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SENATE  
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7 JUN 30 12:49

SENATE

S. B. No. 40

RECEIVED BY: 

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Introduced by Senator Biazon

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### EXPLANATORY NOTE

The 1987 Philippine Constitution guarantees for every human person full respect for human rights (*Art. 2, Sec. 11*). It commits the State to protect and promote the right to health of the people and to instill health consciousness among them (*Art. 2, Sec. 15*). The State is also directed to 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, giving priority for the needs of the underprivileged, sick, elderly, disabled, women, and children (*Art. 8, Sec. 11*).

Moreover, the fundamental law of the land gives due cognizance to the particular needs of women for gender equality (*Art. 2, Sec. 14*); of the youth to enjoy protection of their physical, moral, spiritual, intellectual, and social well-being (*Art. 2 Sec. 13*); and of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood (*Art. 15, Sec. 14*).

But these commitments to human rights, health, women's empowerment, youth well-being and responsible parenthood resonate with a discordant note, especially in view of current reproductive health realities:

**Maternal, Infant and Child Health.** The country still pegs a high maternal mortality rate of 162 deaths per 100,000 live births, an infant mortality rate of 24 deaths per 1,000 live births, and an under-five mortality rate of 32 deaths per 1,000 live births (2006 Family Planning Survey, National Statistics Office). Ten (10) women die every 24 hours in the country from causes related to pregnancy and childbirth. The 2006 Family Planning Survey (FPS) reports that almost three of five married women are at risk of conceiving a child with an elevated risk of mortality. Data collected by the Department of Health (DOH) show that most maternal deaths are due to hemorrhage, hypertension and complications from sepsis or widespread infection, obstructed labor, and complications arising from abortion. High incidence of high-risk births, inadequate pre-natal care, and lack of information and means to manage complications in difficult pregnancies account for much of the increased risks of dying during pregnancy and childbirth.

**Family Planning.** Survey results continue to show high unmet need for family planning. Based on the 2006 FPS, actual total fertility rate (TFR) of 3.2 is higher than wanted fertility rate of 2.5. This means that Filipino couples have one more child than they would have wanted. Unmet need for contraception (for limiting and spacing births) remains high. Same survey reveals that one in six women wants family planning but is not practicing any family planning method. The 2003 National and Demographic and Health Survey (NDHS) shows that the problem revolves around lack of information and access to high-quality family planning services.

The Philippines' contraceptive prevalence rate is at 50.6% which is low compared to other Asian countries. More than half (58.1%) of contraceptive users in the country depend on the government for their supply of contraceptives (2006 Family Planning Survey, NSO). With the total phase out in the last quarter of 2004 of contraceptive donations from the United States (U.S.), problems related to accessibility and affordability of various contraceptives and other reproductive health services by the poor who are completely dependent on the free services and supplies provided by public health facilities are to be expected. Donations from the U.S. accounted for 80 percent of contraceptive supplies in the Philippines.

**Abortion Incidence and Post-abortion Complications.** Although illegal, studies conducted by the UP Population Institute (UPPI) and the Alan Guttmacher Institute states that 473,400 cases of induced abortion were recorded in 2000 from the 400,000 cases in 1994. Out of all the pregnancies each year, one-third ends up in abortion. Data from private and public hospitals accredited by the Philippine Obstetrics and Gynecology Society (POGS) show that on the average, abortions comprise 10 percent of all OB-Gynecology admissions in a year. Nearly all women having abortions are already married as they comprise 91% of cases of abortion. DOH records account 12 percent of all maternal deaths in 1994 due to complications related to abortion, making it the fourth leading cause of maternal deaths in the country.

**Adolescent and Youth Health.** The *Young Adolescent Fertility and Sexuality Survey III* (YAFSS III) conducted by the UPPI in 2002 showed a fairly high incidence of reproductive health problems and sexual activity among the young. However, the youth generally, do not seek medical help for their reproductive health problems.

Further, YAFSS III showed that about 23 percent of the young people (15-24 years old) are reported to have had pre-marital sex experiences. Almost all (94 percent) who already had sex said they were unwilling and unprepared to become parents. Furthermore, 40% of the first premarital sex experiences are without contraception. But a more alarming finding shows that even succeeding sexual episodes were likewise unprotected. Nearly 70 percent and 68 percent of last sex episodes among young women and men, respectively are not protected. This heightens the risk of pregnancy among young women as well as risk in contracting sexually transmitted diseases among young persons. It must be noted that maternal mortality rate among pregnant adolescents is 2-4 times greater than for women over age 20. Infant mortality rate is also 30 percent higher for infants born to mothers ages 15-19 than for those women 20 years and older.

Access to accurate and appropriate information and services on the many aspects of sexual behavior, reproductive health, and sexuality assumes greater importance for this sector in light of findings that indicate an increase in risky behavior and practices among a significant segment of the youth population.

**Infertility and Sexual Dysfunction.** There has been little or no service available to infertile couples in the country. Services for infertility are provided only by a few training hospitals. Data on infertility reveals that ten percent (10%) to fifteen percent (15%) of couples are not able to conceive after a year of unprotected, adequately timed intercourse (WHO, 1986). About two percent (2%) of women are considered infertile (1993 NSMS), while there is no data at all for infertile men. Infertile couples, particularly in rural areas, resort to traditional rituals and use of herbal medicines.

**Reproductive Tract Infections, Sexually Transmitted Diseases, Reproductive Tract Cancers and Other Gynecological Conditions.** The rate of genital tract infections in women, including sexually transmitted infections (STIs) and AIDS is on the rise. This is also the case with cancers of the reproductive system particularly breast, cervical and uterine cancers.

Urgent action is particularly needed in the area of HIV-AIDS prevention and management, as risky patterns of sexual behavior and socio-cultural conditions could very well precipitate an AIDS epidemic. The National HIV/AIDS Registry of DOH reveals that from 1993 to 2003, the average number of HIV positive cases was 10-15 per month, doubled to 20 cases per

month in 2004 and 2005, and further increased to 30 cases per month between April and June 2006. The potentials for a full-blown epidemic, however, continue to exist. Thus, the country cannot be complacent on this issue. Risk of exposure to AIDS and other sexually transmitted diseases is greater for young people who become sexually active early and are therefore more likely to change sexual partners (UPPI, 2002). Condom use among the young is still very low while intercourse with commercial sex workers is on the rise. Among the youth with commercial sex experiences, only 30% had ever used a condom. Furthermore, there is a low level of awareness about HIV/AIDS among the youth. Twenty-three (23) percent of the youth think that AIDS is curable and 60 percent believe that there is no chance for them to contract HIV/AIDS. There is no significant difference between boys and girls in this perception. (Raymundo, 2002).

**Male Reproductive Health Disorders, Involvement and Participation.** Cases of testicular and prostate cancers among men, which is the leading cause of cancer deaths in men 20-35 years old and the second most common cancer in men, respectively (*Philippine Statistics, 1990-1995*) are increasingly becoming a cause for concern. Incidence of prostate cancer has been increasing from 12.5 per 100,000 males in the period 1980-1982, to 19.6 per 100,000 males in 1993-1995. Other male RH concerns are sexual dysfunctions such as impotence, pre-mature ejaculation, and erectile dysfunctions. There is also a need to strengthen reproductive health programs for men that deal with their participation in household responsibilities and in promoting their own, as well as women's health.

**Counseling and Education in Sexuality and Sexual Health.** The poor reproductive health situation is aggravated by large and significant sections of the population who are unaware or misinformed on the nature and proper interventions to address reproductive health problems and issues. Delegates of the 2001 Regional Youth Summits cited reproductive health as one of the most neglected areas in survival and development, perceiving a definite problem in the way the reproductive health of the youth has been handled. They also cite lack of awareness or information and education among their ranks about reproductive health issues. Foregoing data also indicate the same problems pertaining to access to information, education and counseling services on family planning, domestic violence and other reproductive health concerns.

Under these conditions, appropriate and immediate responses addressing the Filipino people's reproductive health and rights become imperative. This bill was conceptualized with this goal in mind. It particularly seeks to establish a **Reproductive Health Care Program** that recognizes women's rights and gender equality, and ensures universal access to reproductive health information, education, and services. Comprehensive reproductive health care includes measures that promote safe motherhood, care for persons with HIV/AIDS and other STIs, infertility treatments, and encouragement of male involvement in reproductive health. It further includes the recognition of the right of all individuals and couples to determine freely and responsibly the number, spacing and timing of their children. Government should strengthen the prevention of unwanted pregnancies through access to services and through information and education on the full range of family planning methods that couples could use in accordance with their religious, moral, and cultural convictions, and with the demands of responsible parenthood.

The right to reproductive health care is protected under the international human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the Women's Convention, the International Conference on Population and Development (ICPD) Programme of Action (POA), and the Fourth World Conference on Women Platform for Action, among others.

The *Convention on the Elimination of All Forms of Discrimination Against Women* provides that State Parties must take "appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning."

The United Nations' Committee on the Elimination of Discrimination Against Women (CEDAW), the body that monitors compliance with the Women's Convention, declared under its

General Recommendation on Women and Health, that State Parties should “ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services.”

To reaffirm and pursue decisively the commitments reached at global conferences of the 1990s, member-states of the United Nations met in September 2000 and came up with a Millennium Declaration. The declaration embodies specific targets and milestones in eliminating extreme poverty worldwide as well as working for healthy nations. The Millennium Declaration contains 8 Millennium Development Goals (MDGs), which are set within 2015. Three of the MDGs are reproductive health related, namely: Goal 4. Reduce child mortality; Goal 5. Improve Women’s Reproductive Health; and Goal 6. Combat HIV/AIDS, Malaria and Other Diseases.

The Philippine government, being member and signatory to these instruments and instrumentalities, is duty-bound to protect the reproductive health and rights of all Filipinos, protect the citizenry’s life and health through access to health care and services, and elevate the role and status of women as able and responsible agents of social and economic development.

Situating the Filipino people’s reproductive health within the context of poverty, gender inequality and the state of the health care system, the Philippine Government needs to strengthen the country’s policy and programs on reproductive health care, otherwise women and children will continue to die, or suffer life-long effects, from what could have been preventable circumstances.

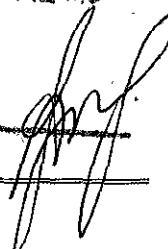
Having recognized the critical national reproductive health situation, the increasing demand of Filipino parents, couples, women, men and young adolescents themselves, as well as the policy gaps and the Philippine government’s responsibility to address these, the immediate passage of this bill is earnestly sought.

  
RODOLFO G. BIAZON  
Senator

7 JUN 30 12:49

SENATE  
S.B. No. 40

RECEIVED BY: \_\_\_\_\_



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Introduced By Senator Rodolfo G. Biazon

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AN ACT  
PROVIDING FOR REPRODUCTIVE HEALTH CARE STRUCTURES AND  
APPROPRIATING FUNDS THEREFOR

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

**SECTION. 1. Title.** - This Act shall be known as the "*The Reproductive Health Care Act.*"

**Sec. 2. - Declaration of Principles.** The State recognizes and guarantees the human rights of all persons including the right to equality and equity, the right to development, the right to reproductive health, the right to education and the right to choose and make decisions for themselves in accordance with their religious convictions, cultural beliefs, and the demands of responsible parenthood.

Moreover, the State recognizes and guarantees the promotion of gender equality, equity and women's empowerment as a health and human rights concern. The advancement and protection of women's human rights shall be central to the efforts of the State to address reproductive health care. As a distinct but inseparable measure to the guarantee of women's human rights, the State recognizes and guarantees the promotion of the welfare and rights of children.

In furtherance of these principles, the State shall guarantee access to information and education, and universal access to safe, affordable, and quality reproductive health care services. The State shall positively address and seek to eradicate discriminatory practices, laws and policies that infringe on a person's exercise of sexual and reproductive health and rights.

**Sec. 3. Objectives.** This act endeavors to provide a stable and consistent reproductive health care program. Specifically, it aims to:

- a) Provide couples and individuals timely, complete and accurate information and education on reproductive health;
- b) Provide couples and individuals access to safe, affordable and quality reproductive health care services;
- c) Ensure the planning, implementation, and evaluation of appropriate and effective

reproductive health care programs at the national and local levels including maternal, peri-natal, infant, and child health care; family planning information and services; services for the prevention of abortion and management of post-abortion complications; adolescent and youth health services; prevention and management of reproductive tract infections, HIV/AIDS and other sexually transmittable infections (STIs); elimination of violence against women; education and counseling on sexuality and sexual health; treatment of breast, reproductive tract cancers and other gynecological conditions; male involvement in reproductive health; and prevention and treatment of infertility and sexual dysfunction.

**Sec. 4. Definition of Terms.** - For the purpose of this Act, the following terms shall be defined as follows:

a) *Reproductive health* - the state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. This implies that people are able to have a satisfying and safe sex life, that they have the capability to reproduce and the freedom to decide if, when and how often to do so, provided that these are not against the law. This further implies that women and men attain equal relationships in matters related to sexual relations and reproduction.

b) *Reproductive rights* - the rights of individuals and couples, subject to applicable laws, to decide freely and responsibly the number, spacing and timing of their children; to make other decisions concerning reproduction free of discrimination, coercion and violence; to have the information and means to do so; and to attain the highest standard of sexual and reproductive health.

c) *Gender equality* - the absence of discrimination on the basis of a person's sex, in opportunities, in the allocation of resources or benefits, or in access to services.

d) *Gender equity* - fairness and justice in the distribution of benefits and responsibilities between women and men, and often requires women-specific projects and programs to end existing inequalities.

e) *Reproductive Health Care* - the access to a full range of methods, techniques and services that contribute to reproductive health and well being by preventing and solving reproductive health-related problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations. The elements of reproductive health care include:

1. maternal, infant and child health and nutrition;
2. family planning information and services;
3. prevention of abortion and management of post-abortion complications;
4. adolescent and youth health;
5. prevention and management of reproductive tract infections (RTIs), HIV/AIDS and other sexually transmittable infections (STIs);
6. elimination of violence against women;
7. education and counseling on sexuality and sexual health;

8. treatment of breast and reproductive tract cancers and other gynecological conditions;
9. male involvement and participation in reproductive health; and
10. prevention and treatment of infertility and sexual dysfunction.

f) *Responsible parenthood* - the will and the ability to respond to the needs and aspirations of the family and children

g) *Family planning* - that which enables couples and individuals to decide freely and responsibly the number and spacing of their children and to have the information and means to do so, and to have informed choice and access to a full range of safe and effective family planning methods, provided that abortion is not included as a family planning method.

h) *Adolescent sexuality* - refers to the reproductive system, gender identity, values or beliefs, emotions, relationships and sexual behavior of young people as social beings. Adolescence refers to a life stage and pertains to people aged between 10-19.

i) *Male involvement and participation* - refers to the involvement, participation commitment and joint responsibility of men with women in all areas of sexual and reproductive health, as well as the care of reproductive health concerns specific to men.

j) *Reproductive tract infection (RTI)* - includes sexually transmitted infections, sexually transmitted diseases and other types of infections affecting the reproductive system.

**Sec 5. Reproductive Health Care Program.** - A Reproductive Health Care Program shall:

a) Undertake programs and services towards educating people of their reproductive health and rights and increasing their access throughout their life to appropriate, affordable and quality reproductive health care, information and related services;

b) Provide accurate information and education and counseling regardless of marital status, sex and age on the full range of legal and medically-safe family planning methods that include the relative benefits and risks of each method;

c) Provide maternal, peri-natal, and post-natal education, care and services;

d) Develop and implement specific services that promote male involvement, participation and responsibility in reproductive health as well as other reproductive health concerns of men;

e) Undertake programs for the prevention of abortion and management of post-abortion complications. The government, through the Department of Health and other concerned government units and agencies, shall take appropriate steps to help women avoid abortion such as the conduct of education programs on preventing unintended pregnancies and ensuring access to quality family planning methods; the prevention of sexual violence on women and girl-children; and provision of social support to indigent women. While nothing in this Act changes the law on abortion, the government shall ensure that women seeking care for post-abortion complications shall be treated and counseled in a humane, non-judgmental and compassionate

manner;

f) Develop and undertake reproductive health programs for adolescents including information that will enable them to understand their sexuality and sexual responsibility. These shall include education on gender roles and values. Further, the program shall provide access to maternal health care, including pre-natal, peri-natal and post-natal care and services for pregnant adolescents; and services geared towards the special reproductive health needs of adolescents including the marginalized, street children, sexually abused children, the differently-abled persons, and out-of-school youth;

g) Undertake programs and services for the treatment of diseases of male and female reproductive systems, HIV /AIDS and other STIs, breast cancer and other gynecological disorders;

h) Undertake programs and services for the prevention and treatment of reproductive tract infections, HIV/AIDS and other STIs, breast cancer, prostate cancer and other gynecological disorders;

i) Provide education and information on human sexuality and responsible parenthood in schools, workplaces and communities;

j) Provide information and services addressing the reproductive health needs of the marginalized, older persons, women in prostitution, the differently-abled persons; and women and children in war crisis situations; and

k) Ensure that reproductive health services have adequate and a full range of supplies, facilities and equipment and that service providers are fully trained for reproductive health care.

**Sec. 6. *The Reproductive Health Management Council (RHMC).*** – A Reproductive Health Management Council (RHMC) shall be established in the Department of Health. The RHMC shall be the central advisory, planning and policy-making body for the comprehensive and integrated implementation of all reproductive health care programs and services in the country.

**The RHMC shall have the following functions and responsibilities:**

a) Formulate an integrated national policy and program on reproductive health that shall be implemented in the DOH-retained hospitals, the local government unit-managed health facilities, other health-related facilities operated by government organizations, as well as health facilities and services operated and managed by the private sector, NGOs and other civil society organizations that may opt to participate in implementing said policy;

b) Review national and local laws and policies that infringe on the sexual and reproductive health and rights of all individuals and couples and recommend to appropriate executive and/or legislative bodies the amendment and/or repeal of such laws and policies;

c) Strengthen the capacities of health regulatory agencies to ensure safe, high- quality, accessible, and affordable reproductive health services and commodities with the concurrent



strengthening and enforcement of regulatory mandates and mechanisms;

d) Take active steps to expand the coverage of the National Health Insurance Program (NHIP), especially among the poor and marginalized women, to include the full range of sexual and reproductive health services, commodities and supplies as health insurance benefits; and

e) Promote the involvement and participation of and provide actual policy, program and financial support to NGOs in reproductive health care and service delivery and in the production, distribution and delivery of high-quality reproductive health and family planning supplies and commodities to make them accessible and affordable to ordinary citizens.

The RHMC shall be composed of the secretary of health as the chairperson and shall have the following as members:

- a) Secretary, Department of Social Welfare and Development;
- b) Secretary, Department of Interior and Local Government;
- c) Secretary, Department of Labor and Employment;
- d) Secretary, Department of Education;
- e) Lead convener, National Anti-Poverty Commission;
- f) Chairperson, Commission on Population;
- g) Chairperson, National Commission on the Role of Filipino Women;
- h) Chairperson, National Youth Council;
- i) Chairperson, Commission on Higher Education;
- j) Two representatives of local government units to be nominated in a process determined by all the leagues of local government units, and to be appointed by the President for a term of three (3) years; and
- k) Three (3) representatives from NGOS, who shall be composed of one (1) representative each from among the sectors representing women, youth and health, with a proven track record of involvement in the promotion of reproductive health. These representatives shall be nominated in a process determined by the above-mentioned sectors, and to be appointed by the President for a term of three (3) years.

The members of the council may designate their permanent representative, who shall have a rank not lower than an assistant secretary or its equivalent to meetings, and shall receive emoluments as may be determined by the council in accordance with existing budget and accounting rules and regulations.

The equivalent of RHMC in the local government units shall be the existing special bodies/agencies on population and reproductive health. These special bodies/agencies shall coordinate with the local health board to ensure the efficient implementation of the local reproductive health program. In the absence of these special bodies/agencies, the Local Health Board, which shall assume the functions of the local RHMC, shall be expanded to include the following as members:

- a) Population Officer;
- b) Social Welfare and Development Officer; and
- c) Three (3) representatives from NGOs who shall be composed of one (1) representative each from among the sectors representing women, youth and health.

In both cases, the local RHMC shall have the same functions and responsibilities of the RHMC as they pertain to their jurisdictions.

**Sec. 7. Prohibited Acts.** -The following acts are prohibited:

- a) Any healthcare service provider, whether public or private, who shall:
  - 1. Knowingly withhold information, or restrict the dissemination thereof, and/or intentionally provide incorrect information regarding programs and services on reproductive health including the right to informed choice and access to a full range of legal, medically-safe and effective family planning methods;
  - 2. Refuse to perform voluntary sterilizations and other legal and medically-safe reproductive healthcare and services on any person of legal age on the ground of lack of third party consent or authorization, provided that in the case of abused minors as certified to by the Department of Social Welfare and Development, and pregnant minors, no prior parental consent shall be necessary;
  - 3. Fail or cause to fail deliberately, or through gross negligence, or inexcusable neglect, the delivery of reproductive healthcare and services as mandated under this Act, the Local Government Code of 1991, the Labor Code, and Presidential Decree 79, as amended; and
  - 4. Refuse to extend quality healthcare services and information on account of the person's marital status, gender or sexual orientation, age, religion, personal circumstances, and nature of work, provided that, all conscientious objections of healthcare service providers based on ethical and religious grounds shall be respected; however, the conscientious objector shall immediately refer the person seeking such care and services to another healthcare service provider within the same facility or one which is conveniently accessible; provided further that the person is not in an emergency condition or serious case as defined in RA 8344 penalizing the refusal of hospitals and medical clinics to administer appropriate initial medical treatment and support in emergency and serious cases.

b) Any public official at both the national and local levels with power and authority over any subordinate who shall prohibit or intentionally restrict legal and medically-safe reproductive healthcare and services, including family planning.

**Sec. 8. Penalties.** - Any violation of this act shall be penalized by imprisonment ranging from one (1) month to six (6) months or imposed a fine of Twenty Thousand Pesos (P20,000.00) or both such fine and imprisonment at the discretion of the court, provided that if the offender is a public official, s/he shall also be administratively liable.

**Sec. 9. Reporting Requirements.** - Before the end of April each year, the DOH shall submit an annual report to the President of the Philippines. The report shall provide a definitive and comprehensive assessment of the implementation of its programs and those of other Government agencies and instrumentalities, civil society and the private sector and recommend appropriate priorities for executive and legislative actions. The report shall be printed and distributed to all national agencies, the LGUs, civil society and the private sector involved in said programs.

The annual report shall evaluate the content, implementation, and impact of all policies related to reproductive health, and family planning to ensure that such policies promote, protect and fulfill women's reproductive health and rights.

**Sec. 10. Appropriations.** - An initial allocation of Fifty Million Pesos (P50,000,000.00) shall be included in the General Appropriations to support the policies and objectives under this Act. Upon creation and establishment of the Reproductive Health Management Council, the DOH shall consolidate any surplus funds from previous years and/or existing budgets pertaining to reproductive health and family planning services into the RHMC. Congress shall provide subsequent appropriations in the annual budget of the Department of Health under the General Appropriations Act.

**Sec. 11. Separability Clause.** - If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

**Sec. 12. Repealing Clause.** All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**Sec. 13. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,