

SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES

First Regular Session



Senate
Office of the Secretary

16 OCT 19 P4:55

SENATE
S.B. No. 1215

RECEIVED BY: 

Introduced by Senator Poe

AN ACT

STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PREVENTION, TREATMENT, CARE AND SUPPORT, AND ESTABLISHING THE PHILIPPINE NATIONAL HIV AND AIDS PLAN, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS THE "PHILIPPINE AIDS PREVENTION AND CONTROL ACT OF 1998", AND APPROPRIATING FUNDS THEREFOR

Explanatory Note

The 1987 Philippine Constitution is replete with provisions that direct the State to protect and promote public health. Foremost among these is Article 3, Section 15 which states: "The State shall protect and promote the right to health of the people and instill health consciousness among them." This provision is reinforced by Article 12, Section 11, which reads: "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."

The rising incidence of Human Immunodeficiency Virus and/or Acute Immunodeficiency Syndrome (HIV/AIDS) is an emerging public health issue in the country. Thus, the State must exercise its constitutional mandate to promote and protect the people's right to health.

HIV is a virus which infects cells of the immune system and which impairs or destroys their function.¹ AIDS is characterized by the occurrence of any of more than 20 opportunistic infections or HIV-related cancers.² Around 27 new cases of HIV are recorded every day in the Philippines,³ with 804 cases of HIV recorded in January 2016 – 50% higher compared to the 536 cases recorded in the previous year and also the highest number of cases reported since 1984.⁴

This proposed measure seeks to provide the State with the means to comprehensively address HIV/AIDS by repealing the existing policy framework on HIV/AIDS and replacing it with an institutional framework that is evidence-based and based on the principles of human rights, gender-responsiveness, and meaningful participation of affected communities. Some of its key provisions are:

1. Strengthening the Philippine National AIDS council and directing it to prepare a six (6) year National Multi-Sectoral HIV and AIDS Strategic Plan or AIDS Medium-Term Plan (AMTP).
2. Institutionalizing various modalities for HIV/AIDS education and information through learning institutions, workplaces, pre-departure orientations, and for tourists, communities, and key populations.
3. Providing preemptive measures against HIV transmission among drug users, mother-to-child transmission, providing standard precautions on donation of blood, tissue, organs and surgical procedures.
4. Promoting voluntary HIV testing.
5. Providing health and support services for all persons with HIV, including indigents and overseas workers.

¹ World Health Organization (WHO). "HIV/AIDs" retrieved from <http://www.who.int/features/qa/71/en/>

² *Ibid.*

³ Department of Health (DOH). "HIV/AIDS and ART Registry of the Philippines as of January 2016". Retrieved from http://www.doh.gov.ph/sites/default/files/statistics/EB_HIV_Jan-AIDSreg2016.pdf

⁴ *Ibid.*

6. Guaranteeing the privacy of individuals who seek HIV information, testing and treatment.
7. Penalizing discrimination against persons living with HIV or AIDS.

Immediate approval of this measure is urgently sought.


GRACE POE

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I

OPENING PROVISIONS

1 **SECTION 1. Short Title.** - This Act shall be known as the "*Philippine HIV and AIDS*
2 *Policy Act of 2016*".

3

4 **SECTION 2. Declaration of Policy.** - The Human Immunodeficiency Virus (HIV)
5 and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that have
6 wide-ranging social, political, and economic repercussions. Responding to the HIV and AIDS
7 epidemic is therefore imbued with public interest. Accordingly, the State shall:

8

9 a) Establish policies and programs to prevent the spread of HIV and deliver
10 treatment, care, and support services to Filipinos living with HIV in accordance
11 with evidence-based strategies and approaches that follow the principles of human
12 rights, gender-responsiveness, and meaningful participation of communities
13 affected by the epidemic;

- 1 b) Adopt a multi-sectoral approach in responding to the HIV epidemic by ensuring
2 that local communities, civil society organizations, and persons living with HIV
3 are at the center of the process;
4
- 5 c) Remove all barriers to HIV and AIDS-related services by eliminating the climate
6 of stigma that surrounds the epidemic and the people directly and indirectly
7 affected by it; and
8
- 9 d) Positively address and seek to eradicate conditions that aggravate the spread of
10 HIV infection, which include poverty, gender inequality, prostitution,
11 marginalization, drug abuse and ignorance.
12

13 Respect for, protection of and promotion of human rights are the cornerstones of an
14 effective response to the HIV epidemic. The meaningful inclusion and participation of
15 persons directly and indirectly affected by the epidemic, especially persons living with HIV,
16 are crucial in eliminating the virus. Thus, unless otherwise provided in this Act, the
17 confidentiality, anonymity, and non-compulsory nature of HIV testing and HIV-related
18 testing shall always be guaranteed and protected by the State.
19

20 Policies and practices that discriminate on the basis of perceived or actual HIV status,
21 sex, gender, sexual orientation, gender identity, age, economic status, disability and ethnicity
22 hamper the enjoyment of basic human rights and freedoms guaranteed in the Constitution and
23 are deemed inimical to national interest.
24

25 **SECTION 3. *Definition of Terms.*** – As used in this Act:
26

- 27 a) “*Acquired Immune Deficiency Syndrome (AIDS)*” refers to a health condition
28 where there is a deficiency of the immune system that stems from infection with
29 HIV, making an individual susceptible to opportunistic infections;
30
- 31 b) “*Antiretroviral*” (ARV) or “*HIV Treatment*” refers to the treatment that stops or
32 suppresses viral replication or replications of a retrovirus like HIV, thereby
33 slowing down the progression of infection;
34

- 1 c) "*Civil society organizations (CSOs)*" refer to groups of nongovernmental and
2 noncommercial individuals or legal entities that are engaged in non-coerced
3 collective action around shared interests, purposes and values;
4
- 5 d) "*Community-based research*" refers to research study undertaken in community
6 settings and which involve community members in the design and implementation
7 of research projects;
8
- 9 e) "*Compulsory HIV testing*" refers to HIV testing imposed upon an individual
10 characterized by lack of consent, use of force or intimidation, the use of testing as
11 a prerequisite for employment or other purposes, and other circumstances when
12 informed choice is absent;
13
- 14 f) "*Discrimination*" refers to unfair or unjust treatment that distinguishes, excludes,
15 restricts, or shows preferences based on any ground such as sex, gender, age,
16 sexual orientation, gender identity, economic status, disability, ethnicity, and HIV
17 status, whether actual or perceived, and which has the purpose or effect of
18 nullifying or impairing the recognition, enjoyment or exercise by all persons
19 similarly situated, of all rights and freedoms;
20
- 21 g) "*Evolving capacities of children*" refers to the concept enshrined in Article 5 of
22 the United Nations' Convention on the Rights of the Child recognizing the
23 developmental changes and the corresponding progress in cognitive abilities and
24 capacity for self-determination undergone by children as they grow up, thus
25 requiring parents and others charged with the responsibility for the child to
26 provide varying degrees of protection and to allow their participation in
27 opportunities for autonomous decision-making in different contexts and across
28 different areas of decision-making.
29
- 30 h) "*Gender identity*" refers to a person's internal and individual experience of
31 gender that may or may not correspond with the sex assigned at birth, including
32 the person's sense of the body, which may involve, if freely chosen, modification
33 of bodily appearance or function by medical, surgical and other means, and
34 experience of gender, among them, dress, speech, and mannerism;

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- i) *“Harm reduction”* refers to evidence-based policies, programs and approaches that promote scientifically proven ways of mitigating health risks associated with high-risk behaviors, while accepting that not everyone is ready or able to stop risky behavior. It is also a movement for social justice built on a belief in, and respect for, the rights of marginalized groups of people;
- j) *“Health Maintenance Organization”* or *“HMO”* refers to juridical entities legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee for a specified period of time;
- k) *“High-risk behavior”* refers to a person’s frequent involvement in certain activities that increase the risk of transmitting or acquiring HIV;
- l) *“Human Immunodeficiency Virus (HIV)”* refers to the virus, of the type called retrovirus, which infects cells of the human immune system – mainly CD4 - positive (CD4+) T cells and macrophages – key components of the cellular immune system - and destroys or impairs the cells’ function. Infection with HIV results in the progressive deterioration of the immune system, leading to immune deficiency;
- m) *“HIV counseling”* refers to the interpersonal, dynamic communication process between a client and a trained counselor, who is bound by a code of ethics and practice, to resolve personal, social, or psychological problems and difficulties, whose objective, in the context of an HIV diagnosis, is to encourage the client to explore important personal issues, identify ways of coping with anxiety and stress, and plan for the future (keeping healthy, adhering to treatment, and preventing transmission) and counseling in the context of a negative HIV test result that focuses on exploring the client’s motivation, options, and skills to stay HIV-negative;

- 1 n) "*HIV and AIDS Core Team*" (HACT) refers to a team of doctors, nurses, medical
2 technologists, social workers, dentists, and other health care personnel in charge
3 of HIV and AIDS management in the hospital.
4
- 5 o) "*HIV and AIDS counselor*" refers to any individual trained by an institution or
6 organization accredited by the Department of Health (DOH) to provide counseling
7 services on HIV and AIDS with emphasis on behavior modification;
8
- 9 p) "*HIV and AIDS monitoring*" refers to the documentation and analysis of the
10 number of HIV/AIDS infections and the pattern of its spread;
11
- 12 q) "*HIV and AIDS prevention and control*" refers to measures aimed at protecting
13 non-infected persons from contracting HIV and minimizing the impact of the
14 condition of persons living with HIV;
15
- 16 r) "*HIV-negative*" refers to the absence of HIV or HIV antibodies upon HIV testing;
17
- 18 s) "*HIV-positive*" refers to the presence of HIV infection as documented by the
19 presence of HIV or HIV antibodies in the sample being tested;
20
- 21 t) "*HIV-related testing*" refers to any laboratory testing or procedure done on an
22 individual regardless of whether the person is HIV positive or negative;
23
- 24 u) "*HIV testing*" refers to any facility-based or mobile medical procedure that is
25 conducted to determine the presence or absence of HIV in a person's body. HIV
26 testing is confidential, voluntary in nature and must be accompanied by
27 counseling prior to, and after the testing, and conducted only with the informed
28 consent of the person;
29
- 30 v) "*HIV testing facility*" refers to any DOH-accredited in-site or mobile testing
31 center, hospital, clinic, laboratory and other facility that has the capacity to
32 conduct voluntary HIV counseling and HIV testing;
33

- 1 w) "*HIV transmission*" refers to the transfer of HIV from one infected person to an
2 uninfected individual, most commonly through sexual intercourse, blood
3 transfusion, sharing of intravenous needles, and vertical transmission;
4
- 5 x) "*Key affected populations at higher risk of HIV exposure*" or "*Key populations*"
6 refer to those groups of persons, as determined by the Philippine National AIDS
7 Council, whose behavior make them more likely to be exposed to HIV or to
8 transmit the virus;
9
- 10 y) "*Laboratory*" refers to an area or place, including community-based settings,
11 where research studies are being undertaken to further develop local evidence
12 base for effective HIV programs;
13
- 14 z) "*Medical confidentiality*" refers to the relationship of trust and confidence created
15 or existing between a patient or a person living with HIV and his attending
16 physician, consulting medical specialist, nurse, medical technologist and all other
17 health workers or personnel involved in any counseling, testing or professional
18 care of the former. It also applies to any person who, in any official capacity, has
19 acquired or may have acquired such confidential information;
20
- 21 aa) "*Opportunistic infection*" refers to illnesses caused by various organisms, many
22 of which do not cause disease in persons with healthy immune system;
23
- 24 bb) "*Partner notification*" refers to the process by which the "index client", "source"
25 or "patient", who has a sexually transmitted infection (STI) including HIV, is
26 given support in order to notify and advise the partners that have been exposed to
27 infection. Support includes giving the index client a mechanism to encourage the
28 client's partner to attend counseling, testing and other prevention and treatment
29 services. Confidentiality shall be observed in the entire process;
30
- 31 cc) "*Person living with HIV or AIDS*" or "*Persons living with HIV or AIDS*"
32 (*PLHIV*) refers to individuals or groups diagnosed to be infected with HIV;
33

- 1 dd) *“Pre-exposure Prophylaxis”* refers to the use of prescription drugs as a strategy
2 for the prevention of HIV infection by people who do not have HIV/AIDS. It is an
3 optional treatment which may be taken by people who are HIV-negative but who
4 have substantial, higher-than-average risk of contracting an HIV infection;
5
- 6 ee) *“Pre-test counseling”* refers to the process of providing an individual information
7 on the biomedical aspects of HIV/AIDS and emotional support to any
8 psychological implications of undergoing HIV testing and the test result itself
9 before the individual is subjected to the test;
- 10
- 11 ff) *“Post-exposure Prophylaxis”* refers to a preventive medical treatment started
12 immediately after exposure to a pathogen (HIV), in order to prevent infection by
13 the pathogen and the development of the disease;
14
- 15 gg) *“Post-test counseling”* refers to the process of providing risk-reduction
16 information and emotional support to a person who submitted to HIV testing at
17 the time the result is released;
18
- 19 hh) *“Prophylactic”* refers to any agent or device used to prevent the transmission of a
20 disease;
21
- 22 ii) *“Provider-initiated counseling and testing”* refers to a health care provider
23 initiating HIV anti-body testing to a person practicing high-risk behavior or
24 vulnerable to HIV after conducting HIV pre-test counseling. A person may elect
25 to decline or defer testing such that consent is conditional;
26
- 27 jj) *“Routine HIV testing”* refers to HIV testing recommended at health care facilities
28 as a standard component of medical care. It is part of the normal standard of care
29 offered irrespective of whether or not the patient has signs and symptoms of
30 underlying HIV infection or has other reasons for presenting to the facility:
31 *Provided, That a patient may elect to decline or defer testing;*
32
- 33 kk) *“Safer sex practices”* refer to choices made and behaviors adopted by a person to
34 reduce or minimize the risk of HIV transmission. These include postponing sexual

1 debut, non-penetrative sex, correct and consistent use of male or female condoms,
2 and reducing the number of sexual partners;

3
4 ll) "*Sexually transmitted infections (STIs)*" refer to infections that are spread through
5 the transfer of organisms from one person to another as a result of sexual contact;

6
7 mm) "*Sexual orientation*" refers to a person's sexual and emotional attraction to or
8 intimate and sexual relationship with, individuals of different, the same, or both
9 sexes;

10
11 nn) "*Social Media*" refer to forms of electronic communication (website for social
12 networking and microblogging) through which users create online communities to
13 share information, ideas, personal messages and other content, such as videos.

14
15 oo) "*Social protection*" refers to a set of policies and programs designed to reduce poverty
16 and vulnerability by promoting efficient labor markets, diminishing people's exposure to
17 risks, and enhancing their capacity to protect themselves against hazards and
18 interruptions/loss of income;

19
20 pp) "*Stigma*" refers to the dynamic devaluation and dehumanization of an individual
21 in the eyes of others which may be based on attributes that are arbitrarily defined
22 by others as discreditable or unworthy and which result in discrimination when
23 acted upon;

24
25 qq) "*Treatment*" hubs refer to private and public hospitals or medical establishments
26 accredited by the DOH to have the capacity and facility to provide anti-retroviral
27 treatment;

28
29 rr) "*Vertical transmission*" refers to the process of transmission during pregnancy,
30 birth, or breastfeeding;

31
32 ss) "*Voluntary HIV testing*" refers to HIV testing of an individual who, after having
33 undergone pre-test counseling, willingly submits to such test;

34

1 tt) "*Vulnerable communities*" refer to communities and groups suffering from
2 vulnerabilities such as unequal opportunities, social exclusion, poverty,
3 unemployment, and other similar social, economic, cultural and political
4 conditions, making them more susceptible to HIV infection and to developing
5 AIDS;

6
7 uu) "*Window period*" refers to the period of time, usually lasting from two (2) weeks
8 to six (6) months during which an infected individual will test "negative" upon
9 HIV testing but can actually transmit the infection; and

10
11 vv) "*Work place*" refers to the office, premise or work site where workers are
12 habitually employed and shall include the office or place where workers, with no
13 fixed or definite work site, regularly report for assignment in the course of their
14 employment.

15
16 **ARTICLE II**

17 **THE PHILIPPINE NATIONAL AIDS COUNCIL**

18
19 **SECTION 4.** *Establishment of the Philippine National AIDS Council.* -The
20 Philippine National AIDS Council, hereinafter referred to as "the Council", is hereby created.
21 The Council shall be an independent agency attached to the DOH, with a separate budget
22 under the General Appropriations Act.

23
24 The Council shall be the policy-making, planning, coordinating and advisory body of
25 the Philippine National HIV and AIDS Program. In situations where a gap in the national
26 response has been identified, the Council may catalyze or develop the intervention required
27 for endorsement to appropriate government agencies.

28
29 **SECTION 5.** *Functions.* - The Council shall perform the following functions:

30
31 a) Develop the National Multi-Sectoral HIV and AIDS Strategic Plan in
32 collaboration with relevant government agencies and CSOs;

- 1 b) Ensure the operationalization and implementation of the National Multi-Sectoral
2 HIV and AIDS Strategic Plan;
3
- 4 c) Coordinate with government agencies and other entities mandated to implement
5 the provisions of this Act;
6
- 7 d) Develop and ensure the implementation of the guidelines and policies provided in
8 this Act, including other policies that may be necessary to implement the National
9 Multi-Sectoral HIV and AIDS Strategic Plan;
10
- 11 e) Monitor the progress of the HIV/AIDS epidemic;
12
- 13 f) Monitor the implementation of the National Multi-Sectoral HIV and AIDS
14 Strategic Plan, undertake mid-term assessments and evaluate its impact;
15
- 16 g) Mobilize sources of funds for the National Multi-Sectoral HIV and AIDS
17 Strategic Plan;
18
- 19 h) Mobilize its members to conduct monitoring and evaluation of HIV-related
20 programs, policies, and services within their mandate
21
- 22 i) Coordinate, organize, and work in partnership with foreign and international
23 organizations regarding funding, data collection, research, and prevention and
24 treatment modalities on HIV and AIDS, and ensure foreign-funded programs are
25 aligned to the national response;
26
- 27 j) Advocate for policy reforms to Congress and other government agencies to
28 strengthen the country's response to the epidemic; and
29
- 30 k) Submit an annual report to the Office of the President, Congress, and the members
31 of the Council.
32
- 33 l) Serve as clearing house of HIV and AIDS-related standards on messaging,
34 programming, and service delivery.

1
2 In addition to the powers and functions enumerated under the preceding paragraph,
3 the members of the Council shall also develop and implement individual action plans which
4 shall be anchored to and integrated in the AIDS Medium Term Plan in addition to the duties
5 and members of the council. Such action plans shall be based on the duties, powers and
6 functions of the individual agencies as identified in Articles II to VII of this Act.
7

8 **SECTION 6. *Membership and Composition.*** –
9

10 The following member agencies and CSOs shall be represented in the Council:
11

- 12 a) The Department of Health (DOH);
- 13 b) The Department of Education (DepED);
- 14 c) The Department of Labor and Employment (DOLE);
- 15 d) The Department of Social Welfare and Development (DSWD);
- 16 e) The Department of the Interior and Local Government (DILG);
- 17 f) The Department of Justice (DOJ);
- 18 g) The National Economic and Development Authority (NEDA);
- 19 h) The Civil Service Commission (CSC);
- 20 i) The Commission on Higher Education (CHED);
- 21 j) The Technical Education and Skills Development Authority (TESDA);
- 22 k) The League of Provinces of the Philippines;
- 23 l) The League of Cities of the Philippines;
- 24 m) The Insurance Commission (IC);
- 25 n) The National Youth Commission (NYC);
- 26 o) Two (2) representatives from CSOs which have expertise in standard setting and
27 service delivery;
- 28 p) Seven (7) representatives from CSOs working for the welfare of identified key
29 populations; and
- 30 q) A representative of persons living with HIV or AIDS.
31

32 Except for the government members, the other members of the Council shall be
33 appointed by the President of the Philippines. The heads of government agencies may select

1 permanent representatives to represent in lieu of their presence.. The members of the Council
2 shall be appointed not later than thirty (30) days after the date of the enactment of this Act.

3
4 **SECTION 7. *Term of Office of the Members of the Council.*** – The Secretary of
5 Health shall be the permanent Chairperson of the Council. However, the Vice Chairperson
6 shall be elected from the government agency members, and shall serve for a term of six (6)
7 years. Members representing the civil society organizations shall also serve for a maximum
8 of two consecutive terms of six (6) years each.

9
10 **SECTION 8. *Criteria for Appointment.*** – Selection of members of the Council shall
11 be based on the following criteria:

- 12
13 a) Government agencies or CSOs with direct contribution to the performance of the
14 core functions of the Council (oversight, direction setting and policy making);
15
16 b) Government agencies or CSOs with existing programs, services and activities that
17 directly contribute to the achievement of the National Multi-Sectoral HIV and
18 AIDS Plan; and
19
20 c) Government Agencies or CSOS with existing constituencies that are targeted by
21 the National Multi-Sectoral HIV and AIDS Plan’s objectives and activities;
22

23 **SECTION 9. *Meetings and Quorum.*** – The council shall meet at least once (1) every
24 quarter. The presence of the Chairperson or the Vice Chairperson of the Council, and at least
25 seven (7) other Council members and/or their permanent representatives shall constitute a
26 quorum to do business. A majority vote of those present shall be sufficient to pass resolutions
27 or render decisions.

28
29 **SECTION 10. *Secretariat.*** – The Council shall be supported by a Secretariat
30 consisting of personnel with the necessary technical expertise and capability that shall be
31 conferred permanent appointments, subject to Civil Service rules and regulations. The
32 Secretariat shall be headed by an Executive Director, who shall be under the direct
33 supervision of the Chairperson of the Council.

34

1 The Secretariat shall perform the following functions:

2

3

a) Coordinate and manage the day-to-day affairs of the Council;

4

b) Assist in the formulation, monitoring, and evaluation of the National Multi-Sectoral HIV and AIDS Strategic Plan and policies;

5

6

c) Provide technical assistance, support, and advisory services to the Council and its external partners;

7

8

d) Assist the Council in identifying and building internal and external networks and partnerships;

9

10

e) Coordinate and support the efforts of the Council and its members to mobilize resources;

11

12

f) Serve as the clearing house and repository of HIV and AIDS-related information;

13

14

g) Disseminate updated, accurate, relevant, and comprehensive information about the epidemic to Council members, policy makers, and the media;

15

h) Provide administrative support to the Council; and

16

i) Act as spokesperson and representative for and in behalf of the Council.

17

18

SECTION 11. *National Multi-Sectoral HIV and AIDS Strategic Plan.* – A six (6)-

19

year National Multi-Sectoral HIV and AIDS Strategic Plan or an AIDS Medium-Term Plan

20

(AMTP) shall be formulated and periodically updated by the Council. The AMTP shall

21

include the following:

22

23

a) The country's targets and strategies in addressing the epidemic;

24

25

b) The prevention, treatment, care and support, and other components of the country's response;

26

27

28

c) The six (6)-year operationalization of the program and identification of the government agencies that shall implement the program, including the designated office within each agency responsible for overseeing, coordinating, facilitating and/or monitoring the implementation of its AIDS program from the national to the local levels; and

29

30

31

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33

- 1 d) The budgetary requirements and a corollary investment plan that shall identify the
2 sources of funds for its implementation.
3

4 **SECTION 12. *National HIV and AIDS and STI Prevention and Control Program of***
5 *the DOH.* – The existing National HIV and AIDS and STI Prevention and Control Program
6 (NASPCP) of the DOH, which is composed of qualified medical specialists and support
7 personnel with permanent appointments and with adequate yearly budget, shall coordinate
8 with the Council for the implementation of the health sector’s HIV and AIDS and STI
9 response, as identified in the AMTP.
10

11 **SECTION 13. *HIV and AIDS Monitoring and Evaluation.*** – The DOH shall maintain
12 a comprehensive HIV and AIDS monitoring and evaluation program that shall serve the
13 following purposes:
14

- 15 a) Determine and monitor the magnitude and progression of HIV and AIDS in the
16 Philippines to help the Council evaluate the adequacy and efficacy of HIV
17 prevention and treatment programs being employed;
18
- 19 b) Receive, collate, process and evaluate all HIV and AIDS-related medical reports
20 from all hospitals, clinics, laboratories and testing centers, including HIV-related
21 deaths and relevant data from public and private hospitals, various databanks or
22 information systems: *Provided*, That it shall adopt a coding system that ensures
23 anonymity and confidentiality; and
24
- 25 c) Submit, through its Secretariat, quarterly and annual reports to the Council
26 containing the findings of its monitoring and evaluation activities in compliance
27 with this mandate.
28

29 **SECTION 14. *Protection of Human Rights.*** – The country’s response to the HIV and
30 AIDS phenomena shall be anchored on the principles of human rights and human dignity.
31 Public health concerns shall be aligned with internationally-recognized human rights
32 instruments and standards.
33

1 Towards this end, the members of the Council, in cooperation with CSOs and in
2 collaboration with the DOJ and the Commission on Human Rights (CHR), shall ensure the
3 delivery of nondiscriminatory HIV and AIDS services by government and private HIV and
4 AIDS service providers. Further, the DOH and the CHR, in coordination with the Council,
5 shall take the lead in developing redress mechanisms for persons living with HIV to ensure
6 that their civil, political, economic and social rights are protected. The Council shall also
7 cooperate with local government units to strengthen existing mediation and reconciliation
8 mechanisms at the local level.

9
10 **ARTICLE III**
11 **EDUCATION AND INFORMATION**

12
13 **SECTION 15.** *Education as a Right to Health and Information.* – HIV and AIDS
14 education and information dissemination shall form part of the constitutional right to health.

15
16 **SECTION 16.** *Prevention Program.* – There shall be an HIV and AIDS prevention
17 program that shall educate the public on these and other sexually transmitted infections, with
18 the goal of reducing risky behavior, lowering vulnerabilities, and promoting the human rights
19 of persons living with HIV.

20
21 The Council shall promote and adopt a range of measures and interventions, in
22 partnership with CSOs that aim to prevent, halt, or control the spread of HIV in the general
23 population, especially among the key populations and vulnerable communities. These
24 measures shall likewise promote the rights, welfare, and participation of persons living with
25 HIV and the affected children, young people, families and partners of persons living with
26 HIV.

27
28 The HIV and AIDS prevention programs shall be age-appropriate and based on up-to-
29 date evidence and scientific strategies, and shall actively promote:

- 30
31 a) Safer sex practices among the general population, especially among key
32 populations, that reduce risk of HIV infection;

- 1 b) Universal awareness of and access to evidence-based and relevant information and
2 education, and medically safe, legally affordable, effective and quality treatment;
3

4 **SECTION 17. *Education in Learning Institutions.*** – Using standardized information
5 and data from the Council, the DepED, CHED, and TESDA, shall integrate basic and age-
6 appropriate instruction on the causes, modes of transmission and ways of preventing the
7 spread of HIV and AIDS and other sexually transmitted infections in their respective
8 curricula taught in public and private learning institutions, including alternative and
9 indigenous learning systems. The learning modules shall include human rights-based
10 principles and information on treatment, care and support to promote stigma reduction.
11

12 The learning modules that shall be developed to implement this provision shall be
13 done in coordination with the PNAC and stakeholders in the education sector. Referral
14 mechanisms, including but not limited to the DSWD Referral System, shall be included in the
15 modules for key populations and vulnerable communities.
16

17 The DepED, CHED, and TESDA shall ensure the development and provision of
18 psychosocial support and counseling in learning institutions for the development of positive
19 health, promotion of values and behavior pertaining to reproductive health in coordination
20 with the DOH. For this purpose, funds shall be allocated for the training and certification of
21 teachers and school counselors.
22

23 **SECTION 18. *Education in the Workplace.*** – All public and private employers and
24 employees shall be provided with standardized basic information and instruction on HIV and
25 AIDS, including topics on confidentiality in the workplace and reduction or elimination of
26 stigma and discrimination.
27

28 The DOLE for the private sector and the CSC for the public sector shall implement
29 this provision. The members of the Armed Forces of the Philippines (AFP) and the Philippine
30 National Police (PNP) shall likewise be provided with standardized basic information and
31 instruction on HIV and AIDS by the DOH in partnership with appropriate agencies.
32

33 **SECTION 19. *Education for Filipinos Going Abroad.*** – The DFA shall, in
34 coordination with the Commission on Filipino Overseas, the DOLE and the Council, ensure

1 that all overseas Filipino workers, including diplomatic, military, trade, labor officials, and
2 personnel and their families to be assigned overseas, shall undergo or attend a seminar on
3 HIV and AIDS, and shall be provided with information on how to access on-site HIV-related
4 services and facilities before certification for assignment overseas .
5

6 **SECTION 20.** *Information for Tourists and Transients.* - Educational materials on
7 the causes, modes of transmission, prevention, consequences of HIV infection and list of HIV
8 counseling and testing facilities shall be adequately provided at all international and local
9 ports of entry and exit. The DOT, DFA, Department of Transportation (DOTr), and the
10 Bureau of Quarantine, in coordination with the Council and stakeholders in the tourism
11 industry, shall lead in the implementation of this section.
12

13 **SECTION 21.** *Education in Communities.* – LGUs, through the Local HIV and AIDS
14 Council (LAC) or the Local Health Boards and, in coordination with the Council, the DILG,
15 the League of Provinces, and the League of Cities, shall implement a locally-based, multi-
16 sectoral community response to HIV and AIDS through various channels on evidence-based,
17 gender-responsive, age-appropriate, and human rights-oriented prevention tools to stop the
18 spread of HIV.
19

20 **SECTION 22.** *Education for Key Populations and Vulnerable Communities.* – To
21 ensure that HIV services reach key populations at higher risk, the Council, in collaboration
22 with the LGUs and CSOs engaged in HIV and AIDS programs and projects, shall support and
23 provide funding for HIV and AIDS education programs, such as peer education, support
24 groups, outreach activities and community-based research that target these populations and
25 other vulnerable communities. The DOH shall, in coordination with appropriate agencies and
26 the Council, craft the guidelines and standardized information messages for peer education,
27 support group and outreach activities.
28

29 **SECTION 23.** *Prevention in Prisons and in Other Closed-Setting Institutions.* – All
30 prisons, rehabilitation centers and other closed-setting institutions shall have a comprehensive
31 STI, HIV and AIDS prevention and control program that includes HIV education and
32 information, HIV counseling and testing, and access to HIV treatment and care services. The
33 DOH shall, in coordination with the DILG, the DOJ, the DSWD, and CSOs, shall develop
34 comprehensive HIV and AIDS programs and policies which include the HIV counseling,

1 access to other preventive services such as PrEP, condoms, and testing procedures in prisons,
2 rehabilitation centers, and other closed-setting institutions.

3
4 Persons living with HIV in prisons and in other closed settings shall be provided HIV
5 treatment, which includes ARV drugs, care and support in accordance with national
6 guidelines. Efforts shall be undertaken to ensure the continuity of care at all stages, from
7 admission or imprisonment to release. The provision on informed consent and confidentiality
8 shall also apply in closed settings.

9
10 **SECTION 24. *Information on Prophylactics.*** – Appropriate information shall be
11 attached to or provided with every prophylactic offered for sale or given as a donation. Such
12 information shall be legibly printed in English and Filipino, and contain literature on the
13 proper use of the prophylactic device or agent, its efficacy against HIV and STI.

14
15 **SECTION 25. *Misinformation on HIV and AIDS.*** – Misinformation on HIV and
16 AIDS, which includes false and misleading advertising and claims in any of the multimedia
17 or the promotional marketing of drugs, devices, agents or procedures without prior approval
18 from the DOH through the Food and Drug Administration (FDA) and without the requisite
19 medical and scientific basis, including markings and indications in drugs and devices or
20 agents, purporting to be a cure or a fail-safe prophylactic for HIV infection, shall be
21 prohibited.

22 23 **ARTICLE IV**

24 **PREVENTIVE MEASURES, SAFE PRACTICES AND PROCEDURES**

25
26 **SECTION 26. *Positive Health, Dignity and Prevention.*** – The Council, in
27 coordination with the DOH, LGUs, and other relevant government agencies, private sector,
28 CSOs, faith-based organizations, and persons living with HIV, shall support preventive
29 measures that shall focus on the positive roles of persons living with HIV. Such preventive
30 measures shall include the following:

- 31
32 a) Creation of rights-based and community-led behavior modification programs that
33 seek to encourage HIV risk reduction behavior among persons living with HIV;
34

- 1 b) Establishment and enforcement of rights-based mechanisms to strongly encourage
2 newly tested HIV-positive individuals to conduct partner notification and to
3 promote HIV status disclosure to sexual partners;
4
5 c) Establishment of standard precautionary measures in public and private health
6 facilities;
7
8 d) Accessibility of ARV treatment and management of opportunistic infections; and
9
10 e) Mobilization of communities of persons living with HIV for public awareness
11 campaigns and stigma reduction activities.
12

13 The enforcement of this section shall not lead to or result in the discrimination or
14 violation of the rights of persons living with HIV.
15

16 **SECTION 27. *Harm Reduction Strategies.*** – The DILG and the DOH, in close
17 coordination with the Dangerous Drugs Board and in partnership with the key affected
18 population, shall establish a human rights and evidenced-based HIV prevention policy and
19 program for people who use and inject drugs.
20

21 The presence of used or unused condoms, other safer sex paraphernalia and sterile
22 injecting equipment shall not be used as basis to conduct raids or similar police operations in
23 sites and venues of HIV prevention interventions. The DILG and the DOH, in coordination
24 with the Dangerous Drugs Board, shall establish a national policy to guarantee the
25 implementation of this provision.
26

27 **SECTION 28. *Prevention of Mother-to-Child HIV Transmission.*** – The DOH shall
28 implement a program to prevent mother-to-child HIV transmission that shall be integrated
29 into its maternal and child health services.
30

31 **SECTION 29. *Standard Precaution on the Donation of Blood, Tissue, or Organ.*** –
32 The DOH shall enforce the following guidelines on donation of blood, tissue, or organ:
33

- 1 a) A donation of tissue or organ, whether gratuitous or onerous, shall be accepted by
2 a laboratory or institution only after a sample from the donor has been tested
3 negative for HIV;
4
- 5 b) All donated blood shall also be subject to HIV testing. HIV positive blood shall be
6 disposed of properly and immediately; and
7
- 8 c) A second testing may be demanded, as a matter of right, by the blood, tissue, or
9 organ recipients or their immediate relatives before transfusion or transplant,
10 except during emergency cases.
11

12 Donations of blood, tissue, or organ testing positive for HIV may be accepted for
13 research purposes only, and shall be subject to strict sanitary disposal requirements.
14

15 **SECTION 30.** *Standard Precaution on Surgical and Other Similar Procedures.* –
16 The DOH shall, in consultation with concerned professional organizations and hospital
17 associations, issue guidelines on precautions against HIV transmission during surgical,
18 dental, embalming, body painting or tattooing that require the use of needles or similar
19 procedures. The necessary protective equipment such as gloves, goggles and gowns shall be
20 prescribed and required, and made available to all physicians and health care providers, tattoo
21 artists, and similarly exposed personnel at all times.
22

23

24 **ARTICLE V**
25 **TESTING, SCREENING AND COUNSELING**
26

27 **SECTION 31.** *Voluntary HIV Testing.* – As a policy, the State shall encourage
28 voluntary HIV testing. Written consent from the person taking the test must be obtained
29 before HIV testing.
30

31 In keeping with the principle of the evolving capacities of a child as defined in this
32 Act, HIV testing shall be made available under the following circumstances:
33

- 1 a) A person aged fifteen (15) or over shall be entitled to access HIV testing and
2 counseling without the need of consent from a parent or guardian;
- 3 b) If the person is below fifteen (15) years of age or is mentally incapacitated,
4 such consent shall be obtained from the child's parents, legal guardian. In
5 cases when the child's parents or legal guardian cannot be found despite
6 reasonable efforts to locate them, the consent shall be obtained from a licensed
7 social worker. If the child's parents or legal guardian refuse to give their
8 consent, the consent shall likewise be obtained from the licensed social worker
9 if the latter determines that the child is at a higher risk of HIV exposure and
10 the conduct of the voluntary HIV testing is in the best interest of the child. The
11 assent of the minor is also required prior to the testing;
- 12 c) Any young person aged below fifteen (15) who is married, pregnant or
13 engaged in high-risk behavior should be considered a mature minor and be
14 eligible to give consent to HIV testing and counseling;
- 15

16 HIV testing guidelines issued by the DOH as per Section 33 of this Act shall include
17 guidance for testing minors and for the involvement of parents/guardians in HIV testing of
18 minors.

19

20 **SECTION 32. *Compulsory HIV Testing.*** - Compulsory HIV testing shall be allowed
21 only in the following instances:

22

- 23 a) When it is necessary to test a person who is charged with any of the offenses
24 punishable under Articles 264, 266, 335 and 338 of "The Revised Penal Code", as
25 amended by Republic Act No. 8353, otherwise known as "The Anti-Rape Law of
26 1997";
- 27
- 28 b) When it is necessary to resolve relevant issues under Executive Order No. 209,
29 otherwise known as "The Family Code of the Philippines"; and
- 30
- 31 c) As a prerequisite in the donation of blood in compliance with the provisions of
32 Republic Act No. 7170, otherwise known as the "Organ Donation Act of 1991",
33 and Republic Act No. 7719, otherwise known as the "National Blood Services Act
34 of 1994".

1
2 **SECTION 33. HIV Counseling and Testing.** - To ensure access to voluntary and
3 confidential HIV testing, which shall include client-initiated HIV testing and routine
4 provider-initiated testing, the DOH shall:

5
6 a) Accredite public and private HIV testing facilities based on capacity to deliver
7 testing services including HIV counseling: *Provided*, That only DOH-accredited
8 HIV testing facilities shall be allowed to conduct HIV testing;

9
10 b) Accredite institutions or organizations that train HIV and AIDS counselors in
11 coordination with the DSWD;

12
13 c) Accredite competent HIV and AIDS counselors for persons with disability,
14 including but not limited to translator for the hearing-impaired and Braille for the
15 visually-impaired clients in coordination with the National Council for Disability
16 Affairs;

17
18 Develop the guidelines for HIV counseling and testing, including mobile HIV
19 counseling and testing and routine provider-initiated HIV counseling and testing that
20 shall ensure, among others, that HIV testing is based on informed consent, is
21 voluntary and confidential, available at all times, and provided by qualified persons
22 and DOH-accredited providers; and

23 d) Set the standards for HIV counseling and work closely with HIV and AIDS CSOs
24 that train HIV and AIDS counselors and peer educators in coordination and
25 participation of NGOs, government organizations (GOs) and Civil Society
26 Organization-People Living with HIV (CSO-PLHIV).

27
28 All HIV testing facilities shall provide free pre-test and post-test HIV counseling to
29 individuals who wish to avail of HIV testing, which shall likewise be confidential. No HIV
30 testing shall be conducted without informed consent. The State shall ensure that specific
31 approaches to HIV counseling and testing are adopted based on the nature and extent of
32 HIV/AIDS incidence in the country.

1 Pre-test counseling and post-test counseling shall be done by the HIV and AIDS
2 counselor, licensed social worker, licensed health service provider, or a DOH-accredited
3 health service provider assigned to provide health services: *Provided*, that for the government
4 HIV testing facilities, pre-test and post-test counseling shall be provided for free.

5
6 **SECTION 34. *Testing of Organ Donation.*** – Lawful consent to HIV testing of a
7 donated human body, organ, tissue or blood shall be considered as having been given when:

- 8
9 a) A person volunteers or freely agrees to donate one’s blood, organ, or tissue for
10 transfusion, transplantation, or research; and

11
12 A legacy and a donation are executed in accordance with Sections 3 and 4,
13 respectively, of Republic Act No. 7170, otherwise known as the “Organ Donation Act of
14 1991”.

15
16 **SECTION 35. *HIV Anti-Body Testing for Pregnant Women.*** – A health care provider who
17 offers pre-natal medical care shall routinely conduct HIV screening with an opt-out HIV
18 testing for pregnant women. The DOH shall provide the necessary guidelines for health care
19 providers in the conduct of the screening procedure.

20 21 **ARTICLE VI**

22 **HEALTH AND SUPPORT SERVICES**

23
24 **SECTION 36. *Non-Discriminatory HIV and AIDS Services.*** – The members of the
25 Council, in cooperation with civil society organizations, and in collaboration with the DOJ
26 and the CHR, shall ensure the delivery of non-discriminatory HIV and AIDS services by
27 government and private HIV and AIDS service providers.

28
29 **SECTION 37. *Treatment for Persons Living with HIV and AIDS.*** – The DOH shall
30 establish a program that will provide free and accessible ARV treatment and medication for
31 opportunistic infections to all PLHIVs who are enrolled in the program, particularly those
32 who are poor or pindigent. It shall likewise designate public and private hospitals to become
33 treatment hubs with an established HIV and AIDS Core Team (HACT). A manual of
34 procedures for management of PLHIV shall be developed by the DOH.

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SECTION 38. *Economic Empowerment and Support.* – Persons living with HIV shall not be deprived of any employment, livelihood, micro-finance, self-help, and cooperative programs by reason of their HIV status. The DSWD, in coordination with the DILG, the DOLE and the TESDA, shall develop enabling policies and guidelines to ensure economic empowerment and independence designed for persons living with HIV.

SECTION 39. *Care and Support for Persons Living with HIV.* – The DSWD, in coordination with the DOH and the TESDA, shall develop care and support programs for persons living with HIV, which shall include peer-led counseling and support, social protection, welfare assistance, and mechanisms for case management. These programs shall include care and support for the affected children, families and partners of persons living with HIV.

SECTION 40. *Care and Support for Overseas Workers Living with HIV.* – The Overseas Workers Welfare Administration (OWWA), in coordination with the DSWD, the DFA, the Commission on Filipino Overseas and the Bureau of Quarantine, shall develop a program to provide a stigma-free comprehensive reintegration, care and support program, including economic, social and medical support, for overseas workers, regardless of employment status and stage in the migration process.

SECTION 41. *Care and Support for Affected Families, Intimate Partners, Significant Others, and Children of People Living with HIV.* – The DSWD, DOH, LGUs, in consultation with CSOs, and affected families of persons living with HIV shall develop care and support programs for affected families, intimate partners, significant others and children of people living with HIV, which shall include the following:

- a) Education programs that reduce HIV-related stigma, including counseling, to prevent HIV-related discrimination within the family;
- b) Educational assistance for children infected with HIV and children orphaned by HIV and AIDS;

1 c) HIV treatment and management of opportunistic infections for minors living with
2 HIV who are not eligible under the PhilHealth OHAT Package.

3 **SECTION 42. *Health Insurance and Similar Health Services.*** – The Philippine
4 Health Insurance Corporation (PhilHealth) shall:

5

6 a) Develop an benefit package for persons living with HIV that shall include
7 coverage for in-patient and out-patient medical and diagnostic services, including
8 medication and treatment, and a set of benefits to the unborn and newborn child
9 infected by their mothers;

10

11 b) Develop a benefit package for the unborn and the newborn children and orphans
12 of infected mothers;

13

14 c) Set a reference price for HIV services in government hospitals and conduct
15 programs to educate the human resource units of companies on the PhilHealth
16 package on HIV and AIDS; *and*

17

18 d) Conduct programs to educate the human resource units of companies on the
19 Philhealth package on HIV and AIDS.

20

21 The PhilHealth shall enforce confidentiality in the provision of these packages to persons
22 living with HIV. No person living with HIV shall be denied or deprived of pre-agreed
23 services by an HMO ,and private life insurance coverage by a life insurance company on the
24 basis of the person's HIV status. The Insurance Commission shall enforce the provision of
25 life insurance coverage by persons applying for such services and shall develop the necessary
26 policies to ensure compliance.

27

28 **SECTION 43. *Immunity from Suit for HIV Educators, Licensed Social Workers,***
29 ***Health Workers and Other HIV and AIDS Service Providers.*** – Any person involved in the
30 provision of HIV and AIDS services, including peer educators, licensed social workers,
31 health workers and other HIV and AIDS service providers, shall be immune from suit, arrest
32 or prosecution, and from civil, criminal or administrative liability, on the basis of their
33 delivery of such services in HIV prevention, or in relation to the legitimate exercise of

1 protective custody of children, whenever applicable. This immunity does not cover acts
2 which are committed in violation of this Act.

3
4 **ARTICLE VII**
5 **CONFIDENTIALITY**
6

7 **SECTION 44. Confidentiality.** – The confidentiality and privacy of any individual
8 who has been tested for HIV, exposed to HIV, has HIV infection or HIV and AIDS-related
9 illnesses, or was treated for HIV-related illnesses shall be guaranteed. The following acts
10 violate confidentiality and privacy:

- 11
- 12 a) Disclosure of Confidential HIV and AIDS Information - Unless otherwise
13 provided in Section 45 of this Act, it shall be unlawful to disclose, without written
14 consent, information that a person had HIV-related test and AIDS, has HIV
15 infection or HIV-related illnesses, or has been exposed to HIV.

16

17 The prohibition shall apply to any person, natural or juridical, whose work or
18 function involves the implementation of this Act or the delivery of HIV-related
19 services, including those who handle or have access to personal data or
20 information in the workplace, and who, pursuant to the receipt of the required
21 written consent from the subject of confidential HIV and AIDS information, have
22 subsequently been granted access to the same confidential information.

- 23
- 24 b) Media Disclosure - It shall be unlawful for any editor, publisher, reporter or
25 columnist, in case of printed materials and other forms of media, announcer or
26 producer in case of television and radio broadcasting, producer and director of
27 films in case of the movie industry, to disclose the name, picture, or any
28 information that would reasonably identify any person living with HIV or AIDS,
29 or any confidential HIV and AIDS information, without the prior written consent
30 of their subject except when the person waives said confidentiality through his/her
31 own acts or omissions.

32

33 **SECTION 45. Exceptions.** – Confidential HIV and AIDS information may be
34 released by HIV testing facilities without written consent in the following instances:

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- a) When complying with reportorial requirements of the national active and passive surveillance system of the DOH: *Provided*, That the information related to a person's identity shall remain confidential;
- b) When informing other health workers directly involved in the treatment or care of a person living with HIV: *Provided*, That such worker shall be required to perform the duty of shared medical confidentiality; and
- c) When responding to a *subpoena duces tecum* and *subpoena ad testificandum* issued by a court with jurisdiction over a legal proceeding where the main issue is the HIV status of an individual: *Provided*, That the confidential medical record, after having been verified for accuracy by the head of the office or department, shall remain anonymous and unlinked and shall be properly sealed by its lawful custodian, hand delivered to the court, and personally opened by the judge: *Provided further*, That the judicial proceedings shall be held in executive session.

SECTION 46. Release of HIV-Related Test Results. – The result of any test related to HIV shall be released by the attending physician who provides pre- and post-test counseling only to the individual who submitted to the test. If the patient is below fifteen (15) years old, an orphan, or is mentally incapacitated, the result may be released to either of the patient's parents, legal guardian, or a duly assigned licensed social worker, whichever is applicable. If the person is fifteen (15) years of age and above, the results shall be released only to the person tested after he/she has received post-test counseling.

SECTION 47. Disclosure to Sexual Partners. – Any person who, after having been tested, is found to be infected with HIV, is strongly encouraged to disclose this health condition to the spouse or sexual partner prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV may opt to seek help from qualified professionals including medical professionals, health workers, peer educators, or social workers to support him in disclosing this health condition to one's partner or spouse. Confidentiality shall likewise be observed. Further, the DOH, through the Council, shall establish an enabling environment to encourage newly tested HIV-positive individuals to disclose their status to sexual partners.

1
2 **SECTION 48.** *Duty of Employers, Heads of Government Offices, Heads of Public*
3 *and Private Schools or Training Institutions, and Local Chief Executives.* – It shall be the
4 duty of private employers, heads of government offices, heads of public and private schools
5 or training institutions, and local chief executives over all private establishments within their
6 territorial jurisdiction to prevent or deter acts of discrimination against persons living with
7 HIV, and to provide procedures for the resolution, settlement, or prosecution of acts of
8 discrimination. Towards this end, the employer, head of office, or local chief executive shall:

- 9
10 a) Promulgate rules and regulations prescribing the procedure for the investigation of
11 discrimination cases and the administrative sanctions thereof; and
12
13 b) Create a permanent committee on the investigation of discrimination cases. The
14 committee shall conduct meetings to increase the members’ knowledge and
15 understanding of HIV and AIDS, and to prevent incidents of discrimination. It
16 shall also conduct the administrative investigation of alleged cases of
17 discrimination.

18
19 **ARTICLE VIII**
20 **DISCRIMINATORY ACTS AND PRACTICES**

21
22 **SECTION 49.** The following are discriminatory acts and practices and shall be
23 prohibited:

- 24
25 a) Discrimination in the Workplace - The rejection of job application, termination of
26 employment, or other discriminatory policies in hiring, provision of employment
27 and other related benefits, promotion or assignment of an individual solely or
28 partially on the basis of actual, perceived, or suspected HIV status;
29
30 b) Discrimination in Learning Institutions - Refusal of admission, expulsion,
31 segregation, imposition of harsher disciplinary actions, or denial of benefits or
32 services of a student or a prospective student solely or partially on the basis of
33 actual, perceived, or suspected HIV status;
34

- 1 c) Restriction on Travel and Habitation - Restrictions on travel within the
2 Philippines, refusal of lawful entry to Philippine territory, deportation from the
3 Philippines, or the quarantine or enforced isolation of travelers solely or partially
4 on account of actual, perceived, or suspected HIV status is discriminatory; the
5 same standard of protection shall be afforded to migrants, visitors and residents
6 who are not Filipino citizens.
- 7
- 8 d) Restrictions on Shelter- Eviction from or restriction on housing or lodging,
9 whether permanent or temporary, solely or partially on the basis of actual,
10 perceived, or suspected HIV status, is a discriminatory act;
- 11
- 12 e) Exclusion from Credit and Insurance Services - Exclusion from health, accident,
13 or life insurance, credit and loan services, including the extension of such loan or
14 insurance facilities, of an individual solely or partially on the basis of actual,
15 perceived, or suspected HIV status: *Provided*, That the person living with HIV has
16 not misrepresented the fact to the insurance company or loan or credit service
17 provider upon application;
- 18
- 19 f) Discrimination in Hospitals and Health Institutions - Denial of health services, or
20 be charged with a higher fee, on the basis of actual, perceived, or suspected HIV
21 status; and
- 22
- 23 g) Denial of Burial Services - Denial of embalming and burial services for a
24 deceased person who had HIV and AIDS or who was known, suspected or
25 perceived to be HIV-positive.
- 26
- 27 h) Prohibition from Seeking or Holding Public Office - Prohibition on the right to
28 seek an elective or appointive public office solely or partially on the basis of
29 actual, perceived, or suspected HIV status; and
- 30
- 31 i) Other similar or analogous discriminatory acts.

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ARTICLE IX
FINAL PROVISIONS

SECTION 50. Penalties. - The corresponding penalties shall be imposed upon:

- a) Any person found guilty of violating Section 25 of this Act shall, upon conviction, suffer the penalty of imprisonment ranging from one (1) year but not more than ten (10) years or a fine of not less than Fifty Thousand Pesos (P50,000) but not more than Five Hundred Thousand Pesos (P500,000), or both, at the discretion of the Court: *Provided*, that if the offender is a manufacturer, importer or distributor of any drugs, devices, agents, and other health products, the penalty of at least five (5) years imprisonment but not more than ten (10) years and a fine of at least Five Hundred Thousand Pesos (P500,000) but not more than Five Million Pesos (P5,000,000) shall be imposed: *Provided further*, that an additional fine of one percent (1%) of the economic value/cost of the violate product or violation, or One Thousand Pesos (P1,000), whichever is higher, shall be imposed for each day of continuing violation: *Provided finally*, that drugs, devices, agents, and other health products found in violation of Section 25 of this Act may be seized and held in custody pending proceedings, without hearing or Court order, when the FDA Director-General has reasonable cause to believe that facts found by him/her or an authorized officer or employee of the FDA that such health products may cause injury or prejudice to the consuming public;
- b) Any person who violates the last paragraph of Section 27 of this Act shall, upon conviction, suffer the penalty of imprisonment of one (1) year to five (5) years and a fine of not less than one hundred thousand pesos (P100,000.00) but not more than five hundred thousand pesos (P500,000.00): *Provided*, That the law enforcement agents found guilty shall be removed from public service;
- c) Any person who knowingly or negligently causes another to get infected with HIV in the course of the practice of profession through unsafe and unsanitary practice and procedure shall, upon conviction, suffer the penalty of imprisonment of six (6) years to twelve (12) years, without prejudice to the imposition of fines and administrative sanctions, such as suspension or revocation of professional license.

1
2 The permit or license of the business entity and the accreditation of the HIV
3 testing centers may be cancelled or withdrawn if these establishments fail to
4 maintain safe practices and procedures as may be required by the guidelines
5 formulated in compliance with Sections 25 and 26 of this Act;
6

7 d) Any person who violates Section 43 of this Act shall, upon conviction, suffer the
8 penalty of imprisonment of six (6) months to five (5) years and/or a fine of not
9 less than one hundred thousand pesos (P100,000.00) but not more than five
10 hundred thousand pesos (P500,000.00): *Provided*, That if the person who violates
11 this provision is a law enforcement agent or a public official, administrative
12 sanctions may be imposed in addition to imprisonment and/or fine, at the
13 discretion of the court;
14

15 e) Any person, natural or juridical, who denies life insurance coverage or pre-agreed
16 services under an HMO of any person living with HIV in violation of Section 42
17 of this Act shall, upon conviction, suffer the penalty of imprisonment of six (6)
18 months to five (5) years and/or a fine of not less than fifty thousand pesos
19 (P50,000.00) but not more than five hundred thousand pesos (P500,000.00), at the
20 discretion of the court, and without prejudice to the imposition of administrative
21 sanctions such as fines, suspension or revocation of business permit, business
22 license or accreditation, and professional license;
23

24 f) Any person, natural or juridical, who violates the provisions of Section 44 of this
25 Act shall, upon conviction, suffer the penalty of imprisonment of six (6) months to
26 five (5) years and/or a fine of not less than fifty thousand pesos (P50,000.00) but
27 not more than five hundred thousand pesos (P500,000.00), or both imprisonment
28 and fine, at the discretion of the court, and without prejudice to the imposition of
29 administrative sanctions such as suspension or revocation of business permit,
30 business license or accreditation, and professional license;
31

32 g) Any person, natural or juridical, who shall violate any of the provisions in Section
33 49 shall, upon conviction, suffer the penalty of imprisonment of six (6) months to
34 five (5) years and/or a fine of not less than fifty thousand pesos (P50,000.00) but

1 not more than five hundred thousand pesos (P500,000.00), at the discretion of the
2 court, and without prejudice to the imposition of administrative sanctions such as
3 fines, suspension or revocation of business permit, business license or
4 accreditation, and professional license; and
5

6 h) Any person who has obtained knowledge of confidential HIV and AIDS
7 information and uses such information to malign or cause damage, injury or loss
8 to another person shall face liability under Articles 19, 20, 21 and 26 of the new
9 Civil Code of the Philippines and relevant provisions of Republic Act No. 10174,
10 otherwise known as the Data Privacy Act of 2012.
11

12 Fines and penalties collected pursuant to this section shall be deposited in the
13 National Treasury.
14

15 **SECTION 51. *Accessory Penalties***- If the offender is a corporation, association,
16 partnership or any other juridical person, the penalty of imprisonment shall be imposed upon
17 the responsible officers and employees, as the case may be, who participated in, or allowed
18 by their gross negligence, the commission of the crime, and the fine shall be imposed jointly
19 and severally on the juridical person and the responsible officers/employees. Furthermore, the
20 Court may suspend or revoke its license or business permit.
21

22 If the offender is an alien, he/she shall, in addition to the penalties prescribed herein,
23 be deported without further proceedings after serving penalties herein prescribed.
24

25 If the offender is a public official or employee, he/she shall, in addition to the
26 penalties prescribed herein, suffer perpetual or temporary absolute disqualification from
27 office, as the case may be.
28

29 **SECTION 52. *Appropriations***. – The funds needed for the initial operations of the
30 Council shall be charged against its appropriations in the General Appropriations Act
31 enacted in the year of this act's effectivity. The total Thereafter, such sums as may be
32 necessary for the continued implementation of the Council and its member agencies shall be
33 sourced from:
34

- 1 1. Its annual budget under the General Appropriations Act; and
- 2 2. At least ten percent (10%) of the revenues from Amusement Taxes.

3
4 The DBM, in coordination with the DOH and the DOF, shall consider the incidence
5 of HIV and AIDS, in determining the annual appropriations for the implementation of this
6 Act.

7
8 The funds to be appropriated for the operations of the Council shall be treated as a
9 distinct and separate budget item from the regular appropriation for the DOH and shall be
10 administered by the Secretary of Health. In no circumstance shall the appropriations, savings
11 and other resources of the Council be realigned to the programs and projects of the DOH or
12 of any other government agency, unless such program or project is related to the
13 implementation of provisions under this Act.

14
15 At least five percent (5%) of the annual appropriations of local government units shall
16 be allocated for their action plans specified in this Act. *Provided*, that these funds be
17 indicated as a separate budget item in their annual appropriations.

18
19 The funding requirement needed to provide for the health insurance package and other
20 services for persons living with HIV as stated in Section 42 hereof shall be charged against
21 the PhilHealth's corporate funds.

22
23 The funding needed to upgrade or construct government administered HIV testing and
24 treatment centers shall be charged against the revenues from excise taxes on alcohol which
25 are earmarked for the health enhancement facilities program of the DOH under Section 8 (c)
26 of R.A. 8424, otherwise known as the National Internal Revenue Code, as amended by R.A.
27 10351.

28
29 **SECTION 53. *Transitory Provision.*** - The personnel designated by the DOH as
30 Secretariat of the Council under Section 7 of this Act shall be absorbed as permanent
31 personnel to fill the positions of the Secretariat as provided in this Act.

1 **SECTION 54. *Implementing Rules and Regulations.*** - The Council, within ninety
2 (90) days from the effectivity of this Act, shall promulgate the necessary rules and
3 regulations for the effective implementation of the provisions of this Act.
4

5 **SECTION 55. *Repealing Clause.*** - Republic Act No. 8504, otherwise known as the
6 “Philippine AIDS Prevention and Control Act of 1998”, is hereby repealed. All decrees,
7 executive orders, proclamations and administrative regulations or parts thereof, particularly in
8 Republic Act No. 3815, otherwise known as “The Revised Penal Code”; Republic Act No.
9 8353, otherwise known as “The Anti-Rape Law of 1997”; Executive Order No. 209,
10 otherwise known as “The Family Code of the Philippines”; Republic Act No. 7710, otherwise
11 known as the “National Blood Services Act of 1994”; Republic Act No. 9165, otherwise
12 known as the “Comprehensive Dangerous Drugs Act of 2002”; and Republic Act No. 7170,
13 otherwise known as the “Organ Donation Act of 1991”, inconsistent with the provisions of
14 this Act are hereby repealed, amended or modified accordingly.
15

16 **SECTION 56. *Separability Clause.*** - If any provision or part of this Act is declared
17 unconstitutional, the remaining parts or provisions not affected shall remain in full force and
18 effect.

19 **SECTION 57. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
20 complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,