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Sangguniang Panlalawigan
Province of Leyte
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Republic of the Philippines
PROVINCE OF LEYTE

PROVINCIAL LEGAL OFFICE

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MEMORANDUM FOR THE HONORABLE MEMBERS OF THE SANGGUNIANG PANLALAWIGAN

SUBJECT : PROPOSED ORDINANCE NO. 2026-05 SERIES OF 2026 ENTITLED "AN ORDINANCE INSTITUTIONALIZING THE PROVINCIAL PHILHEALTH PROFESSIONAL FEE TRUST FUND SYSTEM OF THE PROVINCE OF LEYTE, PROVIDING FOR ITS ADMINISTRATION, POOLING, ALLOCATION, UTILIZATION, MANAGEMENT, DISTRIBUTION, AND INCENTIVE PROGRAM IN ALL THE HOSPITALS AND FACILITIES OWNED AND MANAGED BY THE PROVINCIAL GOVERNMENT OF LEYTE, AND FOR OTHER PURPOSES."

DATE : July 7, 2026

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I. LEGAL ANTECEDENTS

Section 35, Art. VIII, R. A. No. 7875, otherwise known as the "National Health Insurance Act of 1995", as amended by R. A. No. 9241, states:

*"**Fee-for-service payments** may be made separately for **professional fees** and hospital charges, or both, **based on arrangements with health care providers**. x x x. Fees paid for professional services rendered by salaried public providers shall be allowed to be retained by the health facility in which services are rendered and be pooled and distributed among health personnel. Charges paid to public facilities shall be allowed to be retained by the individual facility in which services were rendered and for which payment was made. **Such revenues shall be used to defray operating costs other than salaries, to maintain or upgrade equipment, plant or facility, and to maintain or improve the quality of service in the public sector.**"*

The Local Chief Executive (LCE) issued an **Executive Order No. 11-06** dated December 28, 2011, entitled, "PhilHealth Insurance "Trust Fund" Distribution in All Hospitals Administered and Managed by the Provincial Government of Leyte."

"x x x

WHEREAS, Item N, Section 52, Rule VIII, "Public health care institutions shall retain charges paid for the use of facilities. Such revenues shall be kept in a trust fund and shall be used to defray operating costs to maintain or upgrade equipment,

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plant or facility and to maintain or improve the quality of service in the public sector except for remuneration of personnel services.

x x x."

The salient features of EO 11-06 dated December 28, 2011, are as follows:

- PF as a Trust Fund (Sec. 7 of the EO);
- **allocation scheme allocating 80% for medical and non-medical personnel and 20% as Provincial Health Development Fund (PHDF)** (Sec. 8 of the EO);
- **disbursement of the 20% PHDF "at the discretion"** of the LCE (Sec. 8(2, 10 and 11) of the EO), such as;

  a. Development of PhilHealth members Identification and Hospital Claims System;

  b. Acquisition of Materials and Equipment for PhilHealth Hospital claims System;

  c. Monitoring of PhilHealth Claims;

  d. Implementation and Monitoring of PhilHealth Claims Incentive;

  e. Hiring of additional personnel to sustain the PhilHealth Members Identification and Hospital Claim System;

  f. Hiring of additional hospital staff to improve the services of the hospital;

Specifically, verification at Provincial Accounting Office the subject professional fees are treated, as a TRUST FUND with the Account Name – Other Payables, Code PF 29-999-990.

Sec. 34-A, R. A. No. 10606, otherwise known as the "National Health Insurance Act of 2013", states:

*"**Fee-for-service payments** – payments made by the Corporation for **professional fees** or hospital charges, or both, **based on arrangements with health care providers.** This fee shall be based on a schedule to be established by the Board which shall be reviewed periodically but hot less than every three (3) years;*

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Implementing Rules and Regulations of R. A. No. 11223, otherwise known as "Universal Health Care Act, state:

Section 21. Income Derived from PhilHealth Payments.

21.1. All income derived from PhilHealth payments of LGU-owned and managed health offices, facilities, and services shall accrue to the SHF to be allocated by the LGUs exclusively for the operations and improvement of the province-wide and city-wide health systems.

21.2. PhilHealth payments shall be credited to the annual regular income (ARI) of the provinces, cities, and municipalities, subject to the SHF guidelines.

DOH-DBM-DOF-DILG-PhilHealth Joint Memorandum Circular 2021-0001, dated June 13, 2021, GUIDELINES FOR THE UTILIZATION OF SHF:

R. Special Health Fund (SHF) - pool of financial resources at P/CWHS intended to finance x x x, and incentives for all health workers.

V. Fund Classification - deemed automatically appropriated for health expenditure.

VI. Management of SH Fund - Provincial Health Board responsible for the management thereof.

C. Allowable Expenses Chargeable to SHF:

6. Incentives for all Health Workers, allocation mechanisms shall be decided upon by the Health Board.

DOH Administrative Order No. 2016-0033 as reiterated and clarified by **Department Memorandum No. 2026-0245**, dated May 12, 2026, prescribes the General Guidelines on the Retention and Distribution of PHIC PF as "Pooled Funds" in Government Hospitals in Accordance with PHIC All Case Rate Policy. The salient features state, among others, to wit:

- 50% for Doctors
- 50% for non-physician health workers
    - COMPULSORY and BINDING upon all DOH and government hospitals as reiterated and clarified by Department Memorandum No. 2026-0245 dated May 12, 2026.
- HCI's authority to determine the manner and frequency of distribution;
- Documentation of Compliance.
    - COMPLIANCE of the AO part of the accreditation and licensing requirement x x x.

As a backdrop, the LCE issued **EO No. 09-04-2018** dated September 20, 2018, ordering the GRANT of one-time Performance Incentive Bonus to the members of the Provincial Hospital Committee, Provincial Hospital Monitoring Team, and the Chiefs of Hospitals, all of the Province of Leyte, CHARGEABLE to the PhilHealth Trust Fund for Professional Fee share of the Provincial Government of Leyte.

However, the aforesaid EO, was REPEALED by EO No. 09-04-2018 dated August 24, 2022.

II. MATTERS FOR CONSIDERATION

IS THE PHILHEALTH PROFESSIONAL FEES CONSIDERED A TRUST FUND OR REGULAR INCOME?

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Relevant to the foregoing are the following:

Section 35, Art. VIII, R. A. No. 7875, otherwise known as the "National Health Insurance Act of 1995", as amended by R. A. No. 9241, states in part:

"x x x. Charges paid to public facilities x x x. Such revenues shall be used to defray operating costs other than salaries, to maintain or upgrade equipment, plant or facility, and to maintain or improve the quality of service in the public sector."

Said legal pronouncement was echoed in one of the WHEREAS clauses of Executive Order No. 11-06 dated December 28, 2011, entitled, PhilHealth Insurance "Trust Fund" Distribution in All Hospitals Administered and Managed by the Provincial Government of Leyte, and cemented by the Provincial Accounting Office as a TRUST FUND with the Account Name – Other Payables, Code PF 29-999-990.

Sec. 34-A, R. A. No. 10606, otherwise known as the "National Health Insurance Act of 2013", slightly amended Sec. 35, Art. VIII, R. A No. 7875 as amended by R. A. No. 9421, but retained the last sentence, states:

"All payments for professional services x x x. Such revenues shall be used to primarily defray operating costs other than salaries, to maintain or upgrade equipment, plant or facility, and to maintain or improve the quality of service in the public sector."

However, with the recent enactment of **R. A. No. 11223**, otherwise known as "Universal Health Care Act, as implemented, among others, by

JMC 2021-0001 dated January 13, 2021, and taking into consideration Sec. 34-A, R. A. No. 10606, as implemented among others, by DOH Administrative Order No. 2016-0033 as reiterated and clarified by Department Memorandum No. 2026-0245 dated May 12, 2026.

In the light of the foregoing, we **DEFER** it to the Provincial Accounting Office, who has the technical expertise, to determine as to what actual accounting treatment insofar as the PhilHealth Professional Fees "Pooled Fund", is concerned.

IS THE INSTITUTIONALIZATION OF THE PROVINCIAL PHILHEALTH PROFESSIONAL FEE TRUST FUND AND ITS SYSTEM OF ADMINISTRATION AND DISTRIBUTION NECESSARY?

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Again, we **DEFER** it to the wisdom of the Sangguniang Panlalawigan as to the necessity, if any, of enacting an Ordinance for the purpose above stated, as long as it is in accord with the provisions of the following:

a. R. A. No. 7875, otherwise known as the "National Health Insurance Act of 1995", as amended by R. A. No. 9241;

b. R. A. No. 10606, otherwise known as the "National Health Insurance Act of 2013";

c. Implementing Rules and Regulations of R. A. No. 11223, otherwise known as "Universal Health Care Act;

d. DOH-DBM-DOF-DILG-PhilHealth Joint Memorandum Circular 2021-0001 dated June 13, 2021;

e. DOH Administrative Order No. 2016-0033 dated June 30, 2016, as reiterated and clarified by Department Memorandum No. 2026-0245 dated May 12, 2026, and;

IS THE USE OF A PORTION OF THE PROVINCIAL PHILHEALTH PROFESSIONAL FEE TRUST FUND, IF ANY, INTENDED FOR MANAGEMENT SHARE, PERFORMANCE-BASED INCENTIVE, PERFORMANCE AND RENEWAL INCENTIVE, AND SPECIAL SERVICE INCENTIVE JUSTIFIABLE?

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The proposed Ordinance seeks to institutionalize, among others, by:

1. Establishing a Provincial PhilHealth Professional Fee Trust Fund (Section 9);

2. Classify the Provincial PhilHealth Professional Fee Trust Fund as Continuing Special Trust Fund (Section 10);

3. Allocating at 80% (Section 11, A) [as PF and Incentive to qualified health workers] and 20% (Section 11, B) [as Provincial PhilHealth Professional Fee Development Fund)];
   - Part of the 20%(Section 11, B) as Incentive Program;

4. Utilization of Provincial PhilHealth Professional Fee Trust Fund (Section 12 in relation to (Section 11, B);

5. Eligibility for the Incentive (Section 13);

6. Funding and Compliance Requirement (Section 14);

   6.1. PORTION of Provincial PhilHealth Professional Fee Trust Fund to be utilized for grant of Management Share, Performance-Based Incentive, Performance and Renewal Incentive, and Special Service Incentives (Section 14, A, in relation with Section 11, B)

   6.2. ALLOCATION of Management Share to the Provincial Health Officer II, the Ad Hoc Committee and Hospital Monitoring Team - not exceeding 10% of Development Fund (Section 14, B in relation with Section 11, B);

   6.3. Performance-Based Incentive for Provincial Ad Hoc Committee, Monitoring Team Members and Chief of Hospitals (Section 14, C in relation with Section 11, B);

   6.4. Performance and Renewal Incentive for PRC-Licensed Job Order Personnel (Section 14, D in relation with Section 11, B);

   6.5. Medical and Surgical Team Incentive (Section 14, E in relation with Section 11, B);

   6.6. Incentive for Surgeons, OB-Gyne, and Anesthesiologist (Section 14, F in relation with Section 11, B);

6.7. Incentive for Visiting Consultants (Section 14, G in relation with Section 11, B);

6.8. Incentive for Personnel Assigned to PhilHealth Claims Processing and Related Support Services (Section 14, H in relation with Section 11, B);

7. Provincial Health Ad Hoc Committee and Hospital Monitoring Team as Oversight and Monitoring Body (Section 16);

8. Source of Fund [PhilHealth Professional Fees Reimbursements] (Section 17);

The intent of the proposed ordinance is shown in the following:

WHEREAS, there is a need to institutionalize a uniform policy governing the administration, allocation, utilization, management, and distribution of hospital trust funds derived from PhilHealth reimbursements to ensure transparency accountability, efficiency, and equitable distribution among all provincial hospitals;

WHEREAS, it is the policy of the Provincial Government of Leyte to strengthen its hospitals, improve health service delivery, modernize hospital systems, support hospital development, and provide lawful and equitable incentive to deserving health workers and personnel who contribute to the efficient operation of the provincial hospital;

The legislative innovation is laudable, however, in the grant of any allowance, bonus, or incentive to LGU personnel, there must be a specific enabling policy or circular issued by the Department of Budget and Management (DBM), as well as a corresponding local ordinance. The former issuance sets forth, among others, the eligibility, maximum allowable rates, and procedural guidelines for each benefit. The latter issuance, authorizes the payout thereof through an appropriation or supplemental budget subject to the availability of funds and personnel services cap.

Enlightening is the case of *Bayron vs. Commission on Audit, G. R. No. 253127, November 29, 2022, En Banc.* The controversy involves the establishment of the Early & Voluntary Separation Incentive Program (EVSIP) of the Puerto Princesa City Government (PPCG) through an Ordinance No. 438 and Resolution No. 850-2010 enacted by the Sangguniang Panlungsod of Puerto Princesa City. The Commission on Audit disallowed the payment benefits as it partakes of the supplementary/augmenting nature of EVSIP, since it is to be paid on top of other benefits under the local or national program, including but not limited to GSIS benefits which is beyond the mandate of the existing laws. Appeal of the disallowance was denied by the COA En Banc and forward the case records to the Office of the

Ombudsman for proper investigation and case buildup. Hence, Mayor Bayron, et. al., filed a Petition before the Supreme Court.

The Supreme Court, En Banc, ruled that the Ordinance and the Resolution covering the EVSIP are *ultra vires* and contrary to the explicit proscription of Commonwealth Act No. 186, as amended by Republic Act No. 4968, due to the EVSIP's natures as a separate, parallel, and supplementary early retirement plan for PPCG's officials and employees. *There is no express exception for the local government units from the general provisions of Commonwealth Act No. 186, and there is not even an enabling law providing for an LGUs to have their own independent incentive package plans.* Thus, affirming the assailed COA decision.

Undaunted, Bayron, et. al., filed a Motion for Reconsideration arguing that: *1. The COA's Disallowance constitutes a collateral attack to the subject Ordinance and Resolution; 2. The EVSIP is actually a temporary one-time adjunct of PPCG's planned reorganization with validity of two and a half years - thus, not a supplementary early retirement; 3. invocation of good faith.*

The Court's Resolution dated February 27, 2024, resolved the issues in seriatim.

On the first issue, the Supreme Court cited *Abella vs. Commission on Audit Proper, G. R. No. 238940, April 19, 2022*, in that case, the Sangguniang Panlungsod of Butuan enacted an appropriation ordinance for extraordinary and miscellaneous expenses for the utilization of certain Butuan City officials (Mayor, Vice-Mayor, and SP/Government Department Heads). The designation of the recipient was made *sans* authorization from the DBM. The ordinance was disapproved by the DBM due to the prohibition under RA. 7160 against appropriations similar to discretionary funds of the LCE but separate from the LGU budget.

In ruling, it declared that the EME appropriations and discretionary funds have the same purpose, i. e., to have an available source of funds for certain expenses in relation to the discharge of official functions which are not covered by the regular budget. Thus, separate amounts appropriated in the local budget ordinance are patent circumventions of the limitations under Section 325(h) of the LGC - which prohibits the appropriation of a separate amount of discretion other than the 2% allocation for the LCE's discretionary fund.

The Court went further by declaring that petitioner cannot rely on the principle of local autonomy to validate the disbursement. *Fiscal decentralization- as an aspect of local autonomy - does not signify the absolute freedom of the LGUs to create their own sources of revenue and to spend their revenues unrestrictedly or upon their individual whims and caprices* citing Mandanas vs. Executive Secretary, 835 Phil 97, 148 (2018) [Per J.

Bersamin, En Banc]. Thus, notwithstanding autonomy, local appropriations and expenditures are still under the supervision of the President, **THROUGH THE DBM**, as well as the authority of the COA under its plenary auditing power, to ensure compliance with laws and regulations.

On the second issue, the Court found that nothing on the record to indicate that the PPCG's EVSIP Ordinance a serious context of reorganization, the generalities and perfunctory references to said planned reorganization are insufficient. The pervasive language of the ordinance indicates the overall intention to reward the PPCG employees who have served for at least ten (10) years for their loyalty and satisfactory public service. Thus, the Court maintains that PPCG's EVSIP is contrary to national laws proscribing parallel and supplementary retirement benefits for government officials and employees.

On the third issue citing *Araullo vs Aquino, 737 Phil 457 (2014)* the Court declared that "the operative fact doctrine "cannot apply to the authors, proponents, and implementor x x x, unless there are concrete findings of good faith in their favor by proper tribunals determining criminal, civil administrative and other liabilities." Thus, pure reliance of Resolutions and Ordinances as sufficient legal bases for the grant of allowance especially since the Local Government Code (LGC) empowers the Sangguniang to approve ordinances and pass resolutions concerning allowances. In sum, Mayor Bayron's invocation of good faith is unavailing.

Notably, the aforesaid case of *Bayron vs. COA*, nullified Ordinance and the Resolution and sustained disallowance of the corresponding disbursements under the Early and Voluntary Separation Incentive Program (EVSIP) of Puerto Princesa City, was reiterated in the recent case of *Hagedorn vs. COA, En Banc, G. R. No. 260458, June 4, 2024,*

Also relevant is the case of *PhilHealth Insurance Corporation vs. Commission on Audit*, G.R. No. 249061, May 21, 2024, *En Banc.* This case involves the grant of transportation allowance, sustenance gift, nominal gift, productivity enhancement incentive, special event gift, project completion gift, efficiency gift, alleviation gift, labor management gift, gratuity gift, contractor's gift by PhilHealth ROV to *job order contractors and project-based contractors* who have no employer-employee relationship with PhilHealth ROV.

The Commission on Audit disallowed all the benefits granted citing lack of approval from the President, not in accord with CNA and for lack of legal basis.

PhilHealth ROV appealed the disallowance all the way to the Commission Proper arguing that it has ***fiscal autonomy***; explicit ***power to fix the compensation*** of its personnel; and invocation of ***principle of equity*** as similar benefits in other PhilHealth Regional Office without disallowance.

However, the Commission Proper affirmed the NDs in all respects emphasizing that the corporate powers of the PhilHealth to determine the compensation of its officers and employees are limited by law, *and the policies of Office of the President* ***and the DBM.*** Motion for Reconsideration was filed but consequently, denied. Hence, PhilHealth filed a Petition before the Supreme Court.

The SC, *En Banc*, ruled that, the view that PhilHealth enjoys absolute authority to determine the grant of benefits and allowances to its employees had already been consistently rejected by the Court citing several cases entitled *PhilHealth vs COA* and held that: "while R. A No. 7875 granted PhilHealth the liberty to fix the compensation of its personnel, **it does not necessarily mean that PhilHealth has an unbridled discretion to issue any and all kinds of allowance**, x x x." Moreover, they are not permitted to grant allowances and incentives to those who are not regular employees. In addition, the grant of allowance and incentives to contractual employees are not sanctioned.

As a final note, even if PhilHealth can secure a *post facto* approval from the Office of the President, the same would not set aside the unlawful nature of the disallowed payments to non-employees.

Following the foregoing judicial pronouncements and applying the same by analogy to the above-subject proposed Ordinance as transmitted for review, we have preliminarily and without prejudice to a more authoritative findings, find the following:

a. **Section 9 and 10** of the Proposed Ordinance, may be already covered by:

- Section 35, Art. VIII, R. A. No. 7875, otherwise known as the "National Health Insurance Act of 1995", as amended by R. A. No. 9241;

- Sec. 34-A, R. A. No. 10606, otherwise known as the "National Health Insurance Act of 2013";

- Section 21, Implementing Rules and Regulations of R. A. No. 11223, otherwise known as "Universal Health Care Act, state:

b. **Section 11 and 12** of the Proposed Ordinance, may likewise been covered by DOH Administrative Order No. 2016-0033 as reiterated and clarified by Department Memorandum No. 2026-0245 dated May 12, 2026, prescribes the General Guidelines on the Retention and Distribution of PHIC PF as "Pooled Funds" in Government Hospitals in Accordance with PHIC All Case Rate Policy.

c. except for **COA Circular No. 2013-003 dated January 13, 2013**, no existing national policy or DBM issuances that will support Section 14 of the Proposed Ordinance.

d. invocation of Section 16 [General Welfare Clause], Section 468(a), (a)1(viii) [Powers and Duties of Sangguniang Panlalawigan], Section 5(a) and (c) [Liberal Interpretation] all of R. A. 7160, may be insufficient.

IN VIEW THEREOF, we respectfully DEFER to the collective wisdom and sound judgment of the Honorable Members of the Sangguniang Panlalawigan, to consider the foregoing jurisprudential pronouncements and findings, if found valuable, for the purpose of deliberating the proposed Ordinance.

For Your Honors consideration.

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