a more efficient, accurate and effective delivery of public service. In PhilHealth, however, it seems that the procurement and completion of their IT System has been the cause of so many corruption issues. This is either they do not want a transparent system or the corruption issues in PhilHealth is already deeply rooted. Hence, the findings of the Committee of the Whole upon its investigation are as follows:

Statement of Facts

In the letter²⁹ addressed to President Rodrigo Duterte through Secretary Harry Roque on 15 May 2020, PhilHealth Board Member (BM) Alejandro L. Cabading narrated his personal knowledge on the incidents of corruption in PhilHealth allegedly manipulated by the Corporation's Information and Technology Department.

It started with the original P2.1 billion proposal for the IT Department which was rejected by the board for failure to provide specific details. Subsequently, the proposed budget was lowered to P1.9 billion since according to IT, there were typographical errors in its previous submission.

The budget remained unapproved by the board save for around P25 million which was needed to renew a line subscription. However, by 13 March 2020, the Board was constrained to approve the P328 million IT Supplemental Budget. Otherwise, they were told "the entire PhilHealth system will collapse". Per our meeting with BM Cabading on 30 July 2020, he said that Board Member Susan Mercado even said that "it seems that the Board was being blackmailed in approving this amount."

In April 2020, SVP for IT Jovita Aragona proposed a P750 million for procurement of items. However, the Board insisted that the Internal Audit report on the inventory of software and hardware be presented first before they approve anything. It was during this meeting after much questioning that the Board was informed there was a requirement that an Information Systems Strategic Plan (ISSP)

²⁹ Please refer to the records of the Committee of the Whole for the copy of 15 May 2020 letter from BM Cabading

be submitted and approved by the Department of Information and Communication (DICT) before a government entity can procure IT items.

During the first week of May 2020, the Internal Audit Report³⁰ was submitted but instead of presenting it to the Board, the proposal of IT for the approval of P 215 million was presented. Ms. Aragona's argument in support of the proposal was that the items included in the proposal were not included in the Internal Audit Report.

As indicated in the report, "The ICT resources included in the CY 2020 budget proposal but do not appear in the ISSP have a total amount of P734,014,120.58 which is 46.84% of the total amount of proposed budget of ICT for C2020." On top of this, there is an overpricing worth P 98,050,000.00.

On 14 May 2020, a week after the release of the Internal Audit Report, SVP Aragona wrote a letter to DICT³¹, which in part states:

"We would like to ask if our intended procurements for 2020 have to be endorsed back to your office and Department of Budget and Management for review, evaluation, and approval. The budget for these procurements will come from our Corporate Operating Budget, and not from the DBM GAA."

The DICT in a letter dated 16 May 2020³² responded to SVP Aragona, stating that, "If there are updates and/or amendments in the planned ICT procurement, then the ISSP needs to be revised or amended, and submitted to DICT. Only ICT procurements and its corresponding budget (whether Corporate Operating Budget or DBM GAA) that are not aligned and consistent with the endorsed ISSP are submitted to DICT for review, evaluation, and endorsement." The DICT also requested for a copy of Corporate Board Resolutions approving the ICT resource acquisitions.

The report also indicated that there was intent to confuse and deceive by splitting one item into two (2) items by listing different descriptions/ specifications -

³⁰ Please refer to the records of the Committee of the Whole for the copy of the Internal Audit Report

³¹ Please refer to the records of the Committee of the Whole for the copy of the letter of Ms. Aragona to DICT

³² Please refer to the records of the Committee of the Whole for the copy of the letter reply of DICT

this is in the amount of P132.2 million. This vague description specification will allow the same item to be bought again the following year.

A. Overpricing/ Padding

The most anomalous proposals contained in the Internal Audit Report are the following:

Item	Amount in IT Proposed for 2020	Amount in the Approved ISSP
1. Adobe Master Collection Software (1 unit)	P 21,000,000.00	P 168,000.00
2. Application Services and Licenses	P 40,000,000.00	P 25,000,000.00
3. Structured Cabling	P 5,000,000.00	P 500,000.00
4. Identity Management Software	P 42,000,000.00	P 20,000,000.00
5. Office Productivity Software	P 21,000,000.00	P 5,000,000.00
6. Application Server and Virtualization Licenses & Support Maintenance (Server Upgrade)	P 25,000,000.00	P 14,800,000.00

COA Audit Query Memorandum No. 2020-002 (HO)³³ dated January 31, 2020 stated that twenty-four (24) network switches were verified as not utilized and found inside its box at the time of inspection. Non-utilization of the network switches was deemed disadvantageous to the government, since the said items were not tested for any further manufacturing defects/malfunction that may arise within the warranty period of the contract.

However, the Committee was informed by former Head Executive Assistant, Col. Laborte (AFP Ret.), resigned Head Executive Assistant of PCEO Ricardo Morales, that PhilHealth "is currently procuring 15 more of the same network switches that are

³³ Refer to the records of the Committee of the Whole for the copy of the COA Audit Query Memorandum No. 2020-002 (HO)

unutilized. Furthermore, these network switches are outstandingly overpriced in comparison to the current market value.”

In comparison, HEA Laborte provided a copy of his letter to PCEO Morales dated 21 May 2020³⁴, highlighting his personal observations about the procurement of Network Switches. The sum of the 15 units of the ICT equipment is P6.615 million per ISSP and P6.300 million as reflected in the IT clearance from PhilHealth’s Information Management Sector-Information Technology Management Department (IMS/ITMD). The final contract price of the equipment as provided by the NCR-Special Bids and Awards Committee is at P4.814 million, which is 24% lower than what was cleared by IMS/ITMD and 27% lower of what is programmed in the ISSP.

The explanations given by PhilHealth on the alleged overpriced Cisco network switches procurement are inconsistent, confusing, and indeed questionable.

Col. Laborte is convincing being an IT and Cisco expert himself. He confidently stated that what the PhilHealth awarded was Cisco 9200, since the 2960XR model was already obsolete and no longer available in the market. **Thus, the bid price should be Cisco 9200’s market price at P62,424 each and not P320,000 as asserted by PhilHealth, which they claimed was the price of Cisco 2960XR in 2016. The bid and contract price should then be the market price of Cisco 9200 which is said to be only P62,424 each.**

Nonetheless, even if granting that the said Cisco 2960XR was offered, its market price in 2016 should not be the basis of its cost in 2019, and it should not have been awarded the contract since that model was already obsolete.

The difference between P62,000 and P320,000 is so huge even if you include the add-ons like warranty, VAT, and delivery fee. If that’s the case, we should not have included the warranty if it is cheaper to buy a new one.

³⁴ Refer to the records of the Committee of the Whole for the copy of the 21 May 2020 letter to Col. Laborte to PCEO Morales

The Committee now asks, how was the Approved Budget for the Contract (ABC) arrived at? Who came up with the ABC and the specific technical specifications for this procurement? It should be stressed that the bidders will only bid within the approved budget for the contract. **So if the ABC by the procuring entity is bloated, the tendency is for the bidders to bloat their bid prices as well.**

Section 36 of Republic Act No. 9184 or the Government Procurement Reform Act provides that: "In all instances, the Procuring Entity shall ensure that the ABC reflects the most advantageous prevailing price for the Government."

In determining the ABC, the implementing unit has to consider several factors, namely: (i) the prevailing market price of the goods and/or services being procured, (ii) inflation and cost of money which are directly related to the procurement time table, (iii) sources of the goods and other applicable requirements.

Cardinal rule on fiscal responsibility provides: "All resources of the government shall be managed, expended, or utilized in accordance with law and regulations and safeguarded against loss or wastage through illegal or improper disposition to ensure efficiency, economy, and effectiveness in the operations of government. The responsibility to take care that such policy is faithfully adhered to rests directly with the chief or head of the government agency concerned."³⁵

It seems like PhilHealth did not properly plan its ICT procurement in this case. Section 7 of the Implementing Rules and Regulations of RA 9184 provides the legal reference for procurement planning and budget linkage. Planning is the "act or process of making or carrying out plans; specifically: the establishment of goals, policies, and procedures for a social or economic unit."³⁶ In all cases, a plan involves resource allocation and scheduling. This is particularly true for procurement

³⁵ Sec. 1 of E.O. No. 292-COA.

³⁶ Merriam-Webster's Collegiate Dictionary, 2001.

planning, which is a critical component of a Procuring Entity’s budget. Plans ensure that the overall goal of the particular project will be achieved effectively and efficiently. Through plans, a Procuring Entity is able to effectively manage and track procurement all the way to contract performance. As such, it allows managers to determine how to allocate limited cash and other appropriate resources under a given time line and identify choke-points, weaknesses, and delays in the entire activity that can be addressed or eliminated.

Though at first glance, PhilHealth seemed to have saved from the said procurement, it was discovered that not only were they procuring something which was different from the specification mentioned in the approved Terms of Reference³⁷, the price of the IT equipment that they were procuring was lower than that stated in the Bid Document. Given the item description/model number and technical specification of the equipment, we can easily compare its market value from a reputable switch and router store at a significantly lower price of only **P62,424 (\$1,224) per unit (1USD:51PHP) or P939,360 for 15 units**. Easily, **the government lost P3,878,520** from the said procurement of PhilHealth ICT equipment.

To further muddle the issue, on 06 August 2020, the PhilHealth officials hosted a virtual press conference to “air their side” based on the allegations of corruption that were raised during the Senate Committee of the Whole inquiry on 04 August 2020.

During the briefing, IT Chief Aragona presented this table:

PhilHealth	Senate Committee of the Whole	Online Market Search
Approved budget for the Contract: Cisco 2960XR 24 Port with Power over Ethernet (2016) including three-year warranty, VAT,	Cisco 9200 24 Port with Power over Ethernet (unstated year)	Cisco 2960XR Port with Power over ethernet (2016) including three-year warranty, VAT, training, delivery, services

³⁷ Refer to the records of the Committee of the Whole for the copy of the approved Terms of Reference

training, delivery, services among others		among others (as of August 5, 2020)
P348,000/unit	P62,000/unit	P419,946/unit

SVP Aragona explained that the approved budget amounting to P348,000 per unit for the Cisco 2960XR 24 Port with Power over Ethernet (2016) included other services and charges, i.e. three-year warranty, VAT, training, delivery, among others, whereas the P62,000 amount presented during Senate Committee of the Whole inquiry only pertained to the unit of **Cisco 9200 24 Port**. In her attempt to explain her point, Jovita showed that based on their online market search, as of 05 August 2020, the amount of the purchased **CISCO 2960XR 24 Port** including other services and charges have **increased to P419,946 per unit**.

However, as narrated by Col. Laborte, the network switches that she was presenting during the PhilHealth Press Conference were the network switches already procured by PhilHealth in 2016 and were delivered to the agency sometime in August or September 2017. Thus, she was not referring to the same IT Equipment. She was comparing apples and oranges.

A perusal of the ITR Standard Specifications of the Network Switch Layer 2 with PoE Manageable signed by Division Chief Calixto Gabuya, Jr. would show that the reference information indicated that, clearly, the Brand Model of the equipment being procured was CISCO CATALYST 9200 24-port PoE'. Hence, although itemized in general terms, there is a specific brand model and unit specifications provided in the consideration of the contract with Microgenesis. In addition, **there was no mention of 'CISCO 2960 XR' in both the IT Procurement Clearance and the ITR Standard Specifications.**

In the 11 August 2020 Senate Committee of the Whole hearing, Atty. Robert Labe, Jr. controverted the statements made by Col. Laborte. He supported the statements made by SVP Aragona that the item to be procured was CISCO 2960XR based on the folders containing all the documents relative to the said procurement furnished him by SVP Aragona, Gabuya and the IT people from PRO NCR.

However, after comparing notes and speaking with former Head Executive Assistant, Col. Laborte, after the hearing regarding the ITR Standard Specifications of the Network Switch Layer 2 with PoE Manageable, Atty. Labe discovered that the documents³⁸ submitted to him were different from what were previously submitted to Col. Laborte. The following discrepancies were noted in the documents submitted to him, to wit:

- **Difference in the OPCEO number and dates**

The letter³⁹ submitted by Ma. Elena L. Castisimo, Head of BAC, containing the Contract for Approval received by Col. Laborte for the office of BGen. Ricardo C. Morales was dated 11 February 2020 with an OPCEO number OP 2020-03-27-344, while the letter with the same subject of Contract for Approval presented to Atty. Labe contained a different date (9 June 2020) and a different OPCEO number (OP-2020-07-30-529).

- **Absence of Reference Information in ITR Standard Specifications and no determination of compliance with the minimum requirements**

The ITR Standard Specifications document presented by Col. Laborte with Information Technology Management Department (ITMD) 2018-04-133 code and the ITR Standard Specifications presented by Castisimo to Atty. Labe with the same ITMD Code have completely different details. The latter did not contain any information on whether the minimum requirements have been complied with and was left blank. Most importantly, the reference information regarding the Brand Model and Name of Company was left blank as well, when in fact, it is seen in the former that it contained the following:

³⁸ Refer to the records of the Committee of the Whole for the copy of the documents submitted to Col. Labe
³⁹ Refer to the records of the Committee of the Whole for the copy of the letter submitted by Ms. Castisimo, Head of BAC

Brand Model: CISCO 9200 24-port PoE

Name of Company: Microgenesis Software Inc. Doing Business under the name and style of Microgenesis Business Systems

A careful look between the Standard Specifications would show that said documents in relation **to the procurement of 15 additional network switches bore the same number codes**, to wit: **0102-0618-0000 0000 at the left corner of the document and ITMD 2018-04-133 at the right corner of the documents.**

From the look of things, these people from PhilHealth in trying to make it appear that what they procured was CISCO 2960 XR resorted to doctoring or even forging documents to make the Senate President and the members of the Committee of the Whole believe their story. What complicated the matter was the statement made by the winning bidder itself, MICROGENESIS⁴⁰ hereinbelow quoted, thus:

"It was unfortunate that our company's name was included in the Senate hearing yesterday on the issue of the alleged corruption in PhilHealth.

The allegation that we have quoted for Cisco 9200 Switches at an amount way above the market price was based upon a solitary item searched over the internet, without however considering the full spectrum, requirements, and coverage of the bid, as well as the many inclusions therein. We want to clarify that the bid we have submitted for the said product carries many additional components, software, provisions, and services aspects of which will span over three years as required by, and in compliance with the Terms of Reference of the said bid for PhilHealth. We deny any averment of overpricing in relation to our bid.

⁴⁰ <https://www.facebook.com/microgenisisph/photos/a.159158877468806/3327511613966834/?type=3&theater>

The company also reiterates that the bid has not gone to execution phase, since we have not received any Notice to Proceed (NTP). We have yet to deliver any item to PhilHealth, and no actual commercial transaction has taken place.

While we find it unfortunate that our name was shown during the hearing, we remain confident in and trust our institutions, and that the competitiveness and transparency of our bid are all in accord with the highest standards and principles we hold ourselves to.

Lastly, we are grateful and thankful for the outpouring of support, trust and confidence extended to us by our customers, vendors, partners, and friends in the industry. We remain steadfast and undeterred in our mission to serve our customers and our country."

Thus, from the foregoing, it is evident that SVP Aragona, Calixto Gabuya and the personnel of PRO NCR were colluding with one another to mislead the Committee of the Whole on the truth about the additional 15 network switches that they procured in August 2019.

In the last Committee of the Whole Hearing dated 18 August 2020, **PhilHealth's SVP and Chief Information Officer Jovita Aragona and Senior IT officer Calixto Gabuya Jr. made the admission that the item being procured was CISCO 9200 and not CISCO 2960 XR** upon presentation of evidence that even Mircogenesis, the winning bidder, stated in an article released by them.

In the abovementioned hearing, Senator Lacson directed the questioning to Col. Laborte as SVP Aragona and Senior IT officer Gabuya were arguing that the proposed IT procurement was generic and that it does not pertain to CISCO 9200.

Col. Laborte argued that it could not have been generic as the bid has already been awarded. As such, it must have a model and required specifications by the agency. To note, this was not present in the document given to Atty. Labe. The IT

specifications given to Atty. Labe did not contain details pertaining to the compliance to the required specifications nor does it contain the brand model. This fact made Atty Labe realized that he had been duped by Aragona, Gabuya and PRO NCR by providing him with doctored documents to make him believe and support their position that what Philhealth PRO NCR was procuring was CISCO 2960XR and not CISCO 9200 24 Port. Thus, in said hearing, Atty Labe corroborated what Col Laborte was saying that what Philhealth procured was the CISCO 9200 24 port and not the CISCO 2960 XR as claimed by SVP Aragona and Calixto Gabuya.

A quick review of the two documents would indicate that they even have the same document code and ITMD number. The signatures in the ITR Standard Specifications in both documents are identical to the point that even the infirmities of the signature such as the fading of the strokes are the same. However, the document given to Atty. Labe was falsified so as to not include items such as the 'Brand Model' and the 'Name of the Company'.

In addition, during the Senate Committee of the Whole Hearing, Col. Laborte testified that the following list of bidders⁴¹ have been regularly favored by Philhealth's IT Department: (a) Trends and Technologies Inc.; (b) NTT Data Philippines Inc.; (c) Joint Venture of Radenta Technologies and Sagesoft Solutions Inc.; (d) Sandz Solutions Philippines, Inc.; (e) First Data Corp.; (f) Integrated Computer Systems Inc; (g) Joint Venture of Nera Phils, Inc. Secure Link and Network Technologies Inc; (h) Questech Co Inc.; and (i) CT Link Systems Inc.

B. Included in the 2020 Proposed IT Budget but not included in the Approved ISSP:

On the second hearing dated 11 August 2020, DICT Secretary, Gregorio Honasan, pointed out that the ISSP must be submitted for approval before the DICT. This is a requisite before a government entity may procure any IT item.

⁴¹ Refer to the records of the Committee of the Whole for the copy of the list of favored bidders

However, there are items in the IT Budget proposal there are items in the IT Budget proposal that were included which were not submitted nor approved by the DICT.

The Internal Audit Report on ICT Resources provides:

"B.3. There were ICT resource items included in the Proposed CY 2020 COB Proposal for CapEx-ICT but did not exist in the Approved ISSP CY 2018-2020 (Revision 1) particularly for Year 2020.

- "There were forty-four (44) ICT resources that were included in the Proposed CY 2020 COB for CapEx-ICT, however, upon checking in the Approved ISSP CY 2018-2020 Revision 1, said items did not exist.
- "The ICT resources included in the CY2020 budget proposal but do not appear in the ISSP have a total amount of seven hundred thirty four million fourteen thousand one hundred twenty pesos and fifty eight centavos (Php734,014,120.58) which is 46.84% of the total amount of proposed budget of ICT for CY2020.
- "In terms of quantity, the Rack Cabinet Enclosure is the highest with seventy-six (76) units
- "In terms of amount, the Fraud Analytic Tool is the highest with the amount of one hundred thirty-two million three hundred fifty thousand eight hundred seventy-six pesos and fifty-eight centavos (Php 132,350,876.58.)
- "In the guidelines for budget preparation specifically in the budget allocation, all proposals for Capital Expenditures-ICT should be in accordance with the ISSP. The ICT resources identified in Table 12 being proposed but not existing in ISSP indicates that the IT Sub-committee

have approved these items even if not compliant to(sic) the said guidelines."⁴²

Some of the items in the IT Budget proposal that were included which were not submitted nor approved by the DICT:

1. Fraud Analytic Tool	P 132,000,000.00
2. Portable WIFI hotspot for Satellite Phones	P 840,000.00
3. Queuing Machine	P 302,000.00
4. 43 units of ICT Resources (not itemized)	P 40,717,500.00

Furthermore, some of the proposed items in the IT Budget proposal would show that there are items without any specification and indication of number of units:

Item	Particulars
1. Laptops (no indicated number of units)	Indicated twice with different amounts: P4,111,413.00 and P115,236,000.00
2. Three projects (not specified)	Included in the 2020 Proposed IT Budget but not found in the budget proposal of the Comptrollership Department P98,075,508.40

The contents of the Internal Audit Report support the COA-Audit Observation Memorandum on two items worth a total of **P29,618,200.00**. The COA-AOM stated that the technical specifications of the items delivered by the winning bidders were non-compliant with the requirements of the Corporation, citing the following:

Particulars	Observation
1 Lot Redundancy for Production Database Server P19,618,000.000	<ul style="list-style-type: none"> PhilHealth's requirements were vague giving supplier leeway to deliver items other than required PhilHealth required that the server be compatible with existing systems but no specifications with regard to the existing system was indicated in the Bidding Documents/ TOR

⁴² PhilHealth Internal Audit Report on ICT Inventory, p.24

	<ul style="list-style-type: none"> • The delivery was delayed by 118 days • No Training Certificates and Technical Briefing Documentation to show proof of technology transfer • PhilHealth received 20 units of transceivers but only 13 were found installed. 7 units were missing at time of inspection • PhilHealth presented 8 units but due to the lack of details (serial numbers, product part numbers, etc) in the delivery receipt, there cannot be considered part of the 20 units delivered
1 Lot Redundancy ISP for PhilHealth Online Services for 2 Years P10,000,200.00	Compliance with contract requirements cannot be determined due to non-submission of test results to determine efficiency of the internet service

PhilHealth was also not able to sufficiently explain how the internal audit report showing that P734 million worth of technology resources were included in the PhilHealth’s budget proposal for 2020 despite the lack of approval by the Department of Information and Communications Technology (DICT). The report also revealed P98.05 million in allegedly overpriced items and P132.2 million worth of items that had been subjected to the splitting of contracts to avoid the requirement of holding a public bidding.

Although they say it has not been spent, money has not been released, nevertheless, an attempt to defraud government and the people of the Philippines with this type of padded costs are unspeakable and unforgivable.

Col. Laborte also disclosed that since he came to PhilHealth he noticed that IT projects from 2018 to 2019 were almost always awarded to a single calculated bidder,

meaning, only one bidder participates in the bidding and is awarded the contract, and its bid price is always close to the Approved Budget for the Contract.

By its nature and characteristics, a competitive public bidding aims to protect public interest by giving the public the best possible advantages through open competition.⁴³ Its "purpose is to avoid/preclude suspicion of favoritism and anomalies in the execution of public contract."⁴⁴ The rationale behind the requirement of a public bidding, as a mode of awarding government contracts, is to ensure that the people get maximum benefits and quality services from the contracts. More significantly, the strict compliance with the requirements of a public bidding echoes the call for transparency in government transactions and accountability of public officers. Public biddings are intended to minimize occasions for corruption and temptations to abuse of discretion on the part of government authorities in awarding contracts.⁴⁵

III. COA OBSERVATIONS/FINANCIAL STATEMENTS

The Financial Statements prepared by PhilHealth Fund Management Sector (FMS) particularly from 2017 to 2019 revealed discrepancies and deficiencies in the presentation and disclosure of accounts.

It was asserted by Board Member Cabading that the financial statements were manipulated in order to make it appear that PhilHealth is in good standing when in truth, the corporation was overrun with debts and is already bankrupt.

A. 2017 Financial Statement

In the 2017 COA Report, PhilHealth registered a negative net income of 4.75 Billion. However, the figures were later restated showing a net income of 237.17 Million (2018 COA report). This appears to be an upturn to their operations. However,

⁴³ Garcia v. Burgos, 291 SCRA 546.

⁴⁴ COA v. RTC-NCRJC, G.R. No. 85285, July 7, 1989.

⁴⁵ Manila International Airport Authority and Antonio P. Gana v. Olongapo Maintenance Services, Inc. and Triple Crown Services, Inc., G.R. Nos. 146184-85, January 31, 2008.

it is remarkable to note that the same 2018 COA report qualifies that the correctness of the restated Financial Statement for CY 2017 with a net income of 237.167 million from Net Loss of 4.751 billion was NOT established primarily because the data source used to derive the amount of the Benefit Payments expenses is not the most accurate source of information, thereby casting doubt on the accuracy of the restated amounts in the CY 2017 financial statements, which were derived from it.

	2017 AUDITED * 2017 COA Report	2017 AS RESTATED *2018 COA Report
Income	112,323,184,149	113,299,113,576
Personnel Services	4,523,609,108	4,528,478,196
Other Operating Expenses	2,060,004,232	2,116,819,859
Benefit Claims Expenses	110,490,086,841	106,416,648,887
NET INCOME	(4,750,516,032)	237,166,634

B. 2018 Financial Statement

It was noted that the net income for CY 2018 was restated from P11.6 billion to P21.02 billion or an increase of P9.4 billion due to "prior year adjustment", as seen in the table below:

ITEM	2018 AUDITED	2018 RESTATED	Prior Year Adjustments
Total Premium Contribution	P 132.46 Billion	P 134.08 Billion	P 1.1625 Billion
Benefit Claims and Expenses	P 121 Billion	P 112.95 Billion	(P 8.084 Billion)
GROSS MARGIN FROM OPERATIONS	P 11.42 Billion	P 21.13 Billion	P 9.710 Billion
TOTAL OPERATING EXPENSES	P 6.60 Billion	P 6.85 Billion	P 0.248 Billion
Net Operating Income	P 4.82 Billion	P 14.2 Billion	P 9.46 Billion
Interest & Other Income	P 6.79 Billion	P 6.74 Billion	(P 52.247 Billion)
NET INCOME	P 11.61 Billion	P 21.02 Billion	P 9.408 Billion

The primary reason for such adjustment was the reduction in the benefit claims expenses amounting to P8.08 billion, which had no recorded basis or disclosure as to the nature and reason for such adjustments, thus hindering the COA audit team to validate the said reports.

PhilHealth explains that there was no manipulation of financial statements, but that there were necessary adjustments as a result of accruals and write off and that both adjustments follow the existing accounting and auditing rules and regulations. ⁴⁶

C. Observations on 2019 Financial Report

COA asserts that cumulative effect of prior year adjustments, particularly, CY 2017 and 2018, amounting to P14.396 Billion accounts to the overstatement of the 2019 income. It must be underscored that COA issued disclaimer against the 2017 and 2018 restated Financial Statements, hence, putting in question the said adjustments.

Particulars	Audited	Restated	Effect on Equity (Inc/(dec))	Remarks
Net Income/-Loss CY 2017	- 4,750,516,032	237,166,634	4,987,682,666	Disclaimer of Opinion
Net Income/-Loss CY 2018	11,615,925,245	21,024,665,231	9,408,739,986	Subject to Audit
Net Income/-Loss CY 2019	4,658,167,674	4,658,167,674	-	Subject to Audit
Net Effect on Equity (Increase)			14,396,422,652	

Based on analysis, the prior year adjustments must be carefully looked into, as CY 2019 Financial Statement carries the effect of the CY 2017 adjustment. If this is not corrected, chances are there will also be disclaimer of opinion on the CY 2019 financial statements, not to mention the adjustments made to CY 2018 net income resulted in the increase of P9.4 billion, which is yet to be audited by COA. The Corporation cannot afford a disclaimer of opinion on its financial statements for two (2) consecutive years

⁴⁶Submission of PhilHealth to the Committee of the Whole (Briefer on PhilHealth Issues) 10 Aug 2020

as this poses reputational risk which is very unfavorable especially that we are embarking on the implementation of the Universal Health Care Act.

Based on the Statement of Cash Flows below, the placement in time deposits of P69 billion were sourced from the increase in premium collections, increase in benefit claims payable (as stated in the balance sheet), matured placement on bonds and cash.

Observations on Philhealth CY 2019 Financial Statements

1. Investment in Time Deposits

Statement of Cash Flows

	2019	2018 (Restated)	Increase / (Decrease) Current vs Prior Year
CASH FLOWS FROM OPERATING ACTIVITIES			
Premium Contributions	151,543,736,275.00	128,229,567,269.00	23,314,169,006.00
Other income	609,542,452.00	471,040,055.00	138,502,397.00
Interest received from Investments	7,937,952,430.00	7,375,841,933.00	562,110,497.00
Rent	487,226.00	537,267.00	(50,041.00)
Bank Charges	-14,123.00	(75,367.00)	61,244.00
Benefit Claims	-98,606,376,851.00	-112,357,590,471.00	13,751,213,620.00
Operating Expenses	-6,238,167,850.00	-5,969,340,376.00	-268,827,474.00
Net Cash Provided by (Used in) Operating Activities	55,247,159,559.00	17,749,980,310.00	37,497,179,249.00
CASH FLOWS FROM INVESTING ACTIVITIES			
Matured Bonds	4,821,486,000.00	9,276,394,000.00	(4,454,908,000.00)
Placement on Bonds	(4,825,000,000.00)	(33,815,806,771.00)	28,990,806,771.00
Placement on Time Deposits	-69,086,086,078.00	-	-69,086,086,078.00
Proceeds from disposal of assets	179,064.00	173,872.00	5,192.00
Equipment purchased	-495,390,464.00	-508,096,823.00	12,706,359.00
Net Cash Provided by (Used in) Investing Activities	-69,584,811,478.00	-25,047,335,722.00	-44,537,475,756.00
CASH FLOWS FROM FINANCING ACTIVITIES			
Trust Receipts	-29,001,871.00	-101,676,572.00	72,674,701.00
Net Cash Provided by (Used in) Financing Activities	-29,001,871.00	-101,676,572.00	72,674,701.00
Net Increase (Decrease) in CASH	14,366,653,790.00	-7,399,031,984.00	-6,967,621,806.00
CASH at January 1, 2019	26,201,320,940.00	33,600,305,994.00	-7,398,985,054.00
Gain (Loss) on Foreign Exchange	-46,948.00	46,930.00	-93,878.00
CASH at December 31, 2019	11,834,620,202.00	26,201,320,940.00	-14,366,700,738.00

COA notes that the benefit claims payment and premium collections, however, should be truly verified because there are noted discrepancies⁴⁷.

How much is PhilHealth bleeding here?

In terms of the reported debt-to-equity ratio, it appears that PhilHealth is bleeding dry as it does not have enough money to pay its creditors in the event of liquidation. Based on the financial statement of PhilHealth in 2019, the agency has P111 billion in liabilities and P109 billion in equities, or a debt to equity ratio of 1 is to .99. Considering

⁴⁷ COA Observations on PhilHealth CY 2019 Financial Statements p. 1

COA's report, if we do not take into account the P14 billion increase in equity from "prior year adjustments" which has yet to be justified by PhilHealth, its equity will only be at P95 billion hence, a more unfavorable and dismaying 1 is to .86 liability to equity ratio.

Financial Ratios	CY 2017	CY 2018	CY 2019
	Restated	Restated	Restated
Debt-to-equity Ratio	1:1.24	1:1.48	1:.99
Total Liabilities	69,077,227,870	71,282,322,362	111,336,754,527
Equity	85,528,072,553	105,299,856,667	109,958,024,338

Based on the assertions of BM Cabading, the current debt-to-equity ratio of PhilHealth drops to 1:0.67 in years, inferring that the agency does not have a sound financial condition to meet its liabilities.

D. COA Audit Memorandum Order 2019-028 (18)⁴⁸

This observation was also raised by COA in its COA's Audit Memorandum Order No. 2019-028(18), that the restated financial statements prepared by PhilHealth management did not include the minimum requirements stated in Philippine Accounting Standards. According to the audit team, "*PhilHealth submitted restated financial statements without disclosing the nature, amount and the reason for such restatement*".

COA's Audit Memorandum Order No. 2019-028(18) dated 09 July 2019 revealed that there were deficiencies in the presentation and disclosure of different PhilHealth accounts, including the prior year adjustments among others, which resulted in significant limitation in the scope of audit of related accounts.

Furthermore, AOM No. 2019-028(18) pointed out that there was a non-disclosure of the risks associated with the financial assets and liabilities of PhilHealth and how

⁴⁸ Refer to the records of the Committee of the Whole for the copy of AOM 2019-028(18)

these risks are managed by the agency as required in Philippine Financial Reporting Standard (PFRS) 7. PFRS 7 Paragraph 31 states,

An entity shall disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period.

The COA also highlighted in its AOM No. 2019-028(18) PhilHealth's non-disclosure of the following thereby affecting the sound assessment of the agency's liquidity and the reporting transparency to the users of the financial statements:

- a) Key management personnel compensation⁴⁹
- b) Minimum lease payments⁵⁰

COA further reported that the financial statements of the Corporation do not present fairly due to the following:

- inclusion of outstanding checks in the statement of cash flows (SCF) amounting to P2.952 billion and P3.068 billion as of December 31, 2018 and 2017 respectively;
- understatement of the beginning balance of surplus in the statement of changes in equity and intangible assets amounting to P431,598 and P24.958 million, respectively; and
- inclusion of Special Savings Deposit accounts with maturities of 1 day up to 1-year in the cash and cash equivalent account affecting the operating activities in the SCF.

⁴⁹ COA Audit Observation Memorandum (AOM) 2019-028(18) HO 9 July 2019, p.6

⁵⁰ COA Audit Observation Memorandum (AOM) 2019-028(18) HO 9 July 2019, p.5

Lastly, COA observed PhilHealth's disclosure of inapplicable PFRS and non-disclosure of new accounting standards, which cast doubt on the faithful representation of the Corporation's financial statements.

On 21 January 2020, COA Audit Observation Memorandum No. 2020-003⁵¹ reported PhilHealth's overstatement of assets and income for CY 2019 due to an improper recording of procurement of anti-virus software as a tangible asset amounting to P17,938,124.84 which is inconsistent with the Philippine Financial Reporting Standard (PFRS) resulting to overstatement of assets and income for CY 2019.

Under the PFRS, property, plant and equipment shall be considered as tangible items upon compliance to these conditions:

- They are held for use in production or supply of goods or services, for rental to others, or administrative purposes; and
- They are expected to be used during more than one period.

The procurement of anti-virus software has been classified by PhilHealth as a tangible item which resulted in an overstatement of assets and income for CY 2019. According to the COA, such procurement is a form of subscription paid in one accounting period, but it will not be recognized until a later accounting period. It was noted by the COA that whenever PhilHealth procures the said software, it is initially recorded with a debit to Information and Communication Technology Equipment account and credit to cash/liability account. For software with a subscription covering a year, the initial recording should have been reclassified as 'Computer Software with indefinite life'. These assets are not amortized but are evaluated for yearly impairment following the Philippine Accounting Standard (PAS). These items procured do not possess any tangible characteristics and the economic benefits that PhilHealth derives from them are not more than a year.

⁵¹ Refer to the records of the Committee of the Whole for the copy of AOM 2020-003

In its review of the subject transactions, the COA has determined that the practice of including the procurement of Anti-Virus software as a tangible asset overstates both assets and income for the CY 2019.

E. Actuarial Life of PhilHealth

During the August 4, 2020 hearing, to everyone's collective disquietude, Acting Senior Vice President and Concurrent Vice President Data Protection Officer Nerissa Santiago admitted that PhilHealth will no longer have a reserve fund by 2022. To keep it afloat, PhilHealth needs additional subsidy from the government.

PhilHealth claims that the one-year actuarial life of PhilHealth is based on FASSTER projections applying the worst-case scenario. FASSTER data is used as the official working projections of the Department of Health. Regardless of these projected figures, PhilHealth remains committed to ensuring the continued operation of the Corporation.⁵² How PhilHealth can commit to continuous operations despite this dire prognostication.

If Santiago's statement was meant to scare the bejesus out of our stupor, it did. Therefore, there is an extremely urgent need for an intensive and extensive review and inspection of the corporation's financial life before it is, as we all will be, gone to the dogs.

IV. IRREGULARITIES OF PHILHEALTH LEGAL SECTOR

It is stated in Section 17 of Republic Act Number 7875, as amended, that the PhilHealth has quasi-judicial power in order to carry out its tasks more effectively by conducting investigations for the determination of a question, controversy, complaint, or unresolved grievance brought to its attention, and render decisions, orders, or resolutions thereon. As a penalty, PhilHealth may impose a suspension, revocation, or

⁵² Submission of PhilHealth to the Committee of the Whole (Briefer on PhilHealth Issues) 10 Aug 2020

restoration of the accreditation of a health care provider or the right to benefits of a member and/or impose fines.

A. Prolonged Inaction on Pending Cases

Based on the submissions⁵³ of PhilHealth to the Committee, for the period of 2000-2019, there are **7,452 pending cases against healthcare institutions** – which involved both fraudulent and non-fraudulent offenses. However, for the same period, only **5,327 was decided on by the agency**. This means that **for a span of 19 years, only 71.48% of cases was acted upon** relative to cases against healthcare institutions.

As regards cases against healthcare professionals, for the period of 2000-2019, there are **4,792 pending cases in the agency** – which comprises of 1,968 fraudulent offenses and 2,824 non-fraudulent offenses. However, based on the same documents submitted by the PhilHealth to the Committee, **only 45.97% of the pending cases against healthcare professionals was acted upon by the agency in a span of 19 years**. To scrutinize it further, out of 1,968 fraudulent cases, only 745 was decided upon by PhilHealth which is equivalent to a measly **37.85% of cases disposed**. While for the non-fraudulent offenses against healthcare professionals, out of the 2,824 pending cases only 1,458 cases were decided upon by the agency, which translates to **51.62% case disposal rate for a period of 19 years**.

Likewise, during the 18 August 2020 hearing, the Chair of the Committee, Senate President Sotto, raised an issue on “wholesale amnesty” brought to the PhilHealth Board. It was admitted by the resource persons that, indeed, it was done by the Board; but as to the frequency, no clear answer was given.

⁵³ Refer to the records of the Committee of the Whole for the copy of Report on the status of all cases with the Arbitration Office for period 2000-2019

THE CHAIRPERSON: ... Now, I received an information that on May 14, 2020, Atty. Del Rosario, the Protest and Appeals Review Department, or PARD, under the legal sector headed by Atty. Del Rosario, presented to the PhilHealth Board the appealed claims for 2011-2019 worth P3.9 billion for wholesale amnesty. The PhilHealth Board approved the amnesty for the appealed claims with or only worth P668 million. Now, these are the questions: First, since the start of the operations of PhilHealth, how many times has the Board declared wholesale amnesty?

MR. DEL ROSARIO: x x x

THE CHAIRPERSON: Perhaps Secretary Duque can answer the original question. How many times has the Board acted on a wholesale amnesty? You were there for quite a long time, Secretary Duque, as the head, as DOH secretary. Would you know how many times they declared wholesale amnesty? You are on mute. Please unmute your computer.

MR. DUQUE: As I have said, Mr. President, I do not have a recollection of how many times we, as alleged, that there was a wholesale grant of amnesty. But I will look into it, Mr. Senate President, rest assured.

THE CHAIRPERSON: So, you are saying that this is the first time? You have been there since what, 2000? During the time of former President Macapagal-Arroyo.

MR. DUQUE: If I may, with your permission, Mr. Senate President, I would like to direct that to the corporate secretary who holds the records, Atty. Jonathan Mangaoang.

THE CHAIRPERSON: Atty. Jonathan Mangaoang, how many times have you declared a wholesale amnesty?

MR. MANGAOANG: Good morning, Mr. President.

I came in as corporate secretary only in 2017. So, from 2017 onwards, Mr. President, I can attest that this is the first time that there was such a Board decision..."

Although the Committee Chair has no issue on the fact that the Board has exercised the same, what concerns him is the fact that these cases submitted for "wholesale amnesty" have been pending with the Protest and Appeal Review Department (PARD) for nine (9) years. Such failure to act and gross neglect of duty have resulted to the financial prejudice of PhilHealth and the health care providers, as the case may be.

While SVP for Legal Sector Rodolfo Del Rosario projects that he is against fraud, it seems that the records prove otherwise considering that a lot of cases are still pending in or unacted upon by, the agency.

B. Unimplemented/Ignored Court Rulings

During the course of the hearing, the case of Perpetual Succour Hospital was brought up due to the irregularity done by the PhilHealth Board by not executing the Decision of the Court of Appeals, which affirmed the earlier decision of the PhilHealth Board to impose the three-month suspension of accreditation of the said hospital and for the payment of P10,000.00 to PhilHealth. The said act is a clear violation of the doctrine of immutability of judgments⁵⁴, and in so doing, it is as if PhilHealth tolerated the fraudulent act of Perpetual Succour Hospital that could further cause loses from the coffers of the agency.

⁵⁴ The doctrine of immutability of judgments bars courts from modifying decisions that have already attained finality, even if the purpose of the modification is to correct errors of fact or law

It was revealed by SVP Del Rosario during the hearing that the basis of the Board in changing the penalty to payment of fine amounting to P100,000.00, instead of the three-month suspension and a fine of P10,000.00, is a Board Resolution allowing the conversion of decision affirmed by higher courts. Thus,

MR. DEL ROSARIO: Anyways, to answer your question regarding the Perpetual Succour, it was a decision by the PhilHealth board of directors based on a policy that was decided even before I was appointed as SVP, Legal. There was a board resolution to convert decisions affirmed by higher courts, na kung mayroong suspension ay iko-convert na lang into fine considering that our people need access to health services.

Since the action of the Board in converting decisions of higher Courts was anchored on and backed by an earlier Board Resolution, the Perpetual Succour Hospital case is not the first case whose decision was converted by the Board. As narrated by Corporate Secretary Jonathan Mangaoang in the 11 August 2020 hearing of the Committee, to wit:

MR. MANGAOANG: x x x

This PhilHealth board decision of **Perpetual case is not actually the first decision of the PhilHealth board where it modified a decision of Court of Appeals**. Prior to this—and this was also mentioned by Dr. Leachon during the September 5 hearing last year because he was also a member of that board which modified the decision on HealthServ which involved 12 cases; 11 of these cases were decided by the Court of Appeals and the Supreme Court, affirming the suspension on HealthServ but this was again reversed by the board sometime in 2016. So this decision could have reached the medical association or hospital association, Mr. Chairman, Mr. President.

Although the PhilHealth Board has quasi-judicial powers, its powers are only exercisable in matters that are within its jurisdiction, particularly when the cases are

still pending the agency's decision. And it does not extend when a higher court has already acquired jurisdiction over these cases. It is well-settled that a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land⁵⁵.

C. Diluted Cases Against Erring PhilHealth Employees

As would be discussed later in this Committee Report, some employees of PhilHealth Regional Office – Region II (PRO II) were involved in “inadvertently” depositing P9.7 Million in Balanga Rural Bank, which is supposedly due to B. Braun Avitum Philippines, Inc. and be deposited to its bank account (Deutsche Bank).

During the 11 August 2020 hearing, it was established that this blunder by the subject employees of PRO II was solely be blamed on human error, to wit:

MS. ARAGONA. Yes. As far as I can remember, sir, iyong Balanga, when it was reported to us, ang naging problema po yata is iyong pag-select ng bank for the transfer. So, I think there was an incident report on that, iyong doon sa mismong ano natin na region, so I had to get the details. Pero iyon po iyong natatandaan ko now. So, there were something na nagkaroon ng error sila doon sa pag-select.

SEN. LACSON. Anong klaseng error? **Man-made itong error na ito. Hindi puwedeng machine ang mag-error dito kasi very strict kayo sa mga online transactions.**

MS. ARAGONA. Opo.

⁵⁵ NHA vs Court of Appeals, G.R. No. 173802, April 7, 2014

SEN. LACSON. Hindi puwedeng mag-cross over ng regions kasi in-apply nga iyan. (*Emphasis supplied*)

However, despite of the substantial amount involved in the infraction of the employees involved, only a "simple neglect of duty" was filed and meted out against them.

In the similar vein, as pointed out in the Committee hearings, the case of Pamela Del Rosario, which involved fraudulent claims amounting to P1.17 million with the indispensable participation of some PhilHealth employees.

Based on the Investigation Report of the Regional Special Investigation Team (RSIT) of PhilHealth⁵⁶, dated 06 May 2015, submitted to the then Regional Vice President of Region I, Dr. Leo Douglas Cardona Jr., the recommended cases to be filed against the erring employees were syndicated estafa, falsification of documents, usurpation of authority or official functions, violation of PhilHealth law, serious dishonesty, gross neglect of duty, grave misconduct, among others. Yet, what was filed against the employees involved were just for simple misconduct.

When the PhilHealth resource persons were asked regarding this, none of them denied the report.

Another case in point to prove the dilution of cases being done by PhilHealth officials is the very case of Atty. Rodolfo Del Rosario, SVP for Legal Sector. Although the case happened when he was the head of Physical Infrastructure Resource Department. As raised by Senator Imee Marcos and Senate President Sotto during the 11 August 2020 hearing, Atty. Del Rosario was charged, together with one senior vice president, with an administrative case of budget insertion relative to the construction of PhilHealth's the corporate center. While the senior vice president was relieved from

⁵⁶ Refer to the records of the Committee of the Whole for the copy of the Investigation Report on the Investigation Conducted Regarding the Fraudulent Claims of Pamela Del Rosario and Her Dependents

his office, Atty. Del Rosario was just found guilty of simple neglect of duty and was fined amounting to his 15-day worth salary.

If the internal policy in PhilHealth is really to grant its employees impunity or impose on them penalties that are not commensurate to the violations committed, the Committee is not surprised now why the performance of the agency is very dismal and deplorable.

In view of the foregoing discussions, it could be easily deduced that there is, indeed, a systemic problem in PhilHealth that has to be immediately remedied especially that the agency plays a vital role in the delivery of healthcare services in the country.

V. B. BRAUN AVITUM, PHILIPPINES., INC.

A. Background

B. Braun Avitum Philippines, Inc., formerly registered as 'Philippine Renal Care, Inc., is a PhilHealth-accredited free-standing dialysis clinic that has 25 branches in Luzon.

The following are the Corporation's Directors and Officers based on its 2019 General Information Sheet:

NAME	POSITION
Lam Chee Hong (Malaysian)	Chairman
Eduardo L. Rodriguez (Filipino)	President/Managing Director
Lih Chyun Yeong (Malaysian)	N/A
Arsenia C. Ladores (Filipino)	Finance Director/Treasurer
Ricky A. Paglicawan (Filipino)	Sales and Managing Director
Yolanda M. Eleazar (Filipino)	Corporate Secretary
Melina Rosa Rodriguez (Filipino)	Assistant Corporate Secretary

B. IRM Payments Made to B. Braun Avitum Philippines, Inc.

The table below shows the breakdown of IRM releases to B.Braun Avitum from April 23 to May 05, 2020 amounting **P45,176,518.00**:

Municipality	Institution/ Province	IRM	DATE OF MOA	Fund Release Date	Amount Released
TONDO	NCR, First District of Manila	P15,382,900	April 15	April 23	P15,382,900
BAGUIO	BENGUET	P11,375,650	March 31	May 5	P11,375,650
QUEZON CITY	NCR, Second District of QC	P8,946,168	April 22	May 4	P8,946,168
QUEZON CITY	NCR, Second District of QC	P5,302,050	April 22	May 4	P5,302,050
TONDO	NCR, First District of Manila	P4,169,750	April 15	April 23	P4,169,750

Initially, it was discovered that PhilHealth released almost **15.4 million and 4.2 million to two (2) Braun Avitum Dialysis Center Branches in Tondo, Manila**. Also, its **two (2) branches located in the 2nd District of Quezon City received the amount of P8.95 million and P5.3 million respectively**. Noteworthy are the facts that the date when the **MOAs** of these branches of Braun Avitum Philippines were **filed on the same dates (April 15 for the branches in Tondo, Manila and April 22 for the branches in Quezon City)** and their **IRMs were released on the same dates (April 23 for Tondo branches and May 4 for the Quezon City branches)**.

The photos that the Office of Senator Lacson have taken from the **B. Braun Avitum Philippines, Inc. in Delpan Street, Tondo** on 10 August showed that the center has **no isolation area and only caters to out-patient services**.

B. BRAUN AVITUM PHILIPPINES, INC. (TONDO, MANILA)



Further, suspected or confirmed COVID19 patients are referred to the nearby Gat Andres Memorial Hospital.

The facility has released **Patient Announcement** relative to PhilHealth Circular 2020-007 stating that while the circular mentions the "Exemption from the 45-day benefit limit and Single Period Confinement for admissions..xxx", **"it does NOT specifically states that it applies to all case rates, including dialysis treatments."** Hence, **B. Braun still requires patients who have already exhausted the 90-treatment PhilHealth benefit to pay in cash** based on the prevailing rates pending PhilHealth issuance of new circular.

The foregoing disproves PhilHealth executives' emotive assertions during the hearing that IRM releases also cover dialysis centers because as the document shows, **B. Braun Avitum still does not grant "privileges" to dialysis patients** (i.e. Exemption from the 45-day benefit limit and Single Period Confinement for admissions) who are directly or indirectly related to fortuitous events, as clearly stated in the PhilHealth Circular 2020-007 -- the very basis of B. Braun's over 45-million IRM releases.

C. The- stranger- than- fiction Balanga Rural Bank Case

In May 2019, a total amount of **P9,705,332.00**, which was supposed to be deposited to the bank account of B. Braun Avitum Philippines, Inc. in Deutsche Bank in PhilHealth Regional Office (PRO) II was wrongly deposited to Balanga Rural Bank in Bataan (Region III).

According to Col. Laborte, there was no way PRO II could transfer payment to any bank situated in Region III, as it would be obviously under PRO III's jurisdiction. More importantly, PhilHealth Regional Office's electronic payment system (ACPS) is only allowed to transfer payments to accredited Hospitals located within the same region.

The total amount of P9.7 million was deposited to Balanga Rural Bank in twelve (12) transactions with the following dates:

Account Number	Health Care Institution's Name	Credited Amount	Date Credited
1007434000	B. Braun Avitum Philippines, Inc.	P453,544	May 2, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P1,075,256	May 2, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P203,840	May 2, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P779,688	May 8, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P958,048	May 8, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P726,180	May 8, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P15,288	May 15, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P580,944	May 15, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P1,383,564	May 22, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P2,965,872	May 22, 2019
1007434000	B. Braun Avitum Philippines, Inc.	P507,052	May 22, 2019
TOTAL P9,705,332			

B. Braun Avitum Philippines, Inc. complained to PhilHealth that it did not receive the P9.7 million payment for the month of May 2019 thru its bank – the Deutsche

Bank. Thus, on June 6, 2019, the Accreditation and Quality Assurance Section, responsible for the enrollment of accredited facilities in the ACPS through the Integrated PhilHealth Accreditation System was informed of the P9.7 million that was erroneously credited to Balanga Rural Bank.

On June 11, 2019, Acting Regional Vice-President Salvacion Madarang of PRO II sent a letter to Balanga Rural Bank to request the return of the payment intended for B. Braun back to Land Bank of the Philippines.

On June 13, 2019, Acting Regional Vice President Salvacion Madarang wrote a letter to Ms. Josan A. Paderoga, the Department Manager of the Landbank of the Philippines, informing the latter that "the branches of B. Braun Avitum Philippines, Inc. in Region II have not received their benefit reimbursement since May 2019".

On June 18, 2019, Balanga Rural Bank President Maria Rosario Banzon stated that "the bank is more than willing to return the P9.7 funds provided that the LBP pay the charges to be imposed by the BSP".

On August 13, 2019, a demand letter was issued by Atty. Joseph Pauig of PRO II Legal Office to Balanga Rural Bank.

Senior Manager Atty. Rogelio A. Pocallan Jr. wrote a letter to Area Vice President Alfredo Pineda dated 19 August 2019 with subject: "Formal Endorsement to the Legal Sector for the Filing of Appropriate Legal Action(s) for the Recovery of P9,704,630.00 Erroneously Credited to Balanga Rural Bank, Inc."

On August 22, 2019, a letter signed by Senior Manager Atty Rogelio A. Pocallan Jr. was sent to Bangko Sentral ng Pilipinas relative to Philhealth's request for assistance to recover the funds that were erroneously transferred to Balanga Rural Bank.

On September 3, 2019, the certified true copy of documents for the filing of complaint against Balanga Rural Bank, Inc. was endorsed to OSVP-Legal Sector.

On September 25, 2019, the following officers from the Central Office went to Balanga Rural Bank Inc. Balanga City, Bataan to settle the matter:

Name	Office
Atty. Rogelio A. Pocallan Jr	OIC-SVP, Legal Sector
Cherie Carmen B. Divina	Acting Senior Manager, Comptrollership Department
Ma Lourdes V. Naguit	Acting Senior Manager, Treasury Department
Dr. Salvacion S. Madarang	Medical Officer VII, HCDMD, PRO 2
Atty. Jose P. Pantig	Atty. IV Legal Office, PRO 2

Formal charges of "Simple Neglect of Duty" against Editha Conel (Head of the Accreditation and Quality Assurance Section, PRO II) and Jerome Follante (Social Insurance Officer III) were filed and signed by Atty. Pocallan in a document dated 19 September 2019.

In an article published by Manila Times on 13 August 2020⁵⁷, it was reported that Balanga Rural Bank Inc., through its President, Maria Rosario Banzon, clarified that the P9.7 million was credited by the Land Bank of the Philippines to their **Demand Deposit Account**⁵⁸ with the Bangko Sentral ng Pilipinas in four (4) remittances between May 3 to 22, 2019. As to the determination of the real owner of the bank account in Balanga, President Banzon answered that there is nothing to open because there are no existing accounts [in Balanga Rural Bank, Inc].

During the public hearing dated 18 August 2020, SVP Limsiaco was asked about the circumstances of this incident. At first, he denied knowing anything about the Balanga Rural Bank case by saying that he was on study leave when that incident happened. However, he eventually admitted that he did in fact send a memo letter on 28 June 2019⁵⁹ indicating his recommendations on the matter. It is worthy to note that, although the mistake purportedly happened in PRO II, the one requesting the

⁵⁷ <https://www.manilatimes.net/2020/08/13/news/regions/bank-denies-refusing-to-return-p9-7m-deposit/754741/>

⁵⁸ **Demand Deposit Account** "represents deposits of banks and other financial institutions to comply with the reserved requirements. It also includes banks' respective working funds to settle transactions due to/from Bangko Sentral and with other banks in peso-denominated currency and are subject to payment legal tender and demand".

⁵⁹ Refer to the records of the Committee of the Whole for the copy of 28 June 2019 Memorandum

return of the deposit “inadvertently” made to the Rural Bank of Balanga was the Land Bank branch in Pasig City, where PhilHealth Central Office was located.

D. Machine Learning Identification, Detection and Analysis System (MIDAS) Report

The Committee requested for and received a copy of MIDAS report with Reference No. 2019-013 regarding the fraud and abuse findings involving the B. Braun Avitum Philippines, Inc. MIDAS stands for Machine Learning Identification, Detection and Analysis System, a database set up by PhilHealth that analyzes and validates voluminous claims data, and detects overutilization, multiple claims, among others.

Based from the report, it was learned that, from 2015 to 2018, PhilHealth has paid a total of P811 million for hemodialysis claims from B. Braun facilities across the country:

ACCREDITATION	REGION	MUNICIPALITY	AMOUNT
D910257543	NCR-N	TONDO	P136,835,400
D13027810	CAR	BAGUIO CITY	P106,849,600
D93000846	NCR-C	QUEZON CITY	P91,923,000
D02001110	II	TUGUEGARAO	P82,953,000
D02026942	II	SANTIAGO	P72,085,000
D41001207	IV-A	IMUS	P41,004,600
D92001314	NCR-S	MUNTINLUPA CITY	P38,097,800
D91027311	NCR-N	TONDO	P37,005,800
D03001267	III-A	OLONGAPO CITY	P36,771,800
D03026971	III-B	MEYCAUAYAN CITY	P33,261,800
D03026971	IV-A	BIÑAN	P32,383,000
D93000764	NCR-C	QUEZON CITY	P23,142,600
D93029785	NCR-C	QUEZON CITY	P21,829,600
D42029021	IV-B	MAMBURAO	P16,265,600
D02029817	II	CAMALANIUGAN	P16,104,400
D03029237	III-B	BALER	P15,841,800
D92030077	NCR-S	MAKATI CITY	P9,362,600

It could easily be established based from this table that the Tondo branch, with accreditation number D91027543, has the highest amount claimed from PhilHealth amounting to **P136 million** from 2016 to 2018.

The regression analysis presented by MIDAS shows that the branches of **Tuguegarao and Tondo** appear to have outlier behavior, which means that they deviate from the expected amount of claims given the hemodialysis machine capacity

as the independent variable, compared to their peers. The branch in Baguio, however, which ranked as the Top 2 in terms of amount claimed from PhilHealth, was not included in the regression study due to the zero value of hemodialysis machines in the accreditation records.

Furthermore, the analysis also revealed an inverse relationship between the number of hemodialysis sessions served and the average age of patients of free-standing dialysis clinics in Areas 1 and 2.

According to the same MIDAS report, the Philippine Society of Nephrology has suggested that the average capacity of hemodialysis machines is at 72 sessions per month. Using this value, we can compute the estimated capacity of B. Braun Avitum Philippines, Inc. branches in 2018. The table below shows that six (6) B. Braun branches exceed the 90% threshold for sessions to capacity ratio. The six (6) branches are: Tondo, Quezon City, Tuguegarao, Binan, Olongapo, and Baler.

ACCREDITATION	REGION	MUNICIPALITY	HD MACHINES	CAPACITY	SESSION	SESSION/ CAPACITY
D91027543	NCR-N	TONDO	26	22464	21536	95.07%
D93000846	NCR-C	QUEZON CITY	15	12960	17338	133.78%
D13027810	CAR	BAGUIO CITY	0	0	16075	0.00%
D02001110	II	TUGUEGARAO	15	12960	13014	100.42%
D02026942	II	SANTIAGO	0	0	10115	0.00%
D41078949	IV-A	BINAN	8	6912	8634	124.91%
D93029785	NCR-C	QUEZON CITY	19	16416	7735	47.12%
D02029817	II	CAMALANIUGAN	0	0	6509	0.00%
D92030077	NCR-S	MAKATI CITY	18	15552	6447	41.45%
D41001207	IV-A	IMUS	10	8640	6330	73.26%
D91027311	NCR-N	TONDO	10	8640	6110	70.72%
D03026971	III-B	MEYCAUAYAN CITY	10	8640	5147	59.57%
D92001314	NCR-S	MUNTINLUPA CITY	10	8640	5060	58.56%
D03001267	III-A	OLONGAPO CITY	3	2592	4336	167.28%
D03029237	III-B	BALER	4	3456	3484	100.81%
D42029021	IV-B	MAMBURAO	8	6912	2988	43.23%

Further, the regression analysis suggested a lower total session count for facilities catering to patients with a mean age of 52-55 years old, a cohort with increased mortality rate as compared to younger cohorts with chronic kidney disease. **Given this observation, evidence for ghost patients must be sought after.** The report recommended that this can be done by retroactively matching the latest death data from the Philippine Statistics Authority.

The actual numbers of hemodialysis machines and maintenance schedules should be checked if they adhere to quality standards specifically for the six (6) branches with greater than 90% sessions to capacity ratios. Non-adherence to this is considered a breach of performance commitment set by the accreditation standards.

DISCUSSION:

The Committee did not get a clear explanation of why the supposed payment to B. Braun Avitum Philippines, Inc. in PRO2 ended up in Balanga Rural Bank considering the existence of PhilHealth's Auto Credit Payment System (ACPS). This Balanga incident is reminiscent of the **Accenture controversy** involving the diversion of premiums paid by the company, which was recorded in PhilHealth books but were never deposited in its account and found its way to a Metrobank branch somewhere in Batangas.

Atty. Roberto Labe Jr., during the August 18, 2020 hearing of the Committee testified that in relation to this Balanga incident, he discovered some information that was withheld by the Legal Sector headed by SVP Del Rosario like the number of times the deposits were made to the Rural Bank of Balanga that led to the review of the penalty imposed by the latter to the two PhilHealth PRO II personnel of one month suspension for being charged for "simple neglect of duty".

In a newspaper article in the Manila Times⁶⁰, Ms Maria Rosario Banzon, President of the Balanga Rural Bank Inc., said that the P9.7M was credited by LBP to their bank's Demand Deposit Account with the BSP in four (4) remittances between May 3 to 22, 2019. This means that this is a type of a *'bank-to-bank' transaction*.

Going now to the issue of B. Braun Avitum Philippines, Inc., the regression analysis identifies the branches of Tuguegarao and Tondo as outliers. In statistics, an outlier is a data point that differs significantly from other observations. In this case, these (2) two branches appear to deviate from the expected amount of claims given their

⁶⁰ *Supra*.

respective hemodialysis machine compared to the other branches of B. Braun Avitum Philippines, Inc.

The Philippine Society of Nephrology has suggested that the average capacity of hemodialysis machines at 72 sessions per month. Using this unit, the capacity of each dialysis center is based on their hemodialysis machines. The six (6) branches included the ones located in Tondo, Quezon City, Tuguegarao, Binan, Olongapo, and Baler.

Given that hemodialysis machines must also be maintained to ensure its quality, the number of sessions reported by the six (6) branches of B. Braun appeared to be incredible.

In 2015, PhilHealth issued Circular No. 22 that expanded the dialysis coverage from 45 to 90 free sessions a year for each member. If we are to consider the hemodialysis sessions of patients who have already maximized the 90 free sessions, it is possible that the number of sessions conducted in each B. Braun branch will be more than what was reported in the MIDAS analysis.

Among the findings generated from regression analysis suggested a lower total session count for facilities catering to patients with a mean age of 52-55 years old. This raises suspicion because this is also the age group with increased mortality rate due to chronic kidney disease as compared to younger age groups. The report therefore suggested that evidence for ghost patients must be sought after. These findings remind us of the infamous case of the WellMed Dialysis Center, which faced raps for its fraudulent claims for deceased patients.

This incident cannot be left unresolved. There definitely are trails, electronic or otherwise, that can lead an investigator to the real culprits in this case. Suffice it to say that repetition of this fraught event will always be forthcoming, unless urgent steps are taken to uncover this mess.

RECOMMENDATIONS

	LAWS VIOLATED	PENALTIES
<p>ATTY. RODOLFO B. DEL ROSARIO JR. (SVP- Legal Sector) and all other PhilHealth officials and employees who connived with and participated in the consummation of the punishable/illegal act</p> <p>NONFEASANCE</p> <p>For their failure to act upon and/or neglect of duty to cause the prosecution of cases before him.</p>	<p>1. ARTICLE 208 OF THE REVISED PENAL CODE - Prosecution of Offenses; Negligence and Tolerance. —any public officer, or officer of the law, who, in dereliction of the duties of his office, shall maliciously refrain from instituting prosecution for the punishment of violators of the law, or shall tolerate the commission of offenses.</p> <p>2. REPUBLIC ACT 3019 ANTI-GRAFT AND CORRUPT PRACTICES ACT</p> <p><i>Section 3. Corrupt practices of public officers.</i> In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:</p> <p>X x x</p> <p>(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue</p>	<p>1. The penalty of prisión correccional in its minimum period and suspension.</p> <p>2. <i>Section 9. Penalties for violations.</i> (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.</p>

	<p>advantage in favor of or discriminating against any other interested party.</p>	
<p>MS. JOVITA V. ARAGONA (SVP-Chief Information Officer, Information Management Sector)</p> <p>MR. CALIXTO GABUYA JR. (Acting Senior Manager, Information Technology and Management Department)</p> <p>and all other PhilHealth officials and employees who connived with and participated in the consummation of the punishable/illegal act</p> <p>MALFEASANCE</p> <p>For the overpricing of the IT supply and the concealment/alteration of documents pertaining thereto;</p>	<p>1. ARTICLE 171 OF THE REVISED PENAL CODE</p> <p>Falsification by public officer, employee or notary or ecclesiastic minister. - ... imposed upon any public officer, employee, or notary who, taking advantage of his of position shall falsify a document by committing any of the following acts:</p> <p>Xxx</p> <p>7) issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original;</p> <p>2. ARTICLE 213 OF THE REVISED PENAL CODE</p> <p>Frauds Against the Public Treasury and Similar Offenses.</p> <p>In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of</p>	<p>1. The penalty of prisión mayor and a fine not to exceed One million pesos (₱1,000,000)</p> <p>2. The penalty of prisión correccional in its medium period to prisión mayor in its minimum period, or a fine ranging from Forty thousand pesos (₱40,000) to Two million pesos (₱2,000,000), or both</p>

	<p>any other scheme, to defraud the Government;</p> <p>3. ARTICLE 226. Removal, Concealment or Destruction of Documents — Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him.</p> <p>4. REPUBLIC ACT NO. 3019 ANTI-GRAFT AND CORRUPT PRACTICES ACT</p> <p>Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of</p>	<p>3. The penalty of prisión mayor and a fine not exceeding Two hundred thousand pesos (₱200,000), whenever serious damage shall have been caused thereby to a third party or to the public interest.</p> <p>The penalty of prisión correccional in its minimum and medium period and a fine not exceeding Two hundred thousand pesos (₱200,000), whenever the damage caused to a third party or to the public interest shall not have been serious.</p> <p>In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual disqualification shall be imposed</p> <p>4. <i>Section 9. Penalties for violations.</i> (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the</p>
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<p>That the ICT resources included in CY 2020 budget proposal DO NOT APPEAR in the approved Information System Strategic Plan (ISSP)</p>	<p>any public officer and are hereby declared to be unlawful:</p> <p>xxxx</p> <p>(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.</p> <p>xxxx</p> <p>(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.</p> <p>xxxx</p> <p>(i) Directly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which</p>	<p>Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.</p>
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exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group.

Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transaction or acts by the board, panel or group to which they belong.

**5. VIOLATION OF
ARTICLE II OF R.A. 9184
OR THE GOVERNMENT
PROCUREMENT REFORM
ACT**

**SEC. 7. Procurement
Planning and Budgeting
Linkage.**

All procurement should be within the approved budget of the Procuring Entity and should be meticulously and judiciously planned by the Procuring Entity concerned. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions shall be included in the Annual Procurement Plan to be specified in the IRR.

No government Procurement shall be undertaken unless it is in accordance with the approved Annual Procurement Plan of the

	<p>Procuring Entity. The Annual Procurement Plan shall be approved by the Head of the Procuring Entity and must be consistent with its duly approved yearly budget. The Annual Procurement Plan shall be formulated and revised only in accordance with the guidelines set forth in the IRR. In the case of Infrastructure Projects, the Plan shall include engineering design and acquisition of right-of-way.</p>	
<p>SEC. FRANCISCO T. DUQUE III (Chairman of the Board-PHILHEALTH)</p> <p>BGEN. RICARDO C. MORALES, AFP (RET) FICD (President and CEO)</p> <p>MR. ARNEL F. DE JESUS (Executive Vice President and Chief Operating Officer)</p> <p>MR. RENATO L. LIMSIACO JR. SVP-Fund Management Sector</p> <p>MR. ISRAEL FRANCIS A. PARGAS (SVP-Health Finance Policy Sector)</p> <p>and all other PhilHealth officials and employees who connived with and participated in the consummation of the</p>	<p>1. ARTICLE 217 OF THE REVISED PENAL CODE – Malversation of public funds or property – Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property</p> <p>2. ARTICLE 220 OF THE REVISED PENAL CODE</p> <p>Illegal Use of Public Funds or Property— Any</p>	<p>1. The penalty of reclusion temporal in its maximum period, if the amount involved is more than Four million four hundred thousand pesos (P4,400,000) but does not exceed Eight million eight hundred thousand pesos (P8,800,000). If the amount exceeds the latter, the penalty shall be reclusion perpetua.</p> <p>In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled</p> <p>2. Penalty of prisión correccional in its minimum period or a fine ranging from one-half to the total of the sum misapplied, if by reason of such</p>

<p>punishable/illegal act</p> <p>MISFEASANCE</p> <p>For the improper and illegal implementation of the Interim Reimbursement Mechanism (IRM) against its duly authorized purpose under the law and for grave abuse of discretion or gross negligence in ascertaining the IRM beneficiary without valid criteria for distribution.</p>	<p>public officer who shall apply any public fund or property under his administration to any public use other than that for which such fund or property were appropriated by law or ordinance.</p> <p>3. REPUBLIC ACT NO. 3019 ANTI-GRAFT AND CORRUPT PRACTICES ACT</p> <p>Section 3. <i>Corrupt practices of public officers.</i> In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:</p> <p>Xxx</p> <p>(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.</p>	<p>misapplication, any damage or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.</p> <p>If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 per cent of the sum misapplied.</p> <p>3. Section 9. <i>Penalties for violations.</i> (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.</p>
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<p>SEC. FRANCISCO T. DUQUE JR. (Chairman of the Board-PHILHEALTH)</p>	<p>1. VIOLATION OF THE NATIONAL INTERNAL REVENUE CODE</p>	<p>1. Sec. 272 states that: "...punished by a fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos (P50,000) or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both..."</p>
<p>BGEN. RICARDO C. MORALES, AFP (RET) FICD (President and CEO)</p>	<p>SEC. 272. Violation of Withholding Tax Provision. - Every officer or employee of the Government of the Republic of the Philippines or any of its agencies and instrumentalities, its political subdivisions, as well as government-owned or-controlled corporations, including the Bangko Sentral ng Pilipinas (BSP), who, under the provisions of this Code or rules and regulations promulgated thereunder, is charged with the duty to deduct and withhold any internal revenue tax and to remit the same in accordance with the provisions of this Code and other laws is guilty of any offense herein below specified shall, upon conviction for each act or omission be punished by a fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos (P50,000) or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both:</p>	<p>Sec. 251 of the NIRC provides, in case of failure of the withholding agent to collect and remit tax:</p>
<p>MR. ARNEL F. DE JESUS (Executive Vice President and Chief Operating Officer)</p>	<p>and</p>	<p>"Any person required to withhold, account for, and remit any tax imposed by this Code or who willfully fails to withhold such tax, or account for and remit such tax, or aids or abets in any manner to evade any such tax or the payment thereof, shall, in addition to other penalties provided for under this Chapter, be liable upon conviction to a penalty equal to the total amount of the tax not withheld, or not accounted for and remitted."</p>
<p>MR. RENATO L. LIMSIACO JR. SVP-Fund Management Sector</p>	<p>and</p>	<p>(a) Failing or causing the failure to deduct and withhold any internal revenue tax under any of the withholding tax laws and</p>
<p>MR. ISRAEL FRANCIS A. PARGAS (SVP-Health Finance Policy Sector)</p>	<p>and</p>	<p></p>
<p>and all other PhilHealth officials and employees who connived with and participated in the consummation of the punishable/illegal act</p>	<p>and</p>	<p></p>
<p>NONFEASANCE For their failure to withhold tax liabilities of health care institutions to which they released IRM funds</p>	<p>and</p>	<p></p>

	<p>implementing rules and regulations;</p> <p>(b) Failing or causing the failure to remit taxes deducted and withheld within the time prescribed by law, and implementing rules and regulations; and</p> <p>(c) Failing or causing the failure to file return or statement within the time prescribed, or rendering or furnishing a false or fraudulent return or statement required under the withholding tax laws and rules and regulations.</p> <p>2. VIOLATION OF RA 1051</p> <p>Sec. 4. It shall be unlawful for any public officer or employee, or official or employee of a government owned or controlled corporation to authorize any of the payments mentioned in section one hereof without withholding, or without requiring the previous payment of, the tax liability mentioned in section two hereof. It shall be equally unlawful for any person or persons to induce or connive with any public officer or employee, or official or employee of a government owned or controlled corporation to commit the unlawful act herein defined or to receive any payment in violation of this Act.</p>	<p>2. Section 5 of RA 1051 provides that:</p> <p>"Any violation of this Act shall be punished by a fine not less than one thousand pesos nor more than two thousand pesos and imprisonment for not more than one year: Provided, That, in the case of public officer or employee he shall be further subject to administrative proceedings and, if found guilty, shall be dismissed from the service..."</p>
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<p>MALFEASANCE</p> <p>For their act of charging the Corporate Operating Budget for failure to withhold the taxes in the advancement of funds through the IRM</p>	<p>3. REPUBLIC ACT 3019 GRAFT AND CORRUPT PRACTICES ACT</p> <p>Section 3. <i>Corrupt practices of public officers.</i> In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:</p> <p>Xxx</p> <p>(3) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.</p> <p>4. ARTICLE 217 OF THE REVISED PENAL CODE</p> <p>Art. 217. Malversation of public funds or property.— Presumption of malversation. - Any public officer who, by reason of the</p>	<p>3. Section 9. <i>Penalties for violations.</i> (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.</p> <p>4. The penalty of reclusion temporal in its maximum period, if the amount involved is more than Four million four hundred thousand pesos (P4,400,000) but does not exceed Eight million eight hundred thousand pesos</p>
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	<p>duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property</p>	<p>(₱8,800,000). If the amount exceeds the latter, the penalty shall be reclusion perpetua.</p> <p>In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled</p>
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FOR DOJ/OMBUDSMAN

- File administrative case against BGen. Morales and SVP Dennis S. Mas, Management Service Sector for not implementing the Board Resolutions on courtesy resignations, which is clearly a neglect of duty and insubordination.
- File administrative case against BGen. Morales, Executive Vice President and COO Arnel F. De Jesus, and Mr. Arnel F. De Jesus, Executive Vice President and Chief Operating Officer for violating the COA Rules on the period of liquidation in issuing Memorandum Circular 2020-032
- File administrative case against Atty. Rodolfo Del Rosario, SVP for Legal Sector, and all the other officers and employees of the Protest and Appeal Review Department of PhilHealth for their failure to act and gross neglect of duties relative to the cases pending in their department.
- Ensure that administrative and criminal cases are timely filed against responsible individuals, health care institutions, and corporations. Filing charges against responsible individuals, health care institutions, and corporations will prove PhilHealth's and the government's commitment to ensure that government funds are not mismanaged and that corruption is not tolerated.

Further, cases and subsequent convictions will serve as a deterrence for others with corrupt intentions.

- Given the observation on the B. Braun Avitum Philippines, Inc., evidence for ghost patients must be sought after. The report recommended that this can be done by retroactively matching the latest death data from the Philippine Statistics Authority.

FOR THE PRESIDENT OF THE PHILIPPINES

- To appoint a new Secretary of the Department of Health who has a stronger will to fight corruption within his organization and the agencies under his/her watch

FOR PHILHEALTH

- Immediately require from the health care institutions which received IRM funds to liquidate the utilized IRM funds and return the unutilized amount, impose a definite deadline therefor and strictly implement the same.
- Strictly apply the purpose for which the Interim Reimbursement Mechanism was crafted and ensure that it is well within PhilHealth's mandates
- For PhilHealth to immediately pay the claims of private hospitals, prioritizing those which are COVID-19 referral hospitals and those with high cases of COVID-19 admissions
- Increase the involvement of Commission on Audit (COA) in every stage of operations of PhilHealth. As revealed in the hearings, COA is having a hard time in auditing PhilHealth due to the difficulty of obtaining documents from PhilHealth Central Office. COA should be allowed to pursue its mandate to conduct the necessary audits even at the Regional Level without any hindrance

from PhilHealth to ensure that government funds are properly managed and spent.

- Outsource the IT Services of PhilHealth. The use of information technology (IT) in the healthcare industry is known to promote efficiency and reliability in the delivery of healthcare services. However, PhilHealth's attempt to improve its IT system is currently shrouded in overpricing controversy. Thus, PhilHealth should simply outsource to a reputable company the provision of its IT services, which include but not limited to development and provision of a reliable electronic health records and analytics system, specifically for membership data information collection and membership services. This will address the issues on "ghost patients" and "upcasing". Outsourcing this aspect will also mitigate the risk of data breach, and secure sensitive health and financial information of its members.
- For PhilHealth to contract out the processing of its benefits claim to avoid backlogs and massive reimbursement delays. This would simplify the reimbursement process, remove red-tape, and address corruption.
- Immediately implement the digitization and unification of PhilHealth and all medical records. Having unified and electronic medical records per person will ensure that all data on benefits paid per person, from primary care, to hospitals, and to pharmacies, is available for auditing and PhilHealth will not have fragmented data per instance of claim. This will make it easier for PhilHealth to flag dubious submissions and claims from hospitals. This will also improve the supervision of PhilHealth Central Office over Regional Offices as there is only one record for the whole organization and any suspicious entries can be easily checked, and denied, if necessary.⁶¹

⁶¹ Bautista, Nicole B, M.D., M.B.A., and Josen, Marquis Von Angelo Syquio, M.D. "How Should PhilHealth Set the Case Rates? Lessons from A Costing Study." Health Research Brief Vol. 4, Issue 1. DOH Website (https://www.doh.gov.ph/sites/default/files/health_magazine/WHRB4.1%20Financing.pdf). Poste 2018. Accessed 20 August 2020.

- For PhilHealth to look into strengthening its manpower complement by hiring more medical reviewers, anti-fraud officers, data scientists, data analytics personnel, and even experts in artificial intelligence and big data
- Regularly update the case-rate system amounts to improve the accuracy of rates and see the patterns in claims and illnesses reported. This will ensure that PhilHealth is updated in trends in illnesses to change the rates as necessary. This will likewise show emerging and spreading illnesses in the country which will allow PhilHealth to plan, prepare, and properly budget its funds to provide the most efficient services to respond to the actual needs of beneficiaries.⁶²
- Implement the out-patient support mechanism. Providing support to out-patient and primary care services as provided by the UHC which will ensure that timely interventions will be carried out to patients, reducing the need for hospitalization as general health will be improved. This will reduce opportunities for upcasing.
- Require PhilHealth to comply with the Competency-Based Recruitment and Qualifications Standard implemented by the Civil Service Commission (CSC). As revealed in the hearings, PhilHealth does not comply with the qualifications required by CSC to equivalent positions in other government agencies. PhilHealth officials and employees should be appointed with the necessary qualifications, skills, and training to ensure that PhilHealth will be managed effectively. PhilHealth should immediately update its qualification requirements for the appointment of executive officers, specifically for the President, Vice-President, and Regional Director positions to align with the qualifications provided by the CSC.
- The Senior Vice President, Legal Sector must have at least five (5) years of legal practice or have held a public office requiring admission to the practice of law as an indispensable requisite

⁶² *Supra.*

- Strictly implement Section 13 par. c of the Universal Healthcare Law, which requires all the appointive members of the PhilHealth Board of Directors to undergo training in health care financing, health systems, costing health services and health technology assessment (HTA) prior to the start of their term
- For the high ranking officials of the Philippine Health Insurance Corporation (PhilHealth) starting from the Chief Executive Officer to the Regional Vice Presidents to file their courtesy resignations in compliance with the Board Resolution in relation thereto, and to be able to give the President of the Philippines a free hand to appoint new officials for the people to regain its trust on PhilHealth.
- For PhilHealth to implement a regular reassignment of its Regional Vice Presidents (RVPs) to a different region every three (3) years. No RVP should be reassigned to the same region more than twice in his/her entire tenure in PhilHealth.
- For PhilHealth to strengthen its enforcement and legal division in the various regional offices to help expedite and ensure the success in prosecuting cases – whether pending in PhilHealth or those filed in the regular courts or quasi-judicial bodies.
- Strictly implement the agency's Information Systems Strategic Plan as approved by the Department of Information and Communications Technology
- The PhilHealth should meticulously and judiciously plan its information and communications technology procurement. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of governmental functions shall be included in its annual procurement plan

- The PhilHealth may consider requesting for foreign-assistance from the Asian Development Bank (ADB), the Japan International Cooperation Agency (JICA), or the World Bank (WB) to have sufficient budget for its overhaul and this will also make the new ICT system a foreign-assisted procurement, which would require a different and stricter procurement process

FOR THE DEPARTMENT OF BUDGET AND MANAGEMENT

- For the Department of Budget and Management, through the Procurement Service, to execute the necessary procurement in PhilHealth's stead on the latter's information technology needs – whether hardware or software. As clearly pointed out by no less than the President of PhilHealth himself, BGen. Ricardo Morales, and reiterated by SVP and Chief Information Officer Jovita Aragona, the problem lies in their procurement

FOR THE INSURANCE COMMISSION

- Involve Insurance Commission (IC) in scrutinizing the operations of PhilHealth. The currently ongoing special audit by the Commission on Audit (COA) partnered with the IC is a step in the right direction and should be incorporated in the regular audit scope of PhilHealth. This will provide an additional layer of protection to ensure PhilHealth will be financially-sound and solvent, and that transactions fall within acceptable parameters.

FOR THE GOVERNANCE COMMISSION FOR GOCCs

- **Direct GCG to exercise powers under GOCC Governance Act.** Republic Act No. 10149 or GOCC Governance Act was intended to reform the government corporate sector, improve corporate governance of GOCCs, and exact from them efficient and effective public service.

The Governance Commission for GOCCs (GCG), as the governing body for government corporations, must actively and decisively perform its mandate as a central advisory, monitoring and oversight body of PhilHealth. In particular, it should:

- Identify the necessary skills and qualifications required for Appointive Directors to the PhilHealth, and consider the suitability and qualifications of the candidates before submitting its recommendations to the President (Section 5e of R.A. 10149). The fit and proper rule should be strictly applied – the directors must be chosen based on their integrity, experience, education, training and competence, among others.

This is to ensure that only the most competent people are appointed as Directors of the national insurance agency.

- Take a proactive role in evaluating the performance of PhilHealth, its directors and officers, and discipline them, if necessary.
 - Conduct periodic evaluation and assessment of the performance of the PhilHealth, require reports on the operations and management of the Corporation, particularly on the management of its assets and finances as provided under Section 5g of R.A. 10149,
 - Recommend appropriate measures to improve PhilHealth’s overall performance and service delivery in accordance with its mandate, based on its most recent performance scorecard.
- A special audit of PhilHealth’s finances, possibly in the last 5 to 10 years, should be conducted. We call on the Governance Commission for GOCCs (GCG) to direct the conduct of said audit, pursuant to their mandate outlined in Sec. 26 (b) of Republic Act 10149 or the GOCC Governance Act of 2011

FOR THE ANTI-MONEY LAUNDERING COUNCIL

- For the Anti-Money Laundering Council (AMLC) to immediately investigate and determine whether the bank accounts of those PhilHealth officials and private entities that have been implicated in the malversation of PhilHealth funds, fall within the category of the so-called suspicious accounts.

FOR HEALTH CARE INSTITUTIONS

- For all health care institutions to comply strictly with the DOH's requirement on both government and private hospitals to maintain, at least, 30% of their bed capacity for COVID-19 patients, as stated in DOH Administrative Order No. 2020-0016 dated May 04, 2020. Also, for private and public hospitals that received IRM fund should allocate and maintain an additional 7% of their bed capacity as ICU beds for COVID-19 patients at critical stage. While the other HCIs should be required as well to allocate and maintain an additional 5% of their bed capacity to ICU beds for COVID-19 patients.
- For those levels 2 and 3 hospitals, which received funds through the IRM, to establish appropriate COVID-19 testing laboratory. The cost of the said testing laboratory must be factored in in the amount already disbursed to them under the IRM.
- For hospitals/HCIs to only purchase personal protective equipment (PPEs) that are not substandard and preferable sourced locally or made in the Philippines. This requirement addresses the country's concern of the brewing controversy regarding DOH's continuous reliance on imports from China and other countries for PPEs even when local manufacturers have already recalibrated their operations in order to produce affordable medical-grade PPEs and other supplies essential to combating the pandemic.

FOR VARIOUS SENATE COMMITTEES

- Direct the appropriate Senate committee/s to study which, between privatization of PhilHealth or decentralization of its operations and management, will be the appropriate and effective legislative measure that would achieve the objectives for which PhilHealth was primarily established. After identifying the best option, draft the necessary legislation to effect the said findings.
- For the concerned committee, when crafting the appropriate measure as mentioned above, consider including a provision that shall provide criminal liabilities and stronger penalties for the refusal of PhilHealth's accountable officers to provide and submit pertinent documents and records to the Commission on Audit and other investigative bodies, such as the National Bureau of Investigation, among others.
- Likewise for the concerned committee, when crafting the appropriate measure, put provisions on criminalizing non-action on cases brought before the Legal Department of PhilHealth for a certain period and put stiffer penalties thereof
- For the appropriate committee to amend the Universal Health Care Act to include mandatory audit of PhilHealth's finances and to provide copies of the annual report to the Congressional Oversight Committee, the Senate Committee on Finance and the House Committee on Appropriations
- For the Committee of the Whole to transmit its report to the DOJ, Ombudsman, and other investigative bodies of the government and recommend, if warranted, to file charges against PhilHealth officials and Private Corporations, whose names surfaced during the hearings as alleged members of the so-called Mafia involved in graft and corrupt practices, among other possible charges.
- For the Committee on Accountability of Public Officers & Investigation to synthesize and harmonize its committee report on PhilHealth investigation with

the committee report of the Committee of the Whole for the Senate to have a unified position and conclusion in the hearings dealing with similar issues.

Our country is in dire straits. Gross domestic product shrank 16.5% from a year ago, according to the national statistics agency, the worst reading in a data series going back to 1981.⁶³ That is a fact.

The pressure on government finances becomes even greater as we try to implement the Universal Health Care Act, which aims to cover all of us.

PhilHealth is in a deep hole as well. How deep we are not certain, yet. We only have PhilHealth Actuary SVP Nerissa Santiago's statement saying that PhilHealth will exhaust its reserves by 2022. Unless we discover the real state of PhilHealth finances, we will never know. And that lack of knowledge is something all of us can ill-afford to have.

High unemployment caused primarily by the closing of businesses due to COVID-19 will result in fewer individuals from whom PhilHealth can exact premiums. That is another blow to PhilHealth. As if that is not bad enough, PhilHealth is hemorrhaging because of inefficient running of the corporation, compounded by corrupt practices inside. Fortunately for us, the latter two causes are preventable and can be solved by us. We must thus exert our utmost authority and vigilance to rid PhilHealth of undesirables and, punish to the fullest extent of the law, criminals... Less than this, we cannot allow.

Our suffering people deserve nothing less.

⁶³<https://www.bloomberquint.com/onweb/philippine-economy-plunges-into-recession-as-gdp-contracts-16-5>