DEPARTMENT OF HEALTH
PHILIPPINE HEALTH INSURANCE CORPORATION
DEPARTMENT OF TRADE AND INDUSTRY

JAN 07 2021

JOINT ADMINISTRATIVE ORDER
No. ~~2020~~ 2021-0001

SUBJECT: **Constitution of the Price Negotiation Board and Implementing Guidelines on Price Negotiation for Innovative, Proprietary, Patented and Single-Sourced Health Commodities**

I. RATIONALE

Government spending on pharmaceuticals and medical devices are expected to continuously rise along with the rapid changes in the health needs of the Filipinos and continued launch of new and innovative health products. In the midst of this growing unmet and infinite needs of the population vis-à-vis the finite financial resources of the government and health system as a whole, providing for such drugs and medical devices now poses a challenge to the government as it also aims to increase population coverage.

Section 11, Article XIII of the 1987 Philippine Constitution provides that "The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost." Likewise, Section 2 (c) of the Universal Health Care Act or Republic Act No. 11223 states that "The State shall adopt a framework that fosters a whole-of-system, whole-of government and whole-of-society approach in the development, implementation, monitoring, and evaluation of health policies, programs and plans." In view of these, the enactment of the latter enabled the employment of cost-containment measures that will promote efficiency in government health spending and increase health coverage to all Filipinos with much priority given to the poor and marginalized sector. In particular, Section 28 of the law mandates the creation of an independent Price Negotiation Board, which will centrally negotiate prices on behalf of the Department of Health (DOH) and the Philippine Health Insurance Corporation (PhilHealth). Being a constant partner of the DOH in price regulation of health commodities, the Department of Trade and Industry (DTI) was identified as one of the members of the Board.

Due to the fragmentation in the public procurement system, government health facilities oftentimes resort to small volume procurements. This practice weakens their bargaining power, and thereby resulting to bid failures, negotiated procurement and ultimately, to heterogeneous pricing for the same intervention. As such the Price Negotiation Board is hereby constituted to address these problems.

II. OBJECTIVES

This Joint Order aims to:

A. Constitute the Price Negotiation Board and prescribe its roles and responsibilities;

B. Prescribe the implementation arrangements of price negotiation in order to:
   1. Promote transparency in price setting for innovative, proprietary, patented and single-sourced health commodities;
   2. Improve efficiency in government spending on health commodities through centralized negotiation with respect to pooled volume of health commodities by consolidating the purchasing power of all health care providers under the DOH thereby strengthening its bargaining power; and
   3. Guarantee access to affordable and quality health commodities by using the centrally negotiated price as leverage for a more homogenous and affordable price points for innovative, proprietary, patented and single-sourced health commodities.

III. SCOPE AND COVERAGE

This Order covers all health care providers under the DOH, its offices/units, retained and corporate hospitals, treatment and rehabilitation centers, and Centers for Health Development (CHDs) insofar as procurements of drugs and medical devices are concerned and to Philhealth for the payment of claims and the development of benefit packages. It shall also be applicable to other government agencies/offices, the pharmaceutical and device industry, academe, civil society organizations, and other stakeholders who will be involved in the negotiation process.

Further, this policy shall only cover health commodities that satisfy any of these parameters: innovative, proprietary, patented or single-sourced.

IV. DEFINITION OF TERMS

A. **Centrally Negotiated Price** refers to an agreed price as a result of a successful negotiation between the Price Negotiation Board and the company, which shall be the basis of the procurement price applicable to all health care providers under the DOH and the basis of Philhealth's claims payment and benefit packages development. This represents the wholesale price to the government.

B. **Companies** refer to the pharmaceutical and medical devices industry.

C. **DOH-owned health care providers** refers to health facilities as well as laboratories and diagnostic clinics funded and managed by the DOH.

D. **Drug Price Reference Index (DPRI)** refers to the mandated ceiling price of essential medicines for government bidding and procurement set by the DOH for all government agencies, government hospitals, hospitals managed by the DOH including specialty centers, government-owned and controlled corporation hospitals, local government hospitals, and all other types of government hospitals in order to have a transparent and unified pricing scheme in medicines procurement. Winning bid prices of essential medicines shall therefore not exceed the DPRI.

E. **End-Users** refer to DOH owned health care providers (i.e., DOH Central Office, retained and corporate hospitals, treatment and rehabilitation centers, and Centers for Health Development) and PhilHealth.

F. **External Reference Pricing (ERP)** refers to the practice of using the price(s) of a pharmaceutical product in one or several countries in order to derive a benchmark or reference price for the purposes of setting or negotiating the price of the product in a given country.

G. **Fair price** refers to one that is affordable for health systems and patients and that at the same time provides sufficient market incentive for industry to invest in innovation and the production of health commodities.

H. **Health Commodities** refer to drugs and medical devices.

1. **Drugs** refer to (1) articles recognized in official pharmacopeias and formularies, including official homeopathic pharmacopeias, or any documentary supplement to any of them, which are recognized and adopted by the Philippine Food and Drug Administration (FDA); (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (3) articles (other than food) intended to affect the structure of any function of the body of humans or animals; or (4) articles intended for use as a component of any articles specified in clauses (1), (2), or (3) but do not include devices or their components, parts or accessories.

2. **Medical device** refers to any instrument, apparatus, implement, machine, appliance, implant, in-vitro reagent or calibrator, software, material, or other similar or related article intended by the manufacturer to be used alone, or in combination, for human beings for one or more of the specific purpose(s) of: diagnosis, prevention, monitoring, treatment or alleviation of disease; diagnosis, monitoring, treatment, alleviation of, or compensation for an injury; investigation, replacement, modification, or support of the anatomy or of a physiological process; supporting or sustaining life; preventing infection; control of conception; disinfection of medical devices; and providing information for medical or diagnostic purposes by means of in-vitro examination of specimens derived from the human body. This device does not achieve its primary intended action in or on the human body by pharmacological, immunological or metabolic means but which may be assisted in its intended function by such means.

I. **Health Technology Assessment (HTA)** refers to the systematic evaluation of properties, effects, or impact of health-related technologies, devices, medicines, vaccines, procedures, and all other health-related systems developed to solve a health problem and improve the quality of lives and health outcomes, utilizing a multidisciplinary process to evaluate the clinical, economic, organizational, social, and ethical issues of a health intervention.

J. **Health Technology Assessment Council (HTAC)** refers to the recommending body composed of health experts created within DOH in a transitory stage, and supported by the HTA Unit in its governance, management and operations.

K. **Innovative health commodity** refers to novel drug (i.e., active pharmaceutical ingredient or molecule) or medical device that is given to or used for the purposes listed under their definition as stated above. This does not include new indications, products, or brand names of existing registered molecules in the Philippine FDA (e.g., generic equivalent, biosimilars).

L. **Memorandum of Agreement (MOA)** refers to the document executed by and between the end-user and the company after successful negotiation, which contains the negotiated price and the terms of agreement, among others.

M. **Patented health commodity** refers to a drug or medical device that has been granted intellectual property rights, which provides its patent holder the legal right to exclude others from making, using, selling and importing an invention for a limited period of years.

N. **Performance Commitment** refers to a document signed by Institutional Health Care Providers (as defined under PhilHealth Circular No. 54, s-2012) who intend to participate in the National Health Insurance Program, which stipulate their undertakings to provide complete and quality health services to Philhealth members and their dependents, and their willingness to comply with Philhealth policies on benefits payment, information technology, data management and reporting and referral, among others.

O. **Price Negotiation** refers to strategic communication or dialogue in terms of pricing a health commodity nominated for procurement or cost-setting that is designed to reach an agreement or compromise between two parties who have some shared and/or opposing goals and interests.

P. **Price Offer** refers to the price at which a company offers a health commodity for sale.

Q. **Proprietary health commodity** refers to drug or medical device that is used, produced or marketed under exclusive legal right and protected by patent.

R. **Single-sourced health commodity** refers to drug or medical device that has only one registered supplier with the Philippine FDA.

V. GENERAL GUIDELINES

A. All health commodities that are innovative, proprietary, patented or single-sourced shall be eligible for price negotiation. These include those that are already being funded by DOH and PhilHealth, herein referred to as financing agents and/or end-users, or those that are being requested for possible coverage by the same.

B. Health commodities that are not yet funded by DOH and PhilHealth shall only be subjected to price negotiation after having been assessed by the HTAC to have good clinical value but are deemed not financially viable by government financing agents and/or beyond the budget constraint of the government.

C. A Price Negotiation Board (herein referred to as the "Board") shall be constituted to perform price negotiation on behalf of DOH and PhilHealth, with assistance from a Technical Working Group (TWG). The DOH-Pharmaceutical Division and Department of Trade and Industry (DTI)- Consumer Policy and Advocacy Bureau shall provide joint secretariat support to the Board.

D. The Board shall ensure adherence with the principles of transparency, accountability, good governance, fairness, and sustainability when conducting price negotiations with companies.

E. The Board shall recognize that competition through public bidding is more effective in determining an efficient market price. Likewise, competition ensures that lower prices can be expected alongside improved products and services.

F. The Board, in cases of innovative, proprietary, patented and single-sourced health commodities, whereby there is artificial monopoly, shall seek to balance this power through price negotiation.

G. The negotiated price stated in the Memorandum of Agreement (MOA) executed by and between the company and the financing agents shall be the basis of procurement by the DOH, its offices/units, CHDs, retained hospitals, and attached agencies, and costing of benefit packages by PhilHealth.

VI. SPECIFIC GUIDELINES

A. Price Negotiation Board

1. Composition:
   a. The Board shall be composed of seven (7) members from the following Agencies/institutions/organizations:
      i. A representative of the DOH with the rank of at least Assistant Secretary;
      ii. A representative of the DTI with the rank of at least Assistant Secretary;
      iii. A representative of PhilHealth with the rank of at least Senior Vice President;
      iv. A representative of the elected Local Chief Executives endorsed by their respective organizations (i.e., League of Provinces, League of Cities, League of Municipalities);
      v. A representative of health care institutions endorsed by their national association;
      vi. A representative of health professionals endorsed by their national association; and
      vii. A representative of the Civil Society Organizations/Patient Groups endorsed by their national associations.

   b. Except for ex officio members, the other members of the Board shall be appointed by the Secretary of Health and co-terminus with the appointing authority, unless otherwise revoked due to misconduct or violation of existing laws, rules and regulations.

c. The ex officio Board members may nominate their alternate (with the rank of at least Director or Senior Manager) who shall also have a voting power in cases where primary member is unavailable.
d. The representative of the DOH shall be the Chairperson of the Board; Provided that, his/her duly designated alternate shall be the default Chairperson in his/her absence.
e. The members should have at least relevant background in pharmaceutical policy and pricing, business, or negotiation techniques.

2. Specific Functions:

a. Set the criteria for price negotiation;
b. Deliberate and determine a fair price offer and other terms of agreement after thorough study and consideration of the recommendation of the HTAC, budget impact analysis, market analysis, legal grounds and other relevant information;
c. Conduct the actual negotiation process with the company;
d. Decide to either accept or reject the price offer of the company; and
e. Recommend policies and strategic directions for the enhancement of the overall functions of necessary offices/units and processes of price negotiation.

3. Meetings and Quorum

a. The Board shall meet at least once a month or as often as may be necessary. Special meetings may be convened at the call of the Chairperson or by a majority of the members of the Board.
b. A majority of the members of the Board shall constitute a quorum (i.e., four (4) members), but the Chairperson or his/her alternate must be present during meetings.
c. A decision or motion shall only be adopted and carried out through a general consensus or through a majority vote of the members and shall be manifested through a resolution.
d. The Board, to ensure that they will reach an informed decision, shall invite experts, as deemed necessary, on the fields of medicine (medical/clinical), intellectual property rights, competition law, procurement law, economics, as well as the end-users (e.g., DOH program managers), financial expert from DOH Budget/Accounting Office and patient's organizations, among others. The invited experts shall act only as resource persons and shall not have any voting power during the deliberation of the Board.

4. The Board shall be supported by a Secretariat in the collection of the pricing data, price offers, technical reports, and other sources of relevant data to effectively perform the Board's mandate and functions.

5. The Board shall be assisted by a TWG who shall evaluate the documents that will be used as bases in determining the price offer to be used in the negotiation.

6. A stakeholders' meeting shall be conducted once a year to report the accomplishments of the Board.

7. The Board shall submit an annual report to the DOH, DTI and Philhealth.

B. Secretariat

1. Composition:
   The Secretariat shall be composed of at least three (3) plantilla personnel from the DOH – Pharmaceutical Division and the DTI- Consumer Policy and Advocacy Bureau.

2. Specific Functions:
   a. Facilitate the call for price offer and issuance of Letter of Intent to the companies;
   b. Assist the TWG in the analysis of pricing data and provide relevant documents to the Board needed in determining the price offer;
   c. Document the meetings, directives and decisions of the Board, as well as the key agreements of the negotiation which shall form part of the MOA;
   d. Compile and make available to the Board past and existing decisions, policies, recommendations, directives, and resolutions;
   e. Liaise with other government agencies and statutory bodies relevant to price negotiations;
   f. Consolidate monitoring reports or complaints regarding compliance of both parties with the terms of the MOA;
   g. Lead the research for policy development towards an evidenced-informed decision making including policy development and updating of guidelines and procedures;
   h. Ensure compliance to guidelines and procedures by the Board and stakeholders; and
   i. Participate and represent the Board in knowledge-sharing fora.

C. Technical Working Group

1. Composition:
   a. The composition of the TWG shall depend on the type of health commodity to be negotiated.
   b. Each TWG shall be composed of at least three (3) members, including a representative from the end-user, if applicable.

2. Specific Functions:
   a. Synthesize and evaluate the data submitted by the end user and HTAC, as well as other documents deemed necessary by the Board; and
   b. Assist the Board in determining the price offer that will be used in the negotiation.

D. Disclosure of Conflicts of Interest

To protect the process from outside interference, the Board, Secretariat, TWGs and other invited resource persons shall conform with the principles of integrity and shall therefore declare all circumstances with real or potential conflicts of interests, subject to the existing guidelines for declaring and managing these conflicts.

E. Non-Disclosure and Confidentiality Agreement

The Board, Secretariat, TWGs and invited resource persons and all other invited participants/observers shall accomplish a Non-Disclosure and Confidentiality Agreement (Annex C) to ensure protection of the process from outside interference that shall compromise public health objectives of this Order.

F. Prerequisites and Preparation Prior to Negotiations

1. **For Health Commodities still undergoing Health Technology Assessment**

   a. Prior to price negotiation, innovative, proprietary, patented and single-sourced health commodities that are not yet funded by either DOH or Philhealth must first undergo a health technology assessment (HTA) review by the HTA Council which shall consider its cost-effectiveness and budget impact.
   b. Health commodities that have been assessed by HTAC to have good clinical value but are deemed not financially viable by government financing agents and/or beyond the budget constraint of the government shall be nominated for price negotiation.
   c. The HTAC shall submit to the Board the list of health commodities recommended for price negotiation and other pertinent documents such as, but not limited to initial benefit decision which include product dossier, economic evaluation and budget impact analysis.
   d. The Secretariat shall make an announcement which health commodities are for price negotiation and shall issue a Letter of Intent (Annex B) to the company to submit a price offer or proposal based on the indicative volume stated therein. The company shall have ten (10) working days to respond to the Letter of Intent. Failure to respond within the set timeframe shall result to declaration of failure of negotiation. The company may request for time extension, which must be accompanied with justifications and shall be subject to the approval of the Board.
   e. The Secretariat shall prepare and consolidate all relevant documents and data such as, but not limited to:
      i. Company proposal or price offer for price negotiation which includes information on prices sold to other countries;
      ii. HTA report from the HTAC;
      iii. External Reference Prices from a basket of countries to be determined by the Board; and
      iv. Other documents deemed necessary by the Board.
   f. The TWG shall convene to evaluate the documents and determine the price offer that shall be the basis for negotiation of the Board.

2. **For Drugs and Vaccines that are already listed in the Philippine National Formulary and Devices Procured by the Department of Health**

   a. The end-users may nominate drugs and vaccines that are already listed in the latest version of the Philippine National Formulary prior to the issuance of this Order and devices that are procured by the government

provided that these are new, proprietary, patented and single-sourced as evidenced through their market study.

b. The Board's Secretariat shall begin to accept from the end-users nominations for negotiations every first month of the current fiscal year for health commodities that will be procured for the succeeding fiscal year.

c. The end-users shall submit to the Board's Secretariat the following data to facilitate the review by the TWG for appropriate price offer:

   i. Available budget of the program
   ii. Company price proposal
   iii. Procurement price for the past year (if available)
   iv. Utilization report for the past year (if available)
   v. Estimated number of beneficiaries

d. The Board shall convene to finalize the list of health commodities that will be negotiated.

e. The Secretariat shall issue a Letter of Intent (Annex B) to the companies to submit a price offer or proposal based on the indicative volume stated therein. The company shall have ten (10) working days to respond to the Letter of Intent. Failure to respond within the set timeframe shall result to declaration of failure of negotiation. The company may request for time extension, which must be accompanied with justifications and shall be subject to the approval of the Board.

f. The Secretariat shall prepare and consolidate all relevant documents and data such as:

   i. Company proposal or price offer for price negotiation which includes information on prices sold to other countries;
   ii. Utilization reviews/forecasting/quantification/budget impact analysis from the end-users;
   iii. External Reference Prices from a basket of countries to be determined by the Board; and
   iv. Other documents deemed necessary by the Board.

g. The TWG shall convene to evaluate the documents and determine the price offer that shall be the basis for negotiation of the Board.

G. Negotiation Proper

1. During the negotiation, each party shall present its offers and counter-offers.
2. A maximum of three meetings shall be conducted for the negotiation process.
3. The agreements reached during the negotiation shall form part of the terms of the MOA.

H. Outcomes of the Negotiation

1. For successful negotiation:
   a. The Secretariat shall issue a Board Resolution, which shall be furnished to the end-users, company and the HTAC (for health commodities that are still under HTA). The said resolution shall bear the negotiated price along with its terms of agreement. The same information shall be the basis of HTAC's re-evaluation and final benefit decision;

b. For drugs and vaccines that are already listed in the Philippine National Formulary and devices procured by the Department of Health, a MOA shall be executed by and between the company and the financing agents to formalize the agreements.
c. As a general rule, negotiated prices are only valid for one (1) year; except when the procuring entity has secured a Multi-Year Obligational Authority (MYOA)/ Multi-Year Contracting Authority (MYCA) from the Department of Budget and Management (DBM) and a multi-year contract shall be implemented, in which case the validity of the negotiated price shall be determined by both parties, provided that it shall not exceed three (3) years and it follows the guidelines of the Government Procurement Policy Board (GPPB).
d. Final agreed price shall be made publicly available insofar as posting of procurement documents in the Philippine Government Electronic Procurement System (PhilGEPS) is concerned.
e. The negotiated price is still subject to allowable mark-up for the determination of the retail price in accordance with the DOH approved guidelines on price mark-ups insofar as DOH-owned health care providers are concerned.
f. For health commodity that has undergone the HTA process (i.e., those that are still being proposed for DOH and PhilHealth coverage), a MOA shall only be executed once it satisfies the following conditions:
    i. The technology received a positive recommendation from HTAC; and
    ii. The technology after receiving a positive recommendation from HTAC has been adopted by the DOH and PhilHealth for the development of policies and programs, regulation and the determination of a range of entitlements as provided for under the UHC Act.

2. For failed negotiation:
    a. Before declaring a failed negotiation, the companies will be given 15 working days, upon receipt of the decision of the Board, to submit an appeal.
    b. If a new position is submitted by the company, the Board shall convene to re-evaluate the submission before making its final decision.
    c. If mutual agreement has still not been reached despite the given period for reconsideration, the Board shall deliberate on the next steps to be taken and recommend other instruments in existing laws as it deems necessary to ensure access to essential health commodities.
    d. The Secretariat shall provide a copy of the Board Resolution to the end-user, HTAC and/or other concerned parties.

3. The Board, through the Secretariat, shall ensure that the key points of the agreements shall be made publicly available for transparency purposes in accordance with the Executive Order on Freedom of Information.
4. The entire price negotiation process shall not exceed more than 60 working days from the date of issuance of the Letter of Intent to the company.

I. Re-negotiation

1. Before the expiration of the MOA, re-negotiation may be conducted as deemed appropriate by the end-user, subject to review and evaluation by the Board based on the criteria set, to ensure that the health commodity continues to be cost-effective and appropriately priced given the prevailing conditions.
2. The end-user shall nominate the health commodities for price re-negotiation to the Secretariat.
3. The Secretariat shall review the documents submitted along with other reports such as utilization reports, among others;
4. The Board shall deliberate and decide if the price of the health technology is eligible for re-negotiation based on any of the following circumstances:
   a. New price has been observed in other countries or has been submitted to the end-user by the company;
   b. Updated epidemiological report or clinical/relevant real-world evidence (RWE) data; or
   c. Updated HTAC recommendations.
5. If the price is not affected with the above circumstances, the MOA may be renewed by written notice, with the conformity of the company.
6. Once the Board has determined that the nominated health commodity is eligible for re-negotiation, it shall follow the process stipulated under Section VI. F.2. Prerequisites and Preparation Prior to Negotiations for Drugs and Vaccines that are already listed in the Philippine National Formulary and Devices Procured by the Department of Health (items e-g), Section G. Negotiation Proper and Section H. Outcomes of the Negotiation.

J. Monitoring

1. The Secretariat shall consolidate all compliance monitoring reports and complaints coming from financing agents and end-users, and shall report the same and provide feedback on the status of compliance with the MOA to the Board.
2. Any breach in the contract can be reported directly to the DOH and/or PhilHealth.
3. The company shall submit to the Secretariat a report containing the volume of health commodities sold to DOH owned health care providers and all PhilHealth-accredited health facilities.

VII. ROLES AND RESPONSIBILITIES

A. Office of the Secretary of Health

1. Appoint the official representatives of the DOH and non-ex officio members of the Board;
2. Issue necessary personnel orders for the members of the Board; and
3. Ensure availability of funds for the operation of the Board.

B. Undersecretary or Assistant Secretary in charge of the Health Regulation Team

1. Provide oversight functions to the Board Secretariat

C. Pharmaceutical Division

1. Provide technical and administrative secretariat support to the Board;
2. Provide capacity building for the Board especially in terms of negotiation skills;
3. Allocate budget for capacity building of the Board and the Secretariat; and
4. Participate in the monitoring of compliance with the provisions of the MOA.

D. Philippine Health Insurance Corporation (PhilHealth)

1. Ensure the use of negotiated price plus some allowable mark-up in the cost-setting of in-patient and out-patient benefit packages for medicines and devices and in the contracting/accreditation of health facilities and pharmacies;
2. Submit to the Board timely reports (i.e., drug and medical devices utilization) and other documents relevant to price negotiation, as requested by the Board;
3. Monitor compliance of contracted/accredited health care providers to the Performance Commitment and shall submit any reported/observed breaches in the MOA; and
4. Strengthen information technology systems and tools in accordance with standards set by the DOH in order to strengthen the monitoring and utilization review of drugs, medical devices and other medical supplies.

E. Procurement Service

1. Ensure that the Approved Budget for the Contracts (ABCs) are based on negotiated prices and that the procurement of medicines and medical devices are transparent, efficient, and in accordance with DOH procurement processes;
2. Submit quantification analysis (pooled quantities as estimated) on drugs and devices that are subject for price negotiation; and
3. Submit reports and give feedback on the status of compliance with the MOA specifically on the compliance to the negotiated price as basis of ABC and contract price;
4. Provide to the Board any procurement- related issues that may be raised by the Central Office Bids and Awards Committee (COBAC), suppliers and other stakeholders; and
5. Report on the success/ failure rate of procurement projects based on the list of health commodities with negotiated price.

F. DOH-Administration and Financial Management Team

1. Certify availability of funds for the procurement of health commodities; and
2. Ensure timely processing of payments.

G. Centers for Health Development

1. Comply and monitor the mandatory use of negotiated price in procurement within its jurisdiction;
2. Report on the status of compliance of DOH owned health care providers under their jurisdiction; and
3. Advocate the use of the negotiated prices to the LGUs within their coverage areas.

H. DOH-owned health care providers

1. Ensure compliance to the centrally negotiated price; and

2. Submit, in a timely manner, the procurement documents through the DPRI.

I. DOH Offices/Bureaus

1. Ensure complete submission of all documentary requirements requested by the Board for price negotiation;
2. Use the centrally negotiated price as the basis for the ABC and its subsequent submission to the DOH Procurement Service or Philippine Pharma Procurement, Inc. (PPPI) or Department of Budget and Management-Procurement Service (PS-DBM); and
3. Monitor the utilization of the said documents and submit an annual utilization report to the Board.

J. Health Technology Assessment Council

1. Develop and submit initial and final recommendations to policy- and decision-makers based on evidence appraisals and economic evaluations; and
2. Determine the price at which a health technology will be cost- effective based on economic evaluation and budget impact analysis.

K. Philippine Pharma Procurement, Inc. (PPPI)

1. Ensure the use of the negotiated price as basis of procurement for DOH owned health care providers and PhilHealth- accredited institutions;
2. Provide the PhilHealth- accredited institutions access to the negotiated price by allowing them to participate in the procurement process of PPPI; and
3. Submit reports and give feedback on the status of compliance with the MOA to the Board.

L. Department of Trade and Industry

1. Appoint the official representative of the DTI and other technical experts, as may be deemed necessary by the Board;
2. Provide technical and administrative secretariat support to the Board, through its Consumer Policy and Advocacy Bureau;
3. Provide technical expertise including trade and economic perspectives in the review and negotiation process, and in identifying market access points in the pharmaceutical and medical device/supplies industry in order to ensure access and steady supply of these health commodities;
4. Provide information on patent registration/ patent life of a health commodity through the Intellectual Property Office of the Philippines (IPOPHL); and
5. Assist the DOH in international scoping of other sources of health commodities and provide international pricing information of such.

M. Pharmaceutical and Medical Device Companies

1. Ensure transparency and uphold ethical standards during the negotiation process; and
2. Participate in the monitoring of compliance to MOA by submitting report to the Board on the volume of health commodities supplied to DOH owned health care providers and PhilHealth- accredited facilities.

VIII. FUNDING SOURCE

The budget for operation of the Board shall be derived from the funds of the Pharmaceutical Division subject to usual accounting and auditing rules.

IX. INTERPRETATION

If any defined term or provision of this Order should admit of several meanings, it shall be resolved in favor of protecting public health, pursuant to Article II, Section 15 of the 1987 Constitution.

X. SEPARABILITY CLAUSE

If for any reason, any portion of this Order shall be declared unauthorized or rendered invalid by any court of law or any competent authority, parts or provisions not affected shall remain in full force and effect.

XI. REPEALING CLAUSE

All orders, rules, regulations, and other related issuances inconsistent with or contrary to this Order are hereby repealed, amended, or modified accordingly. All other provisions of existing issuances which are not affected by this Order shall remain valid and in effect.

XII. EFFECTIVITY

This Joint Administrative Order shall take effect after fifteen (15) days following its publication in a newspaper of general circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this Order.

FRANCISCO T. DUQUE III, MD, MSc
Secretary
Department of Health

RAMON M. LOPEZ
Secretary
Department of Trade and Industry

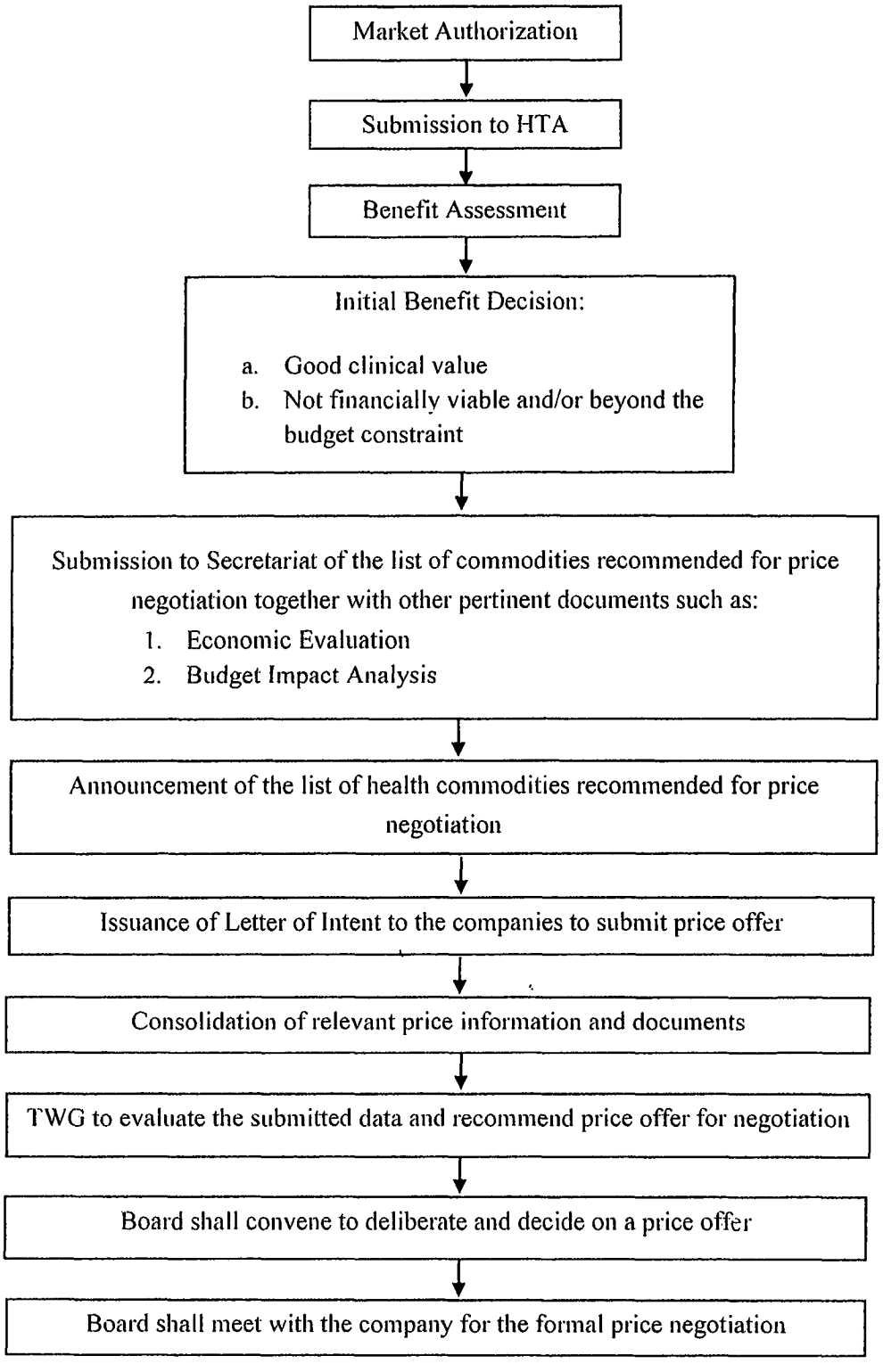
ATTY. DANTE A. GIERRAN, CPA
President and Chief Executive Officer
Philippine Health Insurance Corporation

CERTIFIED TRUE COPY
JAN 27 2021
MARIA CRISTINA P. RIVERA
KMITS - RECORDS SECTION
Department of Health

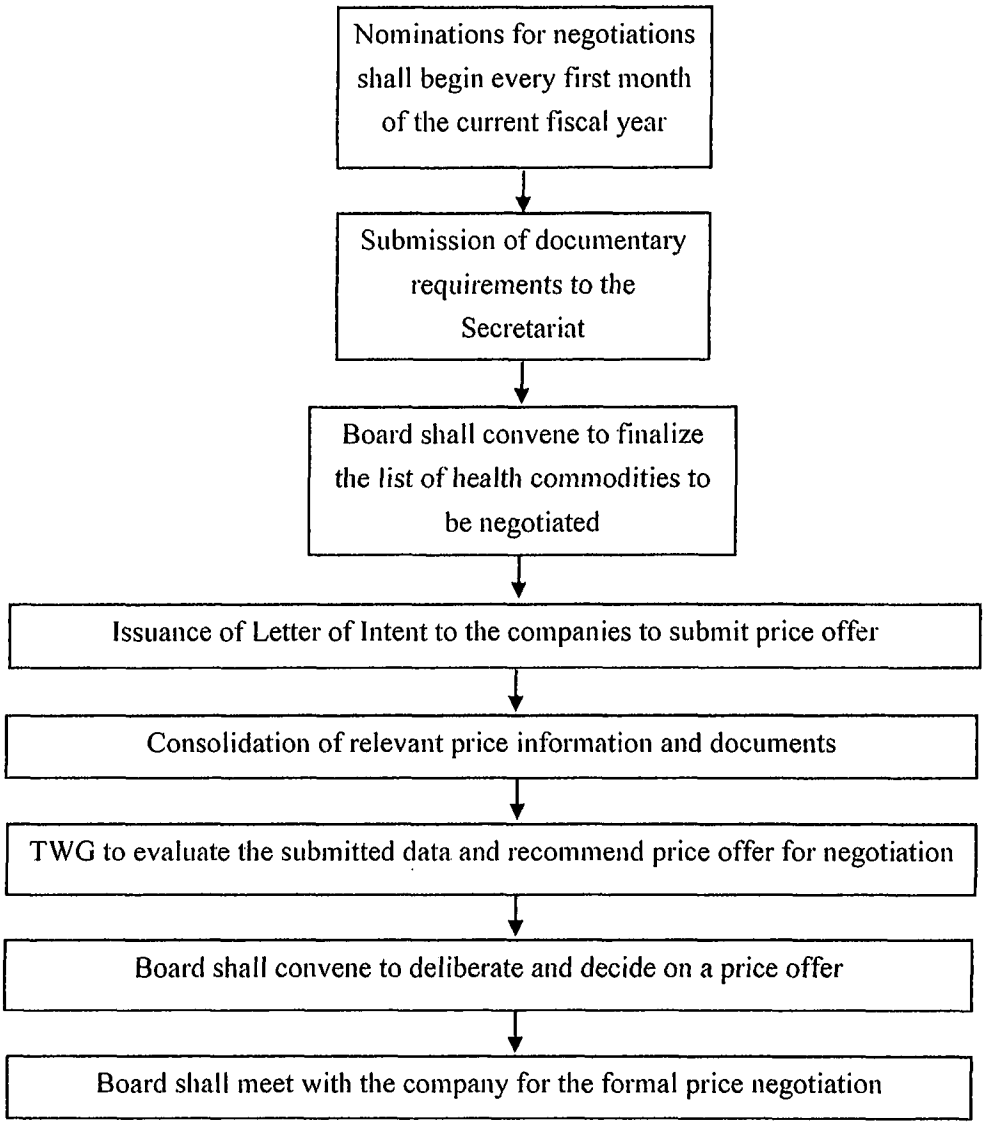
ANNEX A. PROCESS FLOW OF PRICE NEGOTIATION

1. Prerequisites and Preparation Prior to Negotiations

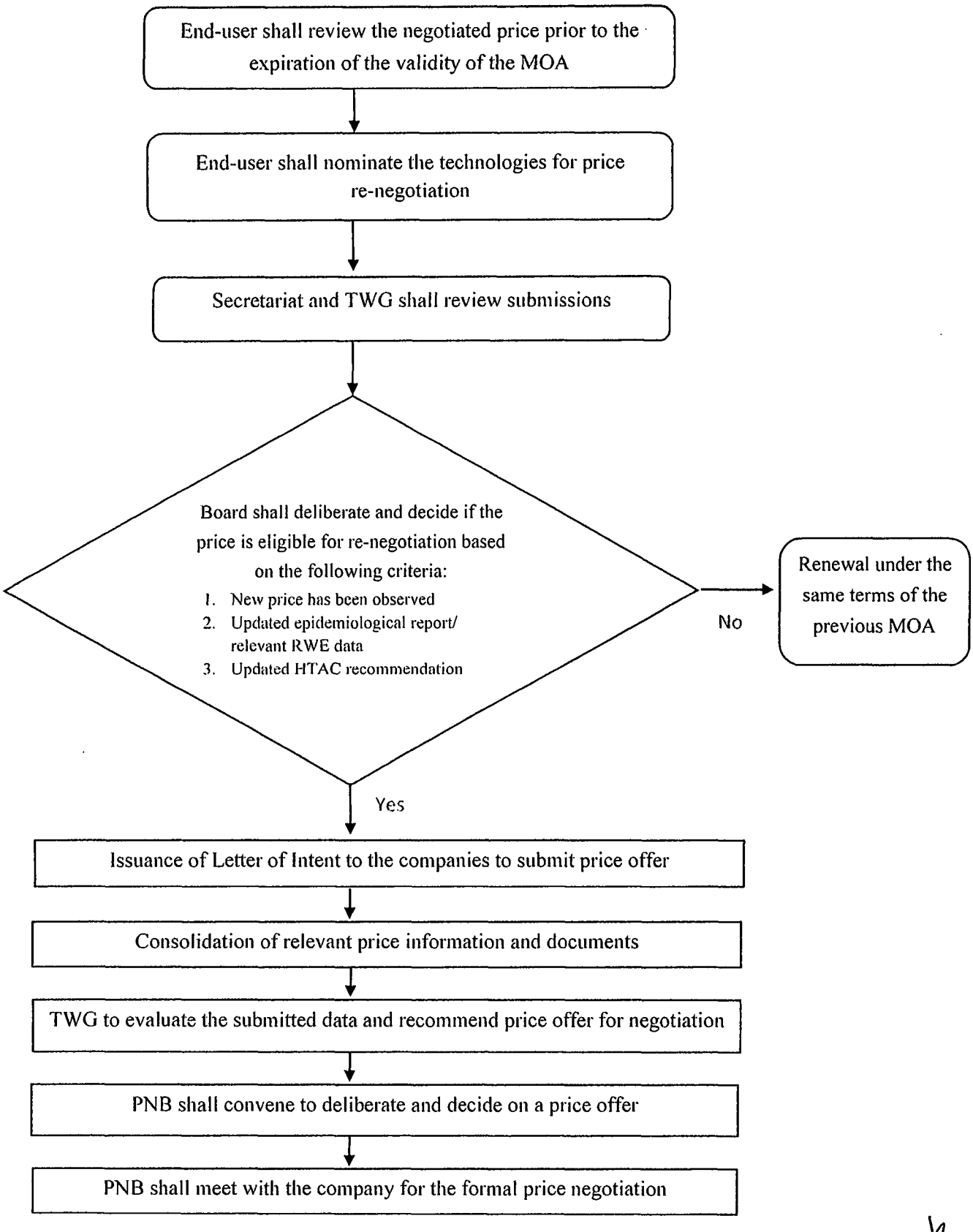
a. For Health Commodities still undergoing Health Technology Assessment



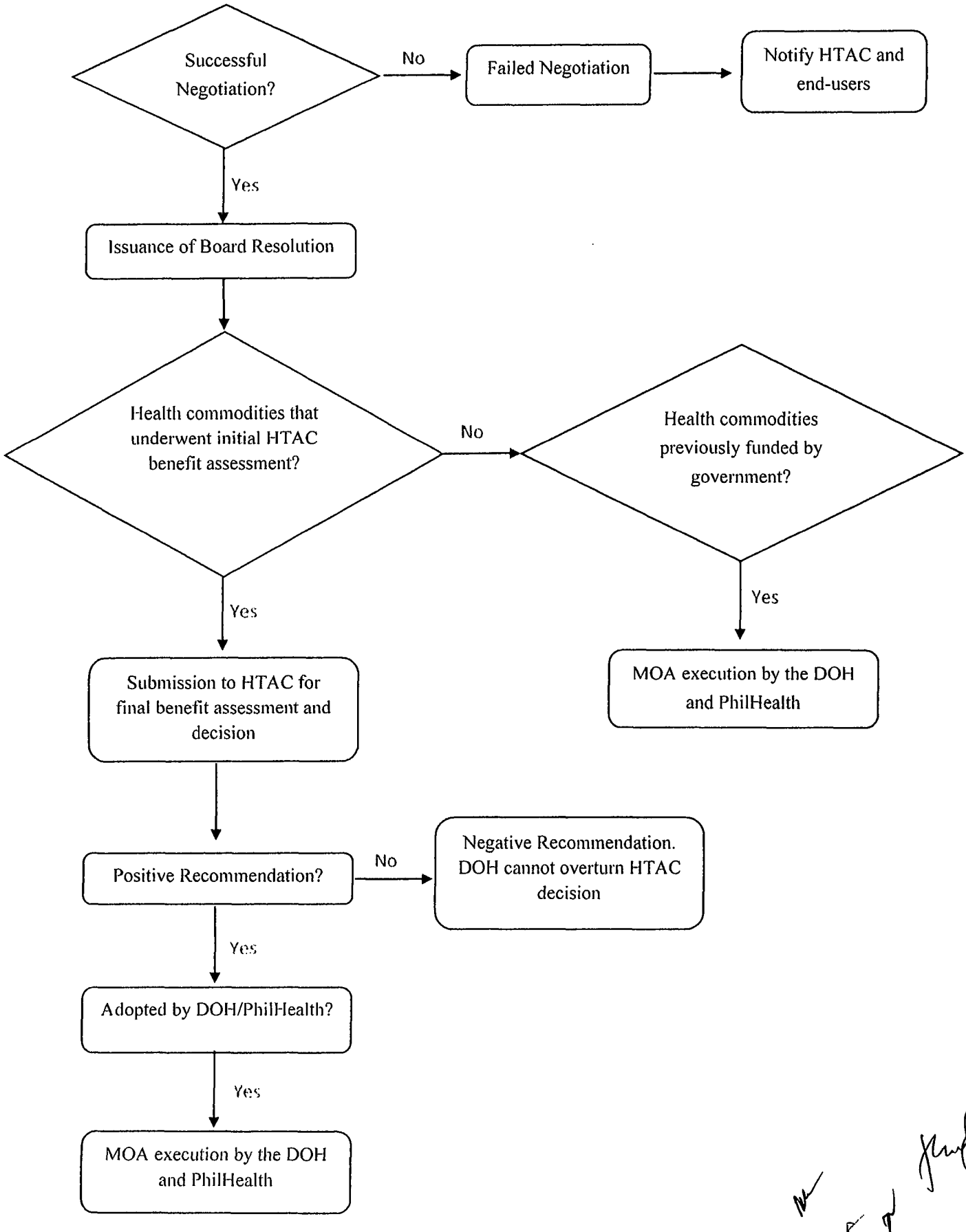
b. <u>For Drugs and Vaccines that are already listed in the Philippine National Formulary and Devices Procured by the Department of Health</u>



2. Re-negotiation



3. Outcomes of the Negotiation



ANNEX B. LETTER OF INTENT TO NEGOTIATE

Date

Pharmaceutical/ Medical Device Company
Address

In the matter of: **[NAME OF SPECIFIC HEALTH TECHNOLOGY FOR NEGOTIATION]**

Dear _____:

This Letter of Intent (this "Letter") sets forth the mutual interest of the Price Negotiation Board (herein referred to as the "Board"), the body created under the Universal Health Care Act to negotiate prices on behalf of the DOH and PhilHealth, and [*Pharmaceutical/ Medical Device Company*], sole manufacturer/supplier of [*name of drug/device*], regarding the possible purchase of the said product by the DOH and inclusion in the Philhealth benefit package with an indicative volume of _____. The Board and [*Company*] are collectively referred here as the "Parties." This Letter is executed to confirm the Parties' respective intentions to enter into price negotiation.

1. **Transaction.** The [*Company*] desires to negotiate with the Board on the best price offer that will be used as the Approved Budget for the Contract (ABC) in the procurement of the DOH, including its regional offices and hospitals, and as basis of Philhealth for cost-setting of in-patient and out-patient benefit schemes for medicines and devices. The Parties agree that their goal and interest herein is to bring about the Transaction, and thus, promise to negotiate the price in good faith for the set period.
2. **Expenses.** Each Party will be responsible for its own costs and expenses associated with the negotiation and execution of this Letter.
3. **Termination.** This Letter will automatically terminate upon the end of the negotiation process and release of the Board's resolution.
4. **Governing Law.** This Letter and all matters relating to it shall be governed by and construed in accordance with the laws of the Philippines.
5. **Non-binding.** This Letter is intended exclusively as a reflection of the intention of the Parties, and neither this Letter nor its acceptance shall constitute or create any legally binding or enforceable obligation on any of the Parties. No agreement or obligation regarding the Transaction shall be deemed to exist between the Parties and any of their respective affiliates, unless and until the Memorandum of Agreement (MOA) has been executed and delivered, and then only in accordance with the terms and conditions of the MOA.
6. **Confidentiality.** Submitted price offer shall be made confidential until a negotiated price is mutually agreed upon by both parties.

If the foregoing terms and conditions are acceptable, please sign and return this Letter to the undersigned together with your price offer not later than ten (10) working days upon receipt thereof.

Very truly yours,

Chair, Price Negotiation Board

Agreed to and accepted by:

Official Representative of the Pharmaceutical/Medical Device Company	Chair, Price Negotiation Board

ANNEX C. NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

I, _____, an employee of the _____, and assigned as the _____ for the project _____, is hereby legally bound, consents, and accepts the following obligations, terms and conditions as set forth in this Agreement in consideration of being granted *conditional access* to certain information that is owned by, produced by, or in the possession of the Department of Health (DOH), Philippines; and in compliance with the requirements of the DOH regarding confidentiality, privacy and security of information:

1. As used in this Agreement, *information* refers to confidential and/or sensitive information in which the loss of, misuse of, or unauthorized access to or modification can adversely affect the *national interest of the country, conduct of the DOH's programs,* or the *privacy* to which an individual is entitled. Confidential *information* is marked CONFIDENTIAL or unmarked CONFIDENTIAL but was declared confidential, and oral communications that have been declared CONFIDENTIAL by an Authorized Officer of the Department of Health (DOH);

2. I understand and accept that by being granted conditional access to *information,* confidence and trust are placed in me by the DOH and I am obligated to protect the *information* from unauthorized disclosure, in accordance with the terms of this Agreement and applicable laws, regulations, issuances and directives;

3. I have been informed that unauthorized disclosure, unauthorized retention, or negligent handling of *information* confidential information by me, may deprive the DOH, the rightful owner of the system of its intellectual property rights and could cause damage or irreparable injury to the Department and Government of the Philippines or could be used to the undue and unethical advantage of another nation/s or people such as myself and my company;

4. I shall not disclose or release *information* provided to me to anyone without proper authority or authorization from the DOH. Should there are situations that warrant the disclosure or release of *information,* I shall do so only under approved circumstances and in accordance with applicable laws, regulations or directives, and shall comply with any and all dissemination restrictions as required or relayed by the proper authority;

5. I shall not alter or remove markings which indicate a category of *information* or require handling instructions from any materials I may come in contact with, unless such alteration or removal is authorized by the DOH or consistent with applicable laws, regulations or directives;

6. Upon completion of my engagement as a/an _____ under the project's contract, or completion of my work whichever occurs first, I shall return all *information* to which I have access or which are in my possession. Further, I shall surrender promptly to the DOH any documents whatsoever that are in my possession;

7. I solemnly swear that any *information* given to me shall remain confidential even after the completion of the project itself;

8. I shall not retain any documentation, source code or other *information* both in soft and hard copies used in this project;

9. I shall not modify, reverse engineer, decompile or disassemble any subsystems, modules, and/or software program codes, and sell to any government or private entities later the outputs of this project;

10. I shall promptly report to the appropriate DOH officials any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violations in which I have knowledge of and whether or not I am personally involved.

11. Unless and until I am released in writing by the authorized personnel of the DOH, I understand that all conditions and obligations imposed upon me by this Agreement apply during the time that I am granted conditional access, and at all times thereafter;

12. If any provision of this Agreement is held to be invalid or unenforceable, all other provisions shall remain in full force and effect;

13. I am aware that violations of the terms and conditions of this Agreement may result in the cancellation of my conditional access to *information* or subjected to sanctions provided by pertinent laws and statutes of the Philippines.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ 202x in the City of Manila, Philippines.

_____
Affiant

SUBSCRIBED AND SWORN to before me this _____ day of _____ 202x, in the City of Manila, Philippines.

_____
Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 202x.