



Republika ng Pilipinas
SANGGUNIANG PANLUNGSOD
Lungsod Mandaluyong

ORDINANCE NO. 806, S-2020

AN ORDINANCE AMENDING ORDINANCE NO. 731, S-2019 CREATING A LOCAL AIDS COUNCIL, DEFINING ITS FUNCTIONS, ITS COMMITTEES, AND THE PROGRAMS THAT IT SHALL IMPLEMENT, FOR THE PREVENTION AND CONTROL OF HIV/AIDS IN THE CITY OF MANDALUYONG IN COMPLIANCE WITH REPUBLIC ACT 11166; PRESCRIBING FURTHER GUIDELINES, POLICIES, AND MEASURES FOR THE PREVENTION, MANAGEMENT, AND CONTROL OF STI/HIV/AIDS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF AND APPROPRIATING FUNDS THEREOF

WHEREAS, the Republic of the Philippines is mandated by its Constitution to protect and promote the right to health of the people, and instill health consciousness among them;

WHEREAS, the Department of Health (DOH) has declared that the Philippines is facing an unprecedented upsurge of HIV occurrences, having the highest HIV increase rate in the Asia Pacific region;

WHEREAS, the City of Mandaluyong is mandated to protect the health and wellness of its constituents, and it recognizes the need to suppress the rising number of HIV and AIDS occurrences within the City;

WHEREAS, the Mandaluyong City Social Hygiene Clinic and Treatment Hub has entered into a Memorandum of Agreement with the Department of Health (DOH), and is now designated as Primary HIV Care Facility;

WHEREAS, Republic Act 11166, otherwise known as "The Philippine HIV and AIDS Policy Act" aims to optimize the capabilities and response mechanisms of both the National and Local Governments with regard to the HIV/AIDS epidemic;

WHEREAS, Department Order 102-10 of the Department of Labor and Employment (DOLE) requires that workplaces and establishments in the private sector must implement effective HIV and AIDS prevention and control policies and programs;

WHEREAS, Ordinance No. 731, entitled: "AN ORDINANCE CREATING A LOCAL AIDS COUNCIL, DEFINING ITS FUNCTIONS, ITS COMMITTEES, AND THE PROGRAMS THAT IT SHALL IMPLEMENT, FOR THE PREVENTION AND CONTROL OF HIV/AIDS IN THE CITY OF MANDALUYONG IN COMPLIANCE WITH REPUBLIC ACT 11166" states that the increasing incidence of HIV/AIDS knows no territorial, social economic and political limits: the City of Mandaluyong recognizes the gravity of HIV/AIDS and demands strong action today."

NOW, THEREFORE, BE IT ORDAINED by the Sangguniang Panlungsod in session duly assembled that:

SECTION 1. Short Title. – This Ordinance shall be known and cited as the Mandaluyong City STI/HIV/AIDS Prevention, Management, and Control Ordinance.”

SECTION 2. Definition of Terms – As used in this Ordinance, the following terms are defined as follow:

- a. Acquired Immune Deficiency Syndrome (AIDS) - refers to a health condition where there is a deficiency of the immune system that stems from infection with the Human Immunodeficiency Virus (HIV), making an individual susceptible to opportunistic infections;
- b. Antiretroviral (ARV) - refers to the treatment that stops or suppresses viral replication or replications of a retrovirus like HIV thereby slowing down the progression of infection;
- c. Civil Society Organizations (CSO) - 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. 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 where informed choice is absent;
- e. Cruising Sites - refer to locations, places and establishments where high risk sexual behaviours are prevalent;
- f. Discrimination - refers to unfair or unjust treatment that distinguishes, excludes, restricts, or shows preferences based on any ground such as sex, gender, age, sexual orientation, gender identity, economic status, disability, ethnicity, and HIV status, whether actual or perceived, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise by all persons similarly situated, of all rights and freedoms. This definition shall include discrimination against individuals undergoing HIV-related tests regardless of the outcome of the test(s);
- g. Entertainer - refers to a person who is employed in entertainment establishments and renders entertainment services to and/or directly interacts with customers such as Guest Relations Officer (GRO), dancers, masseuses, masseurs, cocktail waitresses and other similar occupations. The term "entertainers" for purposes of this Ordinance, includes both registered and non-registered entertainers;

- h. **Entertainment Establishment** - refers to an establishment such as bars, nightclubs, disco house, cocktail lounges, massage clinics, videoke bar or pub houses that engage in providing recreation and entertainment to its customers. An entertainment establishment may either be registered or not registered. For purposes of this Ordinance, a registered entertainment establishment is one which has secured permit to operate and complied with all protocols as mandated by this Ordinance and/or other pertinent regulations in Mandaluyong City. Otherwise, the entertainment establishment is deemed non-registered;
- i. **Gender Expression** - refers to how a person publicly presents one's gender. This can include behavior and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender;
- j. **Gender Identity** - refers to each person's deeply felt internal and individual experience of gender that may or may not correspond with the sex assigned at birth, including the person's function by medical, surgical and other means, and other expressions of gender, including dress, speech, and mannerisms;
- k. **Health Certificate** - refers to a health card issued to all workers in entertainment establishments regardless of job description, upon compliance with all requisites set by the Health Department;
- l. **Health Service Provider** - refers to an individual who is accredited by the government to provide preventive, curative, promotional or rehabilitative health care service in the City;
- m. **High-risk Behavior** - refers to a person's frequent involvement in certain activities that increase the risk of transmitting or acquiring HIV;
- n. **Hiring** - refers to the process of selecting an individual for a specific position or job;
- o. **HIV Testing** - refers to any facility-based, mobile medical procedure or community-based testing that is conducted to determine the presence or absence of HIV anti-bodies in a person's body. HIV testing is confidential, voluntary in nature, and must be accompanied by counselling prior to, and after the testing, and conducted only with the informed consent of the person;

- p. Human Immuno-deficiency Virus (HIV) - refers to the virus which causes AIDS;
- q. Information material - refers to any material, written or printed, that educates the public, this includes those posted or uploaded online;
- r. Confidentiality of HIV Status - refers to the relationship of trust and confidence created or existing between a patient or a person living with HIV and his attending physician, consulting medical specialist, nurse, medical technologist and all other health service provider or personnel involved in any counselling, testing or professional care of the former. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information. For the purpose of this Ordinance, any person who comes by, in any manner, the information of a person's HIV status shall be, under pain of penalty be bound by the same confidentiality herein defined;
- s. LAC – refers to the Mandaluyong City Local Aids Council;
- t. Minor - refers to a person who is below eighteen (18) years of age;
- u. Males Having Sex with Males (MSM) - refers to male persons who engage in sexual activity with person(s) of the same sex, regardless of how they identify themselves;
- v. Operator - refers to an individual who has a direct control and supervision of the employees working within an entertainment establishment. He or she may or may not be the same person granted the permit/ license to operate the establishment;
- w. Owner - refers to a person or a juridical entity whose name and particulars appear in the public/ official documents as the owner of the entertainment establishment;
- x. 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 inform and advise the partner(s) who have been exposed to infection. Support includes giving the index client a mechanism to encourage the client's partner to attend counselling, testing, and other prevention and treatment services. Confidentiality shall be observed in the entire process;
- y. Peer Educator - refers to a person who gives support and education to co-workers, friends, and to persons living with HIV. Peer educators must be trained by an accredited institution;

- z. **Person Living with HIV (PLHIV)** - refers to an individual whose HIV test indicates that he/she is infected with HIV;
- aa. **Persons with Disabilities (PWDs)** - include those who have long-term physical, mental, intellectual, or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;
- bb. **Prophylactic** - refers to an agent or device, such as condom, used to prevent the transmission of STIs, including HIV and AIDS;
- cc. **Sexual Orientation** - refers to each person's capacity for profound, emotional, affectional, and sexual attraction to and relations with, individuals of a different gender identity, the same gender identity, or more than one gender identities;
- dd. **STI/HIV/AIDS Prevention, Management, and Control** - refers to the measure aimed at protecting non-infected persons from contracting HIV and minimizing the impact of the condition of persons living with HIV. Such measures may be evidence-based policies, programs and approaches that aim to reduce transmission of HIV and its harmful consequences on health, social relations and economic conditions. The same shall be harmonized and coordinated with policies and actions of pertinent agencies who implement related mandates whether local or national when actions are required to be undertaken in;
- ee. **Sexually Transmitted Infection (STI)** - refers to any infection that may be acquired or passed through sexual contact;
- ff. **Stigma** - refers to the dynamic devaluation and dehumanization of an individual in the eyes of others which may be based on attributes or categorization that are arbitrarily defined as discreditable or unworthy and which result in discrimination when acted upon.
- gg. **Social Hygiene Clinic** - refers to the primary implementers of HIV prevention programs in local government;
- hh. **Treatment Hub** - refers to private and public hospitals or medical establishments accredited by the Department of Health (DOH) to have trained personnel, facility, and equipment to provide anti-retroviral treatment.

ARTICLE I

THE MANDALUYONG CITY STI/HIV/AIDS COUNCIL

SECTION 3. The Mandaluyong City STI/HIV/AIDS Council shall be a multisectoral organization committed to unify responsive effort on the prevention, care and control of STI, HIV, and AIDS among the general population especially the marginalized groups and reduction of its impact on the community. Among others, the following are the tasks and functions of the Council:

- a. Ensure implementation of the policies and measures set forth by this Ordinance and the related programs of the City;
- b. Review and approve planned education and information materials and activities;¹
- c. Engage registered entertainment establishment owners/operator to actively participate in the formulation and implementation of programs for the prevention, management, and control of STI/HIV/AIDS;
- d. Monitor the activities of Peer Educators in the entertainment establishments;
- e. Review reports submitted by other agencies and committees and make recommendations;
- f. Create procedural requirements, forms and standards and amend these in furtherance of a more efficient system of compliance to policies and provisions set forth in this Ordinance;
- g. Formulate, review, and monitor progress of the annual work plan for the implementation of this Ordinance. Such work plan must indicate corresponding budget allocation and funding source for its programs and projects;
- h. Conduct periodic review of this Ordinance and other related policies for the purposes of finetuning, updating, and/or amendments;
- i. Advocate for the passage of related policies and budget proposals for the STI/HIV/AIDS programs and services in the City;

¹ Section 19 of RA 11166 mandates Local AIDS Council, in cooperation with the Department of the Interior and Local Government, Philippine National AIDS Council and local government leagues, to formulate and implement AIDS Education in Communities.

- j. Develop midterm (6 years) City Investment Plan for AIDS (CIPA) with corresponding annual work plan;
- k. Form a subcommittee in the Local Health Board;
- l. Participate in the conduct of joint inspections of entertainment establishments by the City government related to the implementation of the City's STI, HIV, and AIDS program.

SECTION 4. Membership and Composition² - The Mandaluyong City Local AIDS Council (LAC) shall have its Committee composed of representatives from the following agencies:

- a. Office of the City Mayor as a Chairperson;
- b. City Health Officer as Vice-Chairperson;
- c. Social Hygiene Clinic as Secretariat;
- d. Chairperson of the Council Committee on Health;
- e. Chairperson of the Council Committee on Women and Family;
- f. Medical Director, Mandaluyong City Medical Officer;
- g. City Health Department – STI – HIV/AIDS Program;
- h. Coordinator/Social Hygiene Clinic and Treatment Hub;
- i. City Director, Department of the Interior and Local Government;
- j. City Superintendent, Department of Education;
- k. Head, City Social Welfare and Development Department;
- l. Head, Public Information Office;
- m. Head, City Planning and Development Department;
- n. Head, Bureau of Permits and Licensing Department;
- o. Head, City Budget Department;
- p. Head, Employment Service Office;
- q. Head, City Youth Development Office;
- r. Focal Person, Gender and Development;
- s. President, Liga ng mga Barangay;
- t. President, Sangguniang Kabataan Federation;
- u. Head, Office of Persons with Disabilities;
- v. Faith Based Organization/Community Based Organization;
- w. Accredited PLHIV Organization – Local;
- x. Representative(s) from the LGBT groups;
- y. DOH Representative.

ARTICLE II

STI/HIV/AIDS PREVENTION, MANAGEMENT, AND CONTROL POLICIES

General Policies:

² Items t, u, and v were included as official members of the local AIDS Council to reflect the membership of the Philippine National AIDS Council as provided by Section 6 of RA 11166

SECTION 5. Functions. The LAC will set regular quarterly meetings with all members and shall serve as the coordinating, planning, implementing and monitoring body on STI-HIV/AIDS prevention programs and policies in the City of Mandaluyong.

A permanent alternate shall be designated by each member of the Council, who, in case of their absence, will represent them during meetings or activities of the Council.

The Council shall be divided into Committees to pursue the purpose of the Ordinance and for effective and efficient implementation of its powers and functions as mandated herein.

COMMITTEE ON PROGRAMS AND ADVOCACY. The Committee shall formulate programs and develop plans and strategies that will increase awareness, education and prevention that will strengthen HIV/AIDS advocacy within the City. The Committee shall be composed of the following:

- a.1 Department of Education;
- a.2 City Social Welfare and Development Department;
- a.3 Persons with Disabilities Affairs Division;
- a.4 Mandaluyong Youth Development Office;
- a.5 Sangguniang Kabataan Federation;
- a.6 City Public Information Department;
- a.7 City Public Employment Services Department;
- a.8 Liga ng mga Barangay;
- a.9 Gender and Development Office;
- a.10 PLHIV Organization;
- a.11 Faith Based/Community Based Organization.

COMMITTEE ON TREATMENT, CARE AND SUPPORT. The Committee shall formulate and provide an effective service delivery network by establishing and strengthening linkages with various partner organizations and stakeholders that are involved in HIV/AIDS prevention, control and treatment. This Committee shall, likewise, provide treatment and support, as prescribed by the Department of Health, for PLHIV and their families. It shall be composed of the following:

- b.1 Mandaluyong City Social Hygiene Clinic and Treatment Hub;
- b.2 Mandaluyong City Medical Center HIV/AIDS Core Team (HACT);
- b.3 City Social Welfare and Development Department;
- b.4 Persons with Disabilities Affairs Division.

COMMITTEE ON MONITORING AND EVALUATION. The Committee shall formulate an effective monitoring and reporting system that shall evaluate the progress and efficiency of the programs and activities, and shall act as the recommending body to the Council and shall ensure timely assessment of the various programs and activities. It shall be composed of the following:

- c.1 City Mayor;
- c.2 City Health Officer;
- c.3 City Council Chairperson, Committee on Health;
- c.4 City Council Chairperson, Committee on Women and Family;
- c.5 City Director, Department of the Interior and Local Government;
- c.6 City Budget Officer.

SECRETARIAT. The Mandaluyong City Social Hygiene Clinic and Treatment Hub shall serve as the Secretariat of the Council, tasked to coordinate and facilitate quarterly meetings of the Council, be held every last Friday of the month of the quarter. The Secretariat shall, likewise, be the record keeper of the Council, of documenting all meetings and activities of the Council. Secretariat shall also provide updates as to the local trends HIV/AIDS incidence within the City of Mandaluyong, and shall submit an annual report to the Council within a month after the closing of each fiscal year, subject to the approval of the Chair of the Council. The Secretariat shall, likewise, perform other functions as may be assigned by the Chair of the Council.

SECTION 6. HIV Education in School. The Department of Education, in cooperation with the Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), shall integrate STI-HIV/AIDS education, including high-risk behaviours, causes, modes of transmission and prevention of HIV/AIDS, in subjects taught in all learning institutions, provided that instructional modules, upon approval of the School Board and Parents-Teachers' Association, are age appropriate and does not contain sexually explicit materials, and are in accordance with the guidelines set by the Department of Health.

All teachers and instructors of such modules shall be required to undergo a training on STI-HIV/AIDS prevention and control, supervised by the Department of Education, Commission on Higher Education and Technical Education and Skills Development Authority and in coordination with the Department of Health.

SECTION 7. STI-HIV/AIDS Education in the Workplace. All government and private offices shall integrate STI-HIV/AIDS education and awareness programs, which shall include topics on confidentiality and non-discriminatory acts towards infected employees, workers and personnel.

SECTION 8. STI-HIV/AIDS Education as Health Service. All health practitioners, workers and personnel shall integrate STI-HIV/AIDS education in their health services. All public health workers shall undergo training, supervised by the Department of Health, to skills for proper information dissemination, and to common misconceptions about HIV/AIDS. Such training include discussions on ethical issues, such as confidentiality, informed consent and duty to provide treatment, and mental health issues associated with HIV/AIDS.

SECTION 9. Social/Community Mobilization. The City, in coordination with the Liga ng mga Barangay, SK Federation, and other partner organizations and stakeholders shall empower STI-HIV/AIDS education by incorporating STI-HIV/AIDS lectures, inclusive of cruising sites, high risk behaviours, prevention strategies, in different community activities.

SECTION 10. Annual Candlelight Memorial. The City shall hold the Annual Candlelight Memorial, every May of each year, to commemorate the lives lost due to HIV/AIDS. The Social Hygiene Clinic shall spearhead the event.

SECTION 11. Annual World AIDS Day Celebration. The City shall actively participate in the celebration of the World AIDS Day, as directed by the Department of Health, by encouraging its constituents to attend the said event.

SECTION 12. Best Practices – The Council, in close coordination with the City's law enforcement bodies and in partnership with the key affected population and pertinent sectors, shall employ best practices in human rights and evidence-based HIV prevention, management, and control policies and programs for key affected population in the City. Efforts to engage national law enforcement officials in dialogues to harmonize national and local policies must, likewise, be made.

SECTION 13. Prohibition on Discrimination by Health Service Providers - No health service provider and other staff assisting or directly providing medical services/examinations to clients shall discriminate in their treatment of their patients/clients. Health service providers shall inform the patient/client of his/her right to file charges for abuses committed against them.

SECTION 14. Misinformation on HIV and AIDS - Misinformation on STI/HIV/AIDS, purporting to be a cure, treatment or a fail-safe prophylactic for HIV infection, which includes false and misleading advertisement and claims in any form of multimedia or the promotional marketing of drugs, device, agents or procedures without prior approval from the proper government agencies and without the requisite medical and scientific basis, including markings and indications in drugs and devices or agents, shall be prohibited.

SECTION 15. Protection of Health Service Providers from any Form of Harassment in the Conduct of their Duties - Any person involved in the provision of HIV and AIDS services, including peer educators, shall be protected from malicious suit, arrest or prosecution arising from civil, criminal or administrative liability, on the basis of their delivery of such services in HIV prevention, or in relation to the legitimate exercise of protective custody of children, whenever applicable. This immunity does not cover acts which are committed in violation of this Ordinance.

ARTICLE III

ENTERTAINMENT ESTABLISHMENTS POLICIES

SECTION 16. STI/HIV/AIDS Education in Entertainment Establishments – It shall be required for all owners, operators, managers, entertainers, and other staff to attend seminars on STI/HIV/AIDS prevention, management, and control conducted by the City Health Department or other agencies recognized through a Memorandum of Agreement entered into with the City Government.

SECTION 17. Peer Educators from Entertainment Establishments - All entertainment establishments are required to have a peer educator, who has been trained by the City Health Department and has passed the qualifications set by the LAC.

SECTION 18. Availability of Prophylactics and other Information Materials for the Prevention, Management and Control of STI/HIV/AIDS.

- a. Information on Prophylactics - Appropriate information shall be attached to or provided with every prophylactic offered for sale or given as a donation. Such information shall be legibly printed in English and Filipino, and contain literature on the proper use of the prophylactic device or agent, its efficacy against HIV and STI, possible side effects, as well as the importance of sexual abstinence and mutual fidelity.
- b. Availability and Visibility of Materials on STI/HIV/AIDS - It shall be required for all registered entertainment establishments, saunas/bathhouses, hotels, lodging houses, and others to make information materials on STI, HIV and AIDS prevention, management, and control available within the premises and to provide such information materials when requested by customers specifically instructions on the correct use of condom.
- c. Information materials shall either be those sourced from government or those that are endorsed by government, such as but not limited to those from DOH and/or the City Health Department. These entertainment establishments are, likewise, required to make STI, HIV and AIDS posters visible in strategic locations within their premises.

SECTION 19. Non-hiring of Minors - In compliance with Article 139 of the Labor Code (Minimum Employable Age), and as stated in Section 2 of this Ordinance, no entertainment establishment shall be allowed to hire minors as entertainers as defined in Section 2(t) of this Ordinance. Anyone who assists in the falsification of documents of minors shall, likewise, be liable.

ARTICLE IV

COMPREHENSIVE PACKAGE OF INTERVENTIONS

SECTION 20. Access to Comprehensive Package of Interventions for STI/HIV/AIDS - All Social Hygiene Clinics in the City shall provide a comprehensive

package of interventions, which shall include comprehensive condom and lubricant programming, behavioral interventions, HIV testing and counselling, HIV treatment and care, prevention and management of co-infections and other co-morbidities, and sexual and reproductive health interventions: provided that these services shall, likewise, be extended by private health facilities to paying patients with the option to grant free care and services to indigents. Provided, further, that health facilities unable to provide the comprehensive package shall refer the person seeking such care and services to another health facility which is conveniently accessible. Provided, finally, that a functional service delivery network will be established to ensure access to any or all of these interventions. No person shall be denied access to these services. Key populations, those in prisons and others in closed settings shall have the same level of access and shall not be neglected.

SECTION 21. Pretest and Post-test Counselling - All HIV testing centers shall provide and conduct free pretest and post-test counselling, provided only by individuals trained by the Department of Health or any of its authorized partners.

SECTION 22. Treatment of HIV Positive Individuals - All individuals who tested Reactive on HIV screening at any accredited HIV testing centers shall be referred to the Mandaluyong City Social Hygiene Clinic and Treatment Hub for further management. Such would include counselling, confirmatory HIV testing, baseline laboratory testing, ARV enrolment and ARV adherence counselling, as prescribed by the Department of Health, for confirmed positive cases.

SECTION 23. Monitoring of Treatment Response - Whereas viral suppression is the goal of treatment, CD4 and viral load cartridges shall be provided among PLHIV for monitoring of ARV adherence and treatment response among PLHIV.

SECTION 24. Reporting of HIV Reactivity and Positivity - All HIV/AIDS testing and treatment centers shall report to the Mandaluyong City Social Hygiene Clinic all Reactive and Positive cases seen in their respective centers, to facilitate easy consolidation of data for reporting to the Council and to the Department of Health.

SECTION 25. Evaluation of STI-HIV/AIDS Programs - A comprehensive evaluation system shall be established to determine the efficiency and adequacy of STI-HIV/AIDS programs being employed.

SECTION 26. Regular Quarterly Meeting - The Council shall hold regular quarterly meeting every last Friday of the last month of the quarter, to be facilitated by the Social Hygiene Clinic, to discuss local statistics as well as efficacy of the STI-HIV/AIDS programs, for the purpose of improving the City's STI-HIV/AIDS Prevention and Treatment Programs.

SECTION 27. Documentation of Activities - The Social Hygiene Clinic, being the Secretariat of the Council, shall document and record all the activities of the Council.

SECTION 28. Peer Education Program - The City Health Department shall establish a Peer Education Program as a strategy to effect behavior change and empower communities and key population groups to adopt changes that support risk reduction, prevent HIV transmission, and increase uptake of services among key populations including those in close settings. The design of the program shall adhere to culturally-acceptable and gender-sensitive norms and based on good formative analysis of the local situation.

SECTION 29. Procurement and Distribution of STI/HIV/AIDS Supplies - The City Health Department shall procure and distribute to health facilities and monitor the usage of STI/HIV/AIDS supplies for the whole City. The same shall coordinate with all appropriate city government offices to plan and implement this procurement and distribution program. The supply and budget allotments shall be based on, among others, the current levels and projections of STI/HIV/AIDS prevalence among the general public and most at-risk populations.

SECTION 30. Voluntary HIV Testing - As a policy, the City shall encourage voluntary HIV testing. Written consent from the person taking the test must be obtained before HIV testing. If the person from fifteen (15) to below eighteen (18) years old, consent to voluntary testing shall be obtained from the child without the need of consent from the parent or guardian.³

HIV testing and counselling shall be made available to a minor who requests to undergo testing and counselling and other related services under any of the following conditions:

- a. The child expresses the intention to submit to HIV testing and counselling and other related services;
- b. Reasonable efforts were undertaken to locate, provide counselling to, and obtain consent of parents, but the parents are absent or cannot be located, or otherwise refuse to give their consent. In this case, consent shall be obtained from the child's legal guardian or whenever applicable, from licensed social worker, licensed health service providers or a DOH accredited health service provider assigned to provide health services to a child. The licensed social worker, health care provider or other health care professional shall determine if the child is engaged "high-risk behavior" as defined in this Ordinance, and that the conduct of the testing and counselling is in the child's best interest and welfare. In instances where parents of the minor were located and parents refused to give consent, social worker or healthcare provider shall execute an attestation that he/she has found the parents and advised them of the risks of not allowing their minor child to get tested;
- c. In every circumstance, proper counseling shall be conducted by a social worker, a healthcare provider or other health care professional, accredited by the DOH or DSWD.

³ The provision on the age of consent is in accordance with Paragraphs a-b, Section 29 of RA 11166.

All pregnant patients shall be offered and encouraged to undergo HIV testing as part of the routine prenatal care recommended by the Department of Health, but shall not be carried out without the patient's written informed consent.

SECTION 31. Compulsory HIV Testing - Compulsory HIV testing as defined in this Ordinance shall be allowed only in the following instances. Compulsory testing for other purposes other than herein enumerated shall not be allowed.

- 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 of the Revised Penal Code, as amended by Republic Act No. 8353, otherwise known as the Anti-Rape Law of 1997;
- b. When it is necessary to resolve relevant issues under Executive Order No. 209, otherwise known as the Family Code of the Philippines, specifically, Article 45 (6) and 46 (3) thereof;
- c. As a prerequisite in the donation of blood and 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.

ARTICLE V

CONFIDENTIALITY

SECTION 32. 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 AIDS-related illnesses shall be guaranteed.

SECTION 33. Medical Confidentiality - All health professionals, medical instructors, workers, employers, recruitment agencies, insurance companies, data encoders, and other custodians of any medical record, file, data, or test results are directed to strictly observe confidentiality in the handling of all medical information, particularly the identity and status of persons with HIV.

All results of HIV testing shall be strictly confidential and shall only be disclosed to the person who submitted for testing, to either parent or legal guardians of a minor or a mentally incapacitated individual who has been tested. It is, likewise, considered unlawful to disclose, without the individuals consent, information that an individual has undergone HIV-related test, been exposed to HIV/AIDS, has HIV/AIDS or HIV/AIDS-related illness. However, it is strongly encouraged that any person who has been tested positive for HIV to disclose his/her health condition to the spouse, sexual partner, or any person prior to penetrative sex or any potential exposure to HIV.

SECTION 34. Exceptions to the Mandate of Confidentiality - Medical confidentiality shall not be considered breached in the following cases:

- a. When complying with reportorial requirements in conjunction with the AIDS WATCH Programs established under the Department of Health to determine and monitor the magnitude and progression of HIV infection in the Philippines, and for the purpose of evaluating the adequacy and efficacy of the countermeasures being employed;
- b. When informing other health workers directly involved or about to be involved in the treatment or care of a person with HIV/AIDS. Provided, that such treatment or care carry the risk of HIV transmission. Provided, further, that such workers shall be obliged to maintain the shared medical information confidentiality;
- c. When responding to 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 shall be properly sealed by its lawful custodian after being double-checked for accuracy by the head of the office or department, hand delivered, and personally opened by the judge; provided further, that the judicial proceedings be held in executive session.

SECTION 35. Release of HIV-Related Test Results - The result of a confirmatory HIV TEST shall be released only by a trained health worker, who provides pre- and post-test counselling only to the individual who submitted to the test. If the patient is a minor, an orphan, or is mentally incapacitated, the result may be released to either of the patient's parents, legal guardian, or a duly-assigned licensed social worker, whichever is applicable. If the parents of the minor refused consent but the test is nevertheless continued, the results will be released to the minor with the assistance of the accredited health worker who provided him/ her with counselling.

SECTION 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 their spouse or sexual partner prior to engaging in penetrative sex or any potential exposure to HIV. A person living with HIV may opt to seek help from qualified professionals, health workers, peer educators, or social workers to support him in disclosing this health condition to one's partner or spouse-confidentiality of which shall, likewise, be observed.

ARTICLE VI

DISCRIMINATORY ACTS AND PRACTICES

SECTION 37. Discriminatory Acts and Practices - The following are discriminatory acts and practices and shall be prohibited in:

- a. Discrimination in the Workplace. - The rejection of job application, termination of employment, or other discriminatory policies in hiring, provision of employment and other related benefits, promotion or assignment of an individual solely or partially the basis of actual, perceived, or suspected HIV status;
- b. Discrimination in Learning Institutions. - Refusal of admission, expulsion, segregation, imposition of harsher disciplinary action, or denial of benefits or services, of a student or a prospective student solely or partially on the basis of actual, perceived or suspected HIV status;
- c. Restrictions on housing or lodging solely or partially on the basis of actual, perceived or suspected HIV status;
- d. Inhibition from Public Participation. - Prohibition on the right to seek an elective or appointive public office solely or partially on the basis of actual, perceived or suspected HIV status;
- e. Discrimination in Hospitals and Health Institutions. - Denial of health services, or charging with a higher fee, on the basis of actual, perceived or suspected HIV status;
- f. 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;
- g. Denial of Insurance or Health Maintenance Coverage. - No person living with HIV shall be denied or deprived of private health insurance by a Health Maintenance Organization (HMO) and private life insurance coverage by a life insurance company on the basis of the person's HIV status.

SECTION 38. Duty of Employers, Heads of Government Offices, and Heads of Public and Private Schools or Training Institutions in the City - It shall be the duty of private employers, heads of government offices and head of public and private academic or training institutions to prevent or deter acts of discrimination against persons living with HIV and to provide procedures for the resolution, settlement, or prosecution of acts of discrimination.

ARTICLE VII

PENALTIES

SECTION 39. PENALTIES - The corresponding penalties shall be imposed upon:

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- a. Any person who commits the prohibited acts under the provisions on "Prohibition on Discrimination by Health Service Providers" and "Misinformation on HIV and AIDS" (Sections 13 and 14) shall upon conviction suffer the penalty of a fine in the amount of Five Thousand Pesos (P5,000.00), or imprisonment of two (2) to three (3) months, or both, at the discretion of the court, without prejudice to the suspension or revocation of his/her professional license in administrative proceedings.
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- b. Any person who violates the provision on protection of health service providers (Section 15) shall, upon conviction, suffer the penalty of a fine of Five Thousand Pesos (P5,000.00), or imprisonment of one (1) to three (3) months, or both, at the discretion of the court. Provided, that if the person who violates these provisions is a law enforcement agent or a public official, administrative sanction may be imposed, in addition to imprisonment and/or fine, at the discretion of the court.
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- c. Any person who violates Section 30 of this Ordinance by forcibly testing, or requiring the HIV testing of an individual in accessing services or rights shall, upon conviction, suffer the penalty of imprisonment of two (2) to three (3) months and/or a fine of Five Thousand Pesos (P5,000.00) at the discretion of the court, and without prejudice to the imposition of administrative sanction such as suspension or revocation of business permit, business license or accreditation, and professional license;
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- d. Any person, natural or juridical, who violates Section 16 shall, upon conviction, suffer the penalty of imprisonment of two (2) to three (3) months and/or of a fine of Five Thousand Pesos (P5,000.00) at the discretion of the court, and without prejudice to the imposition of administrative sanction such as suspension or revocation of business permit, business license or accreditation, and professional license;
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- e. Any person, natural or juridical, who shall violate any of the provisions under discriminatory acts (Section 37) shall, upon conviction, suffer the penalty of imprisonment of two (2) to three (3) months and/ or of a fine of Five Thousand Pesos (P5,000.00) at the discretion of the court, and without prejudice to the imposition of administrative sanction such as suspension or revocation of business permit, business license or accreditation, and professional license;
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- f. 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 upon conviction suffer the penalty of imprisonment of two (2) to three (3) months and/or a fine of Five Thousand Pesos (P5,000.00) at the discretion of the court; such person shall also face liability under Articles 19, 20, 21 and 26 of the New Civil Code of the Philippines;
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g. Any person, natural or juridical, who shall violate Section 24, and the Sections under Article III: Entertainment Establishment Policies in this Ordinance shall be subject to the following penalties:

1. In the event of a 1st offense, the penalty is a fine of Two Thousand Pesos (P2,000.00) and/or an imprisonment of one (1) month, at the discretion of the court.
2. In the event of a 2nd offense, a fine of Five Thousand Pesos (P5,000.00) and/or an imprisonment of six (6) months at the discretion of the court and/or permanent closure of establishment and loss of capacity to conduct business in Mandaluyong City perpetually.

Except for the acts of falsification of requirements, hiring of minors and operating without permit shall be meted with the punishment listed in the 2nd offense.

ARTICLE VIII

IMPLEMENTATION AND MONITORING

SECTION 40. Implementing and Monitoring Agencies - The LAC is tasked to coordinate in the strict compliance and enforcement of this Ordinance.

SECTION 41. Implementing Rules and Regulations. The City Mayor shall promulgate the necessary Implementing Rules and Regulations for the efficient implementation of this Ordinance in compliance with the mandates of Republic Act 11166.

ARTICLE IX

APPROPRIATION

SECTION 42. Appropriation - An operational budget of TWO MILLION PESOS (P2,000,000.00) shall be appropriated for the implementation of this Ordinance. An additional 10% increase in annual budget for the annual operation shall be allotted, subject to the approval of the Chair of the Council and the Sangguniang Panlungsod.⁴

⁴ Section 52 of RA 11166 leaves to the discretion of LGUs. While the law does not identify a specific source, the Philippine National AIDS Council and the Philippine Commission on Women recommended tapping the Gender and Development Fund.

ARTICLE X

TRUST FUND

SECTION 43. Collection of Penalties - All collections by the City Treasurer's Office pursuant to Article VII of this Ordinance shall be deposited in the General Fund of the City.

ARTICLE XI

FINAL PROVISIONS

SECTION 44. Repealing Clause - All ordinances, local issuances, or rules inconsistent with the provisions of this Ordinance are hereby repealed, or modified accordingly.

SECTION 45. Separability Clause - If for any reason, any provision of this Ordinance is declared unconstitutional or invalid, the remaining provisions not affected thereby, shall continue to be in full force and effect.

SECTION 46. Effectivity Clause - This Ordinance shall take effect immediately right after its publication in the Official Gazette or in a newspaper of general circulation in Metro Manila.

ENACTED on this 23rd day of November, 2020, in the City of Mandaluyong.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ENACTED AND APPROVED BY THE SANGGUNIANG PANLUNGSOD OF MANDALUYONG IN A REGULAR SESSION HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.


MA. TERESA S. MIRANDA
Sanggunian Secretary

ATTESTED BY:


JESUS C. CRUZ
Councilor &
Acting Presiding Officer

APPROVED:


CARMELITA A. ABALOS
City Mayor

Date: NOV 26 2020