

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **4276**



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

For the past years, cases of HIV and AIDS in the country have been rising at an alarming rate. The UNAIDS 2012 Report noted that the Philippines was one of only nine countries globally where the number of new HIV cases increased by at least 25 per cent from 2001 to 2011.¹

According to the latest data from the Department of Health's Epidemiology Bureau, the number of individuals newly diagnosed with HIV per day rose to 22 in 2015, from just one in 2008, four in 2010, nine in 2012, and 17 in 2014. From 1984 to 2015, the cumulative number of newly reported cases was 27,138. Eighty-four percent of these cases were reported in the past five years, from January 2010 to July 2015. In May 2015 alone, there were 748 newly reported cases of HIV, which was 51% higher compared to the same period last year (495), and was the highest number of reported cases since 1984. Also in the same month, there were 29 reported deaths among people with HIV, of which 97% were males. In July 2015, there were 682 newly diagnosed HIV cases.

The growing statistics indicate that the country is facing a full-blown HIV/AIDS crisis, which necessitates the enactment of urgent measures to effectively prevent, treat, and manage HIV/AIDS cases. While we have a current law on HIV/AIDS prevention, Republic Act No. 8504, which was enacted in 1998, it is no longer adequate to address the present situation and the changing times. A new law is needed to make the HIV response more flexible and relevant to the context and characteristics of the HIV epidemic which we are currently facing.

Recognizing the urgency of the situation, several bills were filed during the Sixteenth Congress, consolidated as House Bill 5178. However, the bill failed to become a law.

¹ The other countries are Bangladesh, Georgia, Guinea-Bissau, Indonesia, Kazakhstan, Kyrgyzstan, Republic of Moldova, and Sri Lanka. *UNAIDS Report on the Global AIDS Epidemic*. 2012.

This bill is being filed to strengthen the country's response to HIV/AIDS. It provides a more comprehensive policy on the prevention, treatment, and care of HIV/AIDS patients; provide measures to protect the rights of the entire population to be free from HIV/AIDS infection and of those afflicted with such diseases to be able to access support services and to be free from discrimination; and clarify the roles and duties of State institutions involved in HIV/AIDS response, from the national agencies to the local levels.

In view of the foregoing, approval of this bill is earnestly sought.


Roh F. Salo
KABAYAN Party List

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AN ACT
STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HIV AND AIDS PREVENTION, TREATMENT, CARE AND SUPPORT, 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 "Comprehensive HIV and AIDS Policy Act".

ARTICLE I
GENERAL PROVISIONS

SEC. 2. Declaration of Policy. – 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.

Respect for, protection of and promotion of human rights are the cornerstones of an effective response to the HIV epidemic. The State shall protect and promote, on the one hand, the rights of the entire population to be protected from HIV infection, and on the other hand, protect and promote the rights of persons living with HIV to be provided with adequate medical services, to be treated with respect and dignity, and to be free from discrimination on the basis of their HIV status.

Accordingly, the State shall:

- a) Prioritize the promotion of the rights of every citizen to the attainment of the highest standard of health and to be protected from HIV/AIDS infection. It shall adopt policies and undertake programs to prevent the spread of HIV/AIDS, including through education and information campaigns, harm

reduction strategies, and promotion of other precautionary measures and safety practices;

- b) 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;
- c) 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;
- d) Positively address and seek to eradicate conditions that aggravate the spread of HIV infection, which include poverty, gender inequality, prostitution, marginalization, drug abuse and ignorance.

SEC. 3. Definition of Terms. – As used in this Act:

- a) **Acquired Immune Deficiency Syndrome (AIDS)** refers to a health condition where there is a deficiency of the immune system that stems from infection with Human Immunodeficiency Virus (HIV), making an individual susceptible to opportunistic infections;
- b) **Antiretroviral (ARV)** refers to the treatment that stops or suppresses viral replication or replications of a retrovirus like HIV, thereby slowing down the progression of infection;
- c) **Community-based research** refers to research study undertaken in community settings and which involves community members in the design and implementation of research projects;
- d) **Compulsory HIV testing** refers to HIV testing imposed upon an individual characterized by lack of consent, use of force or intimidation, the use of testing as a prerequisite for employment or other purposes, and other circumstances when informed choice is absent;
- e) **Contact tracing** refers to the identification and diagnosis of people who may have come into sexual contact with an HIV-positive person. Contract tracing aims to prevent re-infection of the patient, and identify contacts who may benefit from medical treatment before they become symptomatic.
- f) **Discrimination** refers to unfair or unjust treatment that distinguishes, excludes, restricts, or shows preferences based on any ground such as sex, gender, age, sexual orientation, gender identity, economic status, disability, ethnicity, and HIV status, whether actual or perceived, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons similarly situated, of all rights and freedoms;

- g) **Harm reduction** refers to evidence-based policies, programs and approaches that aim to reduce transmission of HIV and its harmful consequences on health, social relations and economic conditions;
- h) **High-risk behavior** refers to a person's frequent involvement in certain activities that increase the risk of transmitting or acquiring HIV;
- i) **Human Immunodeficiency Virus (HIV)** refers to the virus, of the type called retrovirus, which infects cells of the human immune system –mainly CD4positiveT cells and macrophages-key components of the cellular immune system – and destroys or impairs the cells' function. Infection with HIV results in the progressive deterioration of the immune system, leading to immune deficiency;
- j) **HIV counseling** refers to the interpersonal, dynamic communication process between a client and a trained counselor, who is bound by a code of ethics and practice, to resolve personal, social, or psychological problems and difficulties, whose objective, in the context of an HIV diagnosis, is to encourage the client to explore important personal issues, identify ways of coping with anxiety and stress, and plan for the future. Counseling in the context of a negative HIV test result focuses on exploring the client's motivation, options, and skills to stay HIV-negative;
- k) **HIV-negative** refers to the absence of HIV or HIV antibodies upon HIV testing;
- l) **HIV-positive** refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;
- m) **HIV testing** refers to any facility-based or mobile medical procedure that is conducted to determine the presence or absence of HIV in a person's body. HIV testing is confidential, voluntary in nature and must be accompanied by counseling prior to, and after the testing, and conducted only with the informed consent of the person;
- n) **HIV testing facility** refers to any DOH-accredited in-site or mobile testing center, hospital, clinic, laboratory and other facility that has the capacity to conduct voluntary HIV counseling and HIV testing;
- o) **HIV transmission** refers to the transfer of HIV from one infected person to an uninfected individual, most commonly through sexual intercourse, blood transfusion, sharing of intravenous needles, and vertical transmission;
- p) **Key affected populations at higher risk of HIV exposure or key populations** refer to those groups of persons, as determined by the Philippine National AIDS Council whose behavior make them more likely to be exposed to HIV or to transmit the virus;



- q) **Medical confidentiality** refers to the relationship of trust and confidence created or existing between a patient or a person living with HIV and his/her attending physician, consulting medical specialist, nurse, medical technologist and all other health workers or personnel involved in any counseling, testing or professional care of the former. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information;
- r) **Opportunistic infection** refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune system;
- s) **Partner notification** refers to the process by which the patient who has a sexually transmitted infection (STI) including HIV, is given support in order to notify and advise the partners that have been exposed to infection.
- t) **Pre-test counseling** refers to the process of providing an individual information on the biomedical aspects of HIV/AIDS and emotional support to any psychological implications of undergoing HIV testing and the test result itself before the individual is subjected to the test;
- u) **Post-test counseling** refers to the process of providing risk-reduction information and emotional support to a person who submitted to HIV testing at the time the result is released;
- v) **Prophylactic** refers to any agent or device used to prevent the transmission of a disease;
- w) **Provider-initiated counseling and testing** refers to a health care provider initiating HIV anti-body testing to a person practicing high-risk behavior or vulnerable to HIV after conducting HIV pre-test counseling. A person may elect to decline or defer testing such that consent is conditional;
- x) **Routine HIV testing** refers to HIV testing recommended at health care facilities as a standard component of medical care. It is part of the normal standard of care offered irrespective of whether or not the patient has signs and symptoms of underlying HIV infection or has other reasons for presenting to the facility: Provided, that a patient may elect to decline or defer testing;
- y) **Sexually transmitted infections (STIs)** refers to infections that are spread through the transfer of organisms from one person to another as a result of sexual contact;
- z) **Stigma** refers to the devaluation and dehumanization of an individual in the eyes of others which may be based on attributes that are arbitrarily defined by others as discreditable or unworthy and which result in discrimination when acted upon;

- aa) **Treatment hubs** refers to private and public hospitals or medical establishments accredited by the DOH to have the capacity and facility to provide anti-retroviral treatment;
- bb) **Vertical transmission** refers to the process of transmission during pregnancy, birth, or breastfeeding;
- cc) **Voluntary HIV testing** refers to HIV testing of an individual who, after having undergone pre-test counseling, willingly submits to such test; and
- dd) **Vulnerable communities** refer to communities and groups suffering from vulnerabilities such as unequal opportunities, social exclusion, poverty, unemployment, and other similar social, economic, cultural and political conditions, making them more susceptible to HIV infection and to developing AIDS.

SEC. 4. Philippine National AIDS Council. – The Philippine National AIDS Council, hereinafter referred to as the Council, established under Section 43 of RA 8504, otherwise known as the “Philippine AIDS Prevention and Control Act of 1998”, is hereby reconstituted and strengthened to ensure the implementation of the country’s response to HIV/AIDS epidemic. The Council shall be the policy-making, planning, coordinating and advisory body of the country’s HIV and AIDS Program. It shall be an agency attached to the DOH.

SEC. 5. Functions. – The Council shall perform the following functions:

- a) Develop the National Multi-Sectoral HIV and AIDS Strategic Plan, in collaboration with relevant government agencies and CSOs;
- b) Ensure the operationalization and implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan; monitor its implementation; and undertake mid-term assessments and evaluation of its impact;
- c) Ensure the effective implementation of the policies provided in this Act, and adopt supplementary policies that will ensure the effective implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan;
- d) Coordinate with government agencies and other entities mandated to implement the provisions of this Act;
- e) Mobilize resources for the implementation of National Multi-Sectoral HIV and AIDS Strategic Plan;
- f) Coordinate, organize, and work in partnership with foreign and international organizations regarding funding, data collection, research, and prevention and treatment modalities on HIV and AIDS, and ensure foreign-funded programs are aligned to the national response;

- g) Monitor the progress of the epidemic, undertake necessary and relevant researches, and promote public awareness to effectively address the epidemic;
- h) Advocate for policy reforms to Congress and other government agencies to strengthen the country's response to the epidemic; and
- i) Submit an annual report to the Office of the President and the Congress.

SEC. 6. Membership, Composition, Appointment, Quorum and Term of Office.

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

- a) Department of Health (DOH);
- b) Department of Social Welfare and Development (DSWD);
- c) Department of Interior and Local Government (DILG);
- d) Commission on Human Rights (CHR);
- e) Two (2) representatives from civil society organizations (CSOs) working in the areas of, or providing services related to, HIV and AIDS prevention, control, or treatment; and/or working for the welfare of identified key populations; and
- f) A representative of an organization of persons living with HIV.

The Secretary of Health shall be the permanent Chairperson of the Council. The Vice Chairperson shall be elected by all members from among the CSOs, and shall serve as Vice Chairperson for his/her entire term as a Member of the Council.

Except for the *ex officio* members, the other members of the Council shall be appointed by the President of the Philippines. The heads of government agencies may be represented by an official duly designated by their respective agencies. The members of the Council shall be appointed not later than thirty (30) days after the date of the enactment of this Act. Members representing the CSOs shall serve for a term of three (3) years, renewable for another term upon recommendation of the Council.

The Council shall work in close coordination with the Department of Education (DepEd); Commission on Higher Education (CHED); Technical Education and Skills Development Authority (TESDA); Department of Budget and Management (DBM); Department of Labor and Employment (DOLE); Department of Justice (DOJ); Department of Foreign Affairs (DFA); Department of Tourism (DOT); Philippine Information Agency (PIA); and Civil Service Commission (CSC) on matters relevant to the mandate of the said departments/agencies.

SEC. 7. Secretariat. – The Council shall be supported by a Secretariat consisting of personnel with the necessary technical expertise and capability that shall be conferred permanent appointments, subject to Civil Service rules and regulations. The Secretariat shall be headed by an Executive Director, with the rank of Assistant Secretary, and shall be under the control of the Council, and under the direct supervision of the Chairperson of the Council.

The Secretariat shall coordinate and manage the day-to-day affairs of the Council, provide assistance and administrative support in the performance of the Council's functions, and perform such other acts as may be directed by the Council.

SEC. 8. National Multi-Sectoral HIV and AIDS Strategic Plan. – A six (6)-year National Multi-Sectoral HIV and AIDS Strategic Plan shall be formulated and periodically updated by the Council. It shall include, among others, the following:

- a) The country's targets and strategies in addressing the epidemic;
- b) The prevention, treatment, care and support, and other components of the country's response;
- c) The six (6)-year operationalization of the program and identification of the government agencies that shall implement the program; and
- d) The budgetary requirements and a corollary investment plan that shall identify the sources of funds for its implementation.

ARTICLE II PREVENTION AND CONTROL

SEC. 9. Prevention Programs. – The Council, in coordination with the DOH, local government units (LGUs), and other relevant government agencies, private sector, and CSOs, shall adopt and implement a range of measures and interventions that aim to prevent, halt, or control the spread of HIV, AIDS, and other sexually transmitted infections in the general population. Pursuant to this, the National Multi-Sectoral HIV and AIDS Strategic Plan shall include a comprehensive HIV and AIDS Prevention Program. The prevention program shall be age-appropriate and based on up-to-date evidence and scientific strategies, and shall actively promote:

- a) Universal access to evidence-based and relevant information and education on HIV/AIDS;
- b) Safer sex practices among the general population to reduce the risk of HIV infection; and
- c) Sexual abstinence and sexual fidelity.

SEC. 10. Information and Education Campaigns. – Information and education campaigns (IECs) shall be undertaken to educate the public on the causes, modes of transmission and ways of preventing the spread of HIV and AIDS and other sexually transmitted infections, with the goal of reducing risky behavior and lowering vulnerabilities. The DOH, in coordination with the Council, shall craft the guidelines and standardized information messages for IECs.

SEC. 11. Education in Communities. – The LGUs, through the provincial/city/municipal Local Health Boards, in coordination with the Council, shall implement a locally-based, multi-sectoral community response to HIV and AIDS that shall include IECs and age-appropriate HIV and AIDS education for out-of-school youths. Gender and Development (GAD) funds may be utilized for these purposes.

SEC. 12. Education for Key Populations and Vulnerable Communities. – The Council, in collaboration with the LGUs and CSOs engaged in HIV and AIDS programs, shall support and provide funding for HIV and AIDS education programs, such as peer education, support groups, outreach activities and community-based research that target key populations at higher risk and other vulnerable communities.

SEC. 13. Education in Learning Institutions. – The DepEd, the CHED, and the TESDA shall integrate basic and age-appropriate instruction on the causes, modes of transmission and ways of preventing the spread of HIV and AIDS and other sexually transmitted infections in their respective curricula taught in public and private learning institutions, including alternative and indigenous learning systems.

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

SEC. 14. Education in the Workplace. – All public and private employers and employees shall be provided with standardized basic information and instruction on HIV and AIDS. The DOLE for the private sector and the CSC for the public sector shall implement this provision. The members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) shall likewise be provided with standardized basic information and instruction on HIV and AIDS by the DOH in partnership with appropriate agencies.

SEC. 15. Education for Filipinos Going Abroad. – The DFA, in coordination with the Commission on Filipino Overseas, the DOLE, and the Council, shall ensure that all overseas Filipino workers, including diplomatic, military, trade, labor officials, and personnel and their families to be assigned overseas, shall undergo a seminar on HIV and AIDS, and shall be provided with information on how to access on-site HIV-related services and facilities before certification for overseas assignment.

SEC. 16. Information for Tourists and Transients. – Educational materials on the causes, modes of transmission, prevention, consequences of HIV infection and list of HIV counseling and testing facilities shall be adequately provided at all international and local ports of entry and exit. The Department of Tourism (DOT), the DFA, the Department of Transportation and Communications (DOTC), and the Bureau of Immigration, in coordination with the Council and stakeholders in the tourism industry, shall lead in the implementation of this section.

SEC. 17. Prevention in Prisons and in Other Closed Settings. – All prisons, rehabilitation centers and other closed-setting institutions shall have comprehensive STI, HIV and AIDS prevention and control program that includes HIV education and information, HIV counseling and testing, and access to HIV treatment and care services.

SEC. 18. 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

SEC. 19. Standard Precaution on the Donation of Blood, Tissue, or Organ. – The DOH shall enforce the following guidelines on donation of blood, tissue, or organ:

- a) A donation of tissue or organ shall be accepted by a laboratory or institution only after a sample from the donor has been tested negative for HIV;
- b) All donated blood shall also be subject to HIV testing. HIV-positive blood shall be disposed of properly and immediately; and
- c) A second testing may be demanded by the blood, tissue, or organ recipients or their immediate relatives before transfusion or transplant.

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

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

SEC. 21. Harm Reduction Strategies. – The DILG and the DOH, in close coordination with the Dangerous Drugs Board and in partnership with the key affected population, shall establish an HIV prevention policy and program for people who use and inject drugs.

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

SEC. 22. Preventive Measures for Persons Living with HIV. – The Council, in coordination with the DOH, LGUs, and other relevant government agencies, private sector, CSOs, faith-based organizations, and persons living with HIV, shall implement preventive measures that focus on the positive roles of persons living with HIV. Such preventive measures shall include the following:

- a) Creation of rights-based and community-led behavior modification programs that seek to encourage HIV risk reduction behavior among persons living with HIV;
- b) Establishment and enforcement of mechanisms to strongly encourage newly tested HIV-positive individuals to conduct partner notification and disclosure of HIV status to sexual partners, and to identify persons who may have

transmitted HIV to him/her and persons to whom he/she may have transmitted the infection, and the circumstances in which transmission may have occurred, as specified in Sections 29 and 30 of this Act;

- c) Establishment of standard precautionary measures in public and private health facilities;
- d) Accessibility of ARV treatment and management of opportunistic infections; and
- e) Mobilization of communities of persons living with HIV for public awareness campaigns and stigma reduction activities.

ARTICLE III TESTING, SCREENING AND COUNSELING

SEC. 23. 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.

HIV testing and counseling and other related services shall be made available to a persons who is fifteen (15) years old or over but below eighteen (18) years of age, who request to undergo these procedures under any of the following conditions:

- a) The person expresses the intention to submit to HIV testing and counseling and other related services;
- b) Reasonable efforts were undertaken to locate, provide counseling to, and obtain consent of parents, but the parents are absent, cannot be located, or otherwise refuse to give their consent. In this case, consent shall be obtained from the child's legal guardian or, whenever applicable, from a licensed social worker or health service provider, or a DOH-accredited health service provider assigned to provide health services to the child. The social worker or health care provider shall determine if the child is "at higher risk of HIV exposure" as defined in this Act, and that testing and counseling is in the child's best interest; and
- c) In every circumstance, proper counseling shall be conducted by a social worker, a health care provider or other health care professional accredited by the DOH or the DSWD.

SEC. 24. Compulsory HIV Testing. – Compulsory HIV testing shall be allowed in the following instances:

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

SEC. 25. Testing of Organ Donation. – Lawful consent to HIV testing of a donated human body, organ, tissue or blood shall be considered as having been given when:

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

SEC. 26. HIV Anti-Body Testing for Pregnant Women. – A health care provider who offers pre-natal medical care shall routinely conduct HIV screening with an opt-out HIV testing for pregnant women. The DOH shall provide the necessary guidelines for health care providers in the conduct of the screening procedure.

SEC. 27. HIV Counseling and Testing. – To ensure access to voluntary and confidential HIV testing, which shall include client-initiated HIV testing and routine provider-initiated testing, the DOH shall:

- a) Accredite public and private HIV testing facilities based on capacity to deliver testing services including HIV counseling: Provided, that only DOH-accredited HIV testing facilities shall be allowed to conduct HIV testing;
- b) Develop the guidelines for HIV counseling and testing that shall ensure, among others, that HIV testing is based on informed consent, is voluntary and confidential, is available at all times, and provided by qualified persons and DOH-accredited providers;
- c) Accredite institutions or organizations that train HIV and AIDS counselors in coordination with the DSWD; and
- d) Set the standards for HIV counseling and work closely with HIV and AIDS CSOs that train HIV and AIDS counselors and peer educators in coordination and participation of NGOs, government organizations (GOs) and Civil Society Organization-People Living with HIV (CSO-PLHIV).

The DOH shall also ensure access to routine HIV testing as part of clinical care in all health care settings.

SEC. 28. Release of HIV-Related Test Results. – The result of any test related to HIV shall be released by the attending physician who provided pre- and post-test counseling, only to the individual who submitted to the test. If the patient is below fifteen (15) years old, an orphan, or is mentally incapacitated, the result may be released to either of the parents, legal guardian, or a duly assigned licensed social worker, whichever is applicable

SEC. 29. Contact Tracing. – Any person who has been tested and found to be infected with HIV may be requested by the attending physician to provide the names and contact details of persons who may have transmitted HIV to him/her and persons to whom he/she may have transmitted the infection, and the circumstances in which transmission may have occurred. The attending physician, after discussion with the patient, shall take reasonable steps to inform the contact of his/ her potential exposure to HIV.

SEC. 30. Disclosure to Sexual Partners. – Any person who 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. An HIV-positive person may 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.

ARTICLE IV SUPPORT SERVICES FOR PERSONS LIVING WITH HIV

SEC. 31. Human Rights – Based Delivery of Support Services. – The Council, in cooperation with CSOs and in collaboration with concerned government agencies, shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers. The Council shall adopt and promote a range of measures and interventions that promote the rights, welfare, and participation of persons living with HIV and their affected families, including the promotion of their access to medically safe, legally affordable, effective and quality treatment.

Further, the DOH and the CHR, in coordination with the Council, shall take the lead in developing redress mechanisms for persons living with HIV to ensure that their civil, political, economic and social rights are protected.

SEC. 32. Care and Support for Persons Living with HIV. – The DSWD, in coordination with the DOH and the TESDA, shall develop care and support programs for persons living with HIV, which shall include peer-led counseling and support, social protection, welfare assistance, and mechanisms for case management. These programs shall include care and support for the affected children, families and partners of persons living with HIV.

SEC. 33. Economic Empowerment and Support. – Persons living with HIV shall not be deprived of any employment, livelihood, micro-finance, self-help, and cooperative programs by reason of their HIV status. The DSWD, in coordination with the DILG, DOLE and TESDA, shall develop enabling policies and guidelines to ensure economic empowerment and independence of persons living with HIV.

SEC. 34. Care and Support for Overseas Workers Living with HIV. – The Overseas Workers Welfare Administration (OWWA), in coordination with the DSWD, the DFA, the Commission on Filipino Overseas and the Bureau of Quarantine, shall develop a program to provide a stigma-free comprehensive reintegration, care and support program, including economic, social and medical support, for overseas workers living with HIV, regardless of employment status and stage in the migration process.

SEC. 35. Access to Treatment by Indigents. – The DOH, in collaboration with the DSWD, shall establish a program that will provide free and accessible ARV treatment to all indigents living with HIV who are enrolled in the program. Free medication for opportunistic infections shall be made available to all indigents in the government treatment hubs. It shall likewise designate public and private hospitals to become satellite hubs with an established HIV and AIDS Core Team. A manual of procedures for management of PLHIV shall be developed by the DOH.

SEC. 36. Health Insurance. – The Philippine Health Insurance Corporation (PhilHealth) shall develop an insurance package for persons living with HIV that shall include coverage for inpatient and outpatient medical and diagnostic services, including medication and treatment, and a set of benefits to the unborn and newborn child infected by their mothers. Additionally, it shall set a reference price for HIV services in government hospitals and conduct programs to educate the human resource units of companies on the PhilHealth package on HIV and AIDS.

The PhilHealth shall enforce confidentiality in the provision of these packages to persons living with HIV.

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

SEC. 37. Information on Prophylactics. – Appropriate information shall be attached to or provided with every prophylactic offered for sale or given as a donation. Such information shall be legibly printed in English and Filipino, and contain literature on the proper use of the prophylactic device or agent, its efficacy against HIV and STI, as well as the importance of sexual abstinence and mutual fidelity.

ARTICLE V PROHIBITED ACTS AND PENALTIES

SEC. 38. Violation of 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 39 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 to HIV.
- b) Media Disclosure – It shall be unlawful for any editor, publisher, reporter or columnist, in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of films in case of the movie industry, to disclose the name, picture, or any information that would reasonably identify any person living with HIV or AIDS, or any confidential HIV and AIDS information, without the prior written consent of their subject.

Any person convicted of violating the provisions of this Section shall suffer the penalty of six (6) months to five (5) years imprisonment and/or a fine of not less than fifty thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00), or both imprisonment and fine, at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as suspension or revocation of professional or business permit, license or accreditation.

SEC. 39. Exceptions. – Confidential HIV and AIDS information may be released by HIV testing facilities without written consent in the following instances:

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

SEC. 40. Discriminatory 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.
- d) Restrictions on housing or lodging solely or partially on the basis of actual, perceived, or suspected HIV status;
- e) 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;
- f) 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;
- g) Discrimination in Hospitals and Health Institutions – Denial of health services, or being charged with a higher fee, on the basis of actual, perceived, or suspected HIV status; and
- h) 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.

Any person convicted of violating the provisions of this Section shall suffer the penalty of six (6) months to five (5) years imprisonment and/or a fine of not less than fifty thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00), at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as fines, suspension or revocation of professional and business permit, license or accreditation.

SEC. 41. Misinformation on HIV and AIDS. – Misinformation on HIV and AIDS, which includes false and misleading advertising and claims in any of the multimedia or the promotional marketing of drugs, devices, agents or procedures without prior approval from the DOH through the Food and Drug Administration (FDA) and without the requisite medical and scientific basis, including markings and indications in drugs

and devices or agents, purporting to be a cure or a fail-safe prophylactic for HIV infection, shall be prohibited.

Any person convicted of violating the provisions of this Section shall suffer the penalty of two (2) months to two (2) years imprisonment, without prejudice to the imposition of fines and administrative sanctions, such as suspension or revocation of professional or business license.

SEC. 42. Violation of Safety Procedures. – Any person who knowingly or negligently causes another to get infected with HIV in the course of the practice of profession through unsafe and unsanitary practice and procedure shall, upon conviction, suffer the penalty of imprisonment of six (6) years to twelve (12) years, without prejudice to the imposition of fines and administrative sanctions.

The permit or license of the business entity and the accreditation of the HIV testing centers may be cancelled or withdrawn if these establishments fail to maintain safe practices and procedures as may be required by the guidelines formulated in compliance with Sections 19 and 20 of this Act.

SEC. 43. Duty of Employers, Heads of Government Offices, Heads of Public and Private Schools or Training Institutions, and Local Chief Executives. – It shall be the duty of private employers, heads of government offices, heads of public and private schools or training institutions, and local chief executives over all establishments within their jurisdiction to prevent or deter acts of discrimination against persons living with HIV, and to provide procedures for the resolution, settlement, or prosecution of acts of discrimination. Towards this end, the employer, head of office, or local chief executive shall:

- a) Promulgate rules and regulations prescribing the procedure for the investigation of discrimination cases within their jurisdictions, and the administrative sanctions thereof; and
- b) Create a permanent committee on the investigation of discrimination cases. The committee shall conduct meetings to increase the members' knowledge and understanding of HIV and AIDS.

ARTICLE VI FINAL PROVISIONS

SEC. 44. 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, through its Secretariat, an annual report to the Council containing the findings of its monitoring and evaluation activities in compliance with this mandate.

SEC. 45. Appropriations. – The amount needed for the initial implementation of this Act shall be charged against the appropriations for the DOH. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act. The funding requirement needed to provide for the health insurance package and other services for persons living with HIV as stated in Section 37 hereof shall be charged against the PhilHealth's corporate funds.

SEC. 46. Implementing Rules and Regulations. – The Council, within ninety (90) days from the effectivity of this Act, shall promulgate the necessary rules and regulations for the effective implementation of the provisions of this Act.

SEC. 47. Repealing Clause. – Republic Act No. 8504, otherwise known as the "Philippine AIDS Prevention and Control Act of 1998", is hereby repealed.

All decrees, executive orders, proclamations and administrative regulations or parts thereof, particularly in Republic Act No. 3815, otherwise known as "The Revised Penal Code"; Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997"; Executive Order No. 209, otherwise known as "The Family Code of the Philippines"; Republic Act No. 7719, otherwise known as the "National Blood Services Act of 1994"; Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"; and Republic Act No. 7170, otherwise known as the "Organ Donation Act of 1991", inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 48. Separability Clause. – If any provision or part of this Act is declared unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 49. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in a newspaper of general circulation.