

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2674

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Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HIV-AIDS PREVENTION, TREATMENT, CARE AND SUPPORT, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE KNOWN AS "THE PHILLIPINE AIDS PREVENTION AND CONTROL ACT OF 1998", AND APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

This version of the anti-HIV and AIDS bill is the same measure, which was approved by the Committee on Health and Demography of the Philippine Senate during the 16th Congress.

It is being re-filed as a complementary measure to the landmark anti-TB law (Republic Act No. 10767, otherwise known as the "Comprehensive Tuberculosis Elimination Plan Act"), which was recently enacted into law and principally authored by this representation, tuberculosis being the leading cause of HIV-related deaths.

TB can occur at any point in the course of HIV infection. According to the World Health Organization, about one in three of the 42 million people living with HIV are co-infected with TB and ninety percent (90%) of them will die within a few months without the right treatment.

The Barcelona Declaration recognizes that "TB co-infections such as HIV and diabetes compound the challenges faced by patients during treatment, hindering efforts to reduce rates of disease and increasing the mortality and morbidity associated with TB, and that healthcare systems should integrate programmes for key co-infections."

Without doubt, fighting tuberculosis includes tackling other related challenges as well, which includes among others its co-infection with HIV. Hence, inasmuch as there is a spiraling number of HIV cases infection reported each day in the Philippines and if not stopped and reversed, the total number of HIV cases could rise to staggering number, it is imperative to address the gaps in the existing HIV and AIDS law.

This measure presents the need for evidence-informed strategies and approaches that could curb and halt the spread of the HIV. It proposes the restructuring of the present legal framework on HIV and AIDS, making the HIV response flexible and relevant to the characteristic of the HIV epidemic facing the country today.

The bill intends to clarify the roles and responsibilities of state institutions involved in the HIV and AIDS response, from government agencies to local government units, thus ensuring the effectiveness and efficiency of the structure governing the response. It provides for the establishment of the National Multi-Sectoral HIV and AIDS Strategic Plan, thus creating a road map on HIV and AIDS that has clear strategies, targets, operationalization framework, and funding. Also, it provides for the strengthening of the stigma reduction mechanisms of the law, which guarantees that the country's HIV and AIDS response is premised on the respect, recognition and promotion of human dignity.

In view of the alarming increase in HIV infection in the country, immediate action, specifically in terms of relevant and timely legislation, is necessary.

Hence, approval of this bill is earnestly requested.


ANGELINA "HELEN" D.L. TAN, M.D.
4th District, Quezon

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REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 8504, OTHERWISE
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1998", AND APPROPRIATING FUNDS THEREFOR**

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

**ARTICLE I
GENERAL PROVISIONS**

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

SEC. 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 (CSOs), and persons living with HIV are involved in the process;
- (c) Remove all barriers to HIV and AIDS related services by eliminating the climate of stigma that surrounds the epidemic and the people directly and indirectly affected by it; and
- (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.

Respect for protection and promotion of human rights are the cornerstone of an effective response to the HIV epidemic. Towards this end, the State shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers and develop redress mechanism for persons living with HIV to ensure that their civil, political, economic and social rights are protected. HIV and AIDS education and information dissemination shall likewise form part of the right to health. And unless otherwise provided in this Act, the confidentiality, anonymity, and

voluntary nature of HIV testing and HIV-related testing shall always be guaranteed and protected by the State.

SEC. 3. Definition of terms. - As used in this Act, the following terms shall be defined as follows:

(a) **Acquired Immune Deficiency Syndrome (AIDS)** refers to a health condition where there is deficiency of the immune system that stems from infection with 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) **Civil Society organizations (CSOs)** refer to groups of non-governmental and non-commercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purpose, and values.

(d) **Community-Based Research** refers to research study undertaken in community settings and which involve community members in the design and implementation of research projects.

(e) **Discrimination** refers to any action taken to distinguish, exclude, restrict or show preference based on 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.

(f) **Evolving Capacities of Children** refer to the concept enshrined in Article 5 of the Convention on the Rights of the Child recognizing the developmental changes and the corresponding progress in cognitive abilities and capacity for self-determination undergone by children as they grow up thus requiring parents and others charged with the responsibility for the child to provide varying degrees of protection and to allow their participation in opportunities for autonomous decision-making in different contexts and across different areas of decision-making.

(g) **Gender identity** refers to a person's internal and individual experience of gender that may or may not correspond with the sex assigned at birth, including the person's sense of the body, which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical and other means, and experience of gender, among them dress, speech, and mannerism.

(h) **High-risk Behavior** refers to a person's engagement in activities that increase the risk of transmitting or acquiring HIV.

(i) **High-risk Occupations** refer to occupations which pose a high risk of transmission of HIV and AIDS and STIs.

(j) **Human Immunodeficiency Virus (HIV)** refers to a virus which weakens and destroys the human body's ability to fight infections and some cancers.

(k) **HIV and AIDS counselor** refers to any individual trained by an institution or organization accredited by the Department of Health (DOH) to provide counseling services on HIV and AIDS with emphasis on behavior modification.

(l) **HIV and AIDS Prevention and Control** refers to measures aimed at protecting non-infected persons from contracting HIV and minimizing the impact of the condition of persons living with HIV.

(m) **HIV Counseling** refers to a communication process between a client or patient and a trained HIV counselor wherein the latter explores, discovers and clarifies ways that will enable the client or patient to make an informed decision in accessing available HIV-related services.

(n) **HIV-Positive** refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested.

(o) **HIV-Related Testing** refers to appropriate laboratory testing or procedure done on an HIV-positive individual.

(p) **HIV testing** refers to a procedure that is conducted to determine the presence or absence of HIV infection in a person's body, 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.

(q) **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 HIV counseling and HIV testing.

(r) **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 or mother-to-child transmission.

(s) **Key populations** refer to affected populations at higher risk of HIV exposure as determined by the Philippine National AIDS Council (PNAC) whose behavior make them more likely to be exposed to HIV or to transmit the virus.

(t) **Mandatory HIV Testing** refers to HIV testing which is required, regardless of consent, due to special situations and circumstances.

(u) **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 provision of professional treatment, care and support of the former. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information.

(v) **Opportunistic infection** refers to illnesses caused by various organisms, many of which do not cause disease in persons with healthy immune system.

(w) **Partner Notification** refers to the process by which the 'index client', 'source' or 'patient', who has sexually transmitted infection (STI) including HIV, is given support in order to notify and advise the partners that have been exposed to infection. Support includes giving the index client a mechanism to encourage the client's partner to attend counseling, testing and other prevention and treatment services. Confidentiality shall be observed in the entire process.

(x) **Person Living with HIV** refers to any individual diagnosed to be infected with HIV.

(y) **Pre-test Counseling** refers to the process of providing an individual information on the biomedical aspects of HIV and AIDS and emotional support to any psychological implications of undergoing HIV testing and the test result itself before the individual is subjected to test.

(z) **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.

(aa) **Prophylactic** refers to any agent or device used to prevent the transmission of a disease.

(bb) **Provider-initiated Counseling and Testing** refers to a health care provider initiating HIV anti-body testing to a person practicing high-risk behavior or to a person vulnerable to HIV after conducting HIV pre-testing counseling.

(cc) **Routine HIV Testing** refers to HIV testing recommended at health care facilities as a standard component of medical care and 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.

(dd) **Safer Sex Practices** refer to choices made and behaviors adopted by a person to reduce or minimize the risk of HIV transmission, including but not limited to abstinence, postponing sexual debut, non-penetrative sex, correct and consistent use of male or female condoms, and reducing the number of sexual partners.

(ee) **Sexually Transmitted Infections (STIs)** refer to infections that are spread through the transfer of organisms from one person to another through sexual contact.

(ff) **Sexual Orientation** refers to a person's sexual and emotional attraction to, or intimate and sexual relationship with, individuals of different, the same, or both sexes.

(gg) **Social Protection** refers to a set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to risks, and enhancing their capacity to protect themselves against hazards and interruptions/loss of income.

(hh) **Stigma** refers to the dynamic 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 results in discrimination when acted upon.

(ii) **Treatment hubs** refer to private and public hospitals or medical establishments accredited by the DOH to have the capacity and facility to manage HIV patients medically.

(jj) **Vulnerable Communities** refer to communities and groups who are 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.

(kk) **Workplace** refers to the office, premise or work site where workers are habitually employed and shall include the office or place where workers, with no fixed or definite work site, regularly report for assignment in the course of their employment.

ARTICLE II **PHILIPPINE NATIONAL AIDS COUNCIL**

SEC. 4. *Philippine National AIDS Council (PNAC).* - The PNAC, established under Section 43 of R.A. 8504 otherwise known as the "Philippine AIDS Prevention and Control Act of 1998", shall be reconstituted and streamlined to ensure the implementation of the country's response to the HIV and AIDS epidemic.

SEC. 5. Functions of PNAC. - The PNAC shall be the central advisory, planning, and policy-making body for the comprehensive and integrated HIV and AIDS prevention and control program in the Philippines. The PNAC shall perform the following functions:

1. Develop the National HIV and AIDS Program in collaboration with relevant government agencies and CSOs;
2. Ensure guidelines and policies that are stipulated in this Act including other policies that may be necessary to implement the National HIV and AIDS Program;
3. Strengthen the collaboration between government agencies and CSOs involved in the implementation of the National HIV and AIDS Program, including the delivery of HIV and AIDS related services;
4. 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;
5. Advocate for policy reforms to Congress and other government agencies to strengthen the country's response to the epidemic; and
6. Submit an annual report, including the findings of the DOH on monitoring and evaluation of the National HIV and AIDS Program, to the Office of the President, Congress, and members of PNAC.

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

(a) The PNAC shall be composed of twenty-three (23) members as follows:

1. The Secretary of the DOH;
2. The Secretary of the Department of Education (DepEd) or his/her representative;
3. The Secretary of the Department of Labor and Employment (DOLE) or his/her representative;
4. The Secretary of the Department of Social Welfare and Development (DSWD) or his/her representative;
5. The Secretary of the Department of Interior and Local Government (DILG) or his/her representative;
6. The Secretary of the Department of Justice (DOJ) or his/her representative;
7. The Secretary of the Department of Foreign Affairs (DFA) or his/her representative;
8. The Secretary of the Department of Budget and Management (DBM) or his/her representative;
9. The Chairperson of the Civil Service Commission (CSC) or his/her representative;
10. The Director General of the Technical Education and Skills Development Authority (TESDA) or his/her representative;
11. The Director General of the National Economic and Development Authority (NEDA) or his/her representative;
12. The President of the League of Provinces or his/her representative;
13. The President of the League of Cities or his/her representative;
14. The Commissioner of the Insurance Commission or his/her representative;
15. The Head of the Philippine Information Agency (PIA) or his/her representative;
16. The Chairperson of the National Youth Commission (NYC) or his/her representative;

17. Two (2) representatives from medical/health organizations;
18. Three (3) representatives from CSOs; and
19. Two (2) persons living with HIV.

(b) The Members of the PNAC shall be appointed by the President of the Republic of the Philippines;

(c) The Members of the PNAC shall be appointed not later than thirty (30) days after the date of the enactment of this Act;

(d) The Secretary of Health shall be the permanent chairperson of the PNAC; however, the vice-chairperson shall be elected by its members from among themselves, and shall serve for a term of two (2) years; and

(e) For two (2) members representing medical/health professional groups, the three (3) members representing the CSOs, and two (2) persons living with HIV, they shall serve for a term of two (2) years, renewable upon recommendation of the PNAC.

SEC. 7. *Secretariat.* – The National HIV and AIDS and STI Prevention Control Program (NASPCP) of the DOH shall now be known as the National HIV and AIDS and STI Prevention and Control Service (NASPCS) shall serve the Secretariat of the PNAC.

The NASPCS shall be composed of qualified medical specialists and support personnel. It shall have an adequate yearly budget necessary for the implementation of this Act.

The current personnel of the NASPCP shall be transferred to the NASPCS. There shall be no demotion of ranks and positions and no diminution in salaries, benefits, allowances, and emoluments.

The NASPCS shall:

(a) Assist the PNAC in the development of the National Multi-Sectoral HIV and AIDS Strategic Plan and the AIDS Medium Term Plan (AMTP);

(b) Ensure the operationalization and implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan and the AMTP; and

(c) Coordinate with the PNAC for the implementation of the health sector's HIV and AIDS and STI response as identified in the National Multi-Sectoral HIV and AIDS Strategic Plan and the AMTP.

SEC. 8. *National Multi-Sectoral HIV and AIDS Strategic Plan.* – A six-year National Multi-Sectoral HIV and AIDS Strategic Plan and AMTP shall be formulated and periodically updated by the PNAC. The AMTP shall include 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 to HIV and AIDS;

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

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

ARTICLE III **EDUCATION AND INFORMATION**

SEC. 9. Education and Prevention Programs. – There shall be an HIV and AIDS education and prevention program that shall educate the public on HIV and AIDS, as well as other STIs, with the goal of reducing high-risk behavior, lowering vulnerabilities, and promoting the human rights of persons living with HIV. The 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 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, legal, affordable, effective and quality treatment;
- (d) Sexual abstinence and sexual fidelity; and
- (e) Consistent and correct condom use.

SEC. 10. HIV and AIDS Education in Learning Institutions. – Using official information and data from the PNAC, the DepEd, the Commission on Higher Education (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 STIs in subjects taught in public and private institutions at intermediate grades, secondary, and tertiary levels, including non-formal and indigenous learning systems.

The learning modules shall include human rights-based principles and information on treatment, care, and support to promote stigma reduction. The learning modules that shall be developed to implement this provision shall be done in coordination with the PNAC and stakeholders in the education sector. Referral mechanism, including but not limited to the DSWD Referral System, shall be included in modules for key populations and vulnerable communities.

All teachers and instructors to be assigned to handle these learning modules shall be required to undergo seminars or trainings on HIV and AIDS prevention that shall be supervised by the PNAC in coordination with concerned agencies.

SEC. 11. HIV and AIDS Education in the Workplace. – All public and private employees, workers, managers, and supervisors, 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, CSC, AFP, and PNP shall implement this provision.

SEC. 12. HIV and AIDS Education for Filipinos Going Abroad. – The PNAC, in coordination with the DFA, DOLE, Overseas Workers Welfare Administration (OWWA) and the Commission on Filipinos Overseas (CFO), shall ensure that all overseas Filipino workers, including diplomatic, military, trade, labor officials, personnel, and their families to be assigned overseas, shall undergo or attend 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. 13. HIV and AIDS Information for Tourists and Transients. – Educational materials on the cause, modes of transmission, prevention, and 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), DFA, Department of Transportation and Communication (DOTC) and Bureau of Quarantine (BOQ), in coordination with the PNAC and stakeholders in the tourism industry, shall lead the implementation of this Section.

SEC. 14. HIV and AIDS Education in Communities. – Local Government Units (LGUs), through the Local HIV and AIDS Council (LAC) or the Local Health Boards, and in coordination with the PNAC, the DILG, and the League of Local Governments, shall implement a locally-based multi-sectoral 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.

For these purposes, the LGUs and other concerned agencies are hereby authorized to utilize the Gender and Development (GAD) funds and other sources for HIV and AIDS education in communities.

In coordination with the DSWD, LGUs shall also conduct age-appropriate HIV and AIDS education for out-of-school youths.

SEC. 15. HIV and AIDS Education for Key Populations and Vulnerable Communities. – To ensure that HIV services reach key populations, the State, through the PNAC and in coordination with CSOs, shall support and provide funding for HIV and AIDS education programs, such as peer education, outreach activities, and community-based research. The DOH, in coordination with appropriate agencies and the PNAC, shall craft the guidelines and standardized information messages for peer education and outreach activities which may be undertaken in various settings including laboratory-based activities.

The LGUs shall implement a locally-based multi-sectoral response to HIV. For these purposes, the LGUs are hereby authorized to utilize the GAD Funds and other sources for HIV and AIDS education in communities.

SEC. 16. HIV and AIDS Prevention in Prisons and Other Closed-Settings. – The DOH shall, in coordination with the Bureau of Jail Management and Penology (BJMP), through the DILG, Bureau of Corrections (BuCor), LGUs, and the DSWD, develop an HIV and AIDS comprehensive program which will be implemented in all prisons, rehabilitation centers, and other closed-setting institutions. The program shall include HIV education and information, HIV counseling and testing, and access to HIV treatment and care services, among others.

Persons living with HIV in prisons and closed-settings shall be provided HIV treatment, which includes ARV and care and support, in accordance with the guidelines of the DOH and the Philippine National Health Insurance Corporation (PhilHealth). Efforts should be undertaken to ensure the continuity of care at all stages, from admission or imprisonment to release. The provision on informed consent and confidentiality shall also apply in closed-settings.

SEC. 17. HIV and AIDS 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, and its efficacy against HIV and STIs.

SEC. 18. Misinformation on HIV and AIDS. – Misinformation on HIV and AIDS, which includes false and misleading advertising and claims in any of the multimedia or promotional marketing of drugs, devices, agents or procedures without prior approval from 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.

ARTICLE IV **PREVENTION**

SEC. 19. Positive Health, Dignity and Prevention. – The PNAC, in coordination with the DOH, LGUs, and other relevant government agencies, private sector, CSOs, faith-based organizations, and persons living with HIV, shall support preventive measures that shall 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 rights-based mechanisms to strongly encourage newly tested HIV-positive individuals to conduct partner notification and to promote HIV status disclosure to sexual partners;
- c. Establishment of standard precautionary measures in public and private health facilities;
- d. Accessibility of ARV treatment, management of opportunistic infections; and
- e. Mobilization of communities of persons living with HIV for public awareness campaigns and stigma reduction activities.

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

SEC. 20. 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 used or unused condoms, other safer sex paraphernalia, and sterile injecting equipment to conduct raids or similar police operations in sites and venues of HIV prevention interventions. The PNP, through the DILG and DOH, in coordination with the Dangerous Drugs Board (DDB), shall establish a national policy to guarantee the implementation of this provision.

SEC. 21. 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 organs, whether gratuitous or onerous, 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, as a matter of right, by the blood, tissue, or organ recipients or their immediate relatives before transfusion or transplant, except during emergency cases.

SEC. 22. Standard Precaution on Surgical and Other Similar Procedures. – The DOH shall, in consultation with concerned professional organizations and hospital associations, 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 and similarly exposed personnel at all times.

ARTICLE V TESTING, SCREENING, AND COUNSELING

SEC. 23. Voluntary and Opt-out Routine HIV Testing. – As a policy, the State shall encourage voluntary and opt-out routine HIV testing, including provider-initiated counseling and testing, as part of clinical care in all health settings. To this end, the DOH shall develop guidelines for HIV testing to ensure that testing is voluntary and confidential, except as otherwise provided in this Act, available at all times, and provided by qualified persons and DOH-accredited providers.

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

- a. If the person is below fifteen (15) years of age or is mentally incapacitated, consent to voluntary HIV testing shall be obtained from the child’s parents or legal guardian. In cases when the child’s parents or legal guardian cannot be found, despite reasonable efforts to locate the parents were undertaken, the consent shall be obtained from the licensed social worker. If the child’s parents or legal guardian refuse to give their consent, the consent shall likewise be obtained from the licensed social worker of the latter determines that the child is at higher risk to HIV exposure and the conduct of the voluntary HIV testing is in the best interest of the child.
- b. If the person is fifteen (15) to below eighteen (18) years of age, consent to voluntary HIV testing shall be obtained from the child.

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

- (a) When it is necessary to test a person who is charged with any offenses punishable under Article 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 “Family Code of the Philippines”;
- (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” and Republic Act No. 7719, otherwise known as the “National Blood Services Act”; and
- (d) When already hired or is currently working in a high-risk occupation.

SEC. 25. HIV Anti-Body Testing for Pregnant Women. – The DOH shall implement a program to prevent mother-to-child HIV transmission that shall be integrated into its maternal and child health services.

A health care provider who suffers pre-natal medical care shall conduct opt-out routine HIV testing for pregnant women. The DOH shall provide the necessary guidelines for healthcare providers in the conduct of the screening procedure.

SEC. 26. *Pre-test Counseling and Post-test Counseling.* – All HIV testing facilities shall provide pre-test counseling and post-test counseling to the person or the child, and the parents or legal guardian of the child who wish to avail of HIV testing, as may be applicable.

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

The State shall ensure that specific approaches to HIV counseling and testing are adopted based on the nature and extent of HIV and AIDS incidence in the country. The DOH shall set the standards for HIV counseling and shall work closely with CSOs that train HIV and AIDS counselors and peer educators.

ARTICLE VI **HEALTH AND SUPPORT SERVICES**

SEC. 27. *Health Insurance.* – The PhilHealth shall develop an insurance package for persons living with HIV that shall include coverage for in-patient and out-patient medical and diagnostic services, including medication and treatment. 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 and life insurance coverage on the basis of the person's HIV status following the company's reasonable underwriting policies. The IC shall implement this provision and shall develop the necessary policies to ensure compliance.

SEC. 28. *Treatment for Persons Living with HIV and AIDS.* - The DOH shall establish a program that will provide free and accessible ARV treatment and medication for opportunistic infections to persons living with HIV who are enrolled in the program. It shall likewise designate public and private hospitals to become treatment hubs with an established HIV and AIDS Core team.

SEC. 29. *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, except as may be provided under this Act. The DSWD, in coordination with the DILG, DOLE, and TESDA, shall develop enabling policies and guidelines to ensure economic empowerment and independence designed for persons living with HIV.

SEC. 30. *Care and Support for Persons Living with HIV.* – The DSWD, in coordination with DOH, 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. 31. *Care and Support for Overseas Filipinos Living with HIV.* - The OWWA, in coordination with the DSWD, DOH, PhilHealth, DFA, Philippine Overseas Employment Administration (POEA), CFO, National Reintegration Center for

OFWs (NRCO) and BOQ shall develop a program, including economic, social and medical support, for overseas Filipinos who have been repatriated or are about to be repatriated due to their HIV status.

ARTICLE VII **ACCREDITATION, MONITORING, AND EVALUATION**

SEC. 32. Accreditation. – The DOH shall accredit:

- (a) Public and private HIV testing facilities based on their capacity to deliver testing services including HIV counseling.
- (b) Institutions or organizations that train HIV and AIDS counselors in coordination with DSWD; and
- (c) Competent HIV and AIDS counselors for persons with disability, including but not limited to, translators for the hearing-impaired and Braille for the visually-impaired clients in coordination with the National Council for Disability Affairs (NCDA).

SEC. 33. 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 VIII **CONFIDENTIALITY**

SEC. 34. 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) Release of HIV testing and HIV-Related Test Results. – The result of any HIV testing or HIV-related testing shall be released only to the individual who submitted to the test after receiving post-test counseling. If a patient is below fifteen (15) years of age or is mentally incapacitated, the result may be released to either of the patient's parents, legal guardian, or the duly assigned licensed social worker, as may be applicable. If the person is fifteen (15) to below eighteen (18) years of age, the result shall be released only to the child tested after receiving post-test counseling.
- (b) Disclosure of confidential HIV and AIDS information. – Unless otherwise provided in Section 35 of this Act, it shall be unlawful to disclose, without written consent, information that a person had an HIV-related test, has HIV infection, HIV-related illnesses, or has been exposed to HIV.

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.

(c) 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, 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 except when the person waives said confidentiality through his/her own acts of omission.

SEC. 35. *Exemptions*. – Confidential HIV and AIDS information may be released by HIV testing facilities without written consent on the following grounds:

1. When complying to the 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.
2. When informing other health workers directly involved in the treatment or care of a person living with HIV: *Provided*, That such workers shall be required to perform the duty of shared medical confidentiality; and
3. 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 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. 36. *Disclosure to Sexual Partners*. - Any person who, after having been tested, is found to be infected with HIV, is obliged to disclose this health condition to the spouse or sexual partner at the earliest opportune time. A person living with HIV may opt to seek help from medical professionals, health workers, or peer educators to support him in disclosing this health condition to one's partner or spouse.

ARTICLE IX DISCRIMINATORY ACTS AND PRACTICES

SEC. 37. *Discriminatory Acts and Practices*. – 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 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 on the basis of actual, perceived, or suspected HIV status;

(c) Restriction on Travel. – 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 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) **Restriction on Habitation.** – Restrictions on lodging solely 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 on the basis of actual, perceived, or suspected HIV status;

(f) **Exclusion from Credit and Insurance Services.** – Exclusion from health, accident, life insurance, credit and loan services, including the extension of such loan or insurance facilities, of an individual solely on the basis of actual, perceived, or suspected HIV status despite having undergone the company's reasonable underwriting processes and pricing policies where the company's decision is other than non-acceptance of application: Provided, That the person living with HIV has not concealed or misrepresented the fact to the insurance company, loan, or credit service provider upon application;

(g) **Discrimination in Hospitals and Health Institutions.** – Denial of health services or be charged with a higher fee for such health services, on the basis of actual, perceived, or suspected HIV status;

(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; and

(i) Other similar or analogous discriminatory acts.

SEC. 38. *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 private establishments within their territorial jurisdiction, to establish guidelines that will prevent or deter acts of discrimination as provided under Section 37 of this Act against persons living with HIV and to provide procedures for the resolution, settlement, or prosecution of said acts of discrimination. Towards this end, the employer, head of office, or local chief executive shall, consistent with this Act and its rules, as well as guidelines issued by the DOH and relevant government agencies;

(a) Promulgate rules and regulations prescribing the procedure for the investigation of discrimination cases and the administrative sanctions thereof; and

(b) Create a permanent committee on the investigation of discrimination cases which shall conduct meetings to increase the members' knowledge and understanding of HIV and AIDS and prevent incidents of discrimination, as well as conduct the administrative investigation of alleged cases of discrimination.

ARTICLE X PROHIBITED ACTS AND PENALTIES

SEC. 39. *Prohibited Acts and Penalties.* – The following penalties and sanctions shall be imposed for the offenses enumerated in this Act:

(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 27, Section 34, and Section 37 of this Act shall suffer the penalty of imprisonment for six (6) months to five (5) years or a

fine of not less than Fifty Thousand Pesos (Php50,000) but not more than Five Hundred Thousand Pesos (Php500,000), or both, at the discretion of the court;

2. Any person found guilty of violating Section 18 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) but not more than Five Hundred Thousand Pesos (Php500,000), or both, at the discretion of the court. Provided, That if the offender is a manufacturer, importer or distributor of any drugs, devices, agents, and other health products, the penalty of at least five (5) years imprisonment but not more than ten (10) years and a fine of at least Five Hundred Thousand Pesos (Php500,000) but not more than Five Million Pesos (Php5,000,000,00) 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 (Php1,000), whichever is higher, shall be imposed for each day of continuing violation: Provided, finally, That drugs, devices, agents, and other health products found in violation of Section 18 of this Act may be seized and held in custody pending proceedings, without hearing or court order, when the FDA Director-General has reasonable cause to believe from facts found by him/her or an authorized officer or employee of the FDA that such health products may cause injury or prejudice to the consuming public.

3. Any person found guilty of violating Section 20 of this Act shall suffer the penalty of imprisonment of one (1) year to five (5) years and a fine of not less than One Hundred Thousand Pesos (Php100,000) but not more than Five Hundred Thousand Pesos (Php500,000).

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

(b) Where Offender is a Juridical Person, Alien, Public Officer, or Licensed Professional. – If the offender is a corporation, association, partnership, or any other juridical person, the penalty of imprisonment shall be imposed upon responsible officers and employees, as the case may be, who participated in, or allowed by their gross negligence, the commission of the crime, and the fine shall be imposed jointly and severally on the juridical person and the responsible officers/employees. Furthermore, the court may suspend or revoke its license or business permit.

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

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

If the offender is a licensed professional, the respective Boards under the Professional Regulation Commission may either suspend or revoke his/her license to practice the profession.

(c) Penalties Collected. – The penalties collected pursuant to this Section shall be put into a special fund to be administered by the DOH and shall be used for awareness campaigns and other priority HIV and AIDS activities of the PNAC.

SEC. 40. Immunity from Suit for HIV Educators, Licensed Social Workers, Health Workers and Other HIV and AIDS Service Providers. – Any person involved in the provision of HIV and AIDS services, including HIV educators, licensed social workers, health workers, and other HIV and AIDS service providers, shall be immune from suit, arrest, or prosecution, and from civil, criminal, or

administrative liability, on the basis of the delivery of such services in Sections 9 to 16 and 19 to 26 hereof, or in relation to the legitimate exercise of protective custody of children, whenever applicable. The DOJ, the DILG, and the PNP, in coordination with the PNAC, shall develop the mechanism for the implementation of this provision.

ARTICLE XI APPROPRIATIONS

SEC. 41. *Appropriations.* – The amount needed for the initial implementation of this Act shall be charged against the current year's appropriation for each of the member agencies of the PNAC, as enumerated in Section 6, in amounts to be determined by the PNAC. For this purpose, each of the agencies in Section 6 shall include in their annual budget an item for the implementation of the National Multi-Sectoral HIV and AIDS Strategic Plan and AMTP in Section 8.

Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

ARTICLE XII FINAL PROVISIONS

SEC. 42. *Implementing Rules and Regulations.* – Within one hundred twenty (120) days from the effectivity of this Act, the PNAC shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 43. *Repealing Clause.* – Republic Act No. 8504, otherwise known, as the "Philippine AIDS Prevention and Control Acts of 1998" and all laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed, amended, or modified accordingly.

SEC. 44. *Separability.* – 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. 45. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,