



**Addendum to the Position Paper of the League of Provinces of the Philippines
ON UNIVERSAL HEALTH CARE (UHC) BICAM CONSOLIDATED BILL**

(SB No. 1896 and HB No. 05784)

“AN ACT INSTITUTING UNIVERSAL HEALTH CARE FOR ALL FILIPINOS, PRESCRIBING REFORMS IN THE HEALTH CARE SYSTEM, AMENDING FOR THE PURPOSE CERTAIN LAWS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES”

The League of Provinces of the Philippines (LPP) respectfully submits an **Addendum** to its position paper submitted to Congress and hereby manifests its **OPPOSITION** to the proposed provision quoted herein, under **Chapter X. Organization of Local Health Systems** of the consolidated Universal Health Care (UHC) bill, as recently being proposed by the House panel in the bicameral conference committee, specifically on the **“income retention”** of all LGU-managed hospitals and health facilities, to wit:

*“Sec. ____ . **Income Retention.** – **All government hospitals and facilities shall be allowed to retain and utilize seventy percent (70%) of their income** to enhance their capacity, and to expand and improve the quality of their services. **Provided, That the retained income shall not be used for payment of salaries and other personnel benefits. Provided, further, That the retained income shall be deposited in an authorized depository bank recommended by the DOH, the DBM and the Department of Finance.**”*

The League of Provinces of the Philippines (LPP) **MANIFESTS ITS STRONG OPPOSITION TO THE INCLUSION OF LGU-MANAGED HOSPITALS AND HEALTH FACILITIES** in the above-quoted provision on **“INCOME RETENTION”** by the House Bicam panel for the following reasons:

1. First and foremost, while the intent may be noble, this particular provision, **allowing ALL LGU-managed government hospitals and health facilities TO RETAIN ITS INCOME, IS UNCONSTITUTIONAL** for being repugnant to **Sections 2 and 5, Article X of the 1987 Constitution¹** that guarantees local and fiscal autonomy to LGUs.

There are established Supreme Court jurisprudence on this. Most recent is the *Mandanas and Garcia vs Ochoa*² (SC G.R. No. No. 199802 and G.R. No. 208488), to wit: **“There remains no question that Congress possesses and wields plenary power to control and direct the destiny of the LGUs, subject only to the Constitution itself, for Congress, just like any branch of the Government, should bow down to the majesty of the Constitution, which is always Supreme.”**

Sec. 5 Art. X of the 1987 Constitution guarantees the LGUs’ power to **“create its own sources of revenues and to levy taxes, fees, and charges”**. More importantly, all locally-generated income, revenues, fees and charges **“SHALL ACCRUE EXCLUSIVELY TO THE LOCAL GOVERNMENTS”**. This Constitutional mandate is further enunciated under Section 18³, Chapter II of RA 7160, which empowers LGUs **“to create their own sources of revenues and to levy taxes, fees, and charges WHICH SHALL ACCRUE EXCLUSIVELY FOR THEIR USE AND DISPOSITION AND WHICH SHALL BE RETAINED BY THEM”**. Therefore, these local revenues cannot be passed on nor assigned to any other entity other than to the LGU itself, unless there is a local ordinance approved by the LGU authorizing the delegation of its authority, in this case, to its hospitals and health facilities.

Hence, while DOH-managed hospitals can retain its own income pursuant to a law passed by Congress, LGU-managed hospitals cannot retain any of its income as these are public funds that are necessarily to be made part of the LGUs’ total annual regular income (ARI). It is solely within the LGUs’ power, through its local Sanggunian, to pass a local Ordinance should they decide to delegate this authority allowing its hospitals, health facilities or other economic enterprises to retain its income pursuant to their Constitutional mandate and existing laws.

- 2 **Secondly, for Congress to include all LGU-managed hospitals, such as provincial, city, municipal and district hospitals, and barangay health facilities, in the coverage of the income retention provision, IS A DIRECT ENCROACHMENT AND AN AFFRONT ON THE LGUS’ FISCAL AND LOCAL AUTONOMY GUARANTEED BY THE CONSTITUTION AND EXISTING LAWS.** The Local Government Code of 1991 has also specifically identified health services as one of those main functions devolved to LGUs. Pursuant to Sec. 17⁴ thereof, such function is the main responsibility of the LGUs which are fully accountable for its prudent use, management and disposition thereof. Through the principle of subsidiarity, pursuant to Section 4, Article X of the 1987 Constitution, the LGUs may, in their proprietary capacity, opt to subsequently delegate such authority through a local ordinance, if so warranted.

Moreover, pursuant to Sec. 305⁵ (Local Fiscal Administration) of RA 7160, **“(a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law.”** For locally-generated revenues, these must necessarily be approved by the LGUs’ Sanggunian or Local Council. For proper accountability, such authority to appropriate the LGUs’ annual budget cannot be delegated.

In keeping with the principle of local autonomy, the LGUs should also be left to choose their depository bank. The phrase **“as recommended by the DOH, the DBM, and the Department of Finance”** should not be required for LGUs. As long as the income retained is deposited in a duly-authorized government depository bank, LGUs are already deemed compliant with existing laws.

3. Thirdly, the operation of LGU hospitals and other health facilities is a social service, and as such is not intended to be mainly income-generating unlike in private hospitals or even DOH-managed hospitals. Thus, whatever funds derived from the same, is necessarily being plowed back to the LGU coffers, pursuant to existing laws, to fund the improvement of the facilities, purchase medicines, supplies and facilities as well as other related services necessary for the effective and efficient operation of these hospitals, and related health facilities.

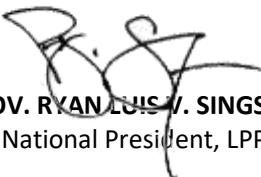
Income retention would necessarily imply that an LGU-managed hospital or health facility would attain a certain level of economic viability in order for it to sustain its own operations before it can be considered as a local economic enterprise (LEE), pursuant to Section 17 (j) of RA 7160⁴ and in accordance with DBM’s manual (issued in 2016) on the setting up and operation of LEEs. Most LGU-operated hospitals and health facilities are still heavily dependent on the budgetary allocations of the LGUs, including those for the payment of the salaries and benefits of its personnel pursuant to the personal services (PS) salary caps mandated by law. Moreover, to mandate an across the board standard rate of 70% income retention by ALL government hospitals AND health facilities may not even redound to their best interest considering that LGUs’ priorities, expenditures and circumstances vary. In some public hospitals, PS take up about 55% of its expenditures.

4. Fourthly, there are severe implications. Allowing LGU-run hospitals and other health facilities to retain their income will, in effect, significantly REDUCE the LGUs’ total revenues or Annual Regular Income or ARI, which includes the IRA share (external sources) and locally-generated revenues, fees and charges (internal sources)! Therefore, income retention of LGU-hospitals will consequently have a negative effect on the following LGUs’ fund allotments which are computed based on their total ARI, to wit:

- (1) **statutory limitation on Personal Services (PS)** allocations
- (2) **20% Development Fund**; and
- (3) **income classification**, if the hospitals’ revenues are significantly substantial.

5. Lastly, there is no need for this particular provision as all DOH-managed hospitals are already utilizing ALL of their income in addition to their annual appropriations to augment their respective operations, as provided for under Special Provision No. 2⁶ on **“Health Facility Income”** under the DOH Budget in the 2018 GAA and this income retention for DOH-managed hospitals has been allowed since FY 2003. A similar provision is included as well in the proposed 2019 NEP. The utilization of its income retention is guided by **DOH Department Circular No. 377-A, s. 2003**. To adopt this “income retention” provision for DOH-managed hospitals will only lower it from the existing 100% utilization to 70%. *(*Note: In a PIDS Study conducted, total income generated by DOH-managed hospitals constitute about 20% of their expenditures while 80% is still sourced from their annual budget allocations in the GAA. PIDS also observed that “No clear guideline in the rules behind income retention. Although all hospital directors that were interviewed agreed that allowing income retention provided a good way of alleviating fund shortages, the current practice of cutting MOOE as income increased induces adverse effects in income collection efforts.”)*

We, therefore, appeal to the Bicam Committee of the UHC Bill **NOT TO ADOPT THIS PROPOSED PROVISION ON THE ‘INCOME RETENTION’ FOR LGU-MANAGED HOSPITALS AND HEALTH FACILITIES, AS THIS IS VIOLATIVE OF THE CONSTITUTION**. Instead, the League recommends the adoption of the **“Special Health Fund”** as already provided for under **Section 18** in the Senate version of the UHC Bill. Thank you.


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Respectfully submitted.


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LPP POSITION ON "INCOME RETENTION" OF PUBLIC HOSPITALS IN UHC BICAM BILL

ANNEX A: REFERENCES - LEGAL BASIS: (underscoring supplied for emphasis)

- 1 **1987 Philippine Constitution.**
Article II. Fundamental Principles. "SECTION 25. The State shall ensure the AUTONOMY OF LOCAL GOVERNMENTS."
Article X. Local Government.
"SECTION 2. The territorial and political subdivisions shall enjoy local autonomy."
"SECTION 4. The President of the Philippines shall exercise general supervision over local governments, PROVINCES WITH RESPECT TO COMPONENT CITIES AND MUNICIPALITIES, AND CITIES AND MUNICIPALITIES WITH RESPECT TO COMPONENT BARANGAYS shall ensure that the acts of their component units are within the scope of their prescribed powers and functions."
"SECTION 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy.
SUCH TAXES, FEES, AND CHARGES SHALL ACCRUE EXCLUSIVELY TO THE LOCAL GOVERNMENTS."
- 2 **Supreme Court jurisprudence, Mandanas and Garcia vs. Ochoa, G.R. No. 199802 and G.R. No. 208488, to wit:**
"Local autonomy has two facets, the administrative and the fiscal. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the National Government, AS WELL AS THE POWER TO ALLOCATE THEIR RESOURCES IN ACCORDANCE WITH THEIR OWN PRIORITIES. (Pimentel vs. Aguirre, G.R. No. 132988, July 19, 2000, 336 SCRA 201, 218). Such autonomy is as indispensable to the viability of the policy of decentralization as the other." x x x
"III. The extent of local autonomy in the Philippines. There remains no question that Congress possesses and wields plenary power to control and direct the destiny of the LGUs, subject only to the Constitution itself, for Congress, just like any branch of the Government, should bow down to the majesty of the Constitution, which is always Supreme. The 1987 Constitution limits Congress' control over the LGUs by ordaining in Section 25 of its Article II that: "The State shall ensure the autonomy of local governments." x x x The Constitutional mandate to ensure local autonomy refers to decentralization. x x x This form of decentralization further relieves the central government of the burden of managing local affairs so that it can concentrate on national concerns."
- 3 **RA 7160. Chapter II. "Section 18. Power to Generate and Apply Resources.** - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them;"
- 4 **R.A. 7160, Chapter II. General Powers and Attributes of Local Government Units.**
"Section 17. Basic Services and Facilities. – (j) To ensure the active participation of the private sector in local governance, LOCAL GOVERNMENT UNITS MAY, BY ORDINANCE, sell, lease, encumber, or otherwise dispose of public economic enterprises owned by them in their proprietary capacity." x x x
"(1) For Barangay: (ii) HEALTH and social welfare services which include maintenance of barangay health center and day-care center; x x x
"(2) For a Municipality: (iii) x x x, HEALTH SERVICES which include the implementation of programs and projects on primary health care, maternal and child care, and communicable and non-communicable disease control services, access to secondary and tertiary health services; purchase of medicines, medical supplies, and equipment needed to carry out the services herein enumerated; x x x
"(3) For a Province: (iv) x x x HEALTH SERVICES which include hospitals and other tertiary health services;
"(4) For a City: All the services and facilities of the municipality and province, x x x"
- 5 **R.A. 7160. TITLE V. Local Fiscal Administration.**
"Section 305. Fundamental Principles. - The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:
"(a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law;
"(b) Local government funds and monies shall be spent solely for public purposes;
"(c) Local revenue is generated only from sources expressly authorized by law or ordinance, and collection thereof shall at all times be acknowledged properly;
"(d) All monies officially received by a local government officer in any capacity or on any occasion shall be accounted for as local funds, unless otherwise provided by law;
"(e) Trust funds in the local treasury shall not be paid out except in fulfillment of the purpose for which the trust was created or the funds received;
"(f) Every officer of the local government unit whose duties permit or require the possession or custody of local funds shall be properly bonded, and such officer shall be accountable and responsible for said funds and for the safekeeping thereof in conformity with the provisions of law;"
- 6 **GAA 2018 of DOH Budget (page 951).** (Also included in the 2019 NEP)
"2. Health Facility Income. In addition to the amounts appropriated herein, all income generated from the operation of specialized hospitals, medical centers, institute for disease prevention and control, including drug abuse treatment and rehabilitation centers and facilities, blood service facilities (blood stations, blood collection units, blood banks), national reference laboratories and other hospitals under the DOH shall be deposited in an authorized government depository bank and used to augment the hospitals' and other health facilities' MOOE and Capital Outlay requirements, subject to the following conditions: (i) at least twenty-five percent (25%) of said income shall be utilized to purchase and upgrade hospital equipment used directly in the delivery of health services; (ii) income sourced from Philhealth reimbursements from availment of medical services shall be used exclusively by said hospitals and other health care facilities for the improvement of their facilities, and for the replenishment of drugs, medicines and vaccines, including medical and dental supplies used in government health care facilities; and (iii) at least five percent (5%) of the said income shall be devoted for preventive and promotive health services including the provision of family planning services.
In no case shall said amount be used for the payment of salaries, allowances and other benefits. Disbursements or expenditures by the specialized hospitals, medical centers, institute for diseases prevention and control, including drug abuse treatment and rehabilitation centers and facilities, blood center facilities (blood stations, blood circulation units, blood banks), national reference laboratories and other health facilities under the DOH in violation of the above requirement shall be void and shall subject the erring officials and employees to disciplinary actions in accordance with Section 43, Chapter 5 and Section 80, Chapter 7, Book VI of E.O. No. 292, and to appropriate criminal action under existing penal laws. x x x"