



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. N-B-2001-03

SUBJECT : National Government Budgeting – Revolving Fund

ISSUE : Whether or not Special Provision No. 9 of the DOH in the FY 1980 GAA and its implementing Circular can be used as legal bases in the establishment and maintenance of a Revolving Fund for drugs and medicines by the Far North Luzon General Hospital and Training Center (FNLGHTC) which was established only in CY 1998.

FACTS : The FNLGHTC requested for authority to disburse the Trust Fund it has established from the proceeds of its sales of drugs and medicines. The said Trust Fund account maintained with the Land Bank of the Philippines (LBP) - Apayao Branch served as the Revolving Fund of the Hospital, with a ceiling of P1,000,000.00, for the replenishment of its drugs and medicines stock.

Hospitals were previously authorized to establish and maintain a Trust Fund for drugs and medicines since 1980, pursuant to Special Provision No. 9 of the DOH in Batas Pambansa Blg. No. 40, FY 1980 GAA, which reads:

"9. Fund for Medicines and Drugs. *Any provision of law to the contrary notwithstanding, the Minister of Health shall authorize and fix the amounts for each hospital out of its appropriations for maintenance and other operating expenses to be earmarked for the purchase of medicines and drugs for stock and resale. The amounts so fixed shall constitute the ceiling thereof. The proceeds from the sale (cost plus profit) of medicines and drugs in stock shall be deposited in an authorized government depository bank and be made available for the procurement of medicines and drugs either for replenishment or for increase in the ceiling previously authorized. Withdrawals from the deposits shall be effected upon the joint signatures of the representatives of the hospital concerned and the Commission on Audit: PROVIDED, That the cost of medicines*

the representatives of the hospital concerned and the Commission on Audit: PROVIDED, That the cost of medicines and drugs dispenses to charity patients may be reimbursed with an equivalent amount from the regular appropriations of the hospital. The Chief of Hospital concerned shall submit to the Ministry of the Budget a quarterly report of the status of the operation, indicating stock on hand and information on the items purchased and sold. In case of failure to submit the required report, the Commission on Audit, upon recommendation of the

Ministry of the Budget, shall suspend transactions in the operation until the hospital complies with the foregoing requirement." (underscoring supplied)

The above-quoted Special Provision was implemented by National Budget Circular (NBC) No. 321 and Commission on Audit (COA) Circular No. 80-128 dated February 6, 1980 which expressly authorized all hospitals to establish Revolving Fund. Paragraph 2.1 of the Joint Ministry of Budget – COA Circular thereof, provides:

"2.1 All Chief of Hospitals/Sanitaria shall determine the quantity of medicine and drugs x x x for submission to the Minister of Health who is authorized to fix the amount from appropriation for maintenance and other operating expenses in every hospital/sanitarium to be earmarked for the purchase of medicines and drugs for stock and resale." (Underscoring ours)

OPINION : The FNLGHTC was established only in FY 1998 by virtue of Republic Act (R.A.) No. 8536. Hence, the said Hospital cannot invoke the Special Provision on the DOH appearing in the FY 1980 GAA as legal basis in the establishment and maintenance of a Revolving Fund for drugs and medicine.

Instead, Section 4 of the General Provisions, R.A. No. 8760, FY 2000 GAA, as reenacted in FY 2001, should govern. Said Section 4 provides:

***"Sec. 4. Revolving Fund.** Revolving funds shall be established and maintained only in cases where said funds are expressly created and authorized by law. Revolving funds already in existence shall continue their operations, except those which are now reflected under "Use of Income" in this Act. Receipts derived from business-type activities of departments, bureaus, offices or agencies which are authorized by law to be constituted into a Revolving Fund shall be separately recorded and deposited in an authorized government depository bank and*

constituted into a revolving fund shall be separately recorded and deposited in an authorized government depository bank and may be made available for operational expenses of the said activity of the agency concerned, subject to the conditions prescribed under the special provision of the agency concerned and the rules and regulations as may be prescribed by the Permanent Committee created under Section 45 of Book VI, E.O. No. 292. The Revolving Fund shall be considered self-perpetuating and self-liquidating and all obligations or expenditures incurred by virtue of said business-type activities shall be charged against the Revolving Fund: PROVIDED, That no amount of the revolving funds authorized in this Act shall be used for the payment of discretionary and representation expenses. x x x x x x .” (underscoring supplied)

Accordingly, the Trust Fund account of the FNLGHTC may not be constituted into a Revolving Fund for lack of specific statutory authority as required in the above-quoted General Provision.


On the other hand, the FNLGHTC should coordinate with DOH – Office of the Secretary, to use their income to fund deficiencies in maintenance and other operating expenses and capital outlays, as allowed under the Unprogrammed Fund in the FY 2000 GAA, as reenacted in FY 2001. This is feasible since the UF allows use of income for hospitals in the maximum amount of P300 Million, to wit:

“HEALTH

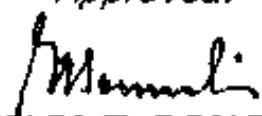
<i>Office of the Secretary</i>	<i>Actual income of hospitals retained in the DOH</i>	<i>To fund deficiencies in maintenance and other operating expenses and capital outlays</i>	<i>300,000,000”</i>
--------------------------------	---	---	---------------------

REFERENCE: Memorandum of the Secretary dated 29 October 2001 to DBM-CAR

Recommended:


JANET B. ABUEL
 Director, LLS

Approved:


EMILIA T. BONCODIN
 Secretary