

**EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session

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Senate
Office of the Secretary

SENATE

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S. B. No. 864

RECEIVED BY: _____

INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
INSTITUTING A POLICY ON BLOODBORNE VIRAL HEPATITIS TESTING
AND SCREENING**

EXPLANATORY NOTE

Hepatitis B and C infections are significant public health problems in the country. Both can cause chronic infection and are strongly linked with the development of liver cirrhosis and liver cancer which are incurable and fatal. Globally, around 57% of liver cirrhosis cases are attributed to Hepatitis B and C. An estimated 240 million people are chronically infected with hepatitis B, and more than 686,000 people die every year from complications due to the disease. In the Philippines, the Department of Health (DOH) estimates that 10% to 16% of Filipino adults suffer from chronic hepatitis B infection, and this accounts for more than two thirds of all cases of liver cancer, the second leading cause of cancer deaths in the country.

Majority of people with blood borne viral hepatitis are asymptomatic and could unknowingly transmit the disease. Nevertheless, measures are available to prevent the transmission of the disease primarily through the limitation of the exposure of uninfected individuals to infected blood and other bodily fluids. In addition, an effective vaccine for Hepatitis B is widely available and has been included in the government's Expanded Program on Immunization. An important aspect of preventing Hepatitis B and C transmission is public awareness on this disease.

Infection with blood borne viral hepatitis has a significant social impact not just from the disease but from fear, stigma, and discrimination. It has been reported that Filipinos with viral hepatitis find themselves subject to discrimination in the workplace. There are instances when individuals with positive blood tests are terminated or are not considered for employment even for jobs that have very low risk of disease transmission.

The Department of Labor and Employment (DOLE) Department Advisory No 05 (Series of 2010) also known as the Guidelines for the Implementation of a Workplace Policy and Program on Hepatitis B was issued to protect the rights of workers with HBV and HCV. Despite this, cases of discrimination of HBV and HCV positive individuals persist.


This situation highlights the need to revise our policy on Hepatitis B and Hepatitis C Testing to ensure that the rights of all Filipinos to privacy and confidentiality when it comes to their health conditions are protected and to improve access of HBV and HCV positive individuals to quality health care. Hence, the immediate passage of this measure is earnestly sought.


RISA HONTIVEROS
Senator

SENATE

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AND SCREENING

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

1 **Section 1. Short Title** – This Act shall be known as the “Bloodborne Viral Hepatitis
2 Testing Act of 2019”

3 **Section 2. Declaration of Policies.** It is hereby declared that the policy of the State is
4 to promote health and well-being of the population through prevention, early
5 detection and treatment of diseases like bloodborne viral hepatitis, as well as, to
6 protect the rights of people living with these diseases who suffer from stigma and
7 discrimination through the promotion of voluntary and confidential testing of blood
8 borne viral hepatitis and the prohibition of mandatory and routine screening of the
9 same.

10 **Section 3. Definitions.** For the purposes of this Act, the following definitions shall
11 apply:

12 (a) *Bloodborne Viral Hepatitis* refers to the disease caused by both Hepatitis B
13 and Hepatitis C virus which can be transmitted by exposure to infected
14 blood and other body fluids, producing, among others, jaundice and
15 chronic inflammation of the liver.

16 (b) *Hepatitis B Virus (HBV)* and *Hepatitis C Virus (HCV)*, refers to the virus
17 that causes Hepatitis B and Hepatitis C respectively. A safe and effective
18 vaccine is available for Hepatitis B while there is none for Hepatitis C.
19 Treatment modalities are available to effectively manage the symptoms
20 and to prevent complications caused by these diseases.

21 (c) *Hepatitis Testing or Screening* refers to any facility-based or mobile
22 medical procedure that is conducted to determine the presence or

1 absence of Hepatitis B or C or the circulating viral burden in a person's
2 body.

3
4 (d) *Workplace* refers to the office, premises or worksite, whether in the
5 private or the public sector, including government agencies, their
6 subdivisions, instrumentalities, and government-owned and controlled
7 corporations, where a worker is temporarily or habitually assigned. Where
8 there is a no fixed or definite workplace, the term shall include the place
9 where a worker performs regular work, or where a worker regularly
10 reports to render service or to take an assignment

11 (e) *Universal Precautions* refers to the practice of avoiding contact with bodily
12 fluids, assuming it to be infected, by means of non-porous articles or
13 other personal protective equipment.

14
15 (f) *Exposure-prone Procedures (EPP)* refers to invasive procedures where
16 there is a risk that injury to the worker may result in the exposure of the
17 patient's open tissues to the blood of the worker, including procedures
18 where the worker's gloved hands may be in contact with sharp
19 instruments, needle tips or sharp tissues (e.g. spicules of bone or teeth)
20 inside.

21
22 **Section 4. Voluntary Hepatitis Testing** – As a matter of policy, the State shall
23 encourage voluntary hepatitis testing. Written consent of the person taking the test
24 or the parent or legal guardian of a minor or legally incapacitated taking the test,
25 must be obtained before such testing. The conduct of hepatitis testing as a pre-
26 requisite for hiring, employment, renewal of employment or continued employment,
27 or as part of a routine health check-up without clinical indication or medical
28 justification, or as a pre-requisite for admission to, basis for expulsion from or any
29 disciplinary action in educational institutions, shall be prohibited.

30
31 **Section 5. Confidentiality of Hepatitis Testing** - In all cases, access to all
32 information related to a person's HBV or HCV status including the results of hepatitis
33 testing shall be kept strictly confidential except when disclosed with the written
34 consent of the individual or the parent or legal guardian of the minor or legally
35 incapacitated whose HBV or HCV status is involved, unless otherwise required by law.

36 **Section 6. Counselling and Referral for Further Management** – All hepatitis
37 testing shall include counselling which should be able to provide the individual who
38 took the test information on measures to prevent transmission and if necessary a
39 referral to a health practitioner for further evaluation and management.

40 **Section 7. Exceptions to Voluntary Hepatitis Screening and Testing.** –
41 Compulsory testing for blood borne viral hepatitis shall be allowed only in the
42 following instances:

- 1 a. When it is necessary to test a person, who is charged with any of the offenses
2 punishable under Article 264, 266, 335 and 338 of the Revised Penal Code, as
3 amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of
4 1997;
- 5 b. As a prerequisite in the donation of blood in compliance with the provisions of
6 Republic Act No. 7170, otherwise known as the Organ Donation Act, and
7 Republic Act No. 7719, otherwise known as the National Blood Services Act;
- 8 c. As part of surveillance and management of blood borne hepatitis among
9 health care workers involved in exposure prone procedures. Provided that, it
10 shall not be a pre-requisite for admission to or a basis for expulsion or any
11 disciplinary action in an educational institution for health care workers or for
12 employment or re-employment in a health care facility; Provided further that,
13 positive results of such testing shall not be used as justification for the
14 termination of a health care worker employed in a health facility.

15
16 **Section 8. Testing for Organ Donation.** – Lawful consent to HBV and HCV
17 testing of a donated human body, organ, tissue, or blood shall be considered as
18 having been given when:

- 19 a) A person volunteers or freely agrees to donate one's blood, organ, or tissue
20 for transfusion, transplantation, or research; and
- 21 b) A legacy and a donation are executed in accordance with Sections 3 and 4
22 respectively, of Republic Act No. 7170 otherwise known as the Organ Donation
23 Act of 1991.

24 **Section 9: Hepatitis Testing Among Individuals with Clinical Justification**
25 **for Testing** – Hepatitis testing shall be highly encouraged among individuals who,
26 based on a reasonable assessment of a physician, shall benefit from the conduct of
27 said testing. *Provided* that, voluntary consent must be obtained prior to such testing,
28 adequate counselling must be provided, and that any individual who refuses to
29 undergo such testing shall not be subjected to discriminatory acts as defined in
30 Section 12.

31
32 **Section 10. Prevention, Detection, and Management of Blood Borne**
33 **Hepatitis in Workplace Settings with High-Risk of Transmission** – In
34 institutions or workplace settings with high-risk of transmission like hospitals, health
35 facilities, diagnostic clinics, blood donation centers, among others, measures to
36 interrupt transmission of blood borne viral hepatitis from health provider to patient
37 and vice versa shall be adopted, including but not limited to:

- 38 (a) Routine surveillance of personnel performing exposure prone procedures and
39 provision of support and access to treatment for those with positive results;
- 40 (b) Hepatitis B vaccination for all personnel if they have no documented evidence
41 of pre-existing immunity;
- 42 (c) Strict adherence and practice of universal precautions and provision of
43 personal protective equipment for workers whose work entails exposure to
44 blood and other body fluids;

- 1 (d) Provision and maintenance of adequate hygiene facilities and mechanisms to
- 2 ensure proper disposal of infectious and potentially contaminated materials;
- 3 (e) Development of protocols for the management of health workers exposed to
- 4 agents contaminated with blood borne infectious diseases in all health care
- 5 and health care-related institutions and facilities;
- 6 (f) Education and training on the prevention transmission of blood borne hepatitis
- 7 and other infectious diseases in the workplace;
- 8 (g) Development of a protocol for the confidential management of restrictions on
- 9 the conduct of EPPs and reasonable reassignment of personnel with
- 10 restrictions to conduct EPP to other work assignments based on the person's
- 11 clinical status and based on best available scientific evidence.

12 **Section 11. Regulation of Hepatitis Testing Services.** – To ensure access to
13 voluntary and confidential hepatitis testing, the DOH shall:

- 14 a. Regulate public and private facilities that conduct hepatitis testing services.
15 *Provided, that* only DOH-accredited hepatitis testing facilities shall be allowed
16 to conduct such testing;
- 17 b. Develop the guidelines for voluntary and confidential hepatitis testing
18 including protocols for counselling and referral to health providers for further
19 evaluation and management;

20
21 **Section 12. Discriminatory Acts** – The following discriminatory acts and practices
22 shall be prohibited:

- 23 a. Discrimination in any form, from pre-employment to post-employment,
24 including hiring, assignment, promotion, based on the actual or perceived HBV
25 or HCV status of an individual, non-disclosure of one's own or another
26 person's HBV and HCV status, or refusal to undergo hepatitis testing;
- 27 b. Termination from work on the sole basis of actual, perceived, or suspected
28 HBV or HCV, non-disclosure of one's own or another person's HBV and HCV
29 status, or refusal to undergo hepatitis testing;
- 30 c. Refusal of admission, expulsion, segregation, imposition of harsher disciplinary
31 actions, or denial of benefits or services of a student or a prospective student
32 solely or partially on the basis of actual, perceived or suspected HBV or HCV,
33 non-disclosure of said status, or refusal to undergo hepatitis testing;
- 34 d. Exclusion from health, accident, or life insurance, credit and loan services,
35 including the extension of such loan or insurance facilities, of an individual
36 solely or partially on the basis of actual, perceived, or suspected HBV and HCV
37 status: *Provided, That* the person with positive HBV and HCV has not
38 misrepresented the fact to the insurance company or loan or credit service
39 provider upon application;
- 40 e. Denial of or provision of subpar health services or being charged with a higher
41 fee, on the basis of actual, perceived or suspected HBV or HCV status, non-
42 disclosure of said status, or refusal to undergo hepatitis testing;
- 43 f. Denial and deprivation of private health insurance under a Health Maintenance
44 Organization (HMO) and private life insurance coverage under a life insurance
45 company on the basis of the person's HBV and HCV status: *Provided, That* the

1 person with positive HBV and HCV has not misrepresented such fact to the
2 Health Maintenance Organization (HMO) and private life insurance company
3 upon application

4 g. Other similar or analogous discriminatory acts.
5
6

7 **Section 13: *Protection of Workers with Blood Borne Viral Hepatitis*** –

8 Employers shall adopt all reasonable measures to accommodate workers who are
9 HBV-positive, HCV-positive, or affected by a Hepatitis B or Hepatitis C -related illness
10 who voluntary disclose their status to their employers, including but not limited to
11 flexible leave arrangements, re-scheduling of work hours, and workforce re-
12 integration assistance, and facilitation of access to treatment.
13

14 **Section 14. *Education on Blood Borne Viral Hepatitis*** – The DOH together with
15 other partners in the health sector shall strengthen the nationwide program on
16 prevention of blood borne viral hepatitis by raising awareness on the disease and
17 disease prevention, promoting universal coverage of Hepatitis B vaccination, and
18 advocating for voluntary hepatitis testing in the general population.
19

20 **Section 15. *Penalties*** – Violations of any provision of this Act including, but not
21 limited to, those related to the non-compulsory nature of Hepatitis B and C testing,
22 discrimination in the workplace and confidentiality, shall be punished with
23 imprisonment of not less than six (6) months but not greater than four (4) years, and
24 a fine not exceeding Fifty Thousand pesos (P50,000.00). In addition, the licenses or
25 permits of establishments, companies and other institutions found guilty of
26 committing the discriminatory acts and policies described in this Act, shall be
27 revoked.
28

29 **Section 16. *Implementing Rules & Regulations*** – The DOH and DOLE, in
30 coordination with other relevant government agencies and private organizations and
31 non-governmental organizations shall issue the Implementing Rules & Regulations
32 necessary for the effective implementation of this Act within ninety (90) days from
33 the effectivity thereof.

34 **Section 17. *Appropriations*** – The amounts necessary for the initial
35 implementation of the provisions of this Act shall be charged against the current
36 year's appropriations of the DOH. Thereafter, the expenses for its continued
37 implementation shall be included in the General Appropriations Act from funds
38 appropriated to the DOH.

39 **Section 18. *Separability Clause*** – If any provision of this Act is declared
40 unconstitutional or invalid by a court of competent jurisdiction, the remaining
41 provisions not affected thereby shall continue to be in full force and effect.

42 **Section 19. *Repealing Clause*** – All laws, decrees, executive orders, department
43 or memorandum orders and other administrative issuances, or parts thereof, which

1 are inconsistent with the provisions of this Act are hereby modified, superseded or
2 repealed accordingly.

3 **Section 20. Effectivity** – This Act shall take effect fifteen (15) days after
4 publication in the Official Gazette or in at least two (2) newspapers of general
5 circulation.

6 Approved,