

Republic of the Philippines

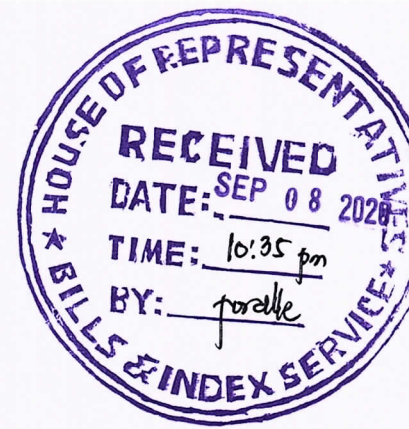
HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

EIGHTEENTH CONGRESS

Second Regular Session

House Bill No. 7612



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

"Corruption is paid by the poor." — Pope Francis.

If there will be a ranking of the most controversial Government-Owned-and-Controlled-Corporations (GOCCs), it will not be a surprise if the Philippine Health Insurance Corporation (Philhealth) will be on top of the list. This is because of the long history of alleged corruption and mismanagement of public funds by its officials, with such funds supposed to be dedicated for the delivery of health services to every Filipino. The controversies surrounding Philhealth date as far back as during the days of its predecessor, Medicare.

As early as 1999, Philhealth was already in a deep mess when around 50,000 suspected fraudulent claims were reviewed, revealing in the process that these were "ghost claims" or claims not related to any real claimant or patient. Further, there was also a finding that there existed the *modus operandi* of "*hakot ng pasyente*" whereby patients whose condition do not require confinement will be confined in order to file a claim with Philhealth.

In 2015, PhilHealth was again in deep waters in relation with the cataract surgery scam. Investigations showed that at least six (6) facilities made Philhealth members undergo cataract surgery, although such surgery is not necessary. This unnecessary procedure translated to substantially higher claims against Philhealth. To make things worse, these procedures were performed even without the informed consent of the patients, thus jeopardizing their safety.

In 2017, another anomaly involving Philhealth was discovered. This time involving the Php 627,293.04 worth of government funds that were spent on accommodations, flights, and terminal fees by former PhilHealth interim president Celestina Ma. Jude de la Serna. These expenses were incurred despite the fact that Philhealth was already incurring losses in its operations at that time.

In 2019, the state-run insurance agency was again rocked by another controversy involving WellMed Dialysis & Laboratory Center Corporation. Investigations revealed that some claims made by WellMed against Philhealth

amounting to millions of pesos involved “ghost patients” or patients who are already dead, yet still reported by WellMed to have undergone dialysis in its center.

Today, Philhealth is again involved in what can be called as the **“mother of all scams”**, facilitated through the Interim Reimbursement Mechanism (IRM) and other insidious schemes which include the rampant “upcasing”. I call this as the mother of all scams considering that these corrupt practices which robbed the Filipino people of at least fifteen billion pesos worth of public funds were perpetuated at a time when we are in the middle of the worst health crisis to hit the country, the COVID-19. The investigations in aid of legislation conducted by the House of Representatives and the Senate revealed that these schemes seem to have been “institutionalized” or well-engrained within the culture of Philhealth, save for some officials and employees who continue to render sincere and honest services to its members.

Considering the above disquisitions, it is apparent that a band aid solution like a simple leadership change at Philhealth will not save the day for the beleaguered GOCC; rather, a radical change must be taken. It is true that the President and CEO, as well as the Members of its Board of Trustees, are expendable. They can be changed at the discretion of the appointing authority. However, the officials who really run Philhealth remain in their office despite repeated allegations of corruption against them. At the most, they are only reassigned, or in rare instances, they are preventively suspended for a period of not more than six (6) months when a case is filed against them. They cannot be immediately removed because their security of tenure is protected under the law. The only way they can be removed is when they are convicted after a protracted hearing, thereby enabling them to continuously plunder the resources of Philhealth.

Whenever the President and CEO of Philhealth is removed, it is a victory for its inept and corrupt officials. The new President and CEO will have to solicit their support and loyalty, lest his programs will not succeed, or may not even be implemented. Thus, the same officials alleged to be corrupt are simply recycled, and in some instances, even get rewarded, and become more entrenched within Philhealth. Any case previously filed against them gets forgotten since pursuing it does not become the priority of the new appointee. A classic example is the recent promotion of at least four Philhealth officials within a period of less than one year since being implicated in the Wellmed dialysis scam which is a clear proof that there is internal manipulation within Philhealth to retain personnel with questionable character. Records would reveal that it was no less than the Board of the state insurer which approved these promotions, notwithstanding their involvement in the above-mentioned scam.

There were also findings during the hearings that some Philhealth officials are occupying sensitive positions despite their lack of qualification. These officials were accommodated through amendments in the job qualifications, designed to fit the existing qualifications of those who are favored to occupy these extremely critical positions. Unfortunately, the discoveries made during the hearings regarding Philhealth’s operations may just be the tip of the iceberg, considering that thirteen (13) officials of Philhealth were recently suspended by the Office of the Ombudsman

on charges of dishonesty, oppression, grave misconduct, or neglect on the performance of duty, as provided under Sec. 24 of the Ombudsman Act.

The problem of corruption in Philhealth needs to be urgently addressed particularly with the implementation of the Universal Health Care (UHC) where all Filipinos are financially covered. Under the law, the benefits to be extended to all Filipinos shall be improved significantly. Simultaneous with the coverage of all Filipinos and the increase in benefits is the increase of funds going into Philhealth which will be coming from various sources to ensure that such noble objectives of the law shall be realized. Much of these increases in Philhealth funds will be coming from the increase in premiums of all contributing members which is expected to go to as high as 5% of a member's basic monthly salary. In fact, at the moment, Philhealth is among the biggest GOCCs that is in-charge of managing an average of one hundred seventeen billion pesos (P117B) of annual revenue, with the revenue in 2019 hitting an all-time high of P146,435,027,872. This amount will continue to increase and double as the UHC is fully implemented. It is crucial then that the funds of Philhealth will only be managed by officials with proven integrity and competence.

Thus, it is respectfully proposed that Philhealth shall be reorganized to ensure that the noble aims of the UHC Law will be realized. It is further necessary that a performance-based retention policy shall be employed to ensure that non-performing and underperforming officers shall be automatically removed from the service, including those who will be involved in irregular transactions or conduct. To further improve productivity and efficiency within the organization and revitalize its operations, it is hereby further proposed that the compulsory retirement age for Philhealth officers be lowered to sixty years, while according those who will be affected with a reasonable retirement package that will enable them to live comfortably as they ride off into the sunset.

As a measure to halt the financial frauds at Philhealth and to make it more efficient, it also hereby proposed that the state insurer be removed as an attached agency of the DOH, and instead be transferred to the Department of Finance (DOF). This proposal considers the fact that Philhealth is State-insurance corporation. The expertise of the officials from the DOF is expected to turn things around for the troubled GOCC.

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



RON P. SALO
KABAYAN Party List

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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EIGHTEENTH CONGRESS
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AN ACT

REORGANIZING THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH), PLACING IT UNDER THE DEPARTMENT OF FINANCE AS AN ATTACHED AGENCY, INSTITUTING A PERFORMANCE-BASED RETENTION POLICY FOR ITS OFFICERS, AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “PhilHealth Reorganization and Performance-Based Retention Act.”

SEC. 2. Declaration of Policy. – It is the policy of the State to promote, enhance and ensure efficiency, economy and effectiveness in its agencies, as well as transparency, accountability and integrity in its officials, primarily with its national health insurance program implemented by the Philippine Health Insurance Corporation (Philhealth). Towards this end, the Sate shall:

- a. Undertake to reorganize Philhealth to allow the state insurer to effectively fulfill its mandate under R.A. 11223 or the Universal Health Care (UHC) Law;
- b. Implement a performance-based retention policy to promote efficiency in its operations and strengthen accountability among its officers; and
- c. Employ and maintain only those officers who are competent and can be entrusted with the responsibility of managing the funds of Philhealth to achieve the noble objectives of the UHC Law.

SEC. 3. Reorganization of Philhealth. – Philhealth is hereby reorganized to ensure that the noble objectives of the UHC Law are fully realized; Provided, that its Board of Trustees shall be retained, including all its powers and functions; Provided, further, that Philhealth is hereby transferred from the Department of Health to the Department of Finance of Health as an attached Government-Owned and Controlled Corporation; Provided, finally, that the Secretary of Finance shall be the ex-officio Chairperson of the Board, with the Secretary of Health as Vice-Chairperson.

SEC. 4. Committee on Philhealth Reorganization. – A Committee on Philhealth Reorganization is hereby created composed of the Secretary of the Department of Finance as Chair, the Secretary of Health as Vice-Chair, and the Secretary of the Department of Budget and Management, the Chair of the Governance Commission for GOCCs, the Chair of the Civil Service Commission, and two (2) additional representatives from the private sector with known expertise and track record in the field of Organizational Development (OD) as members. The two (2) representatives from the private sector shall be appointed by the President of the Philippines. The representatives from the private sector shall be entitled to per diem allowances as approved by the Committee.

SEC. 6. Functions of the Committee on Philhealth Reorganization. – The Committee on Philhealth Reorganization shall have the following functions:

- a. Prepare and approve the new organizational structure of Philhealth within six (6) months from the approval of this Act;
- b. Set the qualification standards of Philhealth for managerial positions or higher; and
- c. Institute a performance-based retention policy for all Philhealth officials occupying managerial positions or higher.

The new organizational structure of Philhealth, the qualification standards and the performance-based policy shall be submitted by the Committee to the Philhealth Board within six (6) months from the approval of this Act. The Philhealth Board has two (2) years from submission by the Committee on Philhealth Reorganization to fully implement the new organizational structure.

SEC. 7. Performance-Based Retention Policy. – The rules and regulations on performance-based retention policy to be issued shall primarily include the following:

- a. Substandard performance or under-performance;
- b. Neglect in the performance of duty;
- c. Findings or allegations of fraud and corruption within Philhealth, or specific offices or officials; and
- d. Other analogous acts not involving serious infractions or violations of law.

SEC. 7. Key Performance Indicators. – The performance of the Philhealth officers covered under this Act shall be evaluated based on the following key performance indicators:

- a. Social Impact
 - i. Members' satisfaction on the benefits and services of Philhealth.

- ii. Members' satisfaction on their experiences in Philhealth-accredited facilities while availing of services.
- iii. Improvement of benefits and services being given to the members, without impairing the actuarial life.

b. Finance

- i. Achievement of collection targets.
- ii. Increase in Philhealth's total assets.
- iii. Sound financial ratios.

c. Stakeholders

- i. Responsiveness in providing assistance to members and health care providers.
- ii. Timely processing of the claims of members and accredited healthcare providers.
- iii. Addressing the concerns of members.

d. Internal process

- i. Integrity of internal records.
- ii. Proper liquidation of cash advances in accordance with the rules and regulations issued by the Commission on Audit.
- iii. Satisfaction of all statutory liabilities, including the payment of all taxes due to the Government.
- iv. Submission and execution of concrete and time-bound action plans for addressing Notices of Disallowances and Audit Observation Memoranda from the Commission on Audit, if any.

SEC. 8 Qualification Standards of the Philhealth Officials. – To ensure that only those who are qualified will be appointed, the said Qualification Standards (QS) must be consistent with the Competency-Based Recruitment and Qualifications Standards of the Civil Service Commission and must set forth the minimum requirements comprising of:

- a. Educational attainment;
- b. Required eligibility;
- c. Training; and
- d. Related work experience.

SEC. 9. Appointments of Philhealth Officials. – All Philhealth officers occupying managerial positions or higher as defined under the new organizational structure shall be appointed by its President and Chief Executive Officer, with the concurrence of the Board of Trustees, and subject to the pertinent guidelines issued by the Civil Service Commission.

SEC.10. Performance Evaluation. — The performance of the Philhealth officers covered under this Act shall be evaluated twice in any given year. The first evaluation shall cover the period from January to June, while the second evaluation shall cover the period from July to December. The rating obtained for the two periods shall be combined and shall become the basis for the officer's annual performance rating. An officer covered under this Act who fails to obtain an above average annual performance rating shall automatically be removed from service.

SEC. 11. Compulsory Separation or Retirement and Corresponding Benefits. – A Philhealth officer covered under this Act shall be automatically retired and given the corresponding benefits:

- a. Upon attaining sixty (60) years of age or upon accumulation of thirty (30) years of satisfactory service, whichever is earlier. That such Philhealth officer shall be allowed to complete thirty (30) years of service but not beyond his sixtieth (60th) birthday; Provided, however, that such officer compulsorily retiring by age shall have rendered at least twenty (20) years of satisfactory service; and Provided finally, that the employment of the concerned Philhealth officer may be extended for a period of one (1) year by the President and CEO of Philhealth, upon approval of the Board of Trustees. The extension may be renewed repeatedly, provided the total length of extension shall not exceed five (5) years. The retired employee shall receive a separation gratuity equivalent to one (1) month of base pay of the salary grade to which he or she holds at the time of retirement for every year of service.
- b. When such officer has been compulsorily separated from the Philhealth under Section 10 hereof, he or she shall receive a separation gratuity equivalent to one (1) month of base pay of the salary grade to which he or she holds at the time of separation for every year of service

The amount to be given to the retired or separated employee shall be in addition to any amount the official shall receive or is entitled from the Government Service Insurance Service (GSIS).

SEC. 12. Separation Incentives. – All covered employees of Philhealth shall have the option to retire or be separated from government service prior to the implementation of the new organizational structure of Philhealth. In which case, all those who opted to retire or be separated from Philhealth shall be entitled to the following benefits, in addition to retirement or separation benefits under existing laws:

Government Service	Rates
First 20 years	1.00 x BMP* x No. of years

20 years and 1 day to 30 years	1.25 x BMP x No. of years
30 years and 1 day and above	1.50 x BMP x No. of years

*Basic Monthly Pay (BMP)

SEC. 13. Transitory Provisions. – All permanent employees of Philhealth with appointments below managerial positions as defined in the new organizational structure shall be retained unless they avail of the separation incentives under Sec. 9 hereof.

All employees holding managerial positions shall remain until they are officially informed in writing by the President and CEO that their position is no longer necessary as a result of the reorganization, or an officer is already appointed to such position based on the new organizational structure; Provided, that the Board of Trustees is given a maximum of two (2) years from the approval Philhealth's new organizational structure to fully implement the required reorganization; Provided, further, that officers who were not issued with a new appointment under the new organizational structure within the two-year period are deemed separated from the service; and Provided, finally, that qualified officials may be considered for appointment under the new organizational structure.

SEC. 14. Automatic Cessation of the Committee on Philhealth Reorganization. – Upon submission of its final output to Philhealth's Board under Section 6 hereof, the Committee on Philhealth Reorganization shall cease to exist. Thereafter, the power to amend, modify, or revise the qualification requirements for managerial positions or higher at Philhealth, and the performance-based retention policies that were adopted shall be exercised by the Board of Trustees of Philhealth; Provided, that any amendment, modification, or revision thereto, shall be published in the Official Gazette or in at least two (2) newspapers of general circulation before it becomes effective.

SEC. 15. Appropriation. –The amounts necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 16. Separability Clause. – Any portion or provision of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying the other portions or provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

SEC. 17. Repealing Clause. – The pertinent provisions of the following laws are hereby amended accordingly:

- a. Section 14 of Republic Act No. 7875, otherwise known as the "National Health Insurance Act of 1995", as amended by Republic Act No. 9241 and Republic Act No. 10606; and
- b. Section 13 (b) of Republic Act No. 11223, otherwise known as the "Universal Health Care Act".

All other laws, decrees, executive orders and rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 18. Implementing Rules and Regulations. – The Committee on Philhealth Reorganization created under Section 4 of this Act shall issue the Implementing Rules and Regulations (IRR) within ninety (90) days from the effectivity of this Act. The IRR to be issued shall include the necessary checks and balances that will prevent the commission of fraud within Philhealth. The Committee may call on other government agencies, including the Government Service Insurance System (GSIS), to provide advice in crafting the IRR.

SEC. 19. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or any two (2) newspapers of general circulation in the Philippines.

Approved.