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14 August 2020

**BGen. Ricardo C. Morales, SFP (Ret) FICD**  
President and Chief Executive Officer (PCEO)  
PhilHealth Insurance Corporation

Through: **Atty. Rodolfo B. Del Rosario, Jr.**  
Senior Vice President, Legal Sector

Dear PCEO BGen. Morales:

Greetings of peace and health!

We humbly submit our joint proposal with regards to the review of the proposed amendments to the IRR of Procedures and Rules on Administrative Cases focusing on administrative cases filed against healthcare providers. The review was done with the active participations of the representatives of the specific organizations to whom you referred the IRR draft for comments, namely: the Philippine Medical Association, the Philippine College of Hospital Administrators, Inc. and the Philippine Hospital Association.

We cannot help but make some similitude to some provisions in the draft with the ongoing Senate and Congress investigations of alleged and still to be proven allegations of improprieties in PHIC. The travails of being subjected to means outside of the legal system, due to its limitations and implications, is an experience that one would not wish to undergo. Without going into details of how the on going hearings are impacting PHIC, we would like to draw some parallelism and which may explain some of the amendments we are introducing in the subject IRR. As the saying goes, "one reputation (what others think of you) is built up through the years. However, it takes only minutes to ruin it."


As we go through the final review of the Procedures and Rules to judiciously resolve administrative cases filed against healthcare providers, PhilHealth members, and Philhealth officers, we would like to give due emphasis to society's long accepted tenet of "presumption of innocence until proven otherwise." We should be guided by the inviolable importance of the "right to be heard" and "defend oneself before his accuser" and the opportunity to explain in a "clarificatory hearing". This is for the very simple reason that the constitutional guarantee of right to life, liberty, and property is sacred to every person. To deny the right to due process for reason of expediency is to accept that anyone is expendable in pursuit of expediency, and the right to life, liberty and pursuit of happiness is not sacred. Thus, our comments in the amendment has its main focus on the foregoing.


Allow us to express our gratitude and appreciation to the PROAC TWG (PhilHealth Legal Committee) for removing the penalty of "**revocation of accreditation**" and reducing it to maximum of three months (3) suspension. There are still much thinking and work to be done before the final IRR is signed. We would want to comment however that it is best that we be aware that most times, the desire to oversimplify and in this case, making the Quasi Judicial proceedings expedient, can result in undesirable and adverse tradeoffs in the pursuit of "justice". We need to take care that the public whom we all are sworn to serve and protect shall not bear the brunt of missteps on our part.

The attached is a compilation of general comments and inputs and suggestions gathered from our membership to help guide us in crafting the Procedures and Rules on Administrative Cases.

Thank you.

Sincerely,

  
**Jose P. Santiago, Jr., MD**  
President, PMA

  
**Jaime A. Almora, MD**  
President, PHA

  
**Huberto F. Lapuz, MD**  
President, PCHA



**PHILIPPINE MEDICAL ASSOCIATION (PMA)- PHILIPPINE HOSPITAL ASSOCIATION (PHA) –  
PHILIPPINE COLLEGE OF HOSPITAL ADMINISTRATORS, INC. (PCHA)**

**JOINT PROPOSAL FOR THE PROPOSED AMENDMENT TO THE IMPLEMENTING RULES AND  
REGULATIONS (IRR) ON PROCEDURES AND RULES ON ADMINISTRATIVE CASES (PROAC)  
IN PHILHEALTH**

PROAC	Comment/Suggestion/Proposal by PMA, PHA, PCHA	Rationale and Comments by Members (some from non-legal)
<p align="center"><b>Rule I QUASI-JUDICIAL POWERS OF THE CORPORATION</b></p>		<p>GENERAL COMMENTS:</p> <p>For the reasons cited below. The Philippine Hospital Association and Philippine Medical Association earnestly request that:</p> <p>a) The proposed provision giving power to the AVP of PRO to deny application for accreditation as a way of preventive suspension to hospitals be removed.</p> <p>b) The PhilHealth Circular 2020-0003 allowing Area Vice Presidents in the PhilHealth Regional Offices to deny accreditation due to an ongoing administrative case or a past administrative cases be revoked for the following reasons -</p> <p>Rationale:</p> <p>The denial or withdrawal of accreditation will definitely result in the “death” of a healthcare institution because under the Universal</p>

		<p>Health Care law, where all Filipinos are automatic members of PhilHealth and because of this provision, no Filipino can avail of services of a hospital that is without PhilHealth accreditation . The provision is inordinately harsh and extremely unreasonable because:</p> <p>1) It provides <b>no limits or metrics to what violation is punishable by “death”</b>. It is akin to imposition of “death penalty” to a person who committed violation as simple as jaywalking, negligence resulting to minor injury, or a student caught cheating during a periodic exam in the classroom, or a businessman mistakenly trying to withdraw an amount more than the available fund balance in his account. In the same manner, a hospital may lose its accreditation for undefined or trivial “Breach of warranties of accreditation” or “padding of claims” that were, in the first place, never paid by PhilHealth.</p> <p>2) <b>Double Jeopardy</b>. A violation where there has been imposed a three-month preventive suspension by PhiHealth under the amended Quasi Judicial process will be given later on another penalty resulting to future denial of application for renewal of accreditation for the same offense as that of preventive suspension.</p> <p>3) <b>Violation to the objectives of the Universal healthcare law</b>. The UHC law aims to promote access to health care for all Filipinos. Access is not only financial but also physical access to the services of a hospital. The Philippines being geographically fragmented by thousands of islands and mountains poses big challenge to physical access for a big portion of the population. “Killing” a hospital arbitrarily is a violation of the intents and principles of the UHC law.</p> <p>4) <b>Susceptible to abuse of authority</b>. A Regional Vice President of PhilHealth who may not have judicial skills or training, or who may have “queer personality disorder” (as already shown by some),</p>
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		<p>or who maybe in a bad mood may simply refuse to sign an application for renewal. This can be validated from the unusual denial of accreditation of large number of hospitals in a PhilHealth Regional Office after the issuance of PhilHealth Circular 2020-003. This circular created the Accreditation Subcommittee (ASC) and gave the AVP power to deny claims for the same reason as provided in the above provision. Twenty-two (22) Level III hospitals (big training hospitals) in NCR in addition to more or less 180 other hospitals and health institution were DENIED renewal of accreditation last January 2020. They were denied accreditation for simple, trivial, and vague reasons such as “loss of integrity”, ongoing investigation”, “previous case filed against the accused”, and similar others. The need for these hospitals to serve the COVID-19 victims is the only reason why they were allowed to temporarily operate. These hospitals were in fact saved by the pandemic. Indeed, they went on to become saviors of lives of patients infected with COVID-19. It would be interesting to review what heinous crimes, if any, did these 195 hospitals and health care institutions committed that would qualify them to be “killed or terminated” by a PhilHealth AVP.</p> <p><b>5) No compelling reason for PhilHealth to use Preventive Suspension</b> as a means to protect itself. The imposition of preventive suspension is so severe that it may “kill” a hospital. The adverse consequences may result to loss of lives of patients especially in areas with limited presence of hospitals and economic dislocation to its workers as well as derailment of the objectives of Universal Health Care Law. The reason to preventively suspend a hospital so as to prevent it from committing violations against the finances of PhilHealth may not stand ground because in most cases, PhilHealth has the means to detect fraud before a claim is paid and has the power to deny payment for any claim that it deems fraudulent. PhilHealth can prevent loss of its finances from fraud without preventively suspending the accreditation of a hospital. A preventive suspension of 3 months may appear benign but the immensity and complexity of operational management and the</p>
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		<p>tremendous amount of finances to run the complex operation may incapacitate a hospital and suffer a sudden death earlier than expected, not even discounting the delays in the procedures to obtain back the suspended accreditation. If the purpose is to preventively suspend a professional for acts inimical to patients, the remedy and venue is for Philhealth to file a complaint in the Professional regulations commission. If the purpose for the preventive suspension is to prevent the hospital from acts inimical to the whole public, the proper remedy and venue is for Philhealth to file a complaint in the regular courts. Philhealth must concern itself in protecting its finances and must not usurp the function of other government instrumentalities.</p> <p>6) <b>Violates the principle of “Right to Due Process.”</b> Denying accreditation for three months to a hospital has the same effect as serving a maximum penalty of three months. In reality therefore the hospital is deemed penalized even without going through trial in the prescribed Rules and Procedures for administrative cases. To use the vernacular, any trial after the preventive suspension is a “Moro Moro”. It sums up to the following – terminator, investigator, prosecutor, judge, executioner.</p>
<p>3. To suspend temporarily, deny application and/or renewal, or restore the accreditation of a health care provider or the right to benefits of a member, and/or impose fines after due notice and hearing. The decision shall immediately be executory even pending appeal.</p>	<p>3. To suspend temporarily, deny application and/or renewal, or restore the accreditation of a health care provider or the right to benefits of a member, and/or impose fines after due notice and hearing. The decision shall immediately be executory even pending appeal, <b><u>WHEN THE PUBLIC INTEREST SO REQUIRES AS PROVIDED FOR IN THESE RULES.</u></b></p>	<p>COMMENT:</p> <p>This is in keeping with the NHIA, Sec. 17(c): “The decision shall immediately be executory, even pending appeal, when the public interest so requires and as may be provided for in the implementing rules and regulations.”</p>
<p><b>SECTION 1. Quasi-Judicial Powers</b></p>		
<p>The previous conviction of a health care provider for violation of RA 7875, as amended by RA Nos. 9241, 10606 and 11223 and their respective Implementing</p>	<p>First option: DELETE THIS PROVISION</p>	<p>Comments from members:</p> <ul style="list-style-type: none"> <li>Denial of accreditation without grave reason is Tantamount to “Extrajudicial Killing”</li> </ul>

<p>Rules and Regulations, PhilHealth Circulars and any and/all Rules, Regulations and Policy Issuances by the Corporation may operate as a ground for denial of the application for contract or accreditation, or disqualification from obtaining another contract or accreditation under the same name, under a different name or through another person whether natural or juridical.</p>	<p>Second Option:</p> <p>The previous conviction of a health care provider for violation of RA 7875, as amended by RA Nos. 9241, 10606 and 11223 and their respective Implementing Rules and Regulations, PhilHealth Circulars and any and/all Rules, Regulations and Policy Issuances by the Corporation may <u>not</u> operate as a ground for denial of the application for contract or accreditation, <b>unless the healthcare provider is a Recidivist as defined under these rules; that conviction is criminal in nature and the continuous existence of the healthcare institution is inimical to public safety and interest as proven by an adverse petition of a statistically significant number of the population it serves. The recidivist owner, may be disqualified from obtaining another contract or accreditation under the same name, or under a different name. The Purchase of the property by a natural or juridical person will not affect future accreditation.</b></p> <p>Third Option:</p> <p>Amend as:</p>	<ul style="list-style-type: none"> <li>• Preventive suspension is a violation of right to due process</li> <li>• Interference on how to dispose a private property is illegal and a usurpation of the functions of the securities and exchange commission and violation of the constitutional right to ownership of property</li> </ul> <p>Rationale for the second option:</p> <p>Perpetual disqualification must only be applied to owners (natural or juridical persons) but not the health care institution or hospital. The keyword and operating word must be “owners”.</p> <p>The purpose of the perpetual disqualification must be clearly defined and must serve the interest of the public as evidenced by the petition of a statistically significant number of the population served.</p> <p>Under this provision, prior conviction of ANY offense (whether fraudulent or non-fraudulent, 1<sup>st</sup> time offender or not) serves as a permanent bar to accreditation or even mere ownership of stocks in a hospital that is accredited apparently. This is unjust and contrary to NHIA, Sec. 44 (a): “...That recidivists may no longer be accredited as a participant of the Program.” <b><u>So only recidivists per the NHIA may be permanently disqualified. We suggest to omit this provision altogether or to amend it further.</u></b></p> <p>Rationale for third option:</p> <p>Under the NHIA, Sec. 44 (a), only recidivists “may no longer be accredited as a participant of the Program;</p>
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	<p>“The previous conviction of a health care provider for violation of RA 7875, as amended by RA Nos. 9241, 10606 and 11223 and their respective Implementing Rules and Regulations, PhilHealth Circulars and any and/all Rules, Regulations and Policy Issuances by the Corporation <b><u>AND THE FINDING THAT THE HEALTH CARE PROVIDER IS A RECIDIVIST AS DEFINED UNDER THESE RULES</u></b> may operate as a ground for denial....”</p>	
<p><b>Rule III INVESTIGATORS, PROSECUTORS, AND ADJUDICATORS OF THE CORPORATION</b></p>		
<p><b>SECTION 7. Venue for Filing of Complaints</b></p>		
<p>Anonymous complaints shall be entertained, provided that the act complained of is of public knowledge or the allegations can be verified or supported by documentary or direct evidence.</p>	<p><b>NO ANONYMOUS COMPLAINT SHALL BE ENTERTAINED.</b></p>	<p><u>Rationale:</u> There are areas in the country where competition among hospitals is intense. A competitor with malicious intent may file a series of anonymous complaint against a competitor for the purpose of monopolizing the market of Philhealth patients. If the anonymous complaint is filed against an Apex HCI then it will affect the flow of a health care delivery network under the UHC).</p> <p>Other comments:</p> <ul style="list-style-type: none"> <li>• Violation of the bill of rights- not knowing your accuser</li> <li>• To have the investigator as complainant is a travesty of the trial process. Even in court, if an accused is being held responsible for a felony, it is not the investigator who in and of itself become the aggrieved party but rather, the People of the Philippines</li> </ul>

		<p>who is represented by the prosecutor. In anonymous cases PHIC becomes the persona of the COMPLAINANT, the INVESTIGATOR, the PROSECUTOR, and the ADJUDICATOR.</p> <ul style="list-style-type: none"> <li>• To entertain anonymous complaints will open the floodgates of people being accused on the basis of hearsay. Not to mention the effort and time it will take to verify the evidence.</li> <li>• An interested or aggrieved party should be ready to file a complaint and face the allegedly erring party in compliance with the constitutional rights to confront the witnesses against him/her.</li> </ul>
<p><b>Rule VI</b>  <b>PHILHEALTH REGIONAL OFFICE (PRO)</b>  <b>– LEGAL OFFICE AND FACT-FINDING</b>  <b>INVESTIGATION AND ENFORCEMENT</b>  <b>DEPARTMENT (FFIED)</b></p>		
<p><b>SECTION 9. Complaints Filed Before the</b>  <b>PRO –Legal Office</b></p>		
<p>(4) A criminal and/or administrative complaint before the appropriate court or body against erring health care providers and their personnel, or members shall be filed by PRO Legal Office having territorial jurisdiction, as may be warranted by the evidence.</p>	<p>(4) A criminal and/or administrative complaint before the appropriate court or body against erring health care providers and their personnel, or members shall be filed by PRO Legal Office having territorial jurisdiction, as may be warranted by the evidence, <b>HOWEVER, IT IS UNDERSTOOD THAT ANY OTHER PENDING ADMINISTRATIVE CASE BEFORE ANY AGENCY SHALL NOT AFFECT THE RENEWAL OF THE ACCREDITATION OF A HEALTH CARE PROVIDER IF IT SO WARRANTS.</b></p>	<p><u>Rationale actual case:</u> PhilHealth also files administrative case against the doctor before the Professional Regulation Commission (PRC). While the suspension of PhilHealth Accreditation is already served for 6 months and the fine was already paid, PhilHealth still refuses to renew the accreditation of the doctor on the ground of pending case before the PRC. On query, PRC says the case in the PRC is different from the PhilHealth case and thus PhilHealth has no reason to deny the renewal of the PhilHealth Accreditation of doctor.</p> <p>Other comments:</p>



		<ul style="list-style-type: none"> <li>• Contravenes the principle of Double Jeopardy for the same act and the Rules on Forum Shopping</li> </ul>
<p><b>SECTION 11. Temporary Suspension of Payment of Claims and/or Withdrawal of Accreditation/Contract</b></p> <p>The FFIED or the PRO shall recommend temporary suspension of payment of claims and/or withdrawal of accreditation/contract upon finding of a prima facie case on the existence of fraud, abuse of authority and unethical practices of a health care provider.</p>	<p>Position: DELETE THE PROVISION</p>	<p><u>General Comments:</u></p> <ol style="list-style-type: none"> <li>1. The power to issue preventive suspension is vested in Arbitration Officer (see Rule IX, Sec 20(m)... As mentioned in the very first statement, the quasi-judicial powers of the Corporation is vested only in the Prosecution Department and shall be not be delegated to PRO.</li> <li>2. What are the qualifications of the persons composed of FFIED? It has been proven that selective apparent incriminatory entries in the medical records of patients are pick-up, wittingly or unwittingly, by some FFIED inspectors to support a prima facie finding against the respondent doctor. The exculpatory entries in the medical record exonerating the doctor are not reported (suppression of evidence) in the FFIR.</li> <li>3. The FFIED medical assessor is not a specialist or expert on the case that he/she is reviewing and thus he/she omits salient portions of the medical record (signs and symptoms) that are very relevant to the diagnosis.</li> <li>4. What is the definition of random investigation in the monitoring of FFIED?</li> <li>5. Too much discretionary power given to the FFIED and RVP of PRO may wreck havoc to the health care delivery system and shall jeopardize the the aims and purposes of the UHC. Abuse of discretion was seen in NCR PRO when an unusual number of hospitals and healthcare institution were not renewed their accreditation this year.</li> </ol> <p>[for additional comments PLEASE SEE GENERAL COMMENTS ON RULE I (p.1 hereof)]</p>

		<p>Additional Comment:  The TEMPORARY SUSPENSION OF PAYMENT OF CLAIMS (TSPC) operates like a preventive suspension that would have an all-encompassing effect on the hospital operations and all physicians practicing therein that is uncalled for even on the premise that PHIC is simply protecting the inordinate loss of PHIC funds. PHIC can simply deny the suspicious claim/s and that would sufficiently protect PHIC. As to the claims that are being processed and seem otherwise valid so far, why suspend those? Even worse, this provision grants authority to withdraw accreditation based on prima facie evidence. This is contrary to due process and is inconsistent with these same Rules: "It shall proceed to hear and determine cases in the presence of all concerned parties or even <i>ex parte</i> <b>with due notice to all parties</b> (Sec. 1 (1))." It must be noted that at this stage, the fact-finding stage, the respondent is not even given notice let alone an opportunity to present evidence. <b><u>My suggestion is that this provision be omitted altogether.</u></b> The FFIED and PRO should not be given authority to preventively suspend.</p>
<b>Rule VII  THE PROSECUTION DEPARTMENT</b>		
<b>SECTION 13. Directive to File Answer</b>		
<p>If no ground for dismissal is found, the Prosecutor may, on the basis of available evidence, resolve the complaint or issue the corresponding directive to the respondent health care provider and/or member directing the same to file a verified answer to the complaint-affidavit in triplicate copies</p>	<p>Option 1  If no ground for dismissal is found, the Prosecutor (<del>may, on the basis of available evidence, resolve the complaint or</del>) <b><u>SHALL</u></b> issue the corresponding directive to the respondent health care provider and/or member directing the same to file a verified answer to the complaint-affidavit in triplicate</p>	

<p>within five (5) working days from receipt of the directive.</p> <p>If no ground for dismissal is found, the Prosecutor may, on the basis of available evidence, resolve the complaint or issue the corresponding directive to the respondent health care provider and/or member directing the same to file a verified answer to the complaint-affidavit in triplicate copies within five (5) working days from receipt of the directive.</p>	<p>copies <b>within fifteen (15) working days</b> from receipt of the directive.</p> <p>Option 2</p> <p>If no ground for dismissal is found, the Prosecutor <del>may, on the basis of available evidence, resolve the complaint or</del> <b>SHALL</b> issue the corresponding directive to the respondent health care provider and/or member directing the same to file a verified answer to the complaint-affidavit in triplicate copies <b>within five ten (5 10) working days</b> from receipt of the directive.</p>	<p>COMMENT:</p> <p>The Prosecutor should not be given the option to resolve the complaint at this stage in lieu of issuing a directive to the respondent to file verified answer. It is contrary to due process, and again contrary to these same Rules: "It shall proceed to hear and determine cases in the presence of all concerned parties or even ex parte <b>with due notice to all parties</b> (Sec. 1 (1))."</p> <p>Five (5) working days to answer the complaint is too short. Many times it is upon receipt of the summons that the hospital is even aware of the alleged offense and only at that time can they be reasonably expected to begin to investigate the allegations. After investigation, they would also seek legal counsel which is their right and whose service is not always readily available to a hospital. Legal counsel must likewise be given reasonable time to intelligent prepare the answer of the hospital.</p>
<p>The following pleadings shall not be allowed:</p> <ul style="list-style-type: none"> <li>a. Motion for Reconsideration;</li> <li>b. Motion to Dismiss, except on the ground of lack of jurisdiction over the subject matter, failure to state a cause of action, if the action is barred by res judicata or statute of limitation;</li> <li>c. All other pleadings that may unnecessarily delay the proceedings before the Prosecution Department.</li> </ul>	<p>The following pleadings shall not be allowed:</p> <ul style="list-style-type: none"> <li><del>a. Motion for Reconsideration;</del></li> <li>b. Motion to Dismiss, except on the ground of lack of jurisdiction over the subject matter, failure to state a cause of action, if the action is barred by res judicata or statute of limitation;</li> <li>c. All other pleadings that may unnecessarily delay the proceedings before the Prosecution Department.</li> </ul>	<p>Rationale for suggested deletion of Motion for Reconsideration (MR) as prohibited pleading:</p> <p>The MR gives the Prosecution Dept an opportunity to correct itself before PHIC may be needlessly bogged with hearing the case before the Arbitration/Adjudication Office. It likewise saves the Respondent from the anxiety of having to defend themselves in needless further proceedings. It must be remembered that factual findings of administrative bodies are accorded great weight by the courts and are typically not disturbed anymore on appeal. Hence, there is a need to be extra cautious during these fact-finding stages. The Respondent should be given every opportunity to</p>

	<p>d. <b>FINDINGS BY THE PRO IF NOT APPEALED WITHIN THE REGLAMENTARY PERIOD OF APPEAL, SHALL BE CONSIDERED <i>RES JUDICATA</i> AND SHALL BAR ANOTHER THE FILING OF THE SAME AT ANY LEVEL WITHIN THE PHILHEALTH AND THIS PROVISION SHALL APPLY RETROACTIVELY.</b></p>	<p>contest the findings against it, and not be railroad during the proceedings.</p> <p>Rationale for the suggested provision:</p> <p>There are/were already cases decided by the PhilHealth Regional Offices and were not appealed. How come the PhilHealth National Office is still entertaining these cases?</p> <p>Additional comment:</p> <ul style="list-style-type: none"> <li>• If no ground for dismissal is found, the Prosecutor may, on the basis of available evidence, resolve the complaint or issue the corresponding directive to the respondent health care provider and/or member directing the same to file a verified answer to the complaint-affidavit in triplicate copies within five (5) working days from receipt of the directive.</li> </ul> <p>Comment on the statute of limitations:</p> <p>It is unclear what is the statute of limitation for violations of the NHIA and its related issuances. Perhaps this is an opportunity clarify this matter. <b><u>It is suggested that the statute of limitations be set at two (2) years from filing for alleged fraudulent claims and one (1) years from filing of other questioned claims.</u></b></p>
<p><b>SECTION 16. Finality of Resolutions</b> The resolution of the Prosecutor duly approved by the SVP-LS shall be final. No appeal or Motion for Reconsideration (MR) or any other similar pleadings shall be entertained.</p>	<p><b>SECTION 16. Finality of Resolutions</b> The resolution of the Prosecutor duly approved by the SVP-LS shall be final. <del>(No appeal or Motion for Reconsideration (MR) or any other similar pleadings shall be entertained.)</del></p>	<p>Same rationale as stated for suggested omission of the Motion for Reconsideration as a prohibited pleading under Sec. 13 of the PROAC</p>
<p><b>RULE IX THE ADJUDICATION OFFICE</b></p>		<p><u>General Comment:</u></p>

		<ol style="list-style-type: none"> <li>1. Arbitration or adjudication should be handled by a third party or agency independent from Philhealth (will this be Insurance Commission? Or GOCC commission?) to avoid public suspicion of railroading, in favor of or against, complaints against health care providers. At the moment, the PhilHealth is being accused of being the Complainant, investigator, prosecutor, judge and executioner” (and now the <b>“TERMINATOR”</b>but hopefully not a <b>“TORMENTOR”</b>) all under the roof of PhilHealth.</li> <li>2. It also highly suggested that there should be a third party or agency accreditor independent of PhilHealth because at the present set up there so much conflict of interest it being the payor and the accreditor. There is also so much power of discretion that can entice corruption.</li> <li>3. In both situations, the PhilHealth will have less burden in assessing claims from the healthcare providers and not peppered or burdened with legal cases.</li> <li>4. It shall serve the interest of the public better if Philhealth focuses on Fund administration rather than adjudication.</li> </ol>
<p><b>SECTION 20. Powers of the Adjudicator</b></p> <p><b>m.</b> Order the preventive suspension of accreditation/contract for maximum of three (3) months either motu proprio or upon the motion of the Prosecutor; and</p>	<p>POSITION:</p> <p><b>DELETE OR REMOVE THE PROVISION ON PREVENTIVE SUSPENSION</b></p>	<p>RATIONALE:</p> <p>No need to resort to <b>PREVENTIVE</b> suspension because PhilHealth has all the power to deny claims in order to protect its own finances. Preventive suspension of a hospital or health care institution will only succeed in preventing delivery of healthcare to the people...a grave violation of the Universal Health care law. This will conceivably expose Philhealth officers to legislative inquiry for abuse of power or abuse of discretion. The act of an officer of Philhealth to unnecessarily inflict harm to a hospital will expectedly incur the ire of the people and their representatives in Congress. This will possibly end in Philhealth officers losing their position or worst. Philhealth has nothing to gain and more to lose. A high</p>

	<p><b>SECTION 20. Powers of the Adjudicator</b>  <del>m. Order the preventive suspension of accreditation/contract for maximum of three (3) months either motupropio or upon the motion of the Prosecutor</del></p>	<p>ranking officer of philhealth may suffer the abuse of discretion committed by his subordinates in a public forum.</p> <p>ADDITIONAL COMMENT:</p> <p>The power to preventively suspend is unjust, and contrary to due process. This espouses presumption of guilt rather than innocence.</p> <p>What's worse is that it allows up to 3 months of preventive suspension which is the equivalent suspension for convicted HCIs. This espouses presumption of guilt rather than innocence. Even supposing the HCI will be allowed reimburse its claims during the preventive suspension after it is lifted, damage would still have been done both pecuniary and non-pecuniary.</p> <p>In other proceedings where preventive suspension is allowed, it is for the purpose of preventing tampering of evidence or interference by other means by the respondent who if allowed to continue in his functions, may do so. These conditions are not present in Philhealth Admin cases.</p> <p>If the purpose is to prevent further loss of funds, this would be an overreach, the prejudicial effects of which would outweigh the possibility of it saving PHIC some funds. PHIC has the capability to detect anomalies and a great deal of fraud before they can be defrauded into paying wrongfully. PHIC can simply deny these suspicious claims without unnecessarily denying all other just claims and depriving all other parties relying on the accreditation for their rightful Philhealth benefits.</p> <p>It must be remembered that the goal of the NHIA is to accord affordable universal health care. Preventive suspension subjugates this supposedly overriding policy.</p>
<p><b>SECTION 21. Civil Contempt</b></p>		<p>Comment:</p>

<p>Whenever a person, without lawful excuse, fails or refuses to take an oath or to produce documents for examination or to testify, in disobedience to a lawful subpoena issued by the Adjudicator, the latter may invoke the aid of the Regional Trial Court within whose territorial jurisdiction the case is being heard to cite such person in contempt, pursuant to Section 14, Chapter 3, Book VII of the Revised Administrative Code.</p>		<ul style="list-style-type: none"> <li>• No person shall be forced to testify against himself or herself (a constitutional right)</li> </ul>
<p><b>SECTION 22. Service of Summons</b></p> <p>Upon receipt of the docketed formal charge, the Adjudicator shall issue the summons to the respondent/s directing them to file their verified answers in three (3) copies within five (5) working days from receipt thereof furnishing the Prosecution Department with a copy, with a notice that unless the respondent/s so answers, the complainant may take judgment by default and demand from the Adjudicator the relief/s being sought.</p>	<p>Upon receipt of the docketed formal charge, the Adjudicator shall issue the summons to the respondent/s directing them to file their verified answers in three (3) copies within <del>five (5)</del> <b>ten (10)</b> working days from receipt thereof furnishing the Prosecution Department with a copy, with a notice that unless the respondent/s so answers, the complainant may take judgment by default and demand from the Adjudicator the relief/s being sought. <b>THE TEN (10) WORKING DAYS MAY BE EXTENDED BY THE ADJUDICATOR BUT NOT MORE THAN THIRTY (30) DAYS DEPENDING UPON THE NUMBER OF CASES SIMULTANEOUSLY FILED AGAINST THE RESPONDENT AND FOR MERITORIOUS REASONS.</b></p>	<p>RATIONALE:</p> <p>There may be multiple number of cases filed against the Health Care Provider and there is need for more time to prepare an intelligent answer to the complaint. Also, there are meritorious reasons that if not recognized might lead to mis carriage of justice.</p> <p>ADDITIONAL COMMENT: I suggest <b><u>ten (10) working days as a minimum to be extendible to up to thirty (30) working days</u></b> with the <b><u>omission of the clause “depending upon the number of cases simultaneously filed against the respondent”</u></b>. There could be other valid reasons for the extension requested by the respondent not due to the number of cases filed against it. Adding this clause might be used by PHIC to deny otherwise meritorious requests for extension not due to multiplicity of cases.</p>
<p><b>SECTION 22. Service of Summons</b></p> <p>In case of service by registered mail and no Registry Return Receipt (RRR) is received by PhilHealth, the same is considered</p>	<p>OPTION ONE:</p> <p>In case of service by registered mail and no Registry Return Receipt (RRR) is received by PhilHealth, the same is considered served after</p>	<p><u>Comment:</u> The Registry Return Receipt is within the control of the Postal Office and not the addressee, it is incumbent upon the</p>

<p>served after the lapse of fifty-five (55) days from the date of mailing of the summons within Metro Manila, and seventy-five (75) days if outside of Metro Manila.</p>	<p>the lapse of fifty-five (55) days from the date of mailing of the summons within Metro Manila, and seventy-five (75) days if outside of Metro Manila <b>AND ONLY AFTER VERIFICATION OF PHILHEALTH IN THE POSTAL OFFICE REVEAL THAT THE ADDRESSEE REFUSED TO RECEIVE THE MAIL.</b></p> <p><b>OPTION TWO:</b></p> <p><b>SECTION 22. Service of Summons</b></p> <p>In case of service by registered mail and no Registry Return Receipt (RRR) is received by PhilHealth, the same <del>is considered</del> <b><u>MAY BE PRESUMED</u></b> served after the lapse of fifty-five (55) days from the date of mailing of the summons within Metro Manila, and seventy-five (75) days if outside of Metro Manila.</p>	<p>complainant PhilHealth to check with the postal office concerning the issue of registry return receipt.</p> <p><b>ADDITIONAL COMMENT:</b>  <b>Respondent should be allowed to contest actual service.</b> Respondent should not be prejudiced by the actual non-service of summons as service of summons is what grants jurisdiction over the respondent in the case.</p>
<p><b>SECTION 23. Verified Answer</b></p> <p>Within five (5) working days from service of the summons along with the copy of the formal charge and its supporting documents, the respondent shall file a verified answer, copy furnished the Prosecution Department. Affirmative and negative defenses not pleaded shall be deemed waived except for lack of jurisdiction over the subject matter. Failure to specifically deny any of the material allegations in the formal charge shall be deemed admitted.</p>	<p><b>SECTION 23. Verified Answer</b></p> <p>Option 1:</p> <p>Within five (5) working days from service of the summons along with the copy of the formal charge and its supporting documents, the respondent shall file a verified answer, copy furnished the Prosecution Department. Affirmative and negative defenses not pleaded shall be deemed waived except for lack of jurisdiction over the subject matter. Failure to specifically deny any of the material allegations in the formal charge shall be deemed admitted.  <b>THE FIVE (5) WORKING DAYS MAY BE</b></p>	<p>Rationale:</p> <p>There may be multiple number of cases filed against the Health Care Provider and there is need for more time to prepare an intelligent answer to the complaint.</p>



<p>No Motion to Dismiss shall be entertained except on the ground of lack of jurisdiction over the subject matter, failure to state a cause of action, res judicata or statute of limitation.</p>	<p><b>EXTENDED BY THE ADJUDICATOR BUT NOT MORE THAN THIRTY (30) DAYS DEPENDING UPON THE NUMBER OF CASES AND OTHER MERITORIOUS REASONS.</b></p> <p>Option 2:</p> <p>Upon receipt of the docketed formal charge, the Adjudicator shall issue the summons to the respondent/s directing them to file their verified answers in three (3) copies within <b>ten (10)</b> working days from receipt thereof furnishing the Prosecution Department with a copy, with a notice that unless the respondent/s so answers, the complainant may take judgment by default and demand from the Adjudicator the relief/s being sought. <b>THE TEN (10) WORKING DAYS MAY BE EXTENDED BY THE ADJUDICATOR BUT NOT MORE THAN THIRTY (30) DAYS DEPENDING UPON THE NUMBER OF CASES SIMULTANEOUSLY FILED AGAINST THE RESPONDENT AND FOR MERITORIOUS REASONS.</b></p> <p>No Motion to Dismiss shall be entertained except on the ground of lack of jurisdiction over the subject matter, failure to state a cause of action, res judicata or statute of limitation. <b>FINDINGS BY THE PRO IF NOT APPEALED WITHIN THE REGLAMENTARY PERIOD OF APPEAL, SHALL BE CONSIDERED RES JUDICATA AND SHALL BAR ANOTHER THE FILING OF THE SAME AT ANY LEVEL WITHIN</b></p>	<p>Rationale for the suggested provision:</p> <p>There are/were already cases decided by the PhilHealth Regional Offices and were not appealed. How come the PhilHealth National Office is still entertaining these cases?</p>
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	<p><b>THE PHILHEALTH AND THIS PROVISION SHALL APPLY RETROACTIVELY.</b></p>	
<p><b>SECTION 24. Default</b></p> <p>Upon acquiring jurisdiction over the respondent and upon failure to file a verified answer to the formal charge within the prescribed period, the Adjudicator may, motupropio or on motion of the complainant, render judgment by default as may be warranted by the facts and evidence alleged in the formal charge.</p>	<p><b>SECTION 24. Default</b></p> <p>Upon acquiring jurisdiction over the respondent and upon failure to file a verified answer to the formal charge within the prescribed period, the Adjudicator may, motupropio or on motion of the complainant <u><b>WITH NOTICE TO THE RESPONDENT, DECLARE THE RESPONDENT IN DEFAULT. THEREUPON, THE ADJUDICATOR MAY PROCEED TO</b></u> render judgment by default as may be warranted by the facts and evidence alleged in the formal charge. <u><b>THE RESPONDENT DECLARED IN DEFAULT MAY AT ANY TIME AFTER NOTICE THEREOF AND BEFORE JUDGEMENT FILE A MOTION TO SET ASIDE THE ORDER OF DEFAULT.</b></u></p>	
<p><b>SECTION 25. Affidavits and Position Papers</b></p> <p>After a verified answer is filed and the issues are joined, the Adjudicator shall issue an order requiring the parties to submit their respective position papers within ten (10) working days from receipt of the order. The position paper shall contain a brief statement of the positions of the parties, setting forth the facts and the law relied upon, including the affidavits of the witnesses and other evidence on the issues.</p>	<p>Option 1:</p> <p>After a verified answer is filed and the issues are joined, the Adjudicator shall issue an order requiring the parties to submit their respective position papers within fifteen (15) working days from receipt of the order. The position paper shall contain a brief statement of the positions of the parties, setting forth the facts and the law relied upon, including the affidavits of the witnesses and other evidence on the issues. <b>THE FIFTEEN (15) WORKING DAYS MAY BE</b></p>	<p>Rationale:</p> <p>There may be very cogent reasons or multiple number of cases filed against the Health Care Provider and there is need for more time to prepare an intelligent answer to the complaint.</p>

	<p><b>EXTENDED BY THE ADJUDICATOR BUT NOT MORE THAN THIRTY (30).</b></p> <p>Option 2:</p> <p>After a verified answer is filed and the issues are joined, the Adjudicator shall issue an order requiring the parties to submit their respective position papers within ten (10) working days from receipt of the order. The position paper shall contain a brief statement of the positions of the parties, setting forth the facts and the law relied upon, including the affidavits of the witnesses and other evidence on the issues. <b>THE TEN (10 ) WORKING DAYS MAY BE EXTENDED BY THE ADJUDICATOR BUT NOT MORE THAN THIRTY (30).</b></p>	
<p><b>SECTION 26. Conduct of Clarificatory Conference is Discretionary</b></p> <p>The Adjudicator may, at its discretion, require the submission of Clarificatory Conference Brief and conduct a clarificatory conference. Should the Adjudicator finds it necessary to conduct a clarificatory conference, an order setting the clarificatory conference shall be issued. Such order shall further set the date or dates of the hearings and specify the witnesses who will be called upon to testify.</p>	<p><b>SECTION 26. Conduct of Clarificatory Conference is MANDATORY.</b></p> <p>The Adjudicator [<del>may, at its discretion,</del>] <b>SHALL CONDUCT A CLARIFICATORY HEARING</b>, require the submission of Clarificatory Conference Brief. [<del>and conduct a clarificatory conference. Should the Adjudicator finds it necessary to conduct a clarificatory conference,</del>] <b>AN</b> order setting the clarificatory conference shall be issued. Such order shall further set the date or dates of the hearings and specify the witnesses who will be called upon to testify.</p>	<p><u>Rationale:</u> It is the experience of respondents that the FFIED selectively pick the entries in the medical record so support a finding of prima facie case and leave out the exculpatory entries exonerating the respondent hospital and doctor. The interview with patients supporting the respondent doctors were not included in the FFIR (it's good that there are videotapes of the patients themselves showing their diagnosis and interviews).</p> <p>Medical terminologies and Patient Management is beyond the understanding of ordinary laymen, lawyers included. presumption of understanding by the adjudicators may result to miscarriage of justice and denial of the right to due process if without Clarificatory Hearing</p>

<p><b>SECTION 27. Procedures of Clarificatory Conference</b></p> <p>Whenever the conduct of a clarificatory conference is deemed necessary by the Adjudicator, the affidavits submitted by the parties shall constitute the testimonies of the witnesses. Witnesses who testify may be subjected to clarificatory questions by the Adjudicator. No witness shall be allowed to testify unless a corresponding affidavit was previously submitted to the Adjudicator.</p>	<p>Whenever the conduct of a clarificatory conference is deemed necessary by the Adjudicator, the affidavits submitted by the parties shall constitute the testimonies of the witnesses. Witnesses who testify may be subjected to clarificatory questions by the Adjudicator <b>PROVIDED THE RESPONDENT MAY BE ALLOWED LIKEWISE TO PROPOUND QUESTIONS TO THE WITNESSES OF THE PROSECUTION.</b> No witness shall be allowed to testify unless a corresponding affidavit was previously submitted to the Adjudicator, <b>PROVIDED HOWEVER THAT IF THE WITNESS IS THE PATIENT HIMSELF/HERSELF AND BECAUSE OF A MEDICAL CONDITION PREVENTING HIM/HER TO TESTIFY, THE AFFIDAVIT OF AN INDEPENDENT EXPERT, OR A VIDEOTAPE OF THE CONDITION OF THE PATIENT MAY BE OFFERED AS AN EVIDENCE.</b></p>	<p><u>Rationale:</u> The witness-patient may be a stroke patient, or a semicomatose patient.</p> <p>Other comments:</p> <ul style="list-style-type: none"> <li>• Use other modes of discoveries (court initiated from a third party)</li> <li>• Respondent must be allowed to examine these witnesses against it otherwise it's a practically futile exercise on the part of the Respondent.</li> </ul>
<p><b>SECTION 28. Postponement of Clarificatory Conference</b></p> <p>Motion for postponement of clarificatory conference shall not be allowed.</p>	<p>Motion for postponement of clarificatory conference shall not be allowed <b>EXCEPT FOR CASES WHEN, AT THE TIME OF THE CLARIFICATORY HEARING, THE WITNESS (IN CASE OF A DOCTOR-WITNESS) OR RESPONDENT (INCASE OF RESPONDENT-DOCTOR) IS ATTENDING TO AN</b></p>	<p><u>Rationale:</u> Most witness are doctors could not refuse emergency cases under the existing R.A. 8344 as amended, and there are other reasons (e.g. act of God and act of men).</p> <p>Other Comments:</p> <ul style="list-style-type: none"> <li>• Curtailment of due process</li> </ul>

	<p><b>EMERGENCY SITUATION AND OTHER MERITORIOUS GROUNDS.</b></p>	<ul style="list-style-type: none"> <li>• We suggest to keep the exceptions flexible like: <b><u>“EXCEPT FOR MERITORIOUS GROUNDS”</u></b>. There could be other meritorious reasons like death in the family, etc.</li> </ul>
<p><b>SECTION 31. Consolidation of Cases</b></p> <p>When there are two or more cases arising from similar facts and incidents pending before adjudicators involving the same health care provider, the Adjudicator may, motu proprio or upon motion of either of the parties, consolidate the cases. Notwithstanding the consolidation of cases, each count shall be considered as one offense and shall be treated accordingly in the imposition of applicable penalties.</p>	<p>When there are two or more cases arising from similar facts and incidents pending before adjudicators involving the same health care provider, the Adjudicator may, motu proprio or upon motion of either of the parties, consolidate the cases. Notwithstanding the consolidation of cases, each count shall be considered as one offense and shall be treated accordingly in the imposition of applicable penalties, HOWEVER, WHEN ONE OR MORE OF THE CONSOLIDATED CASES ARE SUBJECT TO ANY ONE OF THE GROUNDS FOR MOTION TO DISMISS (e.g. NO JURISDICTION, RES JUDICATA), THEY SHALL BE SEGREGATED FROM THE OTHERS AND ADJUDICATION SHALL PROCEED ACCORDINGLY.</p>	<p>Rationale: The claims under the clean cases must not be affected by the other adjudicated cases.</p>
<p><b>SECTION 32. Prohibited Pleadings</b></p> <p>The following pleadings shall not be allowed:</p> <p>a. Motion to dismiss except on the ground of lack of jurisdiction over the subject matter, failure to state a cause of action, or if the action is barred by res judicata or Statute of Limitations;</p>	<p>The following pleadings shall not be allowed:</p> <p>a. Motion to dismiss except on the ground of lack of jurisdiction over the subject matter <b><u>OR OVER THE PERSON OF THE RESPONDENT</u></b>, failure to state a cause of action, or if the action is barred by res judicata or Statute of Limitations. <b>FINDINGS BY THE PRO IF NOT</b></p>	<p>Rationale for the suggested provision:</p> <p>There are/were already cases decided by the PhilHealth Regional Offices and were not appealed. How come the PhilHealth National Office is still entertaining these cases?</p> <p>Query:</p>

	<p><b>APPEALED WITHIN THE REGLAMENTARY PERIOD OF APPEAL, SHALL BE CONSIDERED RES JUDICATA AND SHALL BAR ANOTHER THE FILING OF THE SAME AT ANY LEVEL WITHIN THE PHILHEALTH AND THIS PROVISION SHALL APPLY RETROACTIVELY.</b></p>	<p>What is the prescriptive period mentioned in this provision? What is the statute of limitation applicable to cases filed before the PhilHealth? It is suggested that the prescriptive period be set at two (2) years from the filing of alleged fraudulent claims and one (1) year from filing other questioned claims.</p>
<p><b>SECTION 33. Rendition of Judgment</b></p> <p>The Adjudicator shall have a period of thirty (30) days from receipt of the last pleading submitted by the parties and upon submission of the case for resolution within which to render its judgment.</p> <p>Motion for reconsideration on the decision rendered by the Adjudication Office shall not be allowed.</p>	<p><b>AFTER HEARING,</b> The Adjudicator shall have a period of thirty (30) days from receipt of the last pleading submitted by the parties and upon submission of the case for resolution within which to render its judgment.</p> <p>OMIT: <del>Motion for reconsideration on the decision rendered by the Adjudication Office shall not be allowed.</del></p>	<p>Rationale: Top PhilHealth officials themselves including legal have experienced in the Senate hearing NOT able to explain themselves because they were not given that opportunity to be heard.</p> <p>On the suggested deletion of the provision prohibiting a Motion for Reconsideration of the Decision: same rationale for removing the MR as a prohibited pleading under Sec. 13 of the PROAC.</p> <p>ADDITIONAL COMMENT: Imagine a Senate hearing or Congressional investigation where the officers of Philhealth are not given chance to be heard in person to explain a point of inquiry. Imagine a judgment of Dismissal from Service meted out to Philhealth officers without hearing and chance to ask for Reconsideration.</p>
<p><b>SECTION 35. Service of Notices, Resolutions, Orders, Summons, Decisions and Other Official Issuances</b></p> <p>Summons shall be personally served to the respondent/s and any other party to the case by the Legal Office staff or its</p>		<p>Comment: We support this provision however it is inconsistent with the last paragraph of Sec. 22 of the PROAC which seems to recognize service of summons by registered mail.</p>

<p>designated authorized personnel of the concerned PhilHealth Regional Office (PRO). The authorized personnel of the PRO-Legal Office shall accordingly indicate in his "Certificate of Service" the complete name and position of the recipient.</p>		
<p><b>SECTION 37. Finality of Decision of the Adjudication Office</b></p> <p>If no appeal is taken from the decision of the Adjudication Office within fifteen (15) days from receipt of the copy by the parties, the decision shall be final and executory. The Adjudication Office shall issue a Certificate of Finality which shall contain the dispositive part of the decision and signed by the Executive Arbiter certifying that such decision has become final and executory.</p> <p><b>A. Issuance of Writ of Execution</b></p> <p>After the decision of the Adjudication Office has become final and executory and there is a corresponding penalty to be imposed, the Adjudication Office shall motu proprio issue the Writ of Execution to the FFIED.</p>	<p>If no appeal is taken from the decision of the Adjudication Office within fifteen (15) days from receipt of the copy by the parties, the decision shall be final and executory. The Adjudication Office shall issue a Certificate of Finality which shall contain the dispositive part of the decision and signed by the Executive Arbiter certifying that such decision has become final and executory.</p> <p><b>A. Issuance of Writ of Execution</b></p> <p>After the decision of the Adjudication Office has become final and executory and there is a corresponding penalty to be imposed, the Adjudication Office shall motu proprio issue the Writ of Execution to the FFIED. <b>THE SUSPENSION SHALL TAKE EFFECT FIFTEEN (15) DAYS AFTER SERVICE OF THE WRIT OF EXECUTION.</b></p>	<p>Rationale: It was the experience of respondents before that the effectivity of the Writ of Suspension was upon service and thus the respondent had no time to make arrangements with their patients and other doctors to transfer the PhilHealth patients to other PhilHealth accredited hospitals.</p>
<p><b>C. Enforcement of the Writ of Execution</b></p>		
<p>For unpaid fines/receivables or where the respondent failed to timely satisfy the penalty of fine, the same shall be deducted</p>	<p>For unpaid fines/receivables or where the respondent failed to timely satisfy the penalty of fine, the same shall be deducted from the</p>	<p>Rationale: Not all cases are the fault of the Directors or incorporators. In most cases, they are the victims themselves. This</p>

<p>from the benefit claims pending for processing or to be filed by the respondent health care provider with the Corporation, or from any other money claims and/or receivables by the health care provider from the Corporation. The unpaid fine shall be recovered from the directors, incorporators or officers of the respondent.</p>	<p>benefit claims pending for processing or to be filed by the respondent health care provider with the Corporation, or from any other money claims and/or receivables by the health care provider from the Corporation. [<del>The unpaid fine shall be recovered from the directors, incorporators or officers of the respondent.</del> ] (DELETE)</p>	<p>only happens in cases of “ghost patients” or “padding of claims” where the officers of the corporation are not privy.</p> <p>THE DELETED PROVISION IS A VIOLATION OF THE CORPORATION CODE OF THE PHILIPPINES. THE OWNERS OF A CORPORATION ARE NOT PERSONALLY LIABLE TO THE DEBTS OF A STOCK CORPORATION</p> <p>ADDITIONAL COMMENT: Making the directors, incorporators and officers of the Respondent liable to pay the fine of the hospital corporation is contrary to the nature of the separate juridical personality of the corporation and its directors, incorporators, officers and stockholders.</p>
<p><b>RULE X APPEALED ADMINISTRATIVE CASES</b></p>		
<p><b>SECTION 38. Filing of Appeal</b></p>		
<p>An appeal before the PhilHealth Board may be filed within fifteen (15) days from receipt of the decision issued by the Adjudication Office. No Motion for Extension of the period to file an appeal shall be allowed.</p>	<p>An appeal before the PhilHealth Board may be filed within fifteen (15) days from receipt of the decision issued by the Adjudication Office. No Motion for Extension of the period to file an appeal shall be allowed. <b>THE FIFTEEN (15) DAYS PERIOD OF APPEAL SHALL BE FLEXIBLE FOR COGENT REASONS AS MAY BE DETERMINED BY THE BOARD.</b></p>	<p>Rationale: There may be very cogent reasons or multiple number of cases filed against the Health Care Provider and there is need for more time to prepare an intelligent answer to the complaint.</p>
<p>The appeal shall be filed with the Office of the Corporate Secretary either personally, by registered mail, or private courier:</p> <ol style="list-style-type: none"> <li>1. If filed through personal service, the appeal shall be deemed filed with the Board on the date stamped on the face</li> </ol>	<p>The appeal shall be filed with the Office of the Corporate Secretary either personally, by registered mail, or private courier, <b>OR THROUGH ELECTRONIC MAIL WITH COPIES SENT TO THE EMAIL ADDRESSES OF THOSE SUPPOSED TO BE RECIPIENT OF THE APPEAL.</b></p>	<p>Rationale: It is more convenient to file papers, pleadings or documents by electronic means, in addition that PhilHealth is an advocate of automation or digitalization of the PhilHealth.</p> <p>The pandemic period puts at risk the staff of the Receiving Office of PhilHealth in accepting hard copies of the Appeal, and the messengers likewise if they have to go to the post office or the</p>



<p>thereof by the Office of the Corporate Secretary;</p> <p>2. If sent through registered mail, the date of mailing stamped by the Post Office shall be the date of filing of the appeal; and</p> <p>3. If sent through private courier, the appeal is deemed filed on the date of receipt of the Office of the Corporate Secretary.</p>	<ol style="list-style-type: none"> <li>1. If filed through personal service, the appeal shall be deemed filed with the Board on the date stamped on the face thereof by the Office of the Corporate Secretary;</li> <li>2. If sent through registered mail, the date of mailing stamped by the Post Office shall be the date of filing of the appeal; and</li> <li>3. If sent through private courier, the appeal is deemed filed on the date of receipt of the Office of the Corporate Secretary.</li> <li>4. IF SENT THROUGH ELECTRONIC MAIL, THE DATE THAT THE RESPONDENT OR THE COMPLAINANT HAS SENT THE APPEAL THROUGH EMAIL SHALL BE DEEMED THE DATE OF FILING OF THE APPEAL.</li> </ol> <p>THE SECRETARIAT OF THE PHILHEALTH BOARD SHALL PROVIDE THE PARTIES OF THE EMAILS OF THOSE SUPPOSED RECIPIENT OF THE APPEAL.</p>	<p>PhilHealth Office, they may be spreading the virus or be likewise infected by the virus.</p>
<p><b>SECTION 39. Perfection of Appeal</b></p>		
<p>The appellant shall file the Memorandum of Appeal (eight original copies) with the Office of the Corporate Secretary, copy furnished the other party and the Adjudication Office and duly supported by the certified true copies of the official</p>	<p>The appellant shall file the Memorandum of Appeal (eight original copies) with the Office of the Corporate Secretary, copy furnished the other party and the Adjudication Office and duly supported by the certified true copies of the official receipts as proof of payment of the</p>	<p>Comment: The number of copies or cc (via electronic) shall depend upon how many are supposed to receive copies of the Appeal when it is filed manually.</p>

<p>receipts as proof of payment of the appeal fee, appeal bond (cash bond) and legal research fund.</p>	<p>appeal fee, appeal bond (cash bond) and legal research fund <b>UNLESS WHEN THE APPEAL IS FILED THROUGH ELECTRONIC EMAIL AS DESCRIBED IN SECTION 38 HEREOF.</b></p>	
<p><b>Requisites of a Perfected Appeal:</b></p> <ol style="list-style-type: none"> <li>1. Filing of the Memorandum of Appeal in eight (8) original copies within the fifteen (15) day reglementary period;</li> <li>2. Submission of Certified True Copy of the proof of payment of appeal fee, appeal bond (cash bond) and legal research fund; and</li> <li>3. Proof of receipt of copy of Memorandum of Appeal by the other party and the Adjudication Office.</li> </ol>	<p><b>Requisites of a Perfected Appeal:</b></p> <ol style="list-style-type: none"> <li>1. Filing of the Memorandum of Appeal in eight (8) original copies within the fifteen (15) day reglementary period <b>UNLESS WHEN THE APPEAL IS FILED THROUGH ELECTRONIC EMAIL AS DESCRIBED IN SECTION 38 HEREOF.</b></li> <li>2. Submission of Certified True Copy of the proof of payment of appeal fee, appeal bond (cash bond) and legal research fund; and</li> <li>3. Proof of receipt of copy of Memorandum of Appeal by the other party and the Adjudication Office.</li> </ol>	<p>Comment: It perfection of the appeal depends upon the determination of the date when the appeal was filed.</p>
<p><b>B. Payment of Appeal Fee, Appeal Bond (Cash Bond) and Legal Research Fees:</b></p> <p>The appeal fee shall be ten percent (10%) of the imposed fine but shall not to exceed ten thousand pesos (P10,000.00).</p>	<p><u>Query:</u> What about the consolidated cases, how is the appeal fee or bond applied, as Php 10,000 for the entire consolidated cases, or Php10,000 for each case notwithstanding that they are consolidated?</p>	
<p><b>SECTION 42. Composition of the Committee on Appealed Administrative Cases (CAAC)</b></p>		

<p>The CAAC shall be composed of a Chairperson, Vice-Chairperson, and at least three (3) members, one of whom is preferably a lawyer, or as maybe determined by the Board of Directors.</p>	<p>The CAAC shall be composed of a Chairperson, Vice-Chairperson, and at least <b>FIVE (5)</b> members, one of whom is preferably a lawyer, <b>ONE IS A HEALTH CARE PROFESSIONAL WHO IS AN EXPERT OR SPECIALIST ON THE CASE ON APPEAL, AND ONE A HOSPITAL MANAGER</b> or as maybe determined by the Board of Directors.</p>	<p><u>Rationale:</u> It is only the specialists who know the details of the treatment of a particular disease (stroke requires a neurologist; lung disease requires a pulmonologist; a surgical case requires a surgeon, etc). <u>Rationale:</u> It is only the specialists who know the details of the treatment of a particular disease (stroke requires a neurologist; lung disease requires a pulmonologist; a surgical case requires a surgeon, etc). And only a hospital manager may fairly understand the reality of hospital operations.</p>
<p><b>SECTION 45. Decisions on Appeals</b></p>		
<p><b>B. The Decision of the Board Shall Be Immediately Executory Under Any of the Following Circumstances:</b></p>	<p><b>DELETE “IMMEDIATELY EXECUTORY”</b></p>	<p>Rationale: If there is no other PhilHealth accredited HCI within the area, the community will be deprived of the services under the UHC.</p>
<p>1) Where the act/s committed by the appellant health care provider/member endanger public health/safety of members/dependents;</p> <p>2) Where the act/s committed by the appellant health care provider/member is/are detrimental to the viability of the Program fund; and</p> <p>3) Other analogous circumstances as may be determined by the Board.</p>	<p>1) Where the act/s committed by the appellant health care provider/member endanger public health/safety of members/dependents;</p> <p>2) Where the act/s committed by the appellant health care provider/member is/are detrimental to the viability of the Program fund; and</p> <p>3) Other analogous circumstances as may be determined by the Board <b><u>WHEN PUBLIC INTEREST SO REQUIRES.</u></b></p> <p><b>Second option:</b></p> <p>4) <b>HOWEVER, IF THE SUSPENSION IS DUE TO THE FAULT OF AN INDIVIDUAL HEALTH CARE PROVIDER, THE ACCREDITATION OF THE HEALTH CARE INSTITUTION</b></p>	<p>RATIONALE: The HCI has no control in the manner that the individual health care provider (attending doctor) diagnose or treat his/her patient. The only instance where the HCI and the doctor are in cahoots are only in cases of “ghost patients” and “possible padding of claims”.</p>

	SHALL NOT BE AFFECTED, UNLESS IT IS CLEARLY SHOWN THAT BOTH THE HCI AND INDIVIDUAL HCP ARE IN PARE DELICTO.	
<b>SECTION 47. Execution of Decision of the PhilHealth Board</b>		
<p><b>A. Execution of Board Decision Pending Appeal</b></p> <p>1. The decision of the Board shall be immediately executory even pending appeal when the Board, as discussed in its decision, considers the case as imbued with public interest;</p> <p>2. The Corporate Secretary shall issue a 'Certificate of Execution' (COE) and accordingly forward the same to the Adjudication Office copy furnished the parties to the case;</p>	<p><b>A. Execution of Board Decision Pending Appeal</b></p> <p><b>First Option</b></p> <p>1. The decision of the Board shall be <del>immediately executory</del> (DELETE) even pending appeal when the Board, as discussed in its decision, considers the case as imbued with public interest.</p> <p><b>Section option:</b></p> <p>1. The decision of the Board shall be even pending appeal when the Board, as discussed in its decision, considers the case as imbued with public interest, <b>PROVIDED THAT THE DECISION OF THE BOARD SHALL NOT BE IMMEDIATELY EXECUTORY DURING TIMES OF EMERGENCIES OR CALAMITIES, OR WHEN THERE ARE NO OTHER ACCREDITED HOSPITALS WITHIN THE AREA.</b></p>	<p>Rationale: If there is no other PhilHealth accredited HCI within the area, the community will be deprived of the services under the UHC.</p> <p>Rationale: During pandemic like this Covid-19 pandemic the gov't cannot lose the services of hospitals as beds will not be enough.</p>
<b>C. Enforcement of the Writ of Execution</b>		

<p>2) Within ten (10) days prior to the commencement of the suspension or denial of accreditation in the Writ, the FFIED and/or representatives from the Legal Office and Accreditation Section of the PRO shall post Notices of Suspension/Denial of Accreditation in three (3) conspicuous areas within the facility, preferably near the “<i>PhilHealth Accredited</i>” signage, the main entrance of the respondent health care provider’s building/location, and near the Billing or Accounting Office of the appellant-respondent health care provider where settlement of hospital bills are transacted.</p>	<p>2) Within ten (10) days prior to the commencement of the suspension or denial of accreditation in the Writ, the FFIED and/or representatives from the Legal Office and Accreditation Section of the PRO shall post Notices of Suspension/Denial of Accreditation in three (3) conspicuous areas within the facility, preferably near the “<i>PhilHealth Accredited</i>” signage, the main entrance of the respondent health care provider’s building/location, and near the Billing or Accounting Office of the appellant-respondent health care provider where settlement of hospital bills are transacted. <b>THE SUSPENDED HEALTH CARE PROVIDER MAY LIKEWISE POST ANNOUNCEMENTS ON ITS OWN TO THE EFFECT THAT IT’S ACCREDITATION IS SUSPENDED AND WILL MAKE ARRANGEMENTS WITH PATIENTS AND ITS DOCTORS IN CONNECTION THEREWITH.</b></p>	<p>Rationale: The hospital and the other doctors not affected by the suspension order must be given enough time to transfer their patients to other PhiHealth accredited hospitals.</p>
<p><b>SECTION 53. Penalties</b></p> <p>Fraudulent acts, unethical acts, and abuse of authority committed by health care providers as defined in the Act shall be penalized, after due notice and hearing, with a fine of two hundred thousand pesos (P 200,000.00), or suspension of contract up to three (3) months of the remaining period of its contract or accreditation, whichever is shorter, or both, at the</p>	<p><b>SECTION 53. Penalties</b></p> <p>Fraudulent acts, unethical acts, and abuse of authority committed by health care providers as defined in the Act shall be penalized, after due notice and hearing, with a fine of <del>two hundred thousand pesos (P 200,000.00)</del> <b>NOT LESS THAN ONE HUNDRED THOUSAND (P100,000.00) PESOS PER COUNT BUT NOT MORE THAN THREE HUNDRED THOUSAND (P300,000) PESOS FOR MULTIPLE COUNTS, OR SUSPENSION OF CONTRACT</b></p>	<p>Rationale:</p> <p>Only people commit violations. The services of a hospital are for the public good. Withdrawal or denial of accreditation that will result to closure of the whole hospital is adverse to public good. It is the natural person (doctor) who is responsible for certain services that may commit violation. Therefore, penalties should be directed to particular violators.</p> <p><b>Comment:</b></p>

<p>discretion of PhilHealth, taking into consideration the gravity of the offense.</p>	<p>UP TO <del>[three (3)]</del> TWO (2) MONTHS of the remaining period of its contract or accreditation, whichever is shorter, or both, at the discretion of PhilHealth, taking into consideration the gravity of the offense.</p>	<p>Suspension or denial of accreditation as penalty shall be directed only to a specific person or services of a hospital and not to the whole hospital in order to allow access of patient to healthcare services of hospital not in violation of PhilHealth rules.</p>
<p><b>SECTION 54. Definition of Offenses</b></p> <p>PhilHealth shall prescribe the definitions of offenses of health care providers.</p> <p><b>A. Fraudulent Acts shall include, but not limited to the following:</b></p> <p><b>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</b></p> <ul style="list-style-type: none"> <li>a. Padding of claims, reports and/or health and health-related data;</li> <li>b. Submission of claims, reports and/or health and health- related data for non-admitted or non-treated patient;</li> <li>c. Extending period of confinement;</li> <li>d. Post-dating of confinement period;</li> <li>e. Misrepresentation by furnishing false or incorrect information;</li> <li>f. Fabrication and/or possession of fabricated forms and supporting documents; and</li> </ul>	<p>PhilHealth shall prescribe the definitions of offenses of health care providers.</p> <p><b>A. Fraudulent Acts shall include, but not limited to the following:</b></p> <p><del><b>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</b></del></p> <ul style="list-style-type: none"> <li>a. Padding of claims, reports and/or health and health-related data;</li> <li>b. Submission of claims, reports and/or health and health- related data for non-admitted or non-treated patient;</li> <li>c. Extending period of confinement;</li> <li>d. Post-dating of confinement period;</li> <li>e. Misrepresentation by furnishing false or incorrect information;</li> <li>f. Fabrication and/or possession of fabricated forms and supporting documents; and</li> </ul>	<p>Comment: No need to classify because all offenses are committed by people or professionals. The stated violations maybe committred by both hospital authority or Health care professionals</p>

<p>g. Other fraudulent acts.</p> <p><b>Committed by Professional:</b></p> <p>a. Misrepresentation by furnishing false or incorrect information; and b. Other fraudulent acts.</p> <p><b>B. Unethical acts shall include, but not limited to the following:</b></p> <p><b>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</b></p> <p>a. Overbilling; b. Upcoding, upcoding, diagnosis creeping or procedure creeping; c. Recruitment practice d. Harboring ghost patients or recruitment practice; e. Refusal to admit and/or provide appropriate service; and f. Other unethical acts.</p> <p><b>Committed by Professional:</b></p> <p>a. Overbilling; b. Upcoding, upcoding, diagnosis creeping or procedure creeping; c. Harboring ghost patients or recruitment practice; d. Refusal to admit and/or provide appropriate service;</p>	<p>g. Other fraudulent acts.</p> <p><del><b>Committed by Professional:</b></del></p> <p>a. Misrepresentation by furnishing false or incorrect information; and b. Other fraudulent acts.</p> <p><b>B. Unethical acts shall include, but not limited to the following:</b></p> <p><del><b>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</b></del></p> <p>a. Overbilling; <del><b>b. Upcoding, upcoding, diagnosis creeping or procedure creeping;</b></del> c. Recruitment practice d. Harboring ghost patients or recruitment practice; <del><b>or recruitment practice;</b></del> e. Refusal to admit and/or provide appropriate service; and f. Other unethical acts.</p> <p><del><b>Committed by Professional:</b></del></p> <p>a. Overbilling; b. Upcoding, upcoding, diagnosis creeping or procedure creeping; <del><b>b. Upcoding, upcoding, diagnosis creeping or procedure creeping;</b></del> c. Harboring ghost patients or recruitment practice; <del><b>or recruitment practice;</b></del></p>	<p>Comment: No need to classify.</p> <p>Comment: No need to classify. Only people commit violations.</p> <p>Upcoding, upcoding, diagnosis creeping or procedure creeping is not an offense that can be attributed to the facility as diagnosis is determined by the attending physician.</p> <p>The “recruitment practice” under par. (d) is a redundancy as it is already provided under par. (c)</p> <p>Comment: No need to classify.</p>
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<p>e. Violation of code of ethics; and f. Other unethical acts.</p> <p><b>C. Abuse of authority shall include, but not limited to the following:</b></p> <p><b>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</b></p> <p>a. Filing of multiple claims, reports and/or health and health related data; b. Non-compliance with no co-payment/co-payment policy; c. Breach of the Warranties of Accreditation/Performance Commitment; d. Unauthorized procedures beyond service capability; and e. Other unauthorized acts.</p> <p><b>D. Committed by Professional</b></p> <p>a. Non-compliance with no co-payment/ co-payment policy; b. Breach of the Warranties of Accreditation/Performance Commitment; and c. Other unauthorized acts.</p>	<p>d. Refusal to admit and/or provide appropriate service; e. Violation of code of ethics; and f. Other unethical acts.</p> <p><b>C. Abuse of authority shall include, but not limited to the following:</b></p> <p><del>Committed by Health Facility, Community-Based Health Care Organization, Pharmacy or Drug Outlet, and Laboratory and Diagnostic Clinic:</del></p> <p>a. Filing of multiple claims, reports and/or health and health related data; b. Non-compliance with no co-payment/co-payment policy; c. Breach of the Warranties of Accreditation/Performance Commitment; d. Unauthorized procedures beyond service capability; and e. Other unauthorized acts.</p> <p><del>D. Committed by Professional</del></p> <p>a. Non-compliance with no co-payment/co-payment policy; b. Breach of the Warranties of Accreditation/Performance Commitment; and c. Other unauthorized acts.</p>	<p>Comment: No need to classify. Only people commit violations.</p> <p>Comment: No need to classify.</p>
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<p><b>E. Liabilities of Officers and Employees of Health Facility, Community-Based Health Care Organization, Pharmacy/Laboratory and Diagnostic Clinic.</b></p> <p>If the health care provider is a juridical person, its officers and employees or other representatives found to be responsible, who acted negligently or with intent, or have directly or indirectly caused the commission of the violation, shall be liable. Recidivists may no longer be contracted as participants of the Program.</p>	<p><b>E. Liabilities of Officers and Employees of Health Facility, Community-Based Health Care Organization, Pharmacy/Laboratory and Diagnostic Clinic.</b></p> <p>If the health care provider is a juridical person, its officers and employees or other representatives found to be responsible, who acted negligently or with intent, or have directly or indirectly caused the commission of the violation, shall be liable. <del>Recidivists may no longer be contracted as participants of the Program.</del></p>	<p>Comment: Delete. The term recidivist must not be used unless the provisions of Rules and Procedures for administrative cases strictly adhere to the rules of procedures of regular courts and the rights to due process. PhilHealth quasi judicial powers is hardly compliant because it cannot avoid making biased decisions because it is the Complainant, the Investigator, the Prosecutor, the Judge and the Appellate body.</p> <p><b>ADDITIONAL COMMENT:</b> The Rules do not seem to provide a definition of what is a recidivist. I suggest it be defined as one previously twice convicted of a fraudulent offense or thrice convicted of a fraudulent offense before the commission of the offense.</p>
<p><b>SECTION 57. Extending Period of Confinement</b></p> <p>Any health facility who submits a claim, report and/or health and health-related data with unnecessary extension of confinement by:</p> <p>a. Increasing the number of hours of confinement of any patient;</p>	<p><b>SECTION 57. Extending Period of Confinement</b></p> <p>Any health facility who submits a claim, report and/or health and health-related data with unnecessary extension of confinement by:</p> <p>a. Increasing the number of hours of confinement of any patient <u><b>WITHOUT THE PATIENT'S CONFORMITY WHEN THE PATIENT HAS BEEN ORDERED</b></u></p>	<p>Firstly, it is the attending physician who determines the necessary period of confinement so it must be made clear that extending the period confinement refers to at least that situation wherein the attending physician has already determined the patient to be for</p>

	<b><u>DISCHARGED BY THE ATTENDING PHYSICIAN.</u></b>	discharge. Secondly, it should not be taken against the facility should the patient desire to remain confined. The hospital cannot just force a patient to leave its premises. It is the common experience of hospitals that patients for a variety of reasons desire to remain confined in spite of physician's recommendation for discharge.
<b>RULE XI OFFENSES BY HEALTH CARE PROVIDERS</b>		
<b>SECTION 59. Misrepresentation by Furnishing False or Incorrect Information</b>		<u>Comment:</u> Even the FFIED is guilty of providing false or incorrect information by selectively picking supposed the incriminating entries in the medical records but not reporting the exculpatory entries exonerating the respondent healthcare provider.  ADDITIONAL COMMENT: The definition of misrepresentation by furnishing false or incorrect information should be different for health facilities and health care professionals. I could imagine a hospital being truly guilty of misrepresentation by code substitution etc. only if a conspiracy between it and the attending physician is actually proven. Otherwise, the hospital should not be charged of this offense just because their medical reviewers do not agree with the diagnosis of the attending physician because diagnosis is purely within the physician's call and the hospital clerks merely copy the diagnosis.
c. Making it appear that the patient suffered from a compensable illness or underwent a compensable procedure.		<u>Comment:</u> PhilHealth should hire a specialist to be assessors of cases falling under specialty care (neurology, cardiology, pediatricians, etc). The reason for most of "upcoding" of cases is because the PhilHealth assessor is not a specialist and does not have sufficient training and competence to recognize signs and symptoms and treatment of a disease falling under a particular specialty. A clarificatory hearing must be conducted before a case is considered an upcoding or upcoding.
<b>SECTION 63. Upcoding, Upcoding, Diagnosis Creeping or Procedure Creeping</b>		
<b>SECTION 64. Recruitment Practice</b>		

<p>Recruitment practice pertains to the conduct of any health care provider or through other individuals, who knowingly or willfully offers, pays, solicits or receives anything of value for the purpose of obtaining patients. Such practices shall include but not limited to the following:</p> <ul style="list-style-type: none"> <li>a. Medical missions in which a health care provider has directly or indirectly entered into a contract or any agreement and/or linked up or tied-up with a non-government organization or an institution in the guise of charity or community service for the sole purpose of soliciting PhilHealth patients;</li> <li>b. Medical missions limited to PhilHealth members and their beneficiaries only;</li> <li>c. Medical missions primarily done for purposes of profit or gain which does not promote the best interest of the patient or the NHIP;</li> <li>d. The health facility solicits patients through other recruitment schemes for the purpose of enrollment to PhilHealth; and</li> </ul>	<ul style="list-style-type: none"> <li><del>a. Medical missions in which a health care provider has directly or indirectly entered into a contract or any agreement and/or linked up or tied-up with a non-government organization or an institution in the guise of charity or community service for the sole purpose of soliciting PhilHealth patients;</del> DELETE (a.)</li> <li>b. Medical missions limited to PhilHealth members and their beneficiaries only;</li> <li>c. Medical missions primarily done for purposes of profit or gain which does not promote the best interest of the patient or the <u>NHIP PROVIDED THAT PATIENTS WHO HAVE BEEN DIAGNOSED AND TREATED ACCORDINGLY IS CONSIDERED IN THE BEST INTEREST OF THE PATIENT AND THE NHIP;</u></li> </ul>	<p><u>Comment:</u> What about medical missions conducted by City Government for their constituents, and then refer them to the provincial hospital and later file claim for PhilHealth for reimbursement.</p> <p>Double standard, if patient is referred to a gov't there is no recruitment but if the patient is referred to a private hospital, it is a case of "sweeper or recruitment".</p> <p>ADDITIONAL COMMENT:</p> <p>(a) is very subjective and given to arbitrariness in implementation. Many patients who show up in a medical mission are unavoidably PHIC-accredited. It should not brand the medical mission as one that is for the sole purpose of soliciting Philhealth patients.</p>
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<p>e. Other analogous activities.</p>	<p><del>d. The health facility solicits patients through other recruitment schemes for the purpose of enrollment to PhilHealth; and</del> <del>(DELETE (d))</del></p> <p>e. Other analogous activities.</p>	<p>Re par. (e), we are to advocate enrollment to philhealth. This provision only discourages us from that advocacy for fear it might be interpreted as an unethical recruitment scheme. And what's so wrong about the end result of getting more patients to enroll to Philhealth? That is the goal isn't it?</p>
<p><b>SECTION 66. Refusal to Admit and/or Provide Appropriate Service</b></p>		
<p>Any health care provider who refuses to admit and/or provide appropriate service to any patient.</p>	<p>Any health care provider who refuses to admit and/or provide appropriate service to any <b>QUALIFIED</b> patient <b>UNLESS ATTENDING TO THE PATIENT POSES A SERIOUS RISK TO HIS LIFE OR HEALTH, OR TO THE OTHER PATIENTS OF THE HEALTH CARE INSTITUTION.</b></p>	<p><u>Rationale:</u> Physicians have the right to refuse to attend Covid-19 patients if there are no available PPE'S or in other cases where their own lives and health are at risk. It must be clearly stated that philhealth members who are not qualified because of violation of single period of confinement, or exhausted benefits, or patients with non compensable illness and other exclusions shall not make a hospital violator.</p>
<p><b>SECTION 67. Other Unethical Acts</b></p>		
<p>Any health care provider who performs an act contrary to the Code of Ethics of the responsible person's profession or practice, or other analogous acts which put or tends to put in disrepute the integrity and effective implementation of the NHIP.</p>		<p><u>Comment:</u> This is the mostly abused reason for suspending the accreditation of a health care provider. There is an erroneous presumption of guilt by the PhilHealth even before the respondent being proven guilty. Case in point is the 195 hospitals in the NCR whose accreditations were suspended before the Covid pandemic). This provision recognizes that hospitals must not interfere in the professional conduct of doctors. Therefore, it should not be made liable for "acts not within standard of care" or for "upcasing" or failure to follow the clinical guidelines. Likewise doctors should not be made responsible for Failure of "Hospital Management"</p>

<p><b>SECTION 68. Filing of Multiple Claims/Reports and/or Health and Health-Related Data</b></p>		
<p>Any health care provider who files two or more claims, reports and/or health and health related data for a patient who has been confined or underwent outpatient treatment once but was made to appear as having been confined or undergone outpatient treatment for two or more times and/or for two or more different illnesses for the same confinement or outpatient treatment.</p>	<p>Any health care provider who files two or more claims, reports and/or health and health related data for a patient who has been confined or underwent outpatient treatment once but was made to appear as having been confined or undergone outpatient treatment for two or more times and/or for two or more different illnesses for the same confinement or outpatient treatment, HOWEVER THIS PROVISION DOES NOT APPLY FOR TRIVIAL REASONS SUCH AS PORTAL GLITZ, DOCUMENTS LOST BY THE REGIONAL OFFICE AND SIMILAR SITUATIONS WHERE CONTROL IS NOT IN THE HANDS OF THE RESPONDENT HEALTH CARE PROVIDER.</p>	<p><u>Comment:</u> Most of the cases of multiple claims are due to reasons not due to the fault of the healthcare provider (portal glitz, documents lost by the PRO, etc).</p>
<p><b>SECTION 70. Breach of the Warranties of Accreditation/Performance Commitment</b></p> <p>Any health care provider who commits any breach of its Warranties of Accreditation/Performance Commitment.</p>	<p><b>SECTION 70. Breach of the Warranties of Accreditation/Performance Commitment</b></p> <p>Any health care provider who commits any breach of its Warranties of Accreditation/<del>Performance</del> <del>Commitment</del> <b>WHICH IS NOT ALREADY DEFINED AS A VIOLATION UNDER THESE RULES.</b></p>	<p><u>Rationale for suggested deletion of “performance commitment”:</u></p> <p>Once a healthcare provider is accredited by PhilHealth, both healthcare provider and the PhilHealth are now bound by a contract. The terms and conditions of the contract is set forth in the IRR of NHIC (R.A, 7875 as amended) and there is no need for the Performance Commitment. Further, the Performance Commitment is too one-sided against the health care provider. If it will remain, it should be amended to reflect the true nature of partnership between the health care professional and PhilHealth and the Healthcare Institution with Philhealth. The healthcare institution should not be made to suffer for the fault of the Health care Professional and vice versa.</p>

		<p>The Hospitals are ethically constrained in interfering with the PATIENT management of their visiting doctors. The responsibility of the hospital managers must be limited only to administrative management of the facility but never to interfere in PATIENT MANAGEMENT, which only is governed by Doctor - Patient relationship. In reality, the doctors are independent contractors whose professional conduct is governed only by their professional ethics. Hospitals do not diagnose or prescribe treatment to illnesses. They only provide the facilities to make possible diagnosis and treatment of diseases.. It is wrong therefore to require hospitals to sign under duress an admission of responsibility for the professional conduct of their doctors. Likewise doctors should not be made to suffer the fault of the hospital. Only doctors are legally empowered to diagnose and prescribe treatment</p> <p><u>Rationale for addition of “WHICH IS NOT ALREADY DEFINED AS A VIOLATION UNDER THESE RULES”:</u></p> <p>The experience of hospitals is that with every charge filed comes another charge of Breach of Warranties because part of the warranties is to not violate any of the PHIC rules. It is a needless redundancy that subjects respondents to 2 offenses at least for every case.</p> <p>ADDITIONAL COMMENT: What happens is that every charge comes is filed another charge of Breach of Warranties because part of the warranties is to not violate any of the PHIC rules. It is a needless redundancy that subjects respondents to 2 offenses at least for every case.</p>
<p><b>SECTION 71. Unauthorized Procedures Beyond Service Capability</b></p> <p>Any health facility who performs procedures not within its authorized capability, except in</p>	<p>POSITION:</p>	<p><u>Comment:</u> The TERM “CAPABILITY” became too vague since the re-classification of hospitals. This should be clarified to adapt to</p>

<p>emergency cases to save lives or referral to a facility with suitable capability is physically impossible.</p>	<p>DELETE THE PROVISION</p>	<p>the reclassifications. This issue will be relevant when we start forming the Healthcare Delivery Network vis-à-vis capability of level I hospitals in the remote areas. Accreditation and Payment of reimbursement should be based on service capability of hospitals. In many instances, lives were saved because hospitals and doctors were willing to take extraordinary steps to extend their capability</p>
<p><b>SECTION 74. Application of Circumstance in the Imposition of Penalties</b></p>		<p><u>Comment:</u> The preventive suspension imposable under the rule is 3 months but it may take a case 6 months or more for its final resolution or until final appeal to the Board. So there is in reality a much longer time of suspension, of which time the hospital would have run out of financial sustenance and die an unnecessary death. The death of a hospital is a big loss to the community it serves and is always adverse to the interest of the public. Philhealth may succeed in harming a hospital business but in the process acquires notoriety as the INVESTIGATOR, PROSECUTOR, ADJUDICATOR, EXECUTIONER AND TERMINATOR. It could be pictured as the bad guy with megapowers.</p>
<p style="text-align: center;"><b>RULE XII OFFENSES BY HEALTH CARE PROVIDERS</b></p> <p><b>SECTION 75. Violation of RA 7875, as Amended, and the Universal Health Care Act</b></p> <p>xxx</p> <p>Recidivists may no longer be contracted as participants of the Program. A criminal violation is punishable by imprisonment of six (6) months and one (1) day up to six (6)</p>		<p><u>Same comment as Rule XI</u> on Misrepresentation by Furnishing False or Incorrect Information, Upcoding, Upcoding, Diagnosis Creeping or Procedure Creeping, Recruitment Practice, Refusal to Admit and/or Provide Appropriate Service, Other Unethical Acts, Filing of Multiple Claims/Reports and/or Health and Health-Related Data, Breach of the Warranties of Accreditation/Performance Commitment, Unauthorized Procedures Beyond Service Capability, Application of Circumstance in the Imposition of Penalties.</p> <p>ADDITIONAL COMMENT:</p> <p>What is the legal basis of the penalty of imprisonment of six (6) months and one (1) day up to six (6) years?</p>


<p>years, upon the discretion of the court without prejudice to criminal liability defined under the Revised Penal Code.</p>		
<p style="text-align: center;"><b>RULE XIII OFFENSES BY MEMBERS</b></p> <p><b>SECTION 90. Offenses by Members</b> <b>Members who:</b></p> <ul style="list-style-type: none"> <li>a. Commit any violation of the Act, or</li> <li>b. Fail to pay all missed contributions with interest, compounded monthly, as provided for in Section 9 of the Act.</li> </ul>		<p>COMMENT: Instead of penalizing and charging interest for missed contributions, contributors should be given grace period to settle their dues especially when the cause of delay is due to unforeseen events.</p> <p>This provision does not hold water because UHC provides that services be provided them even without asking or requiring for there ID. This makes membership to Philhealth unnecessary to most members. Even if they will not pay their contribution, Hospitals are mandated to still provide services and Philhealth is legally bound to reimburse the hospitals.</p>
<p style="text-align: center;"><b>RULE XV Offenses by PhilHealth Directors, Officers, or Employees</b></p>		
<p>Any director, officer or employee of PhilHealth who:</p> <ul style="list-style-type: none"> <li>1. Without prior authority or contrary to the provisions of this Act or its implementing rules and regulations, wrongfully receives or keeps funds or property payable or deliverable to PhilHealth, and who appropriates and applies such fund or property for personal use, or shall willingly or negligently consents either expressly or implicitly to the</li> </ul>	<p>Any director, officer or employee of PhilHealth who:</p> <ul style="list-style-type: none"> <li>1. Without prior authority or contrary to the provisions of this Act or its implementing rules and regulations, wrongfully receives or keeps funds or property payable or deliverable to PhilHealth, and who appropriates and applies such fund or property for personal use, or shall willingly or negligently consents either expressly</li> </ul>	




<p>misappropriation of funds or property without objecting to the same and promptly reporting the matter to proper authority, shall be liable for misappropriation of funds under this Act and shall be punished, after due notice and hearing, with a fine equivalent to triple the amount misappropriated per count and suspension for three (3) months without pay.</p> <p>2. Commits an unethical act, abuse of authority, or performs a fraudulent act shall be administratively liable, after due notice and hearing, to pay a fine of two hundred thousand pesos (P200,000) or suspension of three (3) months without pay, or both, at the discretion of PhilHealth, taking into consideration the gravity of the offense. The same shall also constitute a criminal violation punishable by imprisonment for six (6) months and one (1) day up to six (6) years, upon discretion of the court without prejudice to criminal liability defined under the Revised Penal Code.</p>	<p>or implicitly to the misappropriation of funds or property without objecting to the same and promptly reporting the matter to proper authority, shall be liable for misappropriation of funds under this Act and shall be punished, after due notice and hearing, with a fine equivalent to triple the amount misappropriated per count and suspension for three (3) months without pay.</p> <p>2. Commits an unethical act, abuse of authority, or performs a fraudulent act shall be administratively liable, after due notice and hearing, to pay a fine of two hundred thousand pesos (P200,000) or suspension of three (3) months without pay, or both, at the discretion of PhilHealth, taking into consideration the gravity of the offense. The same shall also constitute a criminal violation punishable by imprisonment for six (6) months and one (1) day up to six (6) years, upon discretion of the court without prejudice to criminal liability defined under the Revised Penal Code.</p> <p>3. FURNISHES FALSE OR INCORRECT INFORMATION TO THE PREJUDICE OR RESULTING TO THE DAMAGE OF THE HEALTH CARE PROVIDER, MEMBER, AND THE PURPOSES OF</p>	<p>Rationale: FFIED inspectors as experienced by respondents only select parts of the medical record that would support their allegation against the hospital and the doctor. They know that the respondents will not be heard because they know that there will be no hearing and so they are bold enough to do this.</p>
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	<p>UNIVERSAL HEALTH CARE LAW SHALL BE ADMINISTRATIVELY, CIVILLY AND CRIMINALLY LIABLE, AFTER DUE NOTICE AND HEARING, TO PAY A FINE OF TWO HUNDRED THOUSAND PESOS (P200,000) OR SUSPENSION OF THREE (3) MONTHS WITHOUT PAY, OR BOTH, AT THE DISCRETION OF PHILHEALTH, TAKING INTO CONSIDERATION THE GRAVITY OF THE OFFENSE. THE SAME SHALL ALSO CONSTITUTE A CRIMINAL VIOLATION PUNISHABLE BY IMPRISONMENT FOR SIX (6) MONTHS AND ONE (1) DAY UP TO SIX (6) YEARS, UPON DISCRETION OF THE COURT WITHOUT PREJUDICE TO CRIMINAL LIABILITY DEFINED UNDER THE REVISED PENAL CODE.</p>	<p><u>Others Comment / Query:</u> Why is it that if it is the PHIC employee who is the respondent there is due notice and HEARING, but in the case of the respondent health care provider, there is NO HEARING?</p>
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<p align="center"><b>RULE XVII</b> <b>Administrative Protest</b></p>		
<p><b>SECTION 101. Filing of Appeal Before the Protests and Appeals Review Department (PARD)</b></p> <p>Within fifteen (15) days from receipt of the order of the PRO denying the motion for reconsideration of an aggrieved health care provider or member, any party may file a letter-appeal with the PARD with proof of payment of the requisite appeal fee.</p> <p>The appeal fee shall be prescribed by the Corporation, and may be paid at the nearest PhilHealth Office and certified true copies of proof of payment shall be attached to the letter-appeal.</p>	<p>The appeal fee shall be prescribed by the Corporation, and may be paid at the nearest PhilHealth Office and certified true copies of proof of payment shall be attached to the letter-appeal. <b>THE APPEAL FEE SHALL BE REFUNDED WITH INTEREST SHOULD IT BE FOUND THAT THE HEALTH CARE PROVIDER IS NOT GUILTY OF THE OFFENSE CHARGED. THE AMOUNT SHALL BE CHARGED TO PHILHEALTH.</b></p>	<p>Rationale: It may take years before the respondent hospital is denied of its lawful claims it is but just for PhilHealth to compensate the respondent hospital at least the refund of the Appeal fee plus interest.</p>
<p><b>SECTION 105. Non-extension of Appeal Period</b></p>		
<p>No motion for extension of the period to file appeal shall be allowed.</p>	<p>No motion for extension of the period to file appeal shall be allowed <b>EXCEPT IN CASES WHERE THERE ARE COGENT REASONS AS MAY BE DETERMINED BY THE BOARD.</b></p>	<p>Rationale: There may be cogent reasons in asking for postponements like for example when multiple cases are filed against the respondent where it takes time to prepare an intelligent Appeal or other pleadings.</p>

  
**Jose P. Santiago, Jr., MD**  
 President, PMA

  
**Jaime A. Almora, MD**  
 President, PHA

  
**Huberto F. Lapuz, MD**  
 President, PCHA