

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5145**



Introduced by TUCP Party-List
Rep. RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

While the HIV and AIDS situation in the Philippines is still considered low, the country is one of only seven (7) countries globally where the number of new HIV cases has increased by over 25 percent from 2001 to 2009. Based on the November 2016 HIV/AIDS and ART Registry of the Philippines (HARP), there are now twenty-six (26) new cases compared to one (1) new case per day in 2008. The data is alarming considering that from the daily 26 newly-diagnosed cases, 29% were from the youth group aged 15 to 24 years old.

The National Youth Commission (NYC) in December 2016, sounded the alarm that the country's new generation of youth is now faced with the epidemic. The clamor for a comprehensive multi-sectoral approach to address the problem has intensified as the incidence of new infections among the youth is described as "fast and furious".

From January to November 2016, a total of 8,514 new HIV infections were recorded by the HIV/AIDS and ART Registry of the Philippines (HARP). To date, the total number of people living with HIV (PLHIV) in the country now stands at 38,872. The government and all other concerned sectors must take drastic coordinated actions to address the situation.

Meanwhile, the HIV and AIDS problem in the country is no longer confined to health alone but a developmental problem that also concerns other factors such as economic, political, and social – making it more complicated.

Presently, the Government is spending Php1.6 Billion for Out-Patient HIV Treatment Package (OHAT). Part of the package is covered by PhilHealth, however, much of the amount required is shouldered by the Government. Projected cost in 2022 is a staggering Php4.72 Billion while the cost will rise up to Php15.2 Billion in 2030.

The factors identified why the youth continues to be infected includes: a) risky behavior starts early while access to services are delayed; and b) the youth does not have adequate information and access to reproductive health.

The legal framework to address the HIV and AIDS situation in the country is not adequate. The RA 8504 or the Philippine HIV Prevention and Control Act enacted in 1998 once hailed as a model legislature is no longer effective due to the increasing rate of infection. The law has since been outdated with the fast-paced spread of the disease.

During the last 15th and 16th Congress, legislators have failed to immediately enact relevant measures to help curb the spread of HIV and AIDS in the country. The problem of HIV and AIDS is everyone's concern. Legislative measures and multi-sectoral and comprehensive approach to the problem are key in combating HIV and AIDS in the country.

Hence, the passage of this Bill is earnestly sought.


RAYMOND DEMOCRITO C. MENDOZA
Representative, TUCP Party-List

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5145**

Introduced by TUCP Party-List
Rep. RAYMOND DEMOCRITO C. MENDOZA

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.

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

Section 1. Short Title. - This Act shall be known as the "Philippine HIV and AIDS
Act".

Section 2. Declaration of Policies. —The Human Immunodeficiency Virus (HIV)
and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that
have wide-ranging social, political, and economic repercussions. Responding to the
HIV and AIDS epidemic is therefore imbued with public interest and shall be
anchored on the principles of human rights and human dignity. Accordingly, the State
shall:

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

(b) Adopt a multi-sectoral approach in responding to the HIV epidemic by
ensuring that local communities, civil society organizations, and persons living
with HIV are at the center of the process;

1 (c) Remove all barriers to HIV and AIDS-related services by eliminating the
2 climate of stigma that surrounds the epidemic and the people directly and
3 indirectly affected by it; and
4

5 (d) Positively address and seek to eradicate conditions that aggravate the spread
6 of HIV infection, which include poverty, gender inequality, prostitution,
7 marginalization, drug abuse and ignorance.
8

9 Respect for, protection of and promotion of human rights is the cornerstone of an
10 effective response to the HIV epidemic. Towards this end, the state shall ensure the
11 delivery of non-discriminatory HIV and AIDS services by government and private
12 HIV and AIDS service providers and develop redress mechanisms for persons living
13 with HIV to ensure that their civil, political, economic and social rights are protected.
14 HIV and AIDS education and information dissemination shall likewise form part of
15 the right to health. And unless otherwise provided in this Act, the confidentiality,
16 anonymity, and voluntary nature of HIV testing and HIV-related testing shall always
17 be guaranteed and protected by the State.
18

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

24 **Section 3. Definition of Terms.** — As used in this Act, the following terms are
25 defined as follows:
26

27 (a) "*Acquired Immune Deficiency Syndrome (AIDS)*" — a condition
28 characterized by a combination of signs and symptoms, caused by HIV
29 contracted from another person and which attacks and weakens the body's
30 immune system, making the afflicted individual susceptible to other life-
31 threatening infections.

32 (b) "*Anonymous Testing*" — refers to an HIV testing procedure whereby the
33 individual being tested does not reveal his/her true identity. An identifying
34 number or symbol is used to substitute for the name and allows the laboratory
35 conducting the test and the person on whom the test is conducted to match the
36 test results with the identifying number or symbol.

37 (c) *Civil Society Organizations* refers to the wide array of non-governmental
38 and non-profit organizations that has presence in public life, expressing the
39 interests and values of their members or their community based on ethical,
40 cultural, political, scientific, religious, or philanthropic considerations.

41 (d) *Comprehensive Health Intervention for People Who Inject Drugs* —refers to
42 evidence-based policies, programs and approaches that aim to reduce
43 transmission of HIV and its harmful consequences on health, social relations
44 and economic conditions;

- 1 (e) "*Compulsory HIV Testing*" — refers to HIV testing imposed upon a person
2 attended or characterized by the lack of or vitiated consent, use of physical
3 force, intimidation or any form of compulsion.
- 4 (f) "*Contact Tracing*" — refers to the method of finding and counseling the
5 sexual partner(s) of a person who has been diagnosed as having sexually
6 transmitted disease.
- 7 (g) "*Discrimination*" - refers to any action taken to distinguish, excludes,
8 restricts, or shows preferences based on HIV status, whether actual or
9 perceived, and which has the purpose or effect of nullifying or impairing the
10 recognition, enjoyment or exercise by all persons similarly situated, of all
11 rights and freedoms;
- 12
13 (h) "*Evolving Capacities of Children*" – refers to the concept enshrined in
14 Article 5 of the Convention of the Rights of the Child recognizing the
15 developmental changes and the corresponding progress in cognitive abilities
16 and capacity for self-determination undergone by children as they grow up,
17 thus requiring parents and others charged with the responsibility for the child
18 to provide varying degrees of protection and to allow their participation in
19 opportunities for autonomous decision-making in different contexts and
20 across different areas of decision-making.
- 21 (i) "*Gender Identity*" – refers to a person's internal and individual experience
22 of gender that may or may not correspond with the sex assigned at birth,
23 including the person's sense of the body, which may involve, if freely chosen,
24 modification of bodily appearance or function by medical, surgical and other
25 means, and experience of gender, among them, dress, speech, and mannerism.
- 26 (j) "*High-Risk Behavior*"— refers to a person's engagement in activities that
27 increase the risk of transmitting or acquiring HIV.
- 28 (k) "*High-Risk Occupation*" - refers to occupations which pose a high-risk of
29 transmission of HIV, AIDS and STIs.
- 30 (l) "*Human Immunodeficiency Virus (HIV)*" — refers to the virus which
31 causes AIDS.
- 32 (m) "*HIV and AIDS Counselor*" – refers to any individual trained by an
33 institution or organization accredited by the Department of Health (DOH) to
34 provide counseling services on HIV and AIDS with emphasis on behavior
35 modification.
- 36 (n) "*HIV/AIDS Monitoring*" — refers to the documentation and analysis of the
37 number of HIV/AIDS infections and the pattern of its spread.
- 38 (o) "*HIV/AIDS Prevention and Control*" — refers to measures aimed at
39 protecting non-infected from contracting HIV and minimizing the impact of
40 the condition of persons living with HIV.

- 1 (p) "*HIV-Positive*" — refers to the presence of HIV infection as documented
2 by the presence of HIV or HIV antibodies in the sample being tested.
- 3 (q) "*HIV-Negative*" — denotes the absence of HIV or HIV antibodies upon
4 HIV testing.
- 5 (r) "*HIV Testing*" — refers to any facility-based or mobile medical procedure
6 that is conducted to determine the presence or absence of HIV in a person's
7 body. HIV testing is confidential, voluntary in nature and must be
8 accompanied by counseling prior to, and after the testing, and conducted
9 only with the informed consent of the person to be/being tested. For all
10 provisions of testing, informed consent should always be stated.
- 11 (s) "*HIV Transmission*" — refers to the transfer of HIV from one infected
12 person to an uninfected individual, most commonly through sexual
13 intercourse, blood transfusion, sharing of intravenous needles and during
14 pregnancy.
- 15 (t) "*Informed Consent*" — refers to the voluntary agreement of a person to
16 undergo or be subjected to a procedure based on full information, whether
17 such permission is written, conveyed verbally, or expressed indirectly.
- 18 (u) "*Key Populations*" - refers to affected populations at higher risk of HIV
19 exposure – as determined by the Philippine National AIDS Council (PNAC),
20 whose behavior make them more likely to be exposed to HIV or to transmit
21 the virus.
- 22 (v) "*Medical Confidentiality*" — refers to the relationship of trust and
23 confidence created or existing between a patient or a person with HIV and his
24 attending physician, consulting medical specialist, nurse, medical technologist
25 and all other health workers or personnel involved in any counseling, testing
26 or professional care of the former; it also applies to any person who, in any
27 official capacity, has acquired or may have acquired such confidential
28 information.
- 29 (w) "*Person with HIV*" — refers to an individual whose HIV test indicates,
30 directly or indirectly, that he/she is infected with HIV.
- 31 (x) "*Pre-Test Counselling*" — refers to the process of providing an individual
32 information on the biomedical aspects of HIV/AIDS and emotional support to
33 any psychological implications of undergoing HIV testing and the test result
34 itself before he/she is subjected to the test.
- 35 (y) "*Post-Test Counselling*" — refers to the process of providing risk-
36 reduction information and emotional support to a person who submitted to
37 HIV testing at the time that the test result is released.
- 38 (z) "*Prophylactic*" — refers to any agent or device used to prevent the
39 transmission of a disease.

(aa) "*Sexually Transmitted Diseases*" — refers to any disease that may be acquired or passed on through sexual contact.

(bb) "*Voluntary HIV Testing*" — refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits himself/herself to such test.

(cc) "*Window Period*" — refers to the period of time, usually lasting from two (2) weeks to six (6) months, depending on the test used, during which an infected individual will test "non reactive" upon HIV testing but can actually transmit the infection.

ARTICLE I EDUCATION AND INFORMATION

Section 4. *Education and Prevention Program.* - There shall be an HIV and AIDS Education and Prevention Program that shall educate the public on HIV and AIDS as well as other STI's with the goal of reducing high risk behavior, lowering vulnerabilities, and promoting the human rights of persons living with HIV. The Philippine National Aids Council (PNAC) shall promote and adopt a range of measures and interventions, in consultation with CSOs that aim to prevent, halt, or control the spread of HIV in the general population, especially among the key populations and vulnerable communities. These measures shall likewise promote the rights, welfare, and participation of persons living with HIV and the affected children, young people, families and partners of persons living with HIV.

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

- (a) Safer sex practices among the general population, especially among key populations;
- (b) Safer sex practices that reduce risk of HIV infection;
- (c) Universal access to evidence-based and relevant information and education, and medically safe, legally affordable, effective and quality treatment;
- (d) Sexual abstinence and sexual fidelity; and
- (e) Consistent and correct condom use and other applicable methods of reproductive health.

Section 5. *HIV/AIDS Education in the Workplace.* — All public and private employers' employees, including members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), shall be regularly provided with standardized basic information and instruction on HIV and AIDS, including topics on confidentiality in the workplace and reduction or elimination of stigma and discrimination.

The DOLE for the private sector and the Civil Service Commission (CSC) for the public sector and the AFP and PNP shall implement this provision.

Section 6. *HIV/AIDS Education for Filipinos Going Abroad.* — The State shall ensure that all overseas Filipino workers and diplomatic, military, trade, and labor

1 officials and personnel to be assigned overseas shall undergo or attend a seminar on
2 the cause, prevention and consequences of HIV/AIDS before certification for
3 overseas assignment. The DOLE or the Department of Foreign Affairs (DFA), the
4 Department of Tourism (DOT) and the Department of Justice (DOJ) through the
5 Bureau of Immigration (BI), as the case may be, in collaboration with the DOH, shall
6 oversee the implementation of this Section.

7 **Section 7. *Information Campaign for Tourists and Transients.*** — Informational
8 aids or materials on the cause, modes of transmission, prevention, and consequences
9 of HIV infection shall be adequately provided at all international ports of entry and
10 exit. The DOT, the DFA, the DOJ through the BI, in collaboration with the DOH,
11 shall oversee the implementation of this Act.

Section 8. *HIV/AIDS Education in Communities.* — Local HIV and AIDS Council
(LAC) or the Local Health Boards and in coordination with the PNAC, the
Department of Interior and Local Government (DILG) and the League Of Provinces
and League of Cities , shall implement a locally-based, multi-sector response to HIV
and AIDS through various channels on evidence-based, gender-responsive, age
appropriate, and human rights-oriented prevention tools to stop the spread of HIV.

12 **Section 9. *Information on Prophylactics.*** — Appropriate information shall be
13 attached to or provided with every prophylactic offered for sale or given as a
14 donation. Such information shall be legibly printed in English and Filipino, and
15 contain literature on the proper use of the prophylactic device or agent, its efficacy
16 against HIV and STD infection, as well as the importance of sexual abstinence and
17 mutual fidelity.

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

24 **Section 10. *Comprehensive Health Intervention for People who Inject Drugs***
25 ***(Includes HIV and Hepatitis B and C Provision).*** The DILG and the DOH, in close
26 coordination with the Dangerous Drugs Board and in partnership with key affected
27 population shall establish a human rights and evidenced-based HIV prevention policy
28 and program for people who use and inject drugs. The presence of used or unused
29 condoms other safer sex paraphernalia and sterile injecting equipment, shall not be
30 used as basis to conduct raids or similar police operations in sites and venues of HIV
31 prevention interventions. The DILG and DOH, in coordination with the Dangerous
32 Drugs Board, shall establish a national policy to guarantee the implementation of this
33 provision.

SECTION 11. *Prohibition on the Use of Condoms, Other Safer Sex Paraphernalia, and Sterile Injecting Equipment as Basis For Raids and Similar Police Operation.* – It shall be unlawful to use the presence of the following;

- a. used or unused condoms;
- b. other safer sex paraphernalia; and
- c. Sterile injecting equipment to conduct raids or similar police operations in sites and venues of HIV intervention.

ARTICLE II SAFE PRACTICES AND PROCEDURES

Section 12. *Requirement on the Donation of Blood, Tissue, or Organ.* — No laboratory or institution shall accept a donation of tissue or organ, whether such donation is gratuitous or onerous, unless a sample from the donor has been tested negative for HIV. All donated blood shall also be subjected to HIV testing and HIV (+) blood shall be disposed of properly and immediately. A second testing may be demanded as a matter of right by the blood, tissue, or organ recipient or his immediate relatives before transfusion or transplant, except during emergency cases: Provided that donations of blood, tissue, or organ testing positive for HIV may be accepted for research purposes only, and subject to strict sanitary disposal requirements.

Section 13. *Guidelines on Surgical and Similar Procedures.* — The DOH, in consultation and in coordination with concerned professional organizations and hospital associations, shall issue guidelines on precautions against HIV transmission during surgical, dental, embalming, tattooing or similar procedures. The DOH shall likewise issue guidelines on the handling and disposition of cadavers, body fluids or wastes of persons known or believed to be HIV- positive.

The necessary protective equipment such as gloves, goggles and gowns, shall be made available to all physicians and health care providers and similarly exposed personnel at all times.

ARTICLE III TESTING, SCREENING AND COUNSELLING

Section 14. *Voluntary HIV Testing.* – As a policy, the State shall encourage voluntary HIV testing. Written consent from the person taking the test must be obtained before HIV testing. If the person is below fifteen (15) years of age or is mentally incapacitated, such consent shall be obtained from the child's parents, legal guardian or, whenever applicable, from the licensed social worker, licensed health service provider or a DOH-accredited health service provider assigned to provide health services to the child.

Section 15. *Informed consent* - Informed consent for HIV testing is obtained with clear intent to intervene to prevent any individual age 15 years old and above from further exposure to the risk of HIV and to provide access to HIV and AIDS related counseling and quality care.

1 In keeping with the principle of "evolving capacities of children" as defined in
2 Section 3(f) of this Act, HIV testing shall be made available under the following
3 circumstances:

- 4
- 5 (a) If the person is fifteen (15) years old to below eighteen (18) years of age,
6 consent to voluntary HIV testing shall be obtained from the child;
- 7 (b) If the person is below fifteen (15) years of age or is mentally incapacitated,
8 consent to voluntary HIV testing shall be obtained from the child's parents or
9 legal guardian. In cases when the child's parents or legal guardian cannot be
10 found, despite reasonable efforts to locate the parents were undertaken, the
11 consent shall be obtained from the licensed social worker. If the child's
12 parents or legal guardian refuse to give their consent, the consent shall
13 likewise be obtained from the licensed social worker if the latter determines
14 that the child is at higher risk of HIV exposure and the conduct of the
15 voluntary HIV testing is in the best interest of the child; and
- 16 (c) In every circumstance, proper counseling shall be conducted by a social
17 worker, a health care provider or other health care professional accredited by
18 the DOH or the DSWD.
- 19

20 **Section 16 - Lawful Consent** – Lawful consent to HIV testing of a donated human
21 body, organ, tissue, or blood shall be considered as having been given when:

- 22 (a) person volunteers or freely agrees to donate his/her blood, organ, or tissue for
23 transfusion, transplantation, or research;
- 24 (b) a person has executed a legacy in accordance with Section 3 of Republic Act
25 No. 7170, also known as the "*Organ Donation Act of 1991*"; and
- 26 (c) donation is executed in accordance with Section 4 of Republic Act No. 7170.

27 The results of the HIV testing shall be disclosed only to the patient by the service
28 provider in charge.

29 **Section 17. Compulsory HIV Testing.** - Compulsory HIV testing shall be allowed
30 only in the following instances:

- 31 (a) When a person is charged with any of the crimes punishable under
32 Articles 264 and 266 as amended by Republic Act No. 8353, 335 and
33 338 of Republic Act No. 3815, otherwise known as the Revised Penal
34 Code or under Republic Act No. 7659;
- 35 (b) When the determination of the HIV status is necessary to resolve the
36 relevant issues under *Executive Order No. 309*, otherwise known as the
37 Family Code of the Philippines; and
- 38 (c) When complying with the provisions of Republic Act No. 7170, otherwise
39 known as the "*Organ Donation Act*" and Republic Act No. 7719, otherwise
40 known as the "*National Blood Services Act*".

Section 18. Service Delivery Models of HIV Testing:

- (a) Persons accessing STI services/facilities;
- (b) Persons accessing Reproductive Health services;
- (c) Persons diagnosed with Sexually Transmitted Infections, and Tuberculosis;
- (d) Persons with HIV risks based on health worker's assessment;
- (e) Sexual partner of people living with HIV;
- (f) All pregnant women; and
- (g) The DOH shall continually review and revise, as appropriate, the HIV diagnostic algorithm based on current, available laboratory technology and evidence.

**ARTICLE IV
HEALTH AND SUPPORT SERVICES**

Section 19. *Prevention of Mother-to-Child HIV Transmission.* – The DOH shall implement a program to prevent mother-to-child HIV transmission that shall be integrated into its maternal and child health services.

Section 20. *Access to HIV Treatment and Reproductive Health Services.* – The DOH shall develop policies and guidelines to ensure access to HIV Treatment of PLHIV in health centers.

**ARTICLE V
HIV AND AIDS MONITORING AND EVALUATION**

Section 21. *HIV and AIDS Monitoring and Evaluation.*– The DOH shall maintain a comprehensive HIV and AIDS monitoring and evaluation program that shall serve the following purposes:

- (a) Determine and monitor the magnitude and progression of HIV and AIDS in the Philippines to help the national government evaluate the adequacy and efficacy of HIV prevention and treatment programs being employed;
- (b) Receive, collate, process and evaluate all HIV and AIDS-related medical reports from all hospitals, clinics, laboratories and testing centers, including HIV-related deaths and relevant data from public and private hospitals, various databanks or information systems: *Provided, That it shall adopt a coding system that ensures anonymity and confidentiality; and*
- (c) Submit an annual report to the PNAC containing the findings of its monitoring and evaluation activities in compliance with this mandate.

**ARTICLE VI
CONFIDENTIALITY**

Section 22. *Confidentiality.* - The confidentiality and privacy of any individual who has been tested for HIV, exposed to HIV, has HIV infection or HIV and AIDS-related illnesses, or was treated for HIV-related illnesses shall be guaranteed. The following acts violate confidentiality and privacy:

(a) Disclosure of Confidential HIV and AIDS Information – Unless otherwise provided in Section 14 of this Act, it shall be unlawful to disclose, without written consent, information that a person had HIV-related test and AIDS, has HIV infection or HIV-related illnesses, or has been exposed the prohibition shall apply to any person, natural or juridical, whose work or function involves the implementation of this Act or the delivery of HIV-related services, including those who handle or have access to personal data or information in the workplace to HIV; and

(b) Media Disclosure - It shall be unlawful for any editor, publisher, reporter or columnist, in case of printed materials, or any announcer or producer in case of television and radio broadcasting, or any producer or director of films in case of the movie industry, or any other individual, or any information that would reasonably identify any person living with HIV and AIDS, or any confidential HIV and AIDS information or organization in case of online or social media platform, to disclose the name, picture, without the prior written consent of their subject except when the person waives said confidentiality through his/her own acts and omissions and add provisions of the Cybercrime Law.

Section 23. 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 and DSWD, through the Council, shall establish an enabling environment to encourage newly tested HIV-positive individuals to disclose their status to sexual partners.

ARTICLE VII DISCRIMINATORY ACTS AND PRACTICES

Section 24. Discriminatory and Prohibited Acts. The following are discriminatory acts and practices and shall be prohibited:

(a) Discrimination in the Workplace - The rejection of job application, termination of employment, or other discriminatory policies in hiring, provision of employment and other related benefits, promotion or assignment of an individual solely or partially on the basis of actual, perceived, or suspected HIV status;

(b) Discrimination in Learning Institutions - Refusal of admission, expulsion, segregation, imposition of harsher disciplinary actions, or denial of benefits or services of a student or a prospective student solely or partially on the basis of actual, perceived, or suspected HIV status;

(c) Restriction on Travel and Habitation. - Restrictions on travel within the Philippines, refusal of lawful entry to Philippine territory, deportation from the

Philippines, or the quarantine or enforced isolation of travelers solely or partially on account of actual, perceived, or suspected HIV status is discriminatory; the same standard of protection shall be afforded to migrants, visitors and residents who are not Filipino citizens. Restrictions on housing or lodging solely or partially on the basis of actual, perceived, or suspected HIV status;

(d) Inhibition from Public Services - Prohibition on the right to seek an elective or appointive public office solely or partially on the basis of actual, perceived, or suspected HIV status;

(e) Exclusion from Credit and Insurance Services - Exclusion from health, accident, or life insurance, credit and loan services, including the extension of such loan or insurance facilities, of an individual solely or partially on the basis of actual, perceived, or suspected HIV status: *Provided*, That the person living with HIV has not misrepresented the fact to the insurance company or loan or credit service provider upon application

(f) Discrimination in Hospitals and Health Institutions - Denial of health services, or be charged with a higher fee, on the basis of actual, perceived, or suspected HIV status; and

(g) Denial of Burial Services - Denial of embalming and burial services for a deceased person who had HIV and AIDS or who was known, suspected or perceived to be HIV-positive.

ARTICLE VIII PENALTIES

Section 25. Penalties

(A) *PENALTIES*- The following penalties and sanctions shall be imposed for the offenses enumerated in this Act:

1. Any person found guilty of violating Section 9 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 (Php50,000.00) but not more than five hundred thousand (Php 500,000.00), or both, at the discretion of the court: *Provided*, that if the offender is a manufacturer, importer, 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 (Php 500,000.00) but not more than five million pesos (Php 5,000,000.00) shall be imposed:

Provided, further, than an additional fine of one percent (1%) of the economic value/cost of the violative product or violation, or one thousand pesos (Php 1,000.00), whichever is higher, shall be imposed for each day of continuing violation: *Provided*, finally, that drugs, devices, agents, and

1 other health products found in violation of Section 18 of this Act may be
2 seized and held in custody pending proceedings, without hearing or court
3 order, when the FDA Director-General has reasonable cause to believe
4 from facts found by him/her or an authorized officer or employee of the
5 FDA that such health products may cause injury or prejudice to the
6 consuming public.

7
8 2. Any person found guilty of violating Section 11 of this Act shall suffer the
9 penalty of imprisonment of one (1) year to five (5) years and a fine of not
10 less than One Hundred Thousand Pesos (Php100,000.00) but not more
11 than Five Hundred Thousand Pesos (Php 500,000.00).

12
13 3. Any person who knowingly or negligently causes another to get infected
14 with HIV in the course of the practice of one's profession through unsafe
15 and unsanitary practice or procedure is liable to suffer a penalty of
16 imprisonment of six (6) to twelve (12) years.

17
18 *Where offender is a juridical person, alien, public officer, or licensed*
19 *professional.* - If the offender is a corporation, association, partnership or
20 any other juridical person, the penalty of imprisonment shall be imposed
21 upon the responsible officers and employees, as the case may be, who
22 participated in, or allowed by their gross negligence, the commission of
23 the crime, and the fine shall be imposed jointly and severally in the
24 juridical person and the responsible officers/employees. Furthermore, the
25 court may suspend or revoke its license or business permit.

26
27 If the offender is an alien, he or she shall, in addition to the penalties
28 herein described, be deported without further proceedings after serving the
29 penalties herein prescribed.

30
31 If the offender is a public official or employee, he or she shall, in addition
32 to the penalties prescribed herein, suffer perpetual or temporary absolute
33 disqualification from office, as the case may be.

34
35 If the offender is a licensed professional, the respective boards under the
36 professional regulation commission may either suspend or revoke his/her
37 license to practice the profession.

38 4. Any person found guilty of violating Section 21, Section 22, and
39 Section 23 of this Act shall suffer the penalty of imprisonment for six (6)
40 months to five (5) years or a fine of not less than Fifty Thousand Pesos (Php
41 50,000.00) or both, at the discretion of the court.

42
43 **Section 26. Penalties Collected** - The penalties collected pursuant to this Section
44 shall be put into a special fund to be administered by the DOH and shall be used for
45 awareness campaigns and other priority HIV and aids activities of the PNAC.

46 **Section 27. Immunity from Suit for HIV Educators, Licensed Social Workers,**
47 **Health Workers and Other HIV and AIDS Service Providers.**— Any person involved

1 in the provision of HIV and AIDS services including HIV educators, licensed social
2 workers, health workers, and other HIV and AIDS service providers, shall be immune
3 from suit, arrest or prosecution, and from civil, criminal or administrative liability, on
4 the basis of their delivery of such services in Sections 9 to 16, and Sections 19 to 26
5 hereof, or in relation to the legitimate exercise of protective custody of children,
6 whenever applicable. (The Council in coordination with law enforcement agencies)
7 shall develop the (operational guidelines) for the implementation of this provision.
8 This immunity does not cover acts which are committed in violation of this Act.

9 **Section 28. Health Insurance.**- The Philippine Health Insurance Corporation
10 (PhilHealth) shall develop an insurance package for persons living with HIV that shall
11 include coverage for inpatient and outpatient medical and diagnostic services,
12 including medication and treatment, and a set of benefits to the unborn and newborn
13 child infected by their mothers. Additionally, it shall set a reference price for HIV
14 services in government hospitals and conduct programs to educate the human
15 resource units of companies on the PhilHealth package on HIV and AIDS. The
16 PhilHealth shall enforce confidentiality in the provision of these packages to persons
17 living with HIV.

18 No person living with HIV shall be denied or deprived of private health insurance by
19 a Health Maintenance Organization (HMO) and private life insurance coverage by a
20 life insurance company on the basis of the person's HIV status. The Insurance
21 Commission shall enforce the provision of life insurance coverage by persons
22 applying for such services and shall develop the necessary policies to ensure
23 compliance.

24 **ARTICLE IX** 25 **THE PHILIPPINE NATIONAL AIDS COUNCIL**

26 **Section 29. Establishment.** — The Philippine National AIDS Council (PNAC)
27 created by virtue of Republic Act No. 8504 is a line agency under the Office of the
28 President and attached/lateral agency of the DOH.

29 **Section 30. Functions.** — The PNAC shall be the central advisory, planning, and
30 policy-making body for the Comprehensive and Integrated HIV and AIDS Prevention
31 and Control Program in the Philippines. The PNAC shall perform the following
32 functions:

- 33 (a) Develop the National HIV and AIDS Plan (AIDS Medium Term Plan) in
34 collaboration with relevant government agencies and CSOs;
- 35 (b) Ensure the operationalization and implementation of the AMTP;
- 36 (c) Issue guidelines and policies that are stipulated in this Act, including other
37 policies that may be necessary to implement the AMTP;
- 38 (d) Strengthen the collaboration between government agencies and CSOs'
39 involved in the implementation of the national HIV and AIDS program,
40 including the delivery of HIV and AIDS related services;

- 1 (e) Monitor the progress of the epidemic;
- 2 f) Monitor the implementation of the National Multi-Sectoral HIV and AIDS
- 3 Strategic Plan, undertake mid-term assessments and evaluate its impact;
- 4
- (g) Mobilize sources of fund for the National Multi-Sectoral HIV and AIDS
- 5 Strategic Plan;
- 6
- 7 (h) Mobilize sources of fund for the National Multi-Sectoral HIV and AIDS
- 8 Program;
- 9
- 10 (h) Advocate for policy reforms to Congress and other government agencies
- 11 to strengthen the country's response to the epidemic; and
- 12
- 13 (j) Submit an annual report to the Office of the President, the House of
- 14 Representatives and the Senate of the Philippines.

15 **Section 31. *Membership and Composition.*** — (a) The Council shall be composed of

16 twenty nine (29) members as follows:

- 17 (1) The Secretary of the Department of Health or his/ her representative;
- 18
- 19 (2) The Secretary of the Department of Education, Culture and Sports or his/
- 20 her representative;
- 21
- 22 (3) The Chairperson of the Commission on Higher Education or his/ her
- 23 representative;
- 24
- 25 (4) The Director-General of the Technical Education and Skills Development
- 26 Authority or his/ her representative;
- 27
- 28 (5) The Secretary of the Department of Labor and Employment or his/ her
- 29 representative;
- 30
- 31 (6) The Secretary of the Department of Social Welfare and Development or
- 32 his/ her representative;
- 33
- 34 (7) The Secretary of the Department of the Interior and Local Government or
- 35 his/ her representative;
- (8) The Secretary of the Department of Justice or his/ her representative;
- (9) The Director-General of the National Economic and Development
- Authority or his/ her representative;
- (10) The Secretary of the Department of Tourism or his/ her representative;
- (11) The Secretary of the Department of Budget and Management or his/ her
- representative;

- 1 (12) The Secretary of the Department of Foreign Affairs or his/ her
2 representative;
- 3 (13) The Head of the Philippine Information Agency or his/ her representative;
- 4 (14) The President of the League of Governors or his/ her representative;
- 5 (15) The President of the League of City Mayors or his/ her representative;
- 6 (16) The President of the Philippine Health Insurance Corporation (PHIC) or
7 his/ her representative;
- 8 (17) The Chairperson of the National Youth Commission (NYC) or his/ her
9 representative;
- 10 (18) The Secretary of the Department of Finance or his/ her representative;
- 11 (19) The Chairperson of the Civil Service Commission or his/ her
12 representative;
- 13 (20) Two (2) representatives from medical/health professional organizations
14 with expertise to:
- 15 a. Standard setting; and
- 16 b. Service delivery.
- 17 (21) Six (6) representatives from non-government organizations involved in
18 HIV/AIDS prevention and control efforts or activities. There shall be
19 guaranteed seats for two (2) representatives of workers' groups, and two
20 (2) from women's groups and the LGBT organizations; and
- 21 (22) Two (2) representatives from organization of persons dealing with
22 HIV/AIDS;
- 23 (a) The President shall have the power to attach PNAC to or on other department/
24 government agency as deemed necessary;
- 25
- 26 (b) The prerogative of the President to add and remove members of the Council as
27 necessitates;
- 28 (c) All members of the Council shall be appointed by the President of the Republic
29 of the Philippines;
- 30 (d) The members of the Council shall be appointed not later than thirty (30) days
31 after the date of the enactment of this Act;
- 32 (e) The Secretary of Health shall be the permanent chairperson of the Council;
33 however, the vice-chairperson shall be elected by its members from among
34 themselves, and shall serve for a term of two (2) years; and

- 1 (f) For members representing medical/health professional groups, PLHIV, and the
2 representatives of the six non-government organizations, shall serve for a term of
3 two (2) years, renewable upon recommendation of the Council.

4 **Section 32. Reports.** — The Council shall submit to the President and to both Houses
5 of Congress comprehensive annual reports on the activities and accomplishments of
6 the Council. Such annual reports shall contain assessments and evaluation of
7 intervention programs, plans and strategies for the medium- and long-term prevention
8 and control program on HIV/AIDS in the Philippines.

9 **SECTION 33. Secretariat.** — There should be a separate PNAC Secretariat to
10 support PNAC functions, this will be distinct from the DOH HIV and AIDS
11 Program; The Secretariat consisting of personnel with the necessary technical
12 expertise and capability shall be conferred permanent appointments, subject to Civil
13 Service rules and regulations. The Secretariat shall be headed by an Executive
14 Director, who shall be under the direct supervision of the Chairperson of the Council.
15

16 The Executive Director shall be appointed by the President of the Philippines upon
17 recommendation by the Secretary of Health. The Executive Director shall enjoy the
18 benefits, privileges and emoluments equivalent to the rank of Director III.
19

20 As Chief Executive Officer of the PNAC Secretariat, the Executive Director shall
21 exercise general supervision and control over its technical and administrative
22 personnel.

23 The Secretariat shall perform the following functions:

- 24 (a) Coordinate and manage the day-to-day affairs of the Council;
25 (b) Monitor the operationalization and implementation of the national multi-
26 sectoral HIV and AIDS strategic plan and the AMTP; and,
27 (c) Coordinate with the PNAC for the implementation of the health sector's HIV
28 and AIDS and STI response, as identified in the national multi-sectoral HIV
29 and AIDS Strategic Plan and the AMTP
30

31 **Section 34. National Multi-Sectoral HIV and AIDS Strategic Plan.** - A six (6)-year
32 National Multi-Sectoral HIV and AIDS Strategic Plan and AIDS Medium-Term Plan
33 (AMTP) shall be formulated and periodically updated by the PNAC. The AMTP shall
34 include the following:

- 35 (a) The country's targets and strategies in addressing the epidemic;
36 (b) The prevention, treatment, care and support, and other components of the
37 country's response to HIV AND AIDS;
38 (c) The six (6)-year operationalization of the program and identification of the
39 government agencies that shall implement the program, including the designated
40 office within each agency responsible for overseeing, coordinating, facilitating and/or
41 monitoring the implementation of its AIDS program from the national to the local
42 levels; and

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

3 **ARTICLE X**
4 **APPROPRIATIONS**

5
6 **Section 35. Appropriations.** — The initial budget for the PNAC amounting to
7 Twenty Million Pesos (Php20,000,000.00) shall be sourced from the funds of the
8 Office of the President. Thereafter, such sums as may be necessary for the continued
9 PNAC operations shall be included in the succeeding annual General Appropriations
10 Act.

11 The implementation of the Multi-Sectoral AIDS Medium Term Plan shall be charged
12 against the budget and funding source of each PNAC member agencies according to
13 their commitment to AMTP.

14 **ARTICLE XI**
15 **MISCELLANEOUS PROVISIONS**

16 **Section 36. Implementing Rules and Regulations.** — Within one hundred twenty
17 days (120) days from the effectivity of this Act, the PNAC shall promulgate the
18 necessary rules and regulations for the effective implementation of the provisions of
19 this Act.

20 **Section 37. Separability Clause.** — If any provision of this Act is declared invalid,
21 the remainder of this Act or any provision not affected thereby shall remain in force
22 and effect.

23 **Section 38. Repealing Clause.** — All laws, presidential decrees, executive orders and
24 their implementing rules inconsistent with the provisions of this Act are hereby
25 repealed, amended or modified accordingly.

26 **Section 39. Effectivity.** — This Act shall take effect fifteen (15) days after its
27 publication in at least two (2) national newspapers of general circulation.

28
29 *Approved,*
30
31