

THE PHILIPPINE HIV AND AIDS POLICY ACT

In light of the alarming increase of HIV rates in the Philippines which is an international high, Congress enacted a law updating the HIV law which seeks to promote and upgrade the existing legal framework on how the disease is to be treated, eradicated, and its patients protected from the stigma surrounding it.

Of particular importance in the law is the overall gameplan of the government in dealing with the eradication of the disease as it acknowledge that the health crisis is primarily an educational emergency at its very core wherein the Council seeks to promote safe sex literacy and promote preventive measures among all persons.

A landmark provision is worth noting as the law also contains a penal clause for those who would violate the confidentiality of the patient who is afflicted with such disease without getting the consent of the latter.

REPUBLIC ACT NO. 11166

AN ACT STRENGTHENING THE PHILIPPINE COMPREHENSIVE POLICY ON HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) PREVENTION, TREATMENT, CARE, AND SUPPORT, AND, RECONSTITUTING THE PHILIPPINE NATIONAL AIDS COUNCIL (PNAC), 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 Philippine Congress Assembled:

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

Section 2. Declaration of Policies. - The Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that have wide-ranging social, political, and economic repercussions. Responding to the

country's HIV and AIDS situation is therefore imbued with public interest and shall be anchored on the principles of human rights upholding human dignity.

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

The State shall respect, protect, and promote human rights as the cornerstones of an effective response to the country's HIV and AIDS situation. Hence, HIV and AIDS education and information dissemination should form part the right to health.

The meaningful inclusion and participation of persons directly and indirectly affected by the HIV and AIDS situation, especially persons living with HIV, are crucial in eliminating the virus. Thus unless otherwise provided in this Act, the confidentiality and non-compulsory nature of HIV testing and HIV-related testing shall always be guaranteed and protected by the State.

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 mechanisms for persons living with HIV to ensure that their civil, political, economic, and social rights are protected.

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 uphold the principles of human rights, gender-responsiveness, and age-appropriateness, including meaningful participation of communities affected by the country's HIV and AIDS situation;
- (b) Adopt a multi-sectoral approach in responding to the country's HIV and AIDS situation by ensuring tha the whole government approach, local communities, civil society organizations (CSOs), and persons living with HIV are at the center of the process;
- (c) Ensure access to HIV- and AIDS-related services by eliminating he climate of stigma and discrimination that surrounds the country's HIV and AIDS situation, and the people directly and indirectly affected by it; and

(d) Positively address and seek to eradicate conditions that aggravated the spread of HIV infection, which include poverty, gender inequality, marginalization, and ignorance.

Section 3. Definition of Terms. - For the purposes of this Act, the following terms shall be defined as follows:

(a) *Acquired Immune Deficiency Syndrome (AIDS)* refers to a health condition where there is a deficiency of immune system that stems from infection with the Human Immunodeficiency Virus or HIV, making an individual susceptible to opportunistic infections;

(b) *Anti-retroviral Therapy (ART)* 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) *Bullying* refers to any severe or repeated use by one or more persons of a written, verbal or electronic expression, or a physical act of gesture, or any combination thereof, directed at another person that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to one's property; creating a hostile environment for the other person; infringing on the rights of another person; or materially and substantially disrupting the processes or orderly operation of an institution or organization;

(d) *Civil Society Organizations (CSOs)* refer to groups of nongovernmental and noncommercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purpose and values;

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

(f) *Comprehensive Health Intervention for Key Populations* 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;

(g) *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;

(h) *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 and expression, 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 their rights and freedoms;

(i) *Evolving Capacities of the Child* refers 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;

(j) *Gender Expression* refers to the way a person communicates gender identity to others through behavior, clothing, hairstyles, communication or speech pattern, or body characteristics;

(k) *Gender Identity* refers to the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex;

(l) *Health Maintenance Organizations (HMO)* refers to juridical entities legally organized to provide or arrange for the provision of pre-agreed or designated health care services to its enrolled members for a fixed pre-paid fee for a specified period of time;

(m) *High-risk Behavior* refers to a person's involvement in certain activities that increase the risk of transmitting or acquiring HIV;

(n) *Human Immunodeficiency Virus (HIV)* refers to the virus, of the type called retrovirus, which infects cells of the human 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;

- (o) *HIV Counseling* refers to the interpersonal and 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, and whose objective in counseling in the context of an HIV diagnosis is to encourage the client to manage anxiety and stress, plan for the future (keeping healthy, the context of a negative HIV test result, to encourage the client to explore motivations, options, and skills to stay HIV-negative;
- (p) *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;
- (q) *HIV and AIDS Monitoring* refers to the documentation and analysis of the number of HIV and AIDS infections and the pattern of its spread;
- (r) *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 on persons living with HIV;
- (s) *HIV-Negative* refers to the absence of HIV or HIV antibodies upon HIV testing;
- (t) *HIV-Positive* refers to the presence of HIV infection as documented by the presence of HIV and HIV antibodies in the sample being tested;
- (u) *HIV Testing* refers to any facility-based, mobile medical procedure, or community-based screening modalities that are 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;
- (v) *HIV-related Testing* refers to any laboratory testing or procedure done on an individual in relation to a person's HIV condition;
- (w) *HIV Testing Facility* refers to any DOH accredited on-site or mobile testing center, hospital, clinic, laboratory, and other facility that has the capacity to conduct voluntary HIV counseling and HIV testing;
- (x) *HIV Transmission* refers to the transfer of HIV from one infected

person to an uninfected individual, through unprotected sexual intercourse, blood transfusion, sharing of contaminated intravenous needles, or which may occur during pregnancy, delivery, and breastfeeding;

(y) *Informed Consent* refers to the voluntary agreement of a person to undergo or be subjected to a procedure based on full information, whether such permission is written or conveyed verbally;

(z) *Key Affected Populations* refers to those groups or persons at higher risk of HIV exposure, or affected populations whose behavior make them likely to be exposed to HIV or to transmit the virus;

(aa) *Laboratory* refers to an area or place, including community-based settings, where research studies are being undertaken to develop local evidence for effective HIV response;

(bb) *Mature Minor Doctrine* refers to the legal principle that recognizes the capacity of some minors to consent independently to medical procedures, if they have been assessed by qualified health professionals to understand the nature of procedures and their consequences to make a decision on their own;

(cc) *Medical Confidentiality* refers to the core duty of medical practice where the information provided by the patient to health practitioner and his/her health status is kept private and is not divulged to third parties. The patient's health status can however, be shared with other medical practitioner involved in the professional care of the patient, who will also be bound by medical confidentiality. Medical confidentiality applies to the 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 patient. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information;

(dd) *Opportunistic infections* refers to illnesses caused by various organism, many of which do not cause diseases in persons with healthy immune system;

(ee) *Partner Notification* refers to the process by which the "index client", "source", or "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. 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;

(ff) *Person Living with HIV (PLHIV)* refers to any individual diagnosed to be infected with HIV;

(gg) *Pre-exposure Prophylaxis* refers to the use of prescription drugs as a strategy for the prevention of HIV infection by people who do not have the HIV and AIDS. It is an optional treatment, which may be taken by people who are HIV-negative but who have substantial, higher-than-average risk of contracting an HIV infection;

(hh) *Pre-test Counseling* refers to the process of providing an individual with information on the biomedical aspects of HIV AIDS, and emotional support to any psychological implications of under going HIV testing and the test result itself before the individual is subjected to the test;

(ii) *Post-exposure Prophylaxis* refers to a preventive medical treatment started immediately after exposure to pathogen(HIV) in order to prevent infection by the pathogen and the development of the disease;

(jj) *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;

(kk) *Prophylactic* refers to any agent or device used to prevent the transmission of an infection;

(ll) *Provider-initiated Counseling and Testing* refers to a health care provider initiating HIV 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;

(mm) *Redress* refers to an act of compensation for unfairness, grievance, and reparation;

(nn) *Safer Sex Practices* refers to choices made and behaviors adopted by a person to reduce or minimize the risk of HIV transmission. These may include postponing sexual debut, non-penetrative sex, correct and consistent

use of male or female condoms. And reducing the number of sexual partners;

(oo) *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;

(pp) *Sexual Orientation* refers to the direction of emotional, sexual attraction, or conduct towards people of the same sex (homosexual orientation) or towards people of both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual orientation) or to the absence of sexual attraction (asexual orientation);

(qq) *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 on, or loss of income;

(rr) *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;

(ss) *Treatment hubs* refer to private and public hospitals or medical establishments accredited by the DOH to have the capacity and facility to provide treatment and care services to PLHIV;

(tt) *Voluntary HIV testing* refers to HIV testing done on an individual who, after having undergone pre-test counseling willingly submits to such test;

(uu) *Vulnerable communities* refer to the 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; and

(vv) *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 I
THE PHILIPPINE NATIONAL AIDS COUNCIL

Section 4. *Philippine National AIDS Council (PNAC).* - the PNAC, established under Section 43 of Republic Act No. 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 situation.

The PNAC shall be an agency attached to the DOH with a separate budget under the General Appropriations Act (GAA). It shall have its own secretariat and staffing pattern that shall be headed by an executive director.

Section 5. *Functions.* - The PNAC shall perform the following functions;

- (a) Develop the AIDS Medium Term Plan (AMTP) in collaboration with relevant government agencies, CSOs, the PLHIV community, and the other stakeholders;
- (b) Ensure the operationalization and implementation of the AMTP;
- (c) Strengthen the collaboration between government agencies and CSOs involved in the implementation of the national HIV and AIDS response, including the delivery of HIV and AIDS related services;
- (d) Develop and ensure the implementation of the guidelines and policies provided in this Act, including other policies that may be necessary to implement the AMTP;
- (e) Monitor the progress of the response to the country’s HIV and AIDS situation;
- (f) Monitor the implementation of the AMTP, undertake mid-term assessments and evaluate its impact;
- (g) Mobilize sources of funds for the AMTP;
- (h) Mobilize its members to conduct monitoring and evaluation of HIV-related programs, policies, and services within their mandate;

- (i) 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;
- (j) Advocate for policy reforms to Congress and other government agencies to strengthen the country's response to the HIV and AIDS situation;
- (k) Submit an annual report to the Office of the President, Congress, and the members of the Council;
- (l) Identify gaps in the national response on the part of government agencies and its partners from civil society and international organizations, in order to develop and implement the initial interventions required in these situations; and
- (m) Recommend policies and programs that will institutionalize or continue the interventions required in addressing the gaps identified in the national response to the HIV and AIDS situation of the country.

In addition to the powers and functions enumerated under the preceding paragraph, the members of the PNAC shall also develop and implement individual action plans, which shall be anchored to and integrated in the AMTP. Such action plans shall be based on the duties, powers, and functions of the individual agencies as identified in Articles II to VII of this Act.

Section 6. *Memberships and Composition.* - Selection of the members of PNAC shall be based on the following criteria:

- (a) Government agencies or CSOs with direct contribution to the performance of the core functions of the Council (oversight, direction setting and policy making);
- (b) Government agencies or CSOs with existing programs, services and activities that directly contribute to the achievement of the AMTP; and
- (c) Government agencies or CSOs with existing constituencies that are targeted by the AMTP's objectives and activities.

The following agencies and CSOs shall be represented in the PNAC:

- (1) Department of Health (DOH);
- (2) Department of Education (DepEd);
- (3) Department of Labor and Employment (DOLE);
- (4) Department of Social Welfare and Development (DSWD);
- (5) Department of the Interior and Local Government (DILG);
- (6) Civil Service Commission (CSC);
- (7) Commission on Higher Education (CHED);
- (8) National Youth Commission (NYC);
- (9) Philippine Information Agency (PIA);
- (10) Department of Budget and Management;
- (11) The Chairperson of the Committee on Health and Demography of the Senate of the Philippines or his representative;
- (12) The Chairperson of the Committee on Health of the House of Representative or his representative;
- (13-14) Two (2) representatives from organizations of persons living with HIV and AIDS;
- (15) One (1) representative from a private organization with expertise in standard setting and service delivery; and
- (16-21) Six (6) representatives from NGOs working for the welfare or identified key populations.

Except for members from government agencies, the members of the PNAC shall be appointed by the President of the Philippines. The heads of government agencies may be represented by an official whose rank shall not lower than an Assistant Secretary or its equivalent.

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

The PNAC shall meet at least once every quarter. The presence of the Chairperson or the Vice Chairperson of the PNAC, and at least ten (10) other PNAC members and/or permanent representatives shall constitute a *quorum* to do business, and a majority vote of those present shall be sufficient to pass resolutions or render decisions.

The Secretary of Health shall be the permanent Chairperson of the PNAC. However, the Vice Chairperson shall be elected from the government agency members, and shall serve for a term of three (3) years. Members representing CSOs shall serve for a term of three (3) years renewable upon recommendation of the Council for a maximum of two (2) consecutive terms.

Section 7. Secretariat. - The PNAC shall be supported by a secretariat consisting of personnel with the necessary technical expertise and capacity that shall be conferred permanent appointments, subject to Civil Service rules and regulations. The Secretariat shall be headed by an Executive Director who shall be under the direct supervision of the Chairperson of the PNAC.

The Secretariat shall perform the following functions:

- (a) Coordinate and manage the day-to-day affairs of the PNAC;
- (b) Assist in the formulation, monitoring, and evaluation of policies and the AMTP;
- (c) Provide technical assistance, support and advisory services to the PNAC and its external partners;
- (d) Assist the PNAC in identifying and building internal and external networks and partnerships;
- (e) Coordinate and support the efforts of the PNAC and its members to mobilize resources;
- (f) Serve as the repository of HIV and AIDS-related information;
- (g) Disseminate update, accurate, relevant, and comprehensive information about the country's HIV and AIDS situation to PNAC members, policy makers, and the media;

- (h) Provide administrative support to the PNAC; and
- (i) Coordinate, fund and implement, as directed by the PNAC, the interventions identified by the Council as gaps in the AMTP implementation, in cooperation with the CSOs and PLHIV community.

Section 8. *AIDS Medium Term Plan (AMTP).* The PNAC shall formulate and periodically update the six (6)-year AMTP, a national multi-sectoral strategic plan to prevent and control the spread of HIV and AIDS in the country. The AMTP shall include the following.

- (a) The country's target and strategies in addressing the HIV and AIDS situation;
- (b) The prevention, treatment care and support, and other components of the country's response;
- (c) The 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 monitoring the implementation of its AIDS program for the national to the local levels; and
- (d) The budgetary requirements and a corollary investment plan of each government agency specified in the AMTP, and shall identify the sources of funds for its implementation.

Section 9. *The Role of DOH.* - The National HIV and AIDS and STI Prevention and Control Program (NASPCP) of the DOH, which shall be composed of qualified medical specialist and support personnel with permanent appointments, and with adequate yearly budget, shall coordinate with the PNAC for the implementation of the health sector's HIV and AIDS and STI response as identified in the AMTP.

The Epidemiology Bureau 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 and regularly provide a list of priority areas with high magnitude of HIV and AIDS cases and co-infections to help the PNAC 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, 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, quarterly and annual reports to the PNAC containing the findings of its monitoring and evaluation activities in compliance with this mandate.

Section 10. *Protection of Human Rights.* - The country's response to the HIV and AIDS situation shall be anchored on the principle of human rights and human dignity. Public health concerns shall be aligned with internationally-recognized human rights instruments and standards.

Towards this end, the members of the PNAC, in cooperation with CSOs, and in collaboration with the Department of Justice (DOJ) and the Commission on Human Rights (CHR), shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service provider. Further, the DOJ and CHR, in coordination with the PNAC, shall take the lead in developing redress mechanisms for PLHIV and key affected populations to ensure that their civil, political, economic, and social rights are protected. The PNAC shall cooperate with local government units (LGUs) to strengthen existing mediation and reconciliation mechanisms at the local level.

ARTICLE II INFORMATION, EDUCATION AND COMMUNICATION

Section 11. *Prevention Program.* - There shall be an HIV and AIDS prevention program that will educate the public on HIV and AIDS and other STIs with the goal of reducing risky behavior, lowering vulnerabilities, and promoting the human rights of PLHIV.

The PNAC shall promote and adopt a range of measures and interventions, in partnership 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 PLHIV and the affected children, young people, families, and partners of PLHIV.

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, including sexual abstinence, sexual fidelity, and consistent and correct condom use especially among key populations;
- (b) Other practices that reduce risk of HIV infection;
- (c) Universal awareness of and access to evidence-based and relevant information and education, and medically safe, legally affordable, effective, and quality treatment; and
- (d) Knowledge of the health, civil, political, economic, and social rights of PLHIV and their families.

Section 12. *Education in Learning Institutions.* - Using standardized information and data from the PNAC, the DepEd, CHED, and the Technical Education and Skills Development Authority (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 their respective curricula taught in public and private learning institutions, including alternative 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 stake holders in the education sector. Referral mechanisms, including but not limited to, the DSWD Referral System, shall be included in the modules for key populations and vulnerable communities.

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

Section 13. *Education for Parents and Guardians.* - The DepEd in coordination with parent-teacher organizations in schools and communities shall conduct awareness-building seminars in order to provide parents and guardians with a gender-responsive and age-sensitive HIV and AIDS education.

Section 14. *Education as Right to Health and Information.* - HIV and AIDS education and information dissemination shall form part of the constitutional right to health.

Section 15. *HIV and AIDS Information as a Health Service.* - HIV and AIDS education and information dissemination shall form part of the delivery of health services by health practitioners, workers, and personnel. The knowledge and capabilities of all public health workers shall be enhanced to include skills for proper information dissemination and education on HIV and AIDS. It shall likewise be considered a civic duty of health care providers in the private sector to make available to the public such information necessary to prevent and control the spread of HIV and AIDS, and to correct common misconceptions about this disease. The training of health workers shall include discussions on HIV-related ethical issues such as confidentiality, informed consent, and the duty to provide treatment.

Section 16. *Education in the Workplace.* - All public and private employers and employees, including members of the Armed Forces of the Philippine (AFP) and the Philippine National Police (PNP), shall be regularly provided with standardized basic information and instruction of HIV and AIDS, including topics on confidentiality in the workplace and reduction or elimination of stigma and discrimination.

The PNAC shall develop the standardized and key messages on the prevention and control of HIV and AIDS based on current and updated information on the disease. The DOLE for the private sector, the SCS for the public sector, and the AFP and PNP for the uniformed service shall implement this provision: *Provided,* That the standardized basic information and instruction shall be conducted by DOLE for the private sector at no cost to the employers and employees.

Section 17. *Education for Filipinos Going Abroad.* - The State shall ensure that all overseas Filipino workers and diplomatic, military, trade, and labor officials and personnel to be assigned overseas shall attend a seminar on the causes, manner of prevention, and impact of HIV and AIDS, before being granted a certification for overseas assignment: *Provided,* That Filipino workers or to the officials concerned.

The DOLE the Department of Foreign Affairs (DFA), the Commission on Filipino Overseas (CFO), and other relevant government agencies in collaboration with the DOH, shall ensure the implementation of this section.

Section 18. *Information for Tourists and Transients.* - Educational materials on the causes, modes of transmission, prevention, and consequences of HIV infection and list of HIV counseling testing facilities shall be adequately provided at all international and local ports of entry and exit. The PIA, together with other relevant government agencies, in coordination with the PNAC and stakeholders in the tourism industry, shall lead the implementation of this section.

Section 19. *Education in Communities.* - The DILG, the Union of Local Authorities of the Philippines (ULAP), the League of Provinces, the League of Cities, and the League of Municipalities, through the local HIV and AIDS Councils (LAC) or the local health boards and, in coordination with the PNAC, shall implement a locally-based, multi-sectoral community 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. Gender and Development (GAD) funds and other sources may be utilized for these purposes.

Indigenous peoples communities and geographically isolated and disadvantaged areas (GIDA) shall also be given due focus in the implementation of this section.

The DILG, in coordination with the DSWD and the NYC, shall also conduct age-appropriate HIV and AIDS education for out-of-school youth.

Section 20. *Education for Key Populations and Vulnerable Communities.* - To ensure that HIV services reach key populations at higher risk, the PNAC, in collaboration with the LGUs and CSOs engaged in HIV and AIDS education programs, such as peer education, support groups, outreach activities, and community-based research that target these populations and other vulnerable communities. The DOH shall, in coordination with appropriate agencies and the PNAC craft the guidelines, and standardized information messages for peer education, support group, and outreach activities.

Section 21. *Information on Prophylactics.* - Appropriate information shall be attached to, or provided with every prophylactic offered for sale or given as 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 STI.

Section 22. Misinformation on HIV and AIDS. - Misinformation on HIV and AIDS, which includes false and misleading advertising and claims in any form of media. Including traditional media, internet and social platform, and mobile applications, of 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, claiming to be a cure or a fail-safe prophylactic for HIV infection shall be prohibited.

ARTICLE III PREVENTIVE MEASURES, SAFE PRACTICES AND PROCEDURES

Section 23. HIV Prevention Measure. - The PNAC, in coordination with the DOH, LGUs, and other relevant government agencies, private sector, CSOs, faith-based organizations, and PLHIVs, shall implement preventive measures, including but not limited, to the following:

- (a) Creation of rights-based and community-led behavior modification programs that seek to encourage HIV risk reduction behavior among PLHIVs;
- (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 partners;
- (c) Establishment of standard precautionary measures in public and private health facilities;
- (d) Accessibility of ART and management of opportunistic infections;
- (e) Mobilization of communities of PLHIV for public awareness campaigns and stigma reduction activities; and
- (f) Establish comprehensive human rights and evidence-based policies, programs, and approaches that aim to reduce transmission of HIV and its harmful consequences to members of key affected populations.

The enforcement of this section shall not lead to, or result in the discrimination or violation of the rights of PLHIV and the service provider implementing the program, including peer educators and community-based testing providers.

Section 24. *Comprehensive Health Intervention for Key Populations.* - The DILG and DOH, in partnership with the key populations, shall establish a human rights and evidence-based HIV prevention policy and program for people who have higher risk of HIV infection and other key populations.

The presence of used or unused prophylactic shall not be used as a basis to conduct raids or similar police operations in sites and venues of HIV prevention interventions. The DILG and DOH, in coordination with LGUs, shall establish a national policy to guarantee the implementation of this provision.

Section 25. *Preventing Mother-to-Child HIV Transmission.* The DOH shall establish a program to prevent mother-to-child HIV transmission that shall be integrated in its maternal and child health services.

Section 26. *Standard Precaution on the Donation of Blood, Tissue, or Organ.* - The DOH shall enforce the following guidelines on the donation of blood, tissue, or organ:

- (a) Donation of tissue or organ, 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 subjected to HIV testing;
- (c) All donors whose blood, organ or tissue has been tested positive shall be deferred from donation, notified of their HIV status, counselled, and referred for care and clinical management as soon as possible;
- (d) Donations of blood, tissue, or organ testing positive for HIV may be accepted for research purposes only, and shall be subject to strict sanitary disposal requirements; and
- (e) A second testing may be demanded as a matter of right by the blood, tissue, or organ recipient or his/her immediate relatives before transfusion or transplant, except during emergency cases.

Section 27. *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".

Section 28. *Guidelines on Medical Management, Surgical, and Other Related Procedures.* The DOH shall, in consultation with concerned professional organizations and hospital associations, issue guidelines on medical management of PLHIV and protocol 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 artist, and similarly exposed personnel at all times. The DOH shall likewise issue guidelines on the handling and disposal of cadavers, body fluids, or wastes of persons known or believed to be HIV-positive.

ARTICLE IV SCREENING, TESTING AND COUNSELING

Section 29. *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. HIV testing shall be made available under the following circumstances:

- (a) In keeping with the principle of the evolving capacities of the child as defined in Section 3(i) of this Act, if the person is fifteen (15) to below eighteen (18) years of age, consent to voluntary HIV testing shall be obtained from the child without the need of consent from a parent or guardian;
- (b) In keeping with the mature minor doctrine as defined in Section 3(bb) of this Act, Any young person aged below fifteen (15) who is pregnant or engaged in high-risk behavior shall be eligible for HIV testing and counseling, with the assistance of a licensed social worker or health worker. Consent to

voluntary HIV testing shall be obtained from the child without the need of consent from a parent or guardian; and

(c) In all other cases not covered by (b) of this section, consent to voluntary HIV testing shall be obtained from the child's parent or legal guardian if the person is below fifteen (15) years of age or is mentally incapacitated. In cases when the child's parents or legal guardian cannot be located despite reasonable efforts, or if the child's parent or legal guardian refused to give consent of the minor shall also be required prior to the testing.

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.

HIV testing guidelines issued by the DOH shall include guidance for testing minors and for the involvement of parents or guardians in HIV testing of minors.

The State shall continually review and revise, as appropriate, the HIV diagnostic algorithm based on current available laboratory technology and evidence.

Section 30. Compulsory HIV Testing. Compulsory HIV testing shall be allowed only 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 and 266 on serious and slight physical injuries, and Article 335 and 338 on rape and simple seduction, both of Act No. 3815 or the "The Revised Penal Code", as amended, and as also amended by Republic Act. No. 8553, 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".

Section 31. Mechanisms and Standards on Routine Provider-Initiated and Client-Initiated HIV Counseling and Testing. - To implement this section, the DOH shall:

(a) Accredit public 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, including mobile HIV counseling and testing, and routine provider-initiated 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 the qualified persons and DOH-accredited providers;

(c) Accredit institutions or organizations that train HIV and AIDS counselors in coordination with DSWD;

(d) Accredit competent HIV and AIDS counselors for persons with disability including but not limited to, translator for the hearing-impaired and Braille for the visually-impaired clients, in coordination with the National Council for Disability Affairs (NCDA);

(e) Set the standards for HIV counseling and shall 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 Organizations of PLHIV (CSO-PLHIV); and

(f) Ensure access to routine provider-initiated counseling and testing as part of clinical care in all health care in all health care settings for the public.

All HIV testing facilities shall provide free pre-test and post-test HIV counseling to individuals who wish to avail of HIV testing, which shall likewise be confidential. No HIV testing shall be conducted without informed consent. 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.

Pre-test counseling and post-test counseling shall be done by the HIV and AIDS counselor, licensed social worker, licensed health service provider for free.

Section 32. *HIV Testing for Pregnant Women.* - A health care provider who offers prenatal medical care shall offer provider-initiated HIV testing for pregnant women. The DOH shall provide the necessary guidelines for healthcare providers in the conduct of the screening procedure.

ARTICLE V HEALTH AND SUPPORT SERVICES

Section 33. *Treatment of Persons Living with HIV and AIDS.* - The DOH shall establish a program that will provide free and accessible ART and medication for opportunistic infections to all PLHIVs who are enrolled in the program. It shall likewise designate public and private hospitals to become treatment s hubs. A manual of procedures for management of PLHIVshall be developed by the DOH.

Section 34. *Access to Medical Services by Indigents.* - Indigent persons living with HIV shall not be deprived of access to medical services. The DOH and DSWD shall establish a program that will support better access to ART and medication for opportunistic infections to all indigent PLHIV, which includes financial support for necessary medical services related to the person's HIV condition.

Section 35. *Economic Empowerment and Support.* - PLHIV shall not be deprives 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 designed for PLHIV.

Section 36. *Care and Support for Persons Living with HIV.* - The DSWD, in coordination with the DOH, shall develop care and support programs for PLHIV, 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, partners, and support groups of PLHIV.

Section 37. *Care and Support for Overseas Workers Living with HIV.* - The Overseas Workers Welfare Administration (OWWA), in coordination with the DOH, DSWD, DFA, CFO, and the Bureau of Quarantine and International Health Surveillance, shall develop a program to provide a stigma-free comprehensive reintegration, care, and support program, including economic, social, medical support for overseas workers, regardless of employment status and stage in the migration process.

Section 38. *Care and Support for Affected Families, Intimate Partners, Significant Others and Children of People Living with HIV.* - The DSWD, DOH, and LGUs, in consultation with CSOs and affected families of PLHIV shall develop care and support programs for affected families, intimate partners, significant others, and children of PLHIV, which shall include the following:

- (a) Education programs that reduce HIV-related stigma, including counseling to prevent HIV-related discrimination within the family;
- (b) Educational assistance for children infected with HIV and children orphaned by HIV and AIDS; and
- (c) HIV treatment and management of opportunistic infections for minors living HIV who are not eligible under the Outpatient HIV and AIDS Treatment (OHAT) Package of the Philippine Health Insurance Corporation (PhilHealth).

Section 39. *Care and Support Program in Prisons and Others Closed-Setting Institutions.* - 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. The DOH, in coordination with DILG, DOJ, and DSWD, shall develop HIV and AIDS comprehensive programs and policies, which include the HIV counseling and testing procedures in prisons, rehabilitation centers, and other closed-setting institutions.

PLHIV in prisons, rehabilitation centers, and other closed settings institutions shall be provided HIV treatment, which includes anti-retroviral drugs, care, and support in accordance with the national guidelines. 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-setting institutions.

Section 40. *Non-discriminatory HIV and AIDS Services.* - The members of the PNAC, in cooperation with the CSOs, and in collaboration with DOJ and CHR, shall ensure the delivery of non-discriminatory HIV and AIDS services by government and private HIV and AIDS service providers.

Section 41. *Protection of HIV Educators, Licensed Social Workers, Health Workers, and Other HIV and AIDS Service Providers from Harrassment.* - Any person involved in the provision of HIV and AIDS services, including peer educators, shall be protected from suit, arrest or prosecution, and from civil, criminal or administrative liability, on the basis of their delivery of such services in HIV prevention. This protection does not cover acts which are committed in violated of this Act.

Section 42. *Health Insurance and Similar Health Services.* - The PhilHealth shall:

- (a) Develop a benefit package for PLHIV that shall include coverage for in-patient and out-patient medical and diagnostic service, including medication and treatment;
- (b) Develop a benefit package for the unborn and the newborn child from infected mothers;
- (c) Set a preference price for HIV services in government hospitals;
- (d) Conduct programs to educate the human resource units of companies on the PhilHealth package on HIV and AIDS; and
- (e) Develop a mechanism for orphans living with HIV to access HIV benefit package.

The PhilHealth shall enforce confidentiality in the provision of these packages to PLHIV. No PLHIV shall be denied or deprived of private health insurance under a Health Maintenance Organization (HMO) and private life insurance coverage under a life insurance company on the basis of the person's HIV status. Furthermore, no person shall be denied of his insurance claims if he dies of HIV or AIDS under a valid and subsisting life insurance policy.

The insurance Commission (IC) shall implement this provision and shall develop the necessary policies to ensure compliance.

Section 43. *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 PNAC containing the findings of its monitoring and evaluation activities in compliance with this mandate.

ARTICLE VI CONFIDENTIALITY

Section 44. *Confidentiality.* - The confidentiality and privacy of any individual who has been tested for HIV, has been 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 45 of this Act, it shall be unlawful to disclose, without written consent, information that a person has AIDS, has undergone HIV-related test, has HIV infection or 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, and who, pursuant to the receipt of the required written consent from the subject of confidential HIV and AIDS information, have subsequently been granted access to the same confidential information.

(b) *Media Disclosure.* - It shall be unlawful for any editor, publisher, reporter or columnist, in case of printed materials, or any announcer or producer in case of television and radio broadcasting, or any producer or director of films in case of the movie industry, or any other individual or organization in case of social media, to disclose the name, picture, or any information that would reasonably identify persons living with HIV and AIDS, or any confidential HIV and AIDS information, without the prior written consent

of their subjects except when the persons waive said confidentiality through their own acts and omissions under Section 4(a) of Republic Act No. 10175, Otherwise known as the “Cybercrime Prevention Act of 2012” and Section 25 of Republic Act No. 10173, “Data Privacy Act of 2012”.

Section 45. *Exceptions.* - Confidential HIV and AIDS information may be released by HIV testing facilities without consent in the following instances:

- (a) When complying with reportorial requirements of the national active passive surveillance system of the DOH: *Provided,* That the information related to a person’s identify shall remain confidential;
- (b) When informing other health workers directly involved in the treatment or care of a PLHIV: *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 be held in executive session.

Section 46. *Disclosure of HIV-Related Test Results.* - The result of any test related to HIV shall be disclosed by the trained service provider who conducts pre-test 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 de disclose to either of the patient’s parents, legal guardian, or a duly assigned licensed social worker or health worker, whichever is applicable” *Provided,* That when a person below fifteen(15) years of age and not suffering from any mental incapacity, has given voluntary and informed consent to the procedure in accordance with Section 29(b) of this Act, the result of the test shall be disclose to child: *Provided, further,* That the child should be given age-appropriate counseling and access to necessary health care and sufficient support services.

It may also de disclose to a person authorized to receive such results in conjunction with the DOH Monitoring Body as provided in Section 43 of this Act.

Section 47. *Disclosure to Persons with Potential Exposure to HIV.* - Any person who, after having been tested, is found to be infected with HIV is strongly encouraged

to disclose this health condition to the spouse, sexual partners, and/or any person prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV 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. Confidentiality shall likewise be observed. Further the DOH, through the PNAC, shall establish an enabling environment to encourage newly tested HIV positive individuals to disclose their status to partners.

Section 48. *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 schools and training institutions, and local chief executives over all private establishments within their territorial jurisdiction, to prevent or deter acts of discrimination against PLHIV, and to provide procedures for the resolution, settlement, or prosecution of acts of discrimination against PLHIV, and to provide procedures for the resolution, settlement, or prosecution of acts of discrimination. Towards this end, the private employer, head of office, or local chief executive shall:

- (a) Promulgate rules and regulations prescribing the procedure for the investigation of discrimination cases and the administrative sanctions thereof; and
- (b) Create an ad hoc committee on the investigation of discrimination cases,

The committee shall conduct meetings to increase the members' knowledge and understanding of HIV and AIDS, and to prevent incidents of discrimination. It shall also conduct the administrative investigation of alleged cases of discrimination.

ARTICLE VII DISCRIMINATORY ACTS AND PRACTICES AND CORRESPONDING PENALTIES

Section 49. *Discriminatory Acts and Practices.* - The following discriminatory acts and practices 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 benefit, promotion or assignment of an individual solely or partially on the basis of actual, perceived, or suspected HIV status;

(b) *Discrimination in Learning Institution.* - Refusal of admission, expulsion, segregation, imposition of harsher disciplinary actions, or denial of benefits or services of 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 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 accorded to migrants, visitors, and residents who are not Filipino citizens;

(d) *Restrictions on Shelter.* - Restrictions on housing or lodging, whether permanent or temporary, solely or partially on the basis of actual, perceived, or suspected HIV status;

(e) *Prohibition from Seeking or Holding Public Office.* - 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, or 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 PLHIV has not concealed or 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 charges with a higher fee, on the basis of actual, perceived or suspected HIV status is discriminatory act and is prohibited;

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

(i) *Act of Bullying.* - Bullying in all forms, including name-calling, upon a person

based on actual, perceived, or suspected HIV status, including bullying in social media and other online portals; and

(j) Other similar or analogous discriminatory acts.^{1avvphi1}

Section 50. Penalties. -

(a) Any person who commits the prohibited act under Section 22 of this Act on misinformation on HIV and AIDS shall, upon conviction, suffer the penalty of imprisonment ranging from one (1) year but not more than ten (10) years a fine of not less than Fifty thousand pesos (50,000.00) but not more than Five hundred thousand pesos (P500,000.00), 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 found in violation of Section 21 of this Act may be seized and held in custody when the FDA Director-General has reasonable cause to believe 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;

(b) Any person who violates the second sentence of Section 24 of this Act on police operations *vis-à-vis* comprehensive health intervention for key populations shall upon conviction, suffer the penalty of imprisonment of one (1) year to five (5) years, and a fine of not less than One hundred thousand pesos (P100,000.00), but not more than Five hundred thousand pesos (P500,000.00): *Provided*, That the law enforcement agents found guilty shall be removed from public service;

(c) 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, or who compelled any person to undergo HIV testing without his or her consent shall, upon conviction, suffer the penalty of imprisonment of six (6) to twelve (12) years, without prejudice to the imposition of fines and administrative sanctions, such as suspension or revocation of professional licences;

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 Section 26, on blood, tissue, or organ donations, and Section 28, on medical management, surgical, and other related procedures;

(d) Any person who violates Section 41 of this Act, on the protection of HIV and AIDS service providers from harassment shall, upon conviction, suffer the penalty of imprisonment of six (6) months to five (5) years, and a fine of not less than One hundred thousand pesos (P100,000.00), but not less than Five hundred thousand pesos (P500,000.00): Provided, That if the person who violates this provision is a law enforcement agent or a public official, administrative sanctions may be imposed in addition to imprisonment and/or fine, at the discretion of the court;

(e) Any person, natural or juridical, who violates the provisions of Section 42 of this Act on health insurance and similar services shall, upon conviction, suffer the penalty of imprisonment of six (6) months to five (5) years, and/or a fine of not less than Fifty thousand (P50,000.00), at the discretion of the court, and without prejudice to the imposition of administrative sanctions such as fines, suspensions or revocation of business permit, business license or accreditation, and professional license;

(f) Any person who violates the provisions of Section 44 of this Act on confidentiality shall, upon conviction, suffer the following penalties:

(1) Six months to two (2) years of imprisonment for any person who breaches confidentiality, and/or a fine of not less than Fifty thousand pesos (P50,000.00), but not more than One hundred fifty thousand pesos (P150,000.00), at the discretion of the court;

(2) Two years and one (1) day to five (5) years of imprisonment for any person who causes the mass dissemination of the HIV status of a person, including spreading the information online or making statements to the media, and/or a fine of not less than One hundred fifty thousand pesos (P150,000.00), but not more than Three hundred fifty thousand pesos (P350,000.00), at the discretion of the court; and

(3) Five years and one (1) day to seven (7) years of imprisonment for any health professional, medical instructor, worker, employer, recruitment agency, insurance company, data encoder, and other custodian of any medical record, file, data, or test result who breaches confidentiality, and/or a fine of not less than Three hundred fifty thousand pesos (P350,000.00), but not more than Five hundred thousand pesos (P500,000.00), at the discretion of the court.

These penalties are without prejudice to any administrative sanction or civil suit that may be bought against persons who violate confidentiality under this Act.¹*amphi*

(g) Any person who shall violate any of the provisions in Section 49 on discriminatory acts and practices shall, upon conviction, suffer the penalty of imprisonment of six (6) months to five (5) years, and/or a fine of not less than Fifty thousand pesos (P50,000.00), but not more than Five hundred thousand (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 business permit, business license or accreditation, and professional license; and

(h) Any person who has obtained knowledge of confidential HIV and AIDS information and uses such information to malign or cause damage injury, or loss to another person shall face liability under Articles 19, 20, 21 and 26 of the new Civil Code of the Philippines and relevant provisions of Republic Act No. 10173, otherwise known as the “Data Privacy Act of 2012”.

If the offender is a corporation, association, partnership or any other juridical persons, the penalty of imprisonment shall be imposed upon the responsible officers and employees, as the case may be, who participated in, or allowed by their gross negligence, the commission on the crime, and a fine shall be imposed jointly and severally on the juridical person and the responsible officers and/or employees. Furthermore, the court may suspend or revoke its license or business permit.

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

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

Section 51. Penalties Collected. - The penalties collected pursuant to this section shall be put into a special fund to be administered by the PNAC, and shall be use for initial interventions required to address gaps in the national response on the part of government agencies and its partners from civil society and international organizations in accordance with Section 5(l) of this Act.

ARTICLE VIII FINAL PROVISIONS

Section 52. *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 DBM, in coordination with the Department of Finance (DOF) and the DOH, and other relevant government agencies, shall consider the incidence of HIV and AIDS, in determining the annual appropriations for the implementation of this Act in accordance with the AMTP. A separate budget item in the annual appropriations of the LGUs shall be allocated for their action plans specified in this Act.

The funding requirement needed to provide for the health insurance package and other services for the PLHIV as stated in Section 42 hereof shall be charged against the PhilHealth's corporate funds.

The funding needed to upgrade or construct government administered HIV testing and treatment centers shall be funded from the revenues of the sin tax under Republic Act No. 8424, otherwise known as the "National Internal Revenue Code", as amended by Republic Act No. 10351 and shall be prioritized under the Health Facilities Enhancement Programs of the DOH.

The funds to be appropriated for the operations of the PNAC shall be a distinct and separate budget item from the regular appropriations for the DOH, and shall be administered by the Secretary of Health. In no circumstances shall the appropriations, savings, and other resources of the PNAC be realigned to the programs and projects of the DOH or any other government agency, unless such program or project is related to the implementation of the provisions under this Act.

Section 53. *Transitory Provision.* - The personnel designated by the DOH as Secretariat of the PNAC under Section 7 of this Act shall be absorbed as permanent personnel to fill the positions of the Secretariat as provided in this Act.

Section 54. *Implementing Rules and Regulations.* The PNAC within ninety (90) days from the effectivity of this Act shall promulgate the necessary implementing rules and regulations for the effective implementation of this provisions of this Act.

Section 55. *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 Act No. 3815, otherwise known as the “Revised Penal Code”, as amended, 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”, 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.

Section 56. *Separability Clause.* - If any provision or part of this Act declared unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

Section 57. *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,

(Sgd.) **GLORIA MACAPAGAL-ARROYO**
Speaker of the House of Representatives

(Sgd.) **VICENTE C. SOTTO III**
President of the Senate

This Act which is a consolidation of Senate Bill No. 1390 and House Bill No. 6617 was passed by the Senate and the House of Representatives on October 10, 2018.

(Sgd.) **DANTE ROBERTO P. MALING**
Acting Secretary General
House of Representatives

(Sgd.) *MYRA MARIE D. VILLARICA*
Secretary of the Senate

Approved: December 20, 2018

(Sgd.) **RODRIGO ROA DUTERTE**
President of the Philippines