



LEAGUE OF PROVINCES OF THE PHILIPPINES

POSITION PAPER

ON THE PROPOSED SENATE BILL NOS. 1095, 1437, 1132 & 1471
Submitted To The Senate Committee On Health And Demography

1. S. NO. 1095 – *Introduced by Senator Lito M. Lapid*

AN ACT STRENGTHENING THE REGULATION OF HEALTH FACILITIES AND SERVICES, AND APPROPRIATING FUNDS THEREFOR, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 4226, OTHERWISE KNOWN AS THE ‘HOSPITAL LICENSURE ACT’

2. S. NO. 1437 – *Introduced by Senator Ramon Revilla Jr.*

AN ACT MODERNIZING THE REGULATION OF HEALTH FACILITIES AND SERVICES, AND APPROPRIATING FUNDS THEREFOR, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 4226, OTHERWISE KNOWN AS THE ‘HOSPITAL LICENSURE ACT’

Comments:

The proposed Senate Bills seek to expand the powers of the Bureau of Health Facilities and Services and (BHFS), formerly called the Health Facilities and Services Regulatory Bureau (HFSRB), and repealing the Hospital Licensure Act.

LPP supports the expansion of the definition of a hospital and health service institution or establishment to include testing, diagnostics, rehabilitation, mobile clinic, the other establishments, etc.

To emphasize, the regulatory function of the licensing or regulatory agency or office or the HFSRB must be retained.

We support the expansion of its regulatory powers, including the quasi-judicial powers of the licensing and regulatory agency or office.

The licensing and regulatory agency or office must be mandated to act within 60 days from receipt of the application for contraction permit and for the license to operate (LTO). Failure by the responsible officers, including the Chief or Head of Office, to act within this period must be penalized.

During a national emergency, an application, such as the License To Operate or LTO for testing center that Marikina City proposed to set up, must be acted upon within 10 days. Failure to act within the period must also be penalized.

Before application for LTO of a private entity is acted upon, it must be required to present the necessary Mayor's permit. Or before a private hospital or health service establishment is allowed to operated within a locality, the necessary business permit must be secured first from the concerned LGU.

Before the application for construction permit for both private and government hospitals -- other than those established by the concerned LGU -- is acted upon, the necessary building permit from the LGU must form part of the application for construction permit.

This is necessary since LGUs partly implement the Building Code and the general welfare clause of the 1991 Local Government Code.

Since the DOH is empowered to order a closure of a hospital or health service establishments, there must be a *colatella* or a *proviso* that those patients patronizing these hospitals or establishment must be protected.

Income from hospitals and health service establishments operated by LGUs must remit their income to the concerned LGUs. This is pursuant to Section 5, Article X of the 1987 Constitution which mandates that all local revenues must accrue directly to the LGU, viz:

X x x

“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.**” (underscoring supplied for emphasis).

3. S. NO. 1132 – Introduced by Senator Ralph G. Recto

AN ACT REQUIRING ALL PUBLIC HOSPITALS TO PREPARE AND IMPLEMENT A HOSPITAL SITE DEVELOPMENT PLAN FOR THE OPTIMUM UTILIZATION OF ITS RESOURCES IN DELIVERING HEALTH SERVICES

Comments:

The proposed Senate Bill requires all government or public hospitals to prepare and implement a hospital site development plan.

While the intention of the proposed Senate Bill is laudable, its general application to include those public hospitals managed by LGUs interferes with how LGUs should manage their own resources which is anathema to the principle of local and fiscal autonomy of LGUs guaranteed in the 1987 Constitution¹. Further, recognizing the reality of lack funds in actually implementing the LGUs' hospital site plan, it will reduce the same into a "wish list," as used in the Explanatory Note and result in the waste of public money in its preparation.

There must be a proper qualification of the type of "public hospital". First, there are those managed by the national government through the DOH; and secondly, there are those managed by the LGUs.

For those managed by the national government or the DOH-managed public hospitals, the selection of the site/s located in a particular LGU must be done with prior consultation with and upon prior concurrence of the LGU² concerned since these plans must likewise conform to their Regional as well as Provincial/ City/ and Municipal Annual Investment Plans. Otherwise, the lack of coordination with these concerned LGUs may result in a waste of time, money, and resources. The Local Government Code guarantees the prior consultation and concurrence of LGUs in these local matters that affect the general welfare and public safety of their constituents.³

¹ 1987 Constitution; Article II, Section 25; and Article X. Local Governments.

² RA 7160 Chapter III, Article 1. Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and PRIOR APPROVAL OF THE SANGGUNIAN concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

³ Ibid.

For public hospitals managed by the LGUs, such as the provincial and district or city hospitals, the hospital site development plan must conform to the LGUs' Annual Investment Plan, as approved by its respective local development council and its Chief Executive and must be in accord with the existing provisions of the Local Government Code (R.A. No. 7160) such as the selection and transfer of local government site, offices AND FACILITIES⁴ and its improvements.

Under the LGCode, all lands, buildings, and other improvements thereon actually, directly and exclusively for hospitals are classified as special classes of real property⁵ and hence, the selection of the same may be limited.

Since in the proposed bill, there are no specific provisions that expressly repeals these codal provisions the governing hospitals and its site selection and/or improvements, then it is presumed that such provisions are still to be observed.

**Note:* Some provincial and district hospitals up to this time, are located in public lands still owned by the national government through the DOH. These assets or properties should have been turned over by the DOH to the concerned LGU managing such hospital facility where it stands on, as provided in the Local Government Code.⁶ Hence, it is strongly recommended that a provision be

⁴ R.A. 7160 Book I, Title I, Chapter II, Section 11 (c). Section 11. Selection and Transfer of Local Government Site, Offices and Facilities. - X x x "(c) Local government offices AND FACILITIES shall not be transferred, relocated, or converted to other uses unless public hearings are first conducted for the purpose and the concurrence of the majority of all the members of the sanggunian concerned is obtained." (underscoring supplied)

⁵ R.A. 7160, Book I, Title II, Chapter II. Appraisal and Assessment of Real Property; "Section 216. Special Classes of Real Property. - All lands, buildings, and other improvements thereon actually, directly and EXCLUSIVELY USED FOR HOSPITALS, cultural, or scientific purposes, and those owned and used by local water districts, and government-owned or controlled corporations rendering essential public services in the supply and distribution of water and/or generation and transmission of electric power shall be classified as special." (underscoring supplied)

⁶ R.A. 7160, Book I, Title I, CHAPTER II. General Powers and Attributes of Local Government Units; Section 17. Basic Services and Facilities. - X x x
"(h) Regional offices of national agencies or offices whose functions are devolved to local government units as provided herein shall be phased out within one (1) year from the approval of this Code. Said national agencies and offices may establish such field units as may be necessary for monitoring purposes and providing technical assistance to local government units. THE PROPERTIES, EQUIPMENT, AND OTHER ASSETS OF THESE REGIONAL OFFICES SHALL BE DISTRIBUTED TO THE LOCAL GOVERNMENT UNITS IN THE REGION in accordance with the rules and regulations issued by the oversight committee created under this Code.
(i) The devolution contemplated in this Code SHALL INCLUDE THE TRANSFER TO LOCAL GOVERNMENT UNITS OF THE RECORDS, EQUIPMENT, AND OTHER ASSETS AND PERSONNEL OF NATIONAL AGENCIES AND OFFICES CORRESPONDING TO THE DEVOLVED POWERS, FUNCTIONS, AND RESPONSIBILITIES." (underscoring supplied for emphasis)

inserted to reiterate and effect the immediate transfer of these assets and properties by DOH to these concerned LGUs. This is because the province/s would like to improve on and rehabilitate/ renovate/ upgrade these facilities but since the title of the property is not in the name of the LGU, the Commission on Audit will issue an Audit Observation Memorandum and shall not authorize the allocation and use of local public funds for this purpose.

4. S. NO. 1471 - Introduced by Senator Sonny Angara

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 11036, OTHERWISE KNOWN AS THE MENTAL HEALTH ACT

Comments:

The SB seeks to amend the Mental Health Act or RA 11036 to increase benefits for mental health care, particularly Section 5 on the Rights of Service Users, by inserting a new provision, to wit:

SECTION 1. Section 5 of Republic Act No. 11036 otherwise known as the "Mental Health Act" is hereby amended to read as flows:

"Sec. 5. Rights of Service Users – Service users shall enjoy, on an equal and nondiscriminatory basis, all rights guaranteed by the Constitution as well as those recognized under the United Nations Universal Declaration of Human Rights and the Convention on the Rights of Persons with Disabilities and all other relevant international and regional human rights conventions and declarations, including the right to:

XXX

XXX

XXX

"(U) IMMEDIATELY RECEIVE COMPENSATION BENEFITS AND/OR ANY SPECIAL FINANCIAL ASSISTANCE THAT THE SERVICE USER IS ENTITLED TO UNDER EXISTING LAWS SHOULD THE SERVICE USER SUSTAIN TEMPORARY OR PERMANENT MENTAL DISABILITY WHILE IN THE PERFORMANCE OF DUTY OR BY REASON OF HIS OR HER OFFICE OR POSITION."

The League supports the proposed Bill of Senator Angara as the intention of the new provision recognizes that mental health is significant as physical and physiological health and well-being.

This measure is very timely specially now with this Covid-19 pandemic when our people, both young and old, were exposed to this first-ever community quarantine and were required by the Government to stay at home.

Our frontliners, who continue to risk their lives to fight this disease affecting Filipinos, may experience physical, emotional, social and psychological depression, anxieties, or even traumatized due to the uncertainties brought about by Covid-19.

This pandemic has affected how people think, feel, and act. Mental health helps determine how we handle stress, relate to others, and make important choices. Mental health is indeed very important at every stage of life, from childhood and adolescence through adulthood.

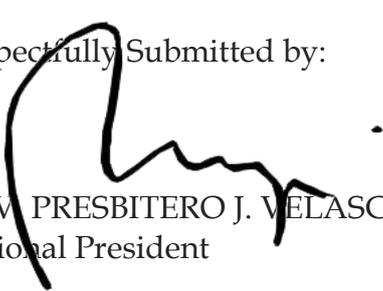
If left unchecked, mental health problems may bring about life threatening situations for the extremely affected, and can negatively affect the productivity of our people.

Although mental health problems are common, Government must ensure that help is available and that they can get better and recover completely with Government support through such benefits and financial assistance for any mental disability, temporary or permanent, while in the performance of duty or by reason of his or her office or position.

The League, therefore, fully supports its immediate passage.

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Respectfully Submitted by:


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