

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
FIFTEENTH CONGRESS
FIRST REGULAR SESSION
HOUSE BILL NO. _____ 102

Introduced by **Honorable Janette L. Garin, M.D.**

EXPLANATORY NOTE

On February 14, 1995, Republic Act No. 7875, otherwise known as "National Health Insurance Act of 1995," was approved and signed into law.

The said law enables the Constitutional policy of which declares that "the State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. Priority for the needs of the underprivileged, sick, elderly, disabled, women, and children shall be recognized. Likewise, it shall be the policy of the State to provide free medical care to paupers."

Among the Act's guiding principles is universality as the National Health Insurance Program ultimate goal is to provide highest priority in covering the entire population with at least a minimum health insurance package. This avowed goal can only be realized if the national health insurance financial viability is ensured.

In 2007, however, media reports revealed that almost 4 billion pesos were lost by PhilHealth to fraudulent reimbursements through various unnecessary and overpriced procedures since 1995. Without ignoring the need to investigate the truthfulness of such reports, it is imperative that the National Health Insurance Act of 1995, as amended, be strengthened so that the Corporation can readily address the evolving sophistication of some individuals and organizations in defrauding the national health insurance funds.

This bill aims to strengthen the Philippine Health Insurance Corporation to go after criminals who seek to defraud the national health insurance funds through false claims. The salient features of this proposed measure are as follows:

1. *Visitorial power.* To effectively address the issue of fraudulent activities, this bill seeks to vest the Corporation with visitorial powers in order to effectively check whether health care providers and employers are following the provisions of the National Health Insurance Act.
2. *Expediting resolution of grievances.* To effectively deter unscrupulous individuals or organizations, there is a need to expedite the processing of grievances within the grievance machinery under the National Health Insurance Act. This bill seeks to shorten the length of time within which Local Health Insurance Offices decide on complaints and the period within which to appeal such decisions to the Board.

3. *Classification of abuses and unethical practices.* This bill seeks to identify, list and classify the emerging abuses and unethical practices that tends to defeat the objectives of the NHIP and provides for corresponding penalties for the commission of such offenses.
4. *Increase in penalties.* The bill also seeks to increase the penalty from P 10,000 to P 50,000 to P 50,000 to P 100,000 against erring health care providers.
5. *Inclusion of 60-day filing period.* Another proposed amendment is the inclusion of a 60-day filing period within which hospitals must file their claims from date of discharge of their patients.

In view of the foregoing, the early passage of this bill is earnestly sought.


JANETTE L. GARIN, M.D.

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HOUSE BILL NO. 102

Introduced by **Honorable Janette L. Garin, M.D.**

AN ACT GRANTING ADDITIONAL POWERS TO THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7875, OTHERWISE KNOWN AS THE "NATIONAL HEALTH INSURANCE ACT OF 1995", AS AMENDED, AND FOR OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 4 of Republic Act No. 7875, as amended, is hereby further amended by adding a definition of the informal sector, to be denominated as paragraph (r) and succeeding paragraphs to be re-denominated accordingly.

"SEC. 4. *Definition of Terms.* - For the purpose of this Act, the following terms shall be defined as follows:

"X X X

"R) **INFORMAL SECTOR** - THE INFORMAL SECTOR REFERS TO THAT SECTOR CONSISTING OF UNITS ENGAGED IN THE PRODUCTION OF GOODS AND SERVICES WITH THE PRIMARY OBJECTIVE OF GENERATING EMPLOYMENT AND INCOMES TO THE PERSON CONCERNED, IN ORDER TO EARN A LIVING, PARTICULARLY UNINCORPORATED HOUSEHOLD ENTERPRISES THAT ARE MARKET AND NON-MARKET PRODUCERS OF GOODS AS WELL AS MARKET PRODUCERS OF SERVICES. TO THIS SECTOR BELONG, AMONG OTHERS, STREET HAWKERS, MARKET VENDORS, PEDICAB AND TRICYCLE DRIVERS, SMALL CONSTRUCTION WORKERS AND HOME-BASED INDUSTRIES AND SERVICES.

"X X X."

SEC. 2. Section 16 of the same Act is hereby amended to read as follows:

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

"X X X

"c) **TO SUPERVISE THE PROVISION OF HEALTH BENEFITS AND** to set standards, rules, and regulations necessary to ensure quality of care, appropriate utilization of services, fund viability, member satisfaction, and overall accomplishment of Program objectives;

"d) to formulate and implement guidelines on contributions and benefits; portability of benefits, cost containment and quality assurance; [and] health care provider arrangements, payment methods, and referral systems; **AND PROVISION OF AN INCENTIVE SYSTEM FOR HEALTH CARE PROVIDERS SUBJECT TO TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE BOARD;**

"x x x

"m) [to supervise the provision of health benefits with the power]to **VISIT, ENTER AND inspect FACILITIES OF HEALTH CARE PROVIDERS AND EMPLOYERS AND TO SECURE COPIES OF THEIR** medical, [and] financial **AND OTHER RECORDS PERTINENT TO THE CLAIMS, ACCREDITATION, PREMIUM CONTRIBUTION** records, **AND THAT of THEIR PATIENTS OR EMPLOYEES, WHERE APPLICABLE,** [health care providers and patients] who are [participants in] **BENEFICIARIES** or members of the Program;[and the power to enter and inspect accredited health care institutions, subject to the rules and regulations to be promulgated by the Corporation;]

"x x x."

SEC. 3. Section 18 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 18. *The Board of Directors.* -

"a) *Composition* - The Corporation shall be governed by a Board of Directors hereinafter referred to as the Board, composed of the following members:

"The Secretary of Health;

"The Secretary of Labor and Employment or his representative;

"The Secretary of the Interior and Local Government or his representative;

"The Secretary of Social Welfare and Development or his representative;

"The President **AND CHIEF EXECUTIVE OFFICER (CEO)** of the Corporation;

"A representative of the [labor] **FORMAL** sector;

"A representative of employers;

"The SSS Administrator or his representative;

"The GSIS General Manager or his representative;

"The Vice Chairperson for the basic sector of the National Anti-Poverty Commission or his representative;

"A representative of Filipino overseas workers;

A representative of the [self-employed] **INFORMAL** sector; and

"A representative of health care providers [to be endorsed by the national associations of health care institutions and medical health professionals].

"SECTORAL REPRESENTATIVES SHALL BE ENDORSED BY THEIR RESPECTIVE DULY RECOGNIZED NATIONAL ASSOCIATIONS.

"The Secretary of Health shall be the *ex officio* Chairperson while the President **AND CHIEF EXECUTIVE OFFICER (CEO)** of the Corporation shall be the Vice Chairperson of the Board.

"x x x."

SEC. 4. Section 19, subsection a) of the same Act, is hereby amended to read as follows:

"SEC. 19. *The President of the Corporation.* -

"a) *Appointment and Tenure* - The President of the Philippines shall appoint for a non-renewable term of six (6) years the President of the Corporation, hereinafter referred to as the President, upon the recommendation of the Board. The President **MAY BE REMOVED FOR CAUSE, UPON RECOMMENDATION OF THE BOARD** [shall not be removed from office except in accordance with existing laws].

"x x x."

SEC. 5. Section 31 of the same Act is hereby amended to read as follows:

"SEC. 31. *Authority to Grant Accreditation.* - The Corporation shall have the authority to grant to health care providers accreditation which confers the privilege of participating in the Program: **PROVIDED, HOWEVER, THAT IN NO CASE SHALL THE CORPORATION GRANT THE RENEWAL OF ACCREDITATION OR RE-ACCREDITATION, TO ANY HEALTH CARE PROVIDER FOUND GUILTY AS CHARGED FOR ANY VIOLATIONS OF THIS ACT, SUBJECT TO THE TERMS AND CONDITIONS ISSUED BY THE BOARD.**"

SEC. 6. Section 41, subsections a) and b) of the same Act, is hereby amended to read as follows:

"SEC. 41. *Grievance and Appeal Procedures.* - A member, his dependent, or a health care provider may file a complaint for grievance based on any of the above grounds, in accordance with the following procedures:

"a) A complaint for grievance must be filed with the [Office] **CORPORATION** which shall rule on the complaint within [ninety (90)] **SIXTY (60)** calendar days from receipt thereof.

"b) Appeals from [Office] **THE CORPORATION'S** decisions must be filed with the Board within [thirty (30)] **FIFTEEN (15) CALENDAR** days from receipt of **THE** notice of **DECISION** [dismissal or disallowance by the Office].

"x x x."

SEC. 7. Section 44 of the same Act is hereby amended to read as follows:

"Article X. **OFFENSES AND PENALTIES**

["SEC. 44. *Penal Provisions.* - Any violation of the provisions of this Act, after due notice and hearing, shall suffer the following penalties:

"A fine of not less than Ten thousand pesos (P10,000) nor more than Fifty thousand pesos (P50,000) in case the violation is committed by the hospital management or provider. In addition, its accreditation shall be suspended or revoked from three (3) months to the whole term of accreditation: *Provided, however,* That recidivists may not anymore be accredited as a participant of the Program;

"A fine of not less than Five hundred pesos (P500) nor more than Five thousand pesos (P5,000) and imprisonment of not less than six (6) months nor more than one (1) year in case the violation is committed by the member.

"Where the violations consist of failure or refusal to deduct contributions from the employee's compensation or to remit the same to the Corporation, the penalty shall be a fine of not less than Five hundred pesos (P500) but not more than One thousand pesos (P1,000) multiplied by the total number of employees employed by the firm and imprisonment of not less than six (6) months but not more than one (1) year: *Provided, further,* That in the case of self-employed members, failure to remit one's own contribution shall be penalized with a fine of not less than Five hundred pesos (P500) but not more than One thousand pesos (P1,000).]

"SEC. 44. **PENAL PROVISIONS.**

1. OFFENSES OF INSTITUTIONAL HEALTH CARE PROVIDERS

"A) THE FOLLOWING VIOLATIONS OF ACCREDITED INSTITUTIONAL HEALTH CARE PROVIDERS, AFTER DUE NOTICE AND HEARING, SHALL BE PENALIZED WITH SUSPENSION OF ACCREDITATION OF NOT LESS THAN THREE (3) MONTHS BUT NOT MORE THAN SIX (6) MONTHS OR REVOCATION OF ACCREDITATION, AT THE DISCRETION OF THE CORPORATION AND/OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00):

"1) FILING OF MULTIPLE CLAIMS - ANY HEALTH CARE PROVIDER WHO, FOR THE PURPOSE OF CLAIMING PAYMENT FROM THE NHIP, FILES TWO (2) OR MORE CLAIMS FOR A PATIENT FOR THE SAME CONFINEMENT OR ILLNESS, OR MAKES IT APPEAR THAT THE PATIENT HAD BEEN CONFINED FOR TWO (2) OR MORE TIMES AND/OR FOR TWO (2) OR MORE DIFFERENT ILLNESSES;

"2) UNJUSTIFIED ADMISSION BEYOND ACCREDITED BED CAPACITY - ANY HEALTH CARE INSTITUTION WHICH, FOR THE PURPOSE OF CLAIMING PAYMENT FROM THE NHIP, FILES A CLAIM FOR PATIENTS CONFINED IN EXCESS OF THE ACCREDITED BED CAPACITY AT ANY GIVEN TIME WITHOUT JUSTIFICATION IN THE FORM AND MANNER PRESCRIBED BY THE CORPORATION;

"3) CLAIMS FOR UNAUTHORIZED SERVICES AND PROCEDURES PERFORMED BEYOND ACCREDITATION CAPABILITY OF THE HEALTH CARE INSTITUTION - ANY HEALTH CARE INSTITUTION WHICH PERFORMS HEALTH CARE SERVICES AND PROCEDURES BEYOND ITS AUTHORIZED CAPABILITY, EXCEPT WHEN SUCH SERVICES WERE DONE IN AN EMERGENCY SITUATION TO SAVE LIVES AND WHEN REFERRAL TO A HIGHER CATEGORY PROVIDER IS PHYSICALLY IMPOSSIBLE;

"4) BREACH OF WARRANTIES OF ACCREDITATION - ANY INSTITUTIONAL HEALTH CARE PROVIDER WHO COMMITS ANY BREACH OF WARRANTIES OF ACCREDITATION; AND

"5) OTHER VIOLATIONS - ANY OTHER WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE INSTITUTIONAL HEALTH CARE PROVIDER IN VIOLATION OF THIS ACT WHICH TENDS TO UNDERMINE OR DEFEAT THE OBJECTIVES OF THE NHIP SHALL BE CONSIDERED AS BREACH OF WARRANTIES.

"B)THE FOLLOWING OFFENSES OF INSTITUTIONAL HEALTH CARE PROVIDERS, AFTER DUE NOTICE AND HEARING, SHALL BE PENALIZED WITH SUSPENSION OF ACCREDITATION OF NOT LESS THAN SIX (6) MONTHS AND ONE (1) DAY BUT NOT MORE THAN NINE (9) MONTHS OR REVOCATION OF ACCREDITATION AT THE DISCRETION OF THE CORPORATION AND/OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00):

"1) MISREPRESENTATION BY FURNISHING FALSE OR INCORRECT INFORMATION - ANY HEALTH CARE PROVIDER SHALL BE LIABLE FOR FRAUDULENT PRACTICE WHEN FOR THE PURPOSE OF PARTICIPATION IN THE NHIP OR CLAIMING PAYMENT THEREFROM, IT FURNISHES FALSE OR INCORRECT INFORMATION CONCERNING ANY MATTER REQUIRED BY THIS ACT;

"2) ABUSES AND UNETHICAL PRACTICES - ANY HEALTH CARE INSTITUTION SHALL BE LIABLE FOR THE FOLLOWING ABUSES AND UNETHICAL PRACTICES:

"i) CHARGING OR COLLECTING FROM A MEMBER AN AMOUNT IN EXCESS OF THE BENEFITS INCLUDING THOSE COVERED BY CAPITATION OR GLOBAL BUDGETS FOR PHILHEALTH-COVERED SERVICES AND SUPPLIES WHICH PROHIBITS CHARGING OF OUT-OF-POCKET PAYMENT INCLUDING OUTSIDE PURCHASES OF MEDICINES, SUPPLIES AND HEALTH CARE SERVICES THAT ARE INCLUDED IN THE BENEFIT;

"ii) ENROLLMENT AND/OR RECRUITMENT OF A PERSON FOR MEMBERSHIP IN THE NHIP FOR THE SOLE PURPOSE OF CLAIMING BENEFITS OR PAYMENT OF PREMIUM OF A MEMBER BEFORE PROVIDING HEALTH CARE SERVICES TO HIM/HER, EXCEPT WHEN THE PATIENT OR MEMBER IS ITS EMPLOYEE OR THE OWNER'S RELATIVE WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY; AND

"iii) ALL SUCH OTHER ANALOGOUS ABUSES AND UNETHICAL PRACTICES AS MAY BE DETERMINED BY THE CORPORATION.

"3) OTHER FRAUDULENT ACTS - ANY INSTITUTIONAL HEALTH CARE PROVIDER SHALL ALSO BE LIABLE FOR THE FOLLOWING FRAUDULENT ACTS:

"i) MAKING IT APPEAR THAT THE PATIENT SUFFERED FROM COMPENSABLE ILLNESS OR UNDERWENT A COMPENSABLE PROCEDURE;

"ii) FAILURE OR REFUSAL TO GIVE THE BENEFITS DUE TO QUALIFIED MEMBERS/DEPENDENTS;

"iii) CHARGING QUALIFIED PATIENTS FOR MEDICINES AND/OR SERVICES WHICH ARE LEGALLY CHARGEABLE TO AND COVERED BY THE NHIP;

"iv) FAILURE OR REFUSAL TO REFUND TO THE MEMBER THE PAYMENT RECEIVED FROM THE NHIP WHEN THE HOSPITAL CHARGES AND PROFESSIONAL FEES ARE FULLY PAID IN ADVANCE BY THE MEMBER WITHIN THE PERIOD OF THIRTY (30) DAYS FROM THE DATE OF RECEIPT OF REFUND CHECK FROM THE CORPORATION: *PROVIDED, HOWEVER, THAT IF THE MEMBER FAILED TO GET HIS/HER REFUND DESPITE DUE NOTICE, THE HEALTH CARE INSTITUTION SHALL RETURN SUCH UNCLAIMED REFUND TO THE CORPORATION WITHIN THE PRESCRIBED PERIOD AS MAY BE DETERMINED BY THE BOARD;*

"v) FAILURE OR REFUSAL TO ACCOMPLISH AND SUBMIT THE REQUIRED FORMS IN CONNECTION WITH LETTER IV OF THIS SECTION;

"vi) FAILURE OR REFUSAL TO PROVIDE THE MEMBERS WITH THE REQUIRED FORMS FOR DIRECT FILING OF CLAIMS, BILLING STATEMENTS, OFFICIAL RECEIPTS AND OTHER DOCUMENTS REQUIRED FOR FILING OF CLAIMS; OR

"vii) DELIBERATE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS UNDER THIS ACT.

"c) THE FOLLOWING OFFENSES OF INSTITUTIONAL HEALTH CARE PROVIDERS, AFTER DUE NOTICE AND HEARING, SHALL BE PENALIZED WITH SUSPENSION OF ACCREDITATION OF NOT LESS THAN NINE (9) MONTHS AND ONE (1) DAY BUT NOT MORE THAN TWELVE (12) MONTHS OR REVOCATION OF ACCREDITATION AT THE DISCRETION OF THE CORPORATION AND/OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00):

"1) PADDING OF CLAIMS - ANY INSTITUTIONAL HEALTH CARE PROVIDER WHO, FOR THE PURPOSE OF CLAIMING PAYMENT FROM THE NHIP, FILES A CLAIM FOR BENEFITS WHICH ARE IN EXCESS OF THE BENEFITS ACTUALLY PROVIDED BY ADDING DRUGS, MEDICINES, SUPPLIES, PROCEDURES AND SERVICES;

"2) CLAIMS FOR SERVICES NOT RENDERED AND/OR CONFINEMENTS OF NON-ADMITTED PATIENTS - ANY INSTITUTIONAL HEALTH CARE PROVIDER WHO, FOR THE PURPOSE OF CLAIMING BENEFIT REIMBURSEMENT FROM THE NHIP BY:

"i) MAKING IT APPEAR THAT THE PATIENT IS ACTUALLY CONFINED AND/OR PROVIDED IN THE PHILHEALTH-COVERED SERVICES IN THE HEALTH CARE INSTITUTION/FACILITY; OR

"ii) USING SUCH OTHER MACHINATIONS THAT WOULD RESULT IN CLAIMS FOR SERVICES NOT RENDERED/GIVEN.

"3) EXTENDING THE PERIOD OF CONFINEMENT - THIS IS COMMITTED BY ANY HEALTH CARE PROVIDER WHO, FOR THE PURPOSE OF CLAIMING PAYMENT FROM THE NHIP, FILES A CLAIM WITH EXTENDED PERIOD OF CONFINEMENT BY:

"i) INCREASING THE PERIOD OF ACTUAL CONFINEMENT OF ANY PATIENT;

"ii) CONTINUOUSLY CHARTING ENTRIES IN THE DOCTORS' ORDER, NURSES' NOTES AND OBSERVATION DESPITE ACTUAL DISCHARGE OR ABSENCE OF THE PATIENTS; OR

"iii) USING SUCH OTHER MACHINATIONS THAT WOULD RESULT IN THE UNNECESSARY EXTENSION OF CONFINEMENT.

"4) POST-DATING OF CLAIMS - ANY INSTITUTIONAL HEALTH CARE PROVIDER WHO, FOR PURPOSES OF CLAIMING PAYMENT FROM THE NHIP, FILES A CLAIM FOR PAYMENT OF SERVICES RENDERED NOT WITHIN SIXTY (60) CALENDAR DAYS FROM THE DATE OF DISCHARGE OF THE PATIENT OR SUCH OTHER PRESCRIPTIVE PERIODS AS THE CORPORATION MAY ISSUE BUT MAKES IT APPEAR SO BY CHANGING, ERASING OR ADDING TO THE PERIOD OF CONFINEMENT OR IN ANY MANNER ALTERING DATES SO AS TO CONFORM WITH THE ADOPTED PRESCRIPTIVE PERIOD;

"5) FABRICATION OR POSSESSION OF FABRICATED FORMS AND SUPPORTING DOCUMENTS - ANY INSTITUTIONAL HEALTH CARE PROVIDER WHO IS FOUND PREPARING CLAIMS WITH

MISREPRESENTATION OR FALSE ENTRIES OR TO BE IN POSSESSION OF CLAIM FORMS AND OTHER DOCUMENTS WITH FALSE ENTRIES;

"D) PERIOD TO FILE CLAIMS - ALL CLAIMS FOR REIMBURSEMENT SHALL BE FILED WITHIN A PERIOD OF SIXTY (60) CALENDAR DAYS FROM THE DATE OF DISCHARGE OF THE PATIENT; OTHERWISE, THE CLAIM SHALL BE DENIED: *PROVIDED, HOWEVER,* THAT SUCH PERIOD MAY BE EXTENDED FOR SUCH CAUSES AS MAY BE DETERMINED BY THE CORPORATION.

"E) CRIMINAL LIABILITY - IN ADDITION, A CRIMINAL COMPLAINT SHALL BE FILED AGAINST THE CHIEF EXECUTIVE OFFICER (CEO)/CHIEF OPERATING OFFICER (COO) OR ITS EQUIVALENT OFFICERS, MEDICAL DIRECTOR OR ITS EQUIVALENT OFFICER AND OTHER OFFICERS OF THE ERRING INSTITUTIONAL HEALTH CARE PROVIDER BEFORE THE APPROPRIATE OFFICE OF THE PROSECUTOR FOR VIOLATIONS OF THIS ACT AND/OR THE REVISED PENAL CODE.

II. OFFENSES OF HEALTH CARE PROFESSIONALS

"A) A HEALTH CARE PROFESSIONAL, AFTER DUE NOTICE AND HEARING, SHALL BE PENALIZED WITH SUSPENSION/REVOCATION OF ACCREDITATION OF NOT LESS THAN THREE (3) MONTHS TO THE WHOLE TERM OF ACCREDITATION OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) OR BOTH SUCH FINE AND SUSPENSION OR REVOCATION, AT THE DISCRETION OF THE CORPORATION:

"1) MISREPRESENTATION BY FALSE OR INCORRECT INFORMATION - ANY HEALTH CARE PROFESSIONAL SHALL BE LIABLE FOR FRAUDULENT PRACTICE WHEN, FOR PURPOSES OF PARTICIPATION IN THE NHIP OR CLAIMING PAYMENT FROM THE CORPORATION, FURNISHES FALSE OR INCORRECT INFORMATION CONCERNING ANY MATTER REQUIRED BY THIS ACT;

"2) BREACH OF WARRANTIES OF ACCREDITATION - ANY HEALTH CARE PROFESSIONAL FOUND TO HAVE COMMITTED ANY BREACH OF WARRANTIES OF ACCREDITATION;

"3) ABUSES AND UNETHICAL PRACTICES - ANY HEALTH CARE PROFESSIONAL SHALL BE LIABLE FOR THE FOLLOWING ABUSES AND UNETHICAL PRACTICES:

"i) PERFORMANCE OF PROCEDURES BEYOND THOSE ALLOWED BY THE HEALTH PROFESSIONAL'S QUALIFICATIONS AND TRAINING EXCEPT WHEN UNDER THE DIRECT SUPERVISION OF A QUALIFIED HEALTH CARE PROFESSIONAL;

"ii) CHARGING OR COLLECTING FROM A MEMBER AN AMOUNT IN EXCESS OF THE BENEFITS INCLUDING THOSE COVERED BY CAPITATION OR GLOBAL BUDGETS FOR PHILHEALTH-COVERED SERVICES AND SUPPLIES WHICH PROHIBITS CHARGING OUT-OF-POCKET PAYMENTS INCLUDING OUTSIDE PURCHASES OF MEDICINES, SUPPLIES AND HEALTH CARE SERVICES THAT ARE INCLUDED IN THE BENEFIT;

"iii) ENROLLMENT AND/OR RECRUITMENT OF A PERSON FOR MEMBERSHIP IN THE NHIP WITH THE SOLE PURPOSE OF CLAIMING BENEFITS AND/OR PAYMENT OF PREMIUM OF A MEMBER BEFORE PROVIDING HEALTH CARE SERVICES TO HIM/HER, EXCEPT WHEN THE PATIENT OR MEMBER IS HIS/HER EMPLOYEE OR RELATIVE WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY; AND

"iv) ALL SUCH OTHER ANALOGOUS ABUSES AND UNETHICAL PRACTICES AS MAY BE DETERMINED BY THE CORPORATION.

"4) OTHER FRAUDULENT ACTS - ANY HEALTH CARE PROFESSIONAL SHALL ALSO BE LIABLE FOR THE FOLLOWING FRAUDULENT ACTS:

"i) MAKING IT APPEAR THAT THE PATIENT SUFFERED FROM COMPENSABLE ILLNESS OR UNDERWENT A COMPENSABLE PROCEDURE;

"ii) FAILURE OR REFUSAL TO GIVE THE BENEFITS DUE TO QUALIFIED MEMBERS/DEPENDENTS;

"iii) CHARGING QUALIFIED PATIENTS FOR MEDICINES AND/OR SERVICES WHICH ARE LEGALLY CHARGEABLE TO AND COVERED BY THE NHIP;

"iv) FAILURE OR REFUSAL TO REFUND TO THE MEMBER THE PAYMENT RECEIVED FROM THE NHIP WHEN THE HOSPITAL

CHARGES AND PROFESSIONAL FEES ARE FULLY PAID IN ADVANCE BY THE MEMBER WITHIN THE PERIOD OF THIRTY (30) DAYS FROM THE DATE OF RECEIPT OF REFUND CHECK FROM THE CORPORATION;

"v) FAILURE OR REFUSAL TO ACCOMPLISH AND SUBMIT THE REQUIRED FORMS IN CONNECTION WITH LETTER (iv) OF THIS SECTION;

"vi) FAILURE OR REFUSAL TO PROVIDE THE MEMBERS WITH THE REQUIRED FORMS FOR DIRECT FILING OF CLAIMS: BILLING STATEMENTS, OFFICIAL RECEIPTS AND OTHER DOCUMENTS REQUIRED FOR FILING OF CLAIMS; OR

"vii) DELIBERATE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS UNDER THIS ACT.

"5) OTHER VIOLATIONS - ANY OTHER WILLFUL OR NEGLIGENT ACT OR OMISSION OF A HEALTH CARE PROFESSIONAL IN VIOLATION OF THIS ACT WHICH TENDS TO UNDERMINE OR DEFEAT THE OBJECTIVES OF THE NHIP SHALL BE CONSIDERED AS BREACH OF WARRANTIES.

"B) CRIMINAL LIABILITY - IN ADDITION, A CRIMINAL COMPLAINT SHALL BE FILED AGAINST ERRING HEALTH CARE PROFESSIONALS BEFORE THE APPROPRIATE OFFICE OF THE PROSECUTOR FOR VIOLATIONS OF THIS ACT AND/OR THE REVISED PENAL CODE.

"III. OFFENSES OF MEMBERS

"A) FRAUDULENT ACTS - ANY MEMBER WHO, FOR PURPOSES OF CLAIMING NHIP BENEFITS OR ENTITLEMENT THERETO, SHALL COMMIT ANY OF THE OFFENSES PROVIDED FOR BY THIS ACT, INDEPENDENTLY OR IN CONNIVANCE WITH THE HEALTH CARE PROVIDER, SHALL SUFFER SUSPENSION FROM AVAILMENT OF NHIP BENEFITS FOR NOT LESS THAN THREE (3) MONTHS BUT NOT MORE THAN SIX (6) MONTHS AND/OR A FINE OF FIVE THOUSAND PESOS (P5,000.00).

"B) CRIMINAL LIABILITY - IN ADDITION, A CRIMINAL COMPLAINT SHALL BE FILED AGAINST THE MEMBER BEFORE THE OFFICE OF THE PROSECUTOR FOR THE ABOVEMENTIONED

VIOLATIONS WHICH CARRY A PENALTY OF IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS BUT NOT MORE THAN ONE (1) YEAR.

"IV. OFFENSES OF EMPLOYERS

"A)FAILURE/REFUSAL TO REGISTER/DEDUCT/REMIT THE CONTRIBUTIONS - ANY EMPLOYER WHICH FAILS OR REFUSES TO REGISTER ITS EMPLOYEES OR TO DEDUCT CONTRIBUTIONS FROM THE EMPLOYEE'S COMPENSATION AND/OR TO REMIT THE SAME TO THE CORPORATION SHALL BE PENALIZED WITH IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS AND A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) MULTIPLIED BY THE TOTAL NUMBER OF EMPLOYEES OF THE FIRM.

"Any employer or any officer authorized to collect contributions under this Act who, after collecting or deducting the monthly contributions from his employees' compensation, fails to remit the said contributions to the Corporation within thirty (30) days from the date they become due shall be presumed to have misappropriated such contributions and shall suffer the penalties provided for in Article 315 of the Revised Penal Code.

"B)DEDUCTIONS OF EMPLOYER'S SHARE, DIRECTLY OR INDIRECTLY, FROM THE COMPENSATION OF ITS EMPLOYEES - Any employer who shall deduct directly or indirectly from the compensation of the covered employees or otherwise recover from them THEIR [his]own contribution on behalf of such employees shall be punished by IMPRISONMENT FOR NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS AND a fine [not exceeding] OF FIVE [One] thousand pesos [(P1,000)] (P5,000.00) multiplied by the total number of employees employed by the firm[, or imprisonment not exceeding one (1) year, or both fine and imprisonment, at the discretion of the Court].

"If the act or omission penalized by this Act be committed by an association, partnership, corporation or any other institution, its managing directors or partners or president or general manager, or other persons responsible for the commission of the said act shall be liable for the penalties provided for in this Act and other laws for the offense.

"C) MISAPPROPRIATION OF FUNDS BY EMPLOYEES OF THE CORPORATION - Any employee of the Corporation who receives or

keeps funds or property belonging, payable or deliverable to the Corporation, and who shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence shall permit any other person to take such property or funds wholly or partially, shall likewise be liable for misappropriation of funds or property and shall suffer imprisonment of not less than six (6) years and **ONE (1) DAY BUT** not more than twelve (12) years and a fine of not less than Ten thousand pesos (P10,000.00) nor more than Twenty thousand pesos (P20,000.00). Any shortage of the funds or loss of the property upon audit shall be deemed *prima facie* evidence of the offense.

"D) **CRIMINAL ACTION ARISING FROM A VIOLATION OF THE PROVISIONS OF THIS ACT MAY BE COMMENCED BY THE CORPORATION OR EMPLOYEE CONCERNED, WHERE APPLICABLE, EITHER UNDER THIS ACT OR IN THE REVISED PENAL CODE: PROVIDED, THAT SUCH CRIMINAL ACTION MAY BE FILED BY THE CORPORATION IN THE CITY OR MUNICIPALITY WHERE THE CORPORATION'S OFFICE IS LOCATED IF THE VIOLATION WAS COMMITTED WITHIN ITS TERRITORIAL JURISDICTION OR IN METRO MANILA, AT THE OPTION OF THE CORPORATION.**

"V. CIRCUMSTANCES WHICH AFFECT ADMINISTRATIVE LIABILITY

"A) MITIGATING AND AGGRAVATING CIRCUMSTANCES - THE FOLLOWING CIRCUMSTANCES SHALL AFFECT THE GRAVITY OF THE VIOLATION AND THE LIABILITY OF THE ERRING HEALTH CARE PROVIDER, MEMBER AND EMPLOYER:

"1) MITIGATING CIRCUMSTANCES - THE FOLLOWING CIRCUMSTANCES SHALL MITIGATE THE LIABILITY OF THE RESPONDENT:

"i) VOLUNTARY ADMISSION OF GUILT;

"ii) GOOD TRACK RECORD;

"iii) FIRST OFFENSE; AND

"iv) SUCH OTHER VALID CIRCUMSTANCES AS MAY BE DETERMINED BY THE CORPORATION.

"2) AGGRAVATING CIRCUMSTANCES - THE FOLLOWING CIRCUMSTANCES SHALL AGGRAVATE THE LIABILITY OF THE RESPONDENT:

"i) PREVIOUS CONVICTION OF AN OFFENSE, AS PROVIDED FOR IN THIS ACT;

"ii) CONNIVANCE AND/OR CONSPIRACY WITH AN OFFICER OR EMPLOYEE OF THE CORPORATION TO FACILITATE OR COVER-UP COMMISSION OF THE VIOLATION;

"iii) GROSS NEGLIGENCE; AND

"iv) SUCH OTHER VALID CIRCUMSTANCES AS MAY BE DETERMINED BY THE CORPORATION.

"B) APPLICATION OF CIRCUMSTANCES IN THE IMPOSITION OF PENALTIES:

"1) THE PRESENCE OF MITIGATING CIRCUMSTANCE WITHOUT ANY AGGRAVATING CIRCUMSTANCE SHALL LIMIT THE IMPOSABLE PENALTY TO ITS MINIMUM;

"2) WHEN THERE IS NEITHER MITIGATING NOR AGGRAVATING CIRCUMSTANCE, THE IMPOSABLE PENALTY SHALL BE BETWEEN THE MINIMUM AND THE MAXIMUM OF THE APPLICABLE PENALTY FOR THE OFFENSE COMMITTED, AT THE DISCRETION OF THE CORPORATION. THE SAME SHALL APPLY WHEN BOTH MITIGATING AND AGGRAVATING CIRCUMSTANCE ARE PRESENT; AND

"3) THE PRESENCE OF ANY AGGRAVATING CIRCUMSTANCE WITHOUT THE MITIGATING CIRCUMSTANCE SHALL INCREASE THE PENALTY OF THE OFFENSE TO ITS MAXIMUM.

"VI. COMMON PROVISIONS

"ALL THE OFFENSES MENTIONED HEREIN, REGARDLESS OF CLASSIFICATION BUT SUBJECT TO THE PROVISIONS OF SECTION 44 OF THIS ACT, SHALL BE PENALIZED IN THE FOLLOWING MANNER:

"A) FIRST OFFENSE - SUSPENSION OF ACCREDITATION FOR NOT LESS THAN THREE (3) MONTHS BUT NOT MORE THAN SIX (6) MONTHS AND/OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00);

"B) SECOND OFFENSE - SUSPENSION OF ACCREDITATION FOR NOT LESS THAN SIX (6) MONTHS AND ONE (1) DAY BUT NOT MORE THAN NINE (9) MONTHS AND/OR A FINE OF NOT LESS THAN FIFTY

THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00);

"C) THIRD OFFENSE - PERMANENT REVOCATION OF ACCREDITATION AND A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00).

"ALL PENALTIES FOR OFFENSES COMMITTED BY HEALTH CARE PROVIDERS AND MEMBERS SHALL CARRY WITH THEM DENIAL OF PAYMENT OF CLAIMS IN QUESTION AND/OR REFUND TO THE CORPORATION, IF ALREADY PAID.

"IF THE PENALTY OF SUSPENSION IMPOSED AGAINST A HEALTH CARE PROVIDER EXCEEDS THE VALIDITY OF THE CURRENT ACCREDITATION, THE RENEWAL OR THE RE-ACCREDITATION OF THE LATTER SHALL NOT BE ACTED UPON UNTIL THE FULL TERM OF THE SUSPENSION IMPOSED HAD BEEN SERVED OR LIFTED. FOR THIS PURPOSE, THE PERIOD COVERING THE EXPIRATION OF ACCREDITATION AND THE START OF THE EFFECTIVITY OF THE RENEWAL OR RE-ACCREDITATION SHALL BE CONSIDERED AS PART OR CONTINUATION OF THE SUSPENSION. THE SUSPENSION SHALL BE CARRIED OUT BY THE TEMPORARY CESSATION OF THE BENEFITS OR PRIVILEGES UNDER THE NHIP.

"SHOULD THE AGGREGATE PERIOD OF SUSPENSION TO BE IMPOSED UPON THE PROVIDER ON ACCOUNT OF TWO (2) OR MORE VIOLATIONS EXCEED TWENTY-FOUR (24) MONTHS, THE MAXIMUM IMPOSABLE PENALTY SHALL BE EXACTED.

"IN ALL CASES WHEREIN A DECISION RENDERED AGAINST A HEALTH CARE PROVIDER, THE DEPARTMENT OF HEALTH (DOH), INCLUDING ITS REGIONAL OFFICES, THE PROFESSIONAL REGULATION COMMISSION (PRC), THE PHILIPPINE MEDICAL ASSOCIATION (PMA), THE PRIVATE HOSPITALS ASSOCIATION OF THE PHILIPPINES (PHAP) AND OTHER CONCERNED AGENCIES SHALL BE FURNISHED WITH A COPY OF THE SAME FOR INFORMATION AND APPROPRIATE ACTION.

"A NOTICE OF SUSPENSION FOR THE INFORMATION OF THE PUBLIC SHALL BE POSTED IN CONSPICUOUS PLACES IN THE INSTITUTION CONCERNED INDICATING THE PERIOD OF

SUSPENSION IN SUCH FORM AND MANNER TO BE PRESCRIBED BY THE CORPORATION.

"A HEALTH CARE PROVIDER WHO AT THE TIME OF TRIAL FOR AN OFFENSE ENUMERATED HEREIN SHALL HAVE BEEN PREVIOUSLY CONVICTED BY FINAL JUDGMENT FOR ANY OFFENSE UNDER THIS ACT MAY NO LONGER BE ACCREDITED AS PARTICIPANT OF THE NHIP.

"VII. PROSECUTION OF OFFENSES

"OFFENSES AS HEREIN DEFINED, SHALL BE PROSECUTED IN REGULAR COURTS OF JUSTICE OF COMPETENT JURISDICTION WITHOUT PREJUDICE TO ADMINISTRATIVE ACTION THAT MAY BE INSTITUTED BY THE CORPORATION UNDER EXISTING LAWS.

"VIII. FILING OF OTHER LEGAL ACTIONS BEFORE THE PROPER COURTS

"THE FILING OF AN ADMINISTRATIVE ACTION AGAINST ANY HEALTH CARE PROVIDER, INSTITUTIONAL OR PROFESSIONAL, EMPLOYER, OR MEMBER UNDER THIS ACT IS WITHOUT PREJUDICE TO THE FILING OF FURTHER LEGAL ACTIONS IN THE PROPER COURTS.

"IX. EXECUTION OF PENALTY

"WHEN AN INSTITUTIONAL HEALTH CARE PROVIDER CEASES OPERATION OR AN INDEPENDENT HEALTH CARE PROFESSIONAL STOPS HIS/HER PRACTICE BEFORE SERVING THE SUSPENSION, EXECUTION OF THE PENALTY SHALL BE DEFERRED, TO BE IMPLEMENTED WHEN THE SAME OWNER OR MEDICAL DIRECTOR OPENS OR OPERATES A NEW INSTITUTION IRRESPECTIVE OF THE NAME OR LOCATION, OR WHEN THE HEALTH CARE PROVIDER PRACTICES AGAIN: *PROVIDED, THAT* THE DISPOSITIVE PART OF THE RESOLUTION REQUIRING PAYMENT OF FINES, REIMBURSEMENT OF PAID CLAIM OR DENIAL OF PAYMENT SHALL BE IMMEDIATELY EXECUTORY.

"A SPOUSE OR RELATIVE WITHIN THE FOURTH DEGREE OF CONSANGUINITY OR AFFINITY OF THE OWNER, CHIEF OPERATING OFFICER OR ITS COUNTERPART OFFICER, MEDICAL DIRECTOR OR

ITS COUNTERPART OFFICER AND OTHER OFFICERS SHALL BE PRESUMED TO BE THE ALTER EGO OF SUCH OWNER OR MEDICAL DIRECTOR FOR THE ABOVE PURPOSES.

"DESPITE THE CESSATION OF OPERATION OR PRACTICE OF A HEALTH CARE PROVIDER WHILE THE COMPLAINT IS BEING HEARD, THE PROCEEDING SHALL CONTINUE UNTIL RENDITION OF JUDGMENT FOR PURPOSES OF DETERMINING FUTURE RELATIONSHIPS BETWEEN THE CORPORATION AND THE ERRING HEALTH CARE PROVIDER.

"X. APPLICABILITY OF THESE PROVISIONS

"COMPLAINTS ALREADY FILED WITH AND UNDER DELIBERATION BY APPROPRIATE BODIES OF THE CORPORATION PRIOR TO THE EFFECTIVITY OF THIS ACT SHALL BE GOVERNED IN ACCORDANCE WITH THE PREVIOUS ACTS AND THEIR IMPLEMENTING RULES AND REGULATIONS.

"XI. IMPOSITION OF INTERESTS AND SURCHARGES

"THE CORPORATION MAY IMPOSE INTERESTS AND SURCHARGES OF THREE PERCENT (3%) PER MONTH OR AT ANY RATE AS MAY BE FIXED BY THE CORPORATION IN CASE OF ANY DELAY IN REMITTANCE OF CONTRIBUTIONS WHICH ARE DUE WITHIN THE PRESCRIBED PERIOD. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, THE CORPORATION MAY ALSO COMPROMISE, WAIVE OR RELEASE, IN WHOLE OR IN PART, SUCH INTERESTS OR SURCHARGES UNDER SUCH VALID TERMS AND CONDITIONS IT MAY PRESCRIBE.

"XII. LEGAL ASSISTANCE AND BENEFITS

"ANY OFFICER, EMPLOYEE, OR AUTHORIZED REPRESENTATIVE OF THE CORPORATION WHO MAY BE SUED BY ANY HEALTH CARE PROVIDER/MEMBER/STAKEHOLDER OR ANY OTHER PERSON/ENTITY, IN CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES AND OBLIGATIONS UNDER THE NHIP MAY BE ENTITLED TO SUFFICIENT LEGAL ASSISTANCE TO BE PROVIDED BY A COMPETENT COUNSEL AND ATTORNEY'S FEES UNDER SUCH TERMS AND CONDITIONS AS MAY BE PRESCRIBED BY THE BOARD.

"XIII. OTHER VIOLATIONS

"All other violations [involving funds] of the **PROVISIONS OF THIS ACT OR OF THE RULES AND REGULATIONS PROMULGATED BY THE** Corporation shall be **PUNISHED BY IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS OR A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) NOR MORE THAN TWENTY THOUSAND PESOS (P20,000.00), OR BOTH, AT THE DISCRETION OF THE COURT** [governed by the applicable provisions of the Revised Penal Code or other laws, taking into consideration the rules on collection, remittances, and investment of funds as may be promulgated by the Corporation]."

SEC. 8. *Implementing Rules and Regulations.* – Within one (1) year from the approval of this Act, the Corporation shall promulgate a new implementing rules and regulations which shall be published in at least two (2) newspapers of general circulation.

SEC. 9. *Separability Clause.* – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions which are not affected thereby shall continue to be in full force and effect.

SEC. 10. *Repealing Clause.* – All laws, issuances or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation

Approved,