

**IMPLEMENTING RULES AND REGULATIONS
(IRR)
OF REPUBLIC ACT NO. 9165,
OTHERWISE KNOWN AS
THE "COMPREHENSIVE DANGEROUS DRUGS
ACT OF 2002"**

THESE RULES AND REGULATIONS ARE HEREBY PROMULGATED TO IMPLEMENT THE PROVISIONS OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002".

SECTION 1. This IRR, issued and promulgated pursuant to Section 94 of RA 9165, shall be referred to as the "COMPREHENSIVE DANGEROUS DRUGS RULES OF 2002."

SECTION 2. *Declaration of Policy.* It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. In view of the foregoing, the State needs to enhance further the efficacy of the law against dangerous drugs, it being one of today's more serious social ills.

Toward this end, the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs and projects. The government shall, however, aim to achieve a balance in the national drug control program so that people with legitimate medical needs are not prevented from

being treated with adequate amounts of appropriate medications, which include the use of dangerous drugs.

It is further declared the policy of the State to provide effective mechanisms or measures to re-integrate into society individuals who have fallen victims to drug abuse or dangerous drug dependence through sustainable programs of treatment and rehabilitation.

ARTICLE I

DEFINITION OF TERMS

SECTION 3. *Definitions.* - As used in this IRR, the following terms shall mean:

(a) Accreditation - the formal authorization issued by the Department of Health (DOH) to an individual, partnership, corporation or association to operate a laboratory and rehabilitation facility after compliance with the standards set at a maximum achievable level to stimulate improvement over time;

(b) Act - refers to Republic Act No. 9165;

(c) Administer - any act of introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself unless administered by a duly licensed practitioner for purposes of medication;

(d) Board or DDB - refers to the Dangerous Drugs Board under Section 77, Article IX of the Act;

(e) Center – any of the treatment and rehabilitation centers which undertake the treatment, after-care and follow-up treatment of drug dependents as referred to in Section 75, Article VIII of the Act. It includes institutions, agencies and the like whose purposes are: the development of skills, arts, and technical know-how; counseling; and/or inculcating civic, social, and moral values to drug patients, with the aim of weaning them away from dangerous drugs and keeping them drug-free, adapted to their families and peers, and readjusted into the community as law abiding, useful and productive citizens;

(f) Chemical Diversion - the sale, distribution, supply or transport of legitimately imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity engaged in the manufacture of any dangerous drug, and shall include packaging, repackaging, labeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits, misdeclaration, use of front companies or mail fraud;

(g) Clandestine Laboratory – any facility used for the illegal manufacture of any dangerous drug and/or controlled precursor and essential chemical;

(h) Confinement - refers to the residential treatment and rehabilitation of trainees, clients and patients in a center;

(i) Confirmatory Test – an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will

validate and confirm the result of the screening test. It refers to the second or further analytical procedure to more accurately determine the presence of dangerous drugs in a specimen;

(j) Controlled Delivery – the investigative technique of allowing an unlawful or suspect consignment of any dangerous drug and/or controlled precursor and essential chemical, equipment or paraphernalia or property believed to be derived directly or indirectly from any offense, to pass into, through or out of the country under the supervision of an authorized officer, with a view to gathering evidence to identify any person involved in any dangerous drug related offense, or to facilitate prosecution of that offense;

(k) Controlled Precursors and Essential Chemicals – include those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the attached annex, which is an integral part of the Act;

(l) Cultivate or Culture – any act of knowingly planting, growing, raising, or permitting the planting, growing or raising of any plant which is the source of a dangerous drug;

(m) DOH-Accredited Physician – refers to a physician with background experience on psychological/behavioral medicine whose application has been approved and duly authorized by the DOH to conduct dependency examination on persons believed to be using dangerous drugs;

(n) Dangerous Drugs – include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol,

and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the attached annex which is an integral part of the Act;

(o) Deliver – any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration;

(p) Den, Dive or Resort – a place where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, stored for illegal purposes, distributed, sold or used in any form;

(q) Dispense – any act of giving away, selling or distributing medicine or any dangerous drug with or without the use of prescription;

(r) Drug Dependence – as based on the World Health Organization definition, it is a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which the use of psychoactive drug takes on a high priority thereby involving, among others, a strong desire or a sense of compulsion to take the substance and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or levels of use;

(s) Drug Dependent – refers to a person suffering from drug dependence;

(t) Drug Syndicate – any organized group of two (2) or more persons forming or joining together with the intention of committing any offense prescribed under the Act;

(u) Employee of Den, Dive or Resort – the caretaker, helper, watchman, lookout, and other

persons working in the den, dive or resort, employed by the maintainer, owner and/or operator where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, distributed, sold or used, with or without compensation, in connection with the operation thereof;

(v) Financier – any person who pays for, raises or supplies money for, or underwrites any of the illegal activities prescribed under the Act;

(w) Illegal Trafficking – the illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical;

(x) Income - revenues generated minus the expenses incurred by health facilities in providing health services for the drug dependents;

(y) Instrument – any thing that is used or intended to be used, in any manner, in the commission of illegal drug trafficking or related offenses;

(z) Laboratory - refers to the facility of a private or government agency that is capable of testing a specimen to determine the presence of dangerous drugs therein;

(aa) Laboratory Equipment – the paraphernalia, apparatuses, materials or appliances when used, intended for use or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentors,

separatory funnel, flask, heating mantle, gas generator, or their substitute;

(bb) Manufacture – the production, preparation, compounding or processing of any dangerous drug and/or controlled precursor and essential chemical, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of such substances, design or configuration of its form, or labeling or relabeling of its container; except that such terms do not include the preparation, compounding, packaging or labeling of a drug or other substances by a duly authorized practitioner as an incident to his/her administration or dispensation of such drug or substance in the course of his/her professional practice including research, teaching and chemical analysis of dangerous drugs or such substances that are not intended for sale or for any other purpose;

(cc) Cannabis or commonly known as “Marijuana” or “Indian Hemp” or by its any other name – embraces every kind, class, genus, or specie of the plant *Cannabis sativa* L, including, but not limited to, *Cannabis americana*, hashish, bhang, guaza, churrus and ganjab, and embraces every kind, class and character of marijuana, whether dried or fresh and flowering, flowering or fruiting tops, or any part or portion of the plant and seeds thereof, and all its geographic varieties, whether as a reefer, resin, extract, tincture or in any form whatsoever;

(dd) Methylenedioxymethamphetamine (MDMA) or commonly known as “Ecstasy,” or by its any other name – refers to the drug having such chemical composition, including any of its isomers or derivatives in any form;

(ee) Methamphetamine Hydrochloride or commonly known as “Shabu”, “Ice”, “Meth”, or by its any other name – refers to the drug having such chemical composition, including any of its isomers or derivatives in any form;

(ff) Opium – refers to the coagulated juice of the opium poppy (*Papaver somniferum* L.) and embraces every kind, class and character of opium, whether crude or prepared; the ashes or refuse of the same, narcotic preparations thereof or therefrom; morphine or any alkaloid of opium; preparations in which opium, morphine or any alkaloid of opium enters as an ingredient; opium poppy; opium poppy straw; and leaves or wrappings of opium leaves, whether prepared for use or not;

(gg) Opium Poppy – refers to any part of the plant of the species *Papaver somniferum* L., *Papaver setigerum* DC, *Papaver orientale*, *Papaver bracteatum* and *Papaver rhoeas*, which includes the seeds, straws, branches, leaves or any part thereof, or substances derived therefrom, even for floral, decorative and culinary purposes;

(hh) PDEA – refers to the Philippine Drug Enforcement Agency under Section 82, Article IX of the Act;

(ii) Person – any entity, natural or juridical, including among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture or other unincorporated organization or group capable of acquiring rights or entering into obligations;

(jj) Planting of Evidence – the willful act of any person of maliciously and surreptitiously inserting, placing, adding or attaching directly or indirectly, through any overt or covert act, whatever quantity of any dangerous drug and/or controlled precursor and essential chemical in the person, house, effects or in the immediate vicinity of an innocent individual for the purpose of implicating, incriminating or imputing the commission of any violation of the Act;

(kk) Practitioner – any person who is a licensed physician, dentist, chemist, medical technologist, nurse, midwife, veterinarian or pharmacist in the Philippines;

(ll) Protector/Coddler – any person who knowingly and willfully consents to the unlawful acts provided for in the Act and uses his/her influence, power or position in shielding, harboring, screening or facilitating the escape of any person he/she knows, or has reasonable grounds to believe on or suspects, has violated the provisions of the Act in order to prevent the arrest, prosecution and conviction of the violator;

(mm) Pusher – any person who sells, trades, administers, dispenses, delivers or gives away to another, on any term whatsoever, or distributes, dispatches in transit or transports dangerous drugs or who acts as a broker in any of such transactions, in violation of the Act;

(nn) Rehabilitation – the dynamic process, including after-care and follow-up treatment, directed towards the physical, emotional/psychological, vocational, social and spiritual change/enhancement of a drug dependent to enable him/her to live without dangerous drugs, enjoy the fullest life compatible with his/her capabilities and potentials and render him/her

able to become a law-abiding and productive member of the community;

(oo) School – any educational institution, private or public, undertaking educational operation for pupils/students pursuing certain studies at defined levels, receiving instructions from teachers, usually located in a building or a group of buildings in a particular physical or cyber site;

(pp) Screening Test – a rapid test performed to establish potential/presumptive positive result. It refers to the immunoassay test to eliminate a “negative” specimen, i.e. one without the presence of dangerous drugs, from further consideration and to identify the presumptively positive specimen that requires confirmatory test;

(qq) Trading – transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of the Act;

(rr) Use – any act of injecting, intravenously or intramuscularly, of consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body, any of the dangerous drugs.

ARTICLE II

UNLAWFUL ACTS AND PENALTIES

SECTION 4. *Importation of Dangerous Drugs and/or Controlled Precursors and*

Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall import any controlled precursor and essential chemical.

The maximum penalty provided for under this Section shall be imposed upon any person, who, unless authorized under the Act, shall import or bring into the Philippines any dangerous drug and/or controlled precursor and essential chemical through the use of a diplomatic passport, diplomatic facilities or any other means involving his/her official status intended to facilitate the unlawful entry of the same. In addition, the diplomatic passport shall be confiscated and canceled.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages, or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos

(P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

- The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

SECTION 6. Maintenance of a Den, Dive or Resort. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years

and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive, or resort where any controlled precursor and essential chemical is used or sold in any form.

The maximum penalty provided for under this Section shall be imposed in every case where any dangerous drug is administered, delivered or sold to a minor who is allowed to use the same in such a place.

Should any dangerous drug be the proximate cause of the death of a person using the same in such den, dive or resort, the penalty of death and a fine ranging from One million (P1,000,000.00) to Fifteen million pesos (P15,000,000.00) shall be imposed on the maintainer, owner and/or operator.

If such den, dive or resort is owned by a third person, the same shall be confiscated and escheated in favor of the government: *Provided*, that the criminal complaint shall specifically allege that such place is intentionally used in the furtherance of the crime; *Provided, further*, that the prosecution shall prove such intent on the part of the owner to use the property for such purpose; *Provided, finally*, that the owner shall be included as an accused in the criminal complaint.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who

acts as a "protector/coddler" of any violator of the provisions under this Section.

SECTION 7. *Employees and Visitors of a Den, Dive or Resort.* - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon:

(a) Any employee of den, dive or resort, who is aware of the nature of the place as such; and

(b) Any person who, not being included in the provisions of the next preceding paragraph, is aware of the nature of the place as such and shall knowingly visit the same.

SECTION 8. *Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who unless authorized by law, shall engage in the manufacture of any dangerous drug.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who unless authorized by law, shall manufacture any controlled precursor and essential chemical.

The presence of any controlled precursor and essential chemical or laboratory equipment in the clandestine laboratory is a prima facie proof of manufacture of any dangerous drug. It shall be considered an aggravating circumstance if the clandestine laboratory is undertaken or established under the following circumstances:

(a) Any phase of the manufacturing process was conducted in the presence or with the help of minor/s;

(b) Any phase or manufacturing process was established or undertaken within one hundred (100) meters of a residential, business, church or school premises;

(c) Any clandestine laboratory was secured or protected with booby traps;

(d) Any clandestine laboratory was concealed with legitimate business operations; or

(e) Any employment of a practitioner, chemical engineer, public official or foreigner.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

SECTION 9. *Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals.* -

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who unless authorized by law, shall illegally divert any controlled precursor and essential chemical.

SECTION 10. *Manufacture or Delivery of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* -

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person who shall deliver, possess with intent to deliver, or manufacture with intent to deliver equipment, instrument, apparatus and other paraphernalia for dangerous drugs, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal any dangerous drug and/or controlled precursor and essential chemical in violation of the Act.

The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed if it will be used to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug in violation of the Act.

The maximum penalty provided for under this Section shall be imposed upon any person, who uses a minor or a mentally incapacitated individual to deliver such equipment, instrument, apparatus and other paraphernalia for dangerous drugs.

SECTION 11. *Possession of Dangerous*

Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- (a) 10 grams or more of opium;
- (b) 10 grams or more of morphine;
- (c) 10 grams or more of heroin;
- (d) 10 grams or more of cocaine or cocaine hydrochloride;
- (e) 50 grams or more of methamphetamine hydrochloride or "shabu";
- (f) 10 grams or more of marijuana resin or marijuana resin oil;
- (g) 500 grams or more of marijuana; and

(h) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or "ecstasy", paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB),

and those similarly designed or newly introduced drugs and their derivatives without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance with Section 93, Article XI of the Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

(2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana; and

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the

quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

SECTION 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, that in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be prima facie evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous

drug and shall be presumed to have violated Section 15 of the Act.

SECTION 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* - Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of the Act, regardless of the quantity and purity of such dangerous drugs.

The phrase "company of at least two (2) persons" shall mean the accused or suspect plus at least two (2) others, who may or may not be in possession of any dangerous drug.

SECTION 14. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings.* - The maximum penalty provided for in Section 12 of the Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

The phrase "company of at least two (2) persons" shall mean the accused or suspect plus at least two (2) others, who may or may not be in possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs.

SECTION 15. *Use of Dangerous Drugs.* - A person apprehended or arrested, who is found to be

positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provision of Article VIII of the Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): *Provided*, that this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of the Act, in which case the provisions stated therein shall apply.

SECTION 16. *Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: *Provided*, that in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plant is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack of knowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

SECTION 17. *Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of imprisonment ranging from one (1) year and one (1) day to six (6) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any practitioner, manufacturer, wholesaler, importer, distributor, dealer or retailer who violates or fails to comply with the maintenance and keeping of the original records of transactions on any dangerous drug and/or controlled precursor and essential chemical in accordance with Section 40 of the Act.

An additional penalty shall be imposed through the revocation of the license to practice his/her profession, in case of a practitioner, or of the business, in case of a manufacturer, seller, importer, distributor, dealer or retailer.

SECTION 18. *Unnecessary Prescription of Dangerous Drugs.* - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) and the additional penalty of the revocation of his/her license to practice shall be imposed upon the practitioner, who shall prescribe any dangerous drug to any person whose physical or physiological condition does not require its use or in the dosage prescribed therein, as determined by the Board in consultation with recognized competent experts who are authorized representatives of professional organizations of practitioners, particularly those who are involved in the care of persons with severe pain.

SECTION 19. *Unlawful Prescription of Dangerous Drugs.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall make or issue a prescription or any other writing purporting to be a prescription for any dangerous drug.

SECTION 20. *Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals.* - Every penalty imposed for

the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of the Act.

After conviction in the Regional Trial Court in the appropriate criminal case filed, the court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: *Provided*, however, that if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.

During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in custodia legis and no bond shall be admitted for the release of the same.

The proceeds of any sale or disposition of any property confiscated or forfeited under this Section shall be used to pay all proper expenses incurred in the proceedings for the confiscation, forfeiture, custody and maintenance of the property pending disposition, as well as expenses for publication and court costs. The proceeds in excess of the above expenses shall accrue to the Board to be used in its campaign against illegal drugs.

SECTION 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that

non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

(b) Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/ paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination;

(c) A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, that when the volume of the dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided*, however, that a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours;

(d) After the filing of the criminal case, the court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory

equipment, and through the PDEA shall, within twenty- four (24) hours thereafter, proceed with the destruction or burning of the same, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the DOJ, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided*, that those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes; *Provided, further*, that a representative sample, duly weighed and recorded is retained;

(e) The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In cases of seizures where no person is apprehended and no criminal case is filed, the PDEA may order the immediate destruction or burning of seized dangerous drugs and controlled precursors and essential chemicals under guidelines set by the Board. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board;

(f) The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the

evidence in question, the Secretary of Justice shall appoint a member of the public attorney's office to represent the former;

(g) After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same; and

(h) Transitory Provision:

h.1) Within twenty-four (24) hours from the effectivity of the Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the court, DOJ, Department of Health (DOH) and the accused and/or his/her counsel; and

h.2) Pending the organization of the PDEA, the custody, disposition, and burning or destruction of seized/surrendered dangerous drugs provided under this Section shall be implemented by the DOH.

In the meantime that the PDEA has no forensic laboratories and/or evidence rooms, as well as the necessary personnel of its own in any area of its jurisdiction, the existing National Bureau of Investigation (NBI) and Philippine National Police (PNP) forensic laboratories shall continue to examine or

conduct screening and confirmatory tests on the seized/surrendered evidence whether these be dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments, paraphernalia and/or laboratory equipment; and the NBI and the PNP shall continue to have custody of such evidence for use in court and until disposed of, burned or destroyed in accordance with the foregoing rules: *Provided*, that pending appointment/designation of the full complement of the representatives from the media, DOJ, or elected public official, the inventory of the said evidence shall continue to be conducted by the arresting NBI and PNP operatives under their existing procedures unless otherwise directed in writing by the DOH or PDEA, as the case may be.

SECTION 22. *Grant of Compensation, Reward and Award.* – Compensation, reward and award shall, upon the recommendation of the Board, be granted to any person providing information and to law enforcers participating in the operation, which results in the successful confiscation, seizure or surrender of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, subject to the compensation, reward and award system promulgated by the Board.

SECTION 23. *Plea-Bargaining Provision.* - Any person charged under any provision of the Act regardless of the imposable penalty shall not be allowed to avail of the provision on plea-bargaining.

SECTION 24. *Non-Applicability of the Probation Law for Drug Traffickers and Pushers.* - Any person convicted of drug trafficking or pushing under the Act, regardless of the penalty imposed by the court, cannot avail of the privilege granted by the

Probation Law or Presidential Decree No. 968, as amended.

SECTION 25. *Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender Under the Influence of Dangerous Drugs.* - Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable.

Positive finding refers to the result of confirmatory test.

SECTION 26. *Attempt or Conspiracy.* - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same provided under the Act:

- (a) Importation of any dangerous drug and/or controlled precursor and essential chemical;
- (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
- (c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;
- (d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and

- (e) Cultivation or culture of plants which are sources of dangerous drugs.

SECTION 27. *Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in the Act.

Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in the Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in the Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.

SECTION 28. *Criminal Liability of Government Officials and Employees.* - The maximum penalties of the unlawful acts provided for in the Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

SECTION 29. *Criminal Liability for Planting of Evidence.* - Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

SECTION 30. *Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities.* - In case any violation of the Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under the Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the

partnership, corporation, association or juridical entity to which they are affiliated.

SECTION 31. *Additional Penalty if Offender is an Alien.* - In addition to the penalties prescribed in the unlawful act committed, any alien who violates such provisions of the Act shall, after service of sentence, be deported immediately without further proceedings, unless the penalty is death.

SECTION 32. *Liability of a Person Violating Any Regulation Issued by the Board.* - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person found violating any regulation duly issued by the Board pursuant to the Act, in addition to the administrative sanctions imposed by the Board.

SECTION 33. *Immunity from Prosecution and Punishment.* - Notwithstanding the provisions of Section 17, Rule 119 of the Revised Rules of Criminal Procedure and the provisions of Republic Act No. 6981 or the Witness Protection, Security and Benefit Act of 1991, any person who has violated Sections 7, 11, 12, 14, 15 and 19, Article II of the Act, who voluntarily gives information about any violation of Sections 4, 5, 6, 8, 10, 13 and 16, Article II of the Act, as well as any commission of the offenses mentioned if committed by a drug syndicate, or any information leading to the whereabouts, identities and arrest of all or any of the members thereof; and who willingly testifies against such person as described above, shall be exempted from prosecution or punishment for the offense with reference to which his/her information and testimony were given, and may plead or prove the giving of such

information and testimony in bar of such prosecution: *Provided*, that the following conditions concur:

(a) The information and testimony are necessary for the conviction of the persons described above;

(b) Such information and testimony are not yet in the possession of the State;

(c) Such information and testimony can be corroborated on its material points;

(d) The informant or witness has not been previously convicted of a crime involving moral turpitude, except when there is no other direct evidence available for the State other than the information and testimony of said informant or witness; and

(e) The informant or witness shall strictly and faithfully comply without delay, any condition or undertaking, reduced into writing, lawfully imposed by the State as further consideration for the grant of immunity from prosecution and punishment.

Provided, further, that this immunity may be enjoyed by such informant or witness who does not appear to be most guilty for the offense with reference to which his/her information or testimony were given; *Provided, finally*, that there is no direct evidence available for the State except for the information and testimony of the said informant or witness.

SECTION 34. *Termination of the Grant of Immunity.* - The immunity granted to the informant or witness, as prescribed in Section 33 of the Act, shall not attach should it turn out subsequently that the information and/or testimony is false,

malicious or made only for the purpose of harassing, molesting or in any way prejudicing the persons described in the preceding Section against whom such information or testimony is directed. In such case, the informant or witness shall be subject to prosecution and the enjoyment of all rights and benefits previously accorded him under the Act or any other law, decree or order shall be deemed terminated.

In case an informant or witness under the Act fails or refuses to testify without just cause, and when lawfully obliged to do so, or should he/she violate any condition accompanying such immunity as provided above, his/her immunity shall be removed and he/she shall likewise be subject to contempt and/or criminal prosecution, as the case may be, and the enjoyment of all rights and benefits previously accorded him under the Act or in any other law, decree or order shall be deemed terminated.

In case the informant or witness referred to under the Act falls under the applicability of this Section hereof, such individual cannot avail of the provisions under Article VIII of the Act.

SECTION 35. *Accessory Penalties.* - A person convicted under the Act shall be disqualified to exercise his/her civil rights such as, but not limited to, the rights of parental authority or guardianship, either as to the person or property of any ward, the rights to dispose of such property by any act or any conveyance inter vivos, and political rights such as, but not limited to, the right to vote and be voted for. Such rights shall also be suspended during the pendency of an appeal from such conviction.

ARTICLE III

DANGEROUS DRUGS TEST AND RECORD REQUIREMENTS

SECTION 36. *Authorized Drug Testing.*

Authorized drug testing shall be done by any government forensic laboratory or by any of the drug testing laboratories accredited and monitored by the DOH to safeguard the quality of test results. The DOH shall take steps in setting the price of the drug test with DOH accredited drug testing centers to further reduce the cost of such drug test. The drug testing shall employ, among others, two (2) testing methods, the screening test which will determine the positive result as well as the type of the drug used and the confirmatory test which will confirm a positive screening test. Drug test certificates issued by accredited drug testing centers shall be valid for a one-year period from the date of issue which may be used for other purposes. The following shall undergo drug testing:

(a) Applicants for driver's license. - No driver's license shall be issued or renewed to any person unless he/she presents a certification that he/she has undergone a mandatory drug test and indicating thereon that he/she is free from the use of dangerous drugs: *Provided*, that the Land Transportation Office shall see to it that no driver's license is issued without a drug test certificate indicating that the applicant is drug-free; *Provided, further*, that all drug testing expenses will be borne by these licensees;

(b) Applicants for firearm's license and for permit to carry firearms outside of residence. - All applicants for firearm's license and permit to carry firearms outside of residence shall undergo a

mandatory drug test to ensure that they are free from the use of dangerous drugs: *Provided*, that all persons who by the nature of their profession carry firearms shall undergo drug testing; *Provided, further*, that the Philippine National Police shall ensure that no firearm's license or permit is issued without a drug test certificate indicating that the applicant is drug-free; *Provided, finally*, that all drug testing expenses will be borne by said licensees and permits;

(c) Students of tertiary and secondary schools. - Students of tertiary and secondary schools shall, pursuant to the related rules and regulations as contained in the school's student handbook and with notice to the parents, undergo a random drug testing: *Provided*, that all drug testing expenses whether in public or private schools under this Section will be borne by the government; *Provided, further*, that the Department of Education and the Commission on Higher Education, as the case may be, shall see to it that this provision is implemented;

(d) Officers and employees of public and private offices. - Officers and employees of public and private offices, whether domestic or overseas, shall undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of the Labor Code and pertinent provisions of the Civil Service Law: *Provided*, that the Department of Labor and Employment and the Civil Service Commission, as the case may be, shall see to it that this provision is implemented;

(e) Officers and members of the military, police and other law enforcement agencies. - Officers and members of the military, police and other law enforcement agencies shall undergo an annual mandatory drug test: *Provided*, that the respective heads of these agencies shall see to it that this provision is implemented;

(f) All persons charged before the prosecutor's office with a criminal offense having an imposable penalty of imprisonment of not less than six (6) years and one (1) day shall have to undergo a mandatory drug test: *Provided*, that the National Prosecution Office shall see to it that this provision is implemented by requiring the apprehending unit to have the persons charged drug-tested; *Provided, further*, that all drug testing expenditures will be borne by the government, subject to the guidelines to be issued by the Board; and

(g) All candidates for public office whether appointed or elected both in the national or local government shall undergo mandatory drug test: *Provided*, that the Commission on Elections and the Civil Service Commission, as the case may be, shall see to it that this provision is implemented; *Provided, further*, that the concerned candidates will bear all the drug testing expenditures.

In addition to the above stated penalties in this Section, those found to be positive for dangerous drug use shall be subject to the provisions of Section 15 of the Act.

The DOH shall be the sole drug-testing licensing/accrediting body of the government to the exclusion of all other agencies. It shall be responsible for setting the standards and guidelines of operations

of these facilities, as well as the monitoring of the implementations thereof.

SECTION 37. *Issuance of False or Fraudulent Drug Test Results.* – Any person authorized, licensed or accredited under the Act and its implementing rules and to conduct drug examination or test, who issues false or fraudulent drug test results knowingly, willfully or through gross negligence, shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00).

An additional penalty shall be imposed through the revocation of the license to practice his/her profession in case of a practitioner, and the closure of the drug testing center.

SECTION 38. *Laboratory Examination or Test on Apprehended/Arrested Offenders* - Subject to Section 15 of the Act, any person apprehended or arrested for violating the provisions of the Act shall be subjected to screening laboratory examination or test within twenty-four (24) hours, if the apprehending or arresting officer has reasonable ground to believe that the person apprehended or arrested, on account of physical signs or symptoms or other visible or outward manifestation, is under the influence of dangerous drugs. If found to be positive, the results of the screening laboratory examination or test shall be challenged within fifteen (15) days after receipt of the result through a confirmatory test conducted in any accredited analytical laboratory equipped with a gas chromatograph/mass spectrometry equipment or some such modern and accepted method, and if confirmed, the same shall be

prima facie evidence that such person has used dangerous drugs, which is without prejudice for the prosecution for other violations of the provisions of the Act: *Provided*, that a positive screening laboratory test must be confirmed for it to be valid in court of law.

SECTION 39. Accreditation of Drug Testing Centers and Physicians. - The DOH shall be tasked to license and accredit drug testing centers in each province and city in order to assure their capacity, competence, integrity and stability to conduct the laboratory examinations and tests provided in this Article, and appoint such technical and other personnel as may be necessary for the effective implementation of this provision. The DOH shall also accredit physicians who shall conduct the drug dependency examination of a drug dependent, as well as the after-care and follow-up program for the said drug dependent. There shall be a control regulations, licensing and accreditation division under the supervision of the DOH for this purpose.

For this purpose, the DOH shall establish, operate and maintain drug testing centers in government hospitals, which must be provided at least with basic technologically advanced equipment and materials, in order to conduct the laboratory examinations and tests herein provided, and appoint such qualified and duly trained technical and other personnel as may be necessary for the effective implementation of this provision.

The DOH, in coordination with the DDB, shall issue Orders, Memoranda or Circulars providing for the implementing guidelines and specific technical requirements related to licensing and accreditation.

SECTION 40. Records Required for Transactions on Dangerous Drugs and Precursors and Essential Chemicals. –

(a) Every pharmacist dealing in dangerous drugs and/or controlled precursors and essential chemicals shall maintain and keep an original record of sales, purchases, acquisitions and deliveries of dangerous drugs, indicating therein the following information:

- (1) License number and address of the pharmacist;
- (2) Name, address and license of the manufacturer, importer or wholesaler from whom the dangerous drugs have been purchased;
- (3) Quantity and name of the dangerous drugs purchased or acquired;
- (4) Date of acquisition or purchase;
- (5) Name, address and community tax certificate number of the buyer;
- (6) Serial number of the prescription and the name of the physician, dentist, veterinarian or practitioner issuing the same;
- (7) Quantity and name of the dangerous drugs sold or delivered; and
- (8) Date of sale or delivery.

A certified true copy of such record covering a period of six (6) months, duly signed by the pharmacist or the owner of the drugstore, pharmacy or chemical establishment, shall be forwarded to the Board within fifteen (15) days following the last day of June and December of each year, with a copy thereof furnished the city or municipal health officer concerned.

(b) A physician, dentist, veterinarian or practitioner authorized to prescribe any dangerous drug shall issue the prescription therefor in one (1) original and two (2) duplicate copies. The original, after the prescription has been filled, shall be retained by the pharmacist for a period of one (1) year from the date of sale or delivery of such drug. One (1) copy shall be retained by the buyer or by the person to whom the drug is delivered until such drug is consumed, while the second copy shall be retained by the person issuing the prescription.

For purposes of the Act, all prescriptions issued by physicians, dentists, veterinarians or practitioners shall be written on forms exclusively issued by and obtainable from the DOH. Such forms shall be made of a special kind of paper and shall be distributed in such quantities and contain such information and other data as the DOH may, by rules and regulations, require. Such forms shall only be issued by the DOH through its authorized employees to licensed physicians, dentists, veterinarians and practitioners in such quantities as the Board may authorize. In emergency cases, however, as the Board may specify in the public interest, a prescription need not be accomplished on such forms. The prescribing physicians, dentists, veterinarians or practitioner shall, within three (3) days after issuing such prescription, inform the DOH of the same in writing. No prescription once served by the drugstore or pharmacy be reused nor any prescription once issued be refilled.

(c) All manufacturers, wholesalers, distributors, importers, dealers and retailers of dangerous drugs and/or controlled precursors and essential chemicals shall keep a record of all inventories, sales, purchases, acquisitions and

deliveries of the same as well as the names, addresses and licenses of the persons from whom such items were purchased or acquired or to whom such items were sold or delivered, the name and quantity of the same and the date of the transactions. Such records may be subjected anytime for review by the Board.

ARTICLE IV

PARTICIPATION OF THE FAMILY, STUDENTS, TEACHERS AND SCHOOL AUTHORITIES IN THE ENFORCEMENT OF THE ACT

SECTION 41. *Involvement of the Family.*

- The family being the basic unit of the Filipino society shall be primarily responsible for the education and awareness of the members of the family on the ill effects of dangerous drugs and close monitoring of family members who may be susceptible to drug abuse.

(a) The Family. – The family, particularly the parents, shall be primarily responsible for promoting and strengthening the economic, physical, social, emotional/psychological and spiritual well-being of each member in order to develop it into a healthy, strong and stable one.

(b) Family Solidarity. – Family solidarity shall be promoted through family rituals such as praying together and reunions, family hour for sharing experiences, hobbies and other family life enrichment activities to enhance cohesiveness, bonding and harmonious relationships among its members.

(c) Family Drug Abuse Prevention Program. – The family is the best defense against drug abuse.

Therefore, the prevention of drug abuse shall start within the family.

c.1) The Family Drug Abuse Prevention Program is a community-based program of preparing families to protect their members against the adverse effects of drug abuse.

c.2) The objectives of the program are as follows:

c.2.1) To raise awareness and educate families on the ill effects of drug abuse;

c.2.2) To equip the families with parenting and life skills towards a drug-free home; and

c.2.3) To organize and mobilize families to consolidate efforts in support of the program and of families at risk.

c.3) The program shall adopt the following components among others:

c.3.1) Advocacy and Information Education on Drug Abuse

c.3.1.1) Integrate modules on drug prevention in existing parent education and family life programs and services;

c.3.2) Capability Building of Parents and Youth on the Prevention of Dangerous Drugs

c.3.2.1) Conduct capability-building programs for families, community leaders and service providers on health, socio-cultural, psychological, legal and economic dimensions and implications of the drug problem;

c.3.2.2) Conduct life skills and leadership training, peer counseling and values education towards the promotion of a positive lifestyle.

c.3.3) Social Mobilization

c.3.3.1) Organize and promote family councils as advocates of drug abuse prevention;

c.3.3.2) Organize family peer support groups to strengthen coping capability of families in handling drug-related problems and issues.

c.3.4) Networking and Alliance Building

c.3.4.1) Network and build alliance with anti-drug abuse councils, and agencies/institutions handling drug abuse cases.

(d) Adoption of the Program. –The Program shall be adopted by the national government agencies (NGAs), local government units (LGUs), non-government organizations (NGOs) and other concerned entities.

(e) Monitoring and Evaluation. –The Program shall be monitored and evaluated by the DSWD for enrichment.

SECTION 42. *Student Councils and Campus Organizations.* - All elementary, secondary and tertiary schools' student councils and campus organizations shall include in their activities a program for the prevention of and deterrence in the use of dangerous drugs, and referral for treatment and rehabilitation of students for drug dependence.

The student governments/councils and legitimate school organizations of all private and public schools shall:

(a) include dangerous drug abuse awareness and prevention in the objectives, programs and projects provided for in their respective Constitution and By-Laws;

(b) have detailed plans of action of their projects duly approved, with the implementation of the

same, monitored and evaluated by the school heads/teacher-advisers;

(c) participate actively in drug abuse prevention programs and training activities initiated by government organizations (GOs) and non-government organizations (NGOs) in the community, as part of their extension services/co-curricular activities;

(d) implement programs/projects focused on, but not limited to, information campaigns, peer counseling, life skills and leadership trainings; and

(e) coordinate with the school administration relative to the treatment and rehabilitation of students with drug-related problems.

SECTION 43. *School Curricula.* - Instruction on drug abuse prevention and control shall be integrated in the elementary, secondary and tertiary curricula of all public and private schools, whether general, technical, vocational or agro-industrial as well as in non-formal, informal and indigenous learning systems. Such instructions shall include:

(a) Adverse effects of the abuse and misuse of dangerous drugs on the person, the family, the school and the community;

(b) Preventive measures against drug abuse;

(c) Health, socio-cultural, psychological, legal and economic dimensions and implications of the drug problem;

(d) Steps to take when intervention on behalf of a drug dependent is needed, as well as the services

available for the treatment and rehabilitation of drug dependents; and

(e) Misconceptions about the use of dangerous drugs such as, but not limited to, the importance and safety of dangerous drugs for medical and therapeutic use as well as the differentiation between medical patients and drug dependents in order to avoid confusion and accidental stigmatization in the consciousness of the students.

The Department of Education (DepEd) shall:

(1) integrate drug abuse prevention concepts into such subjects as, but not limited to, Science and Health and Makabayan at the elementary level, and Science and Technology and Makabayan at the secondary level;

(2) integrate such concepts in the Non-Formal Education Program, particularly in functional education and literacy, continuing education and values education;

(3) continuously develop, update and adopt learning packages to support the existing drug education concepts/contents in the textbooks and other instructional materials;

(4) support the National Drug Education Program (NDEP), with the school head fully responsible for its effective implementation; and

(5) mobilize the school health and nutrition personnel to supplement and complement classroom instruction by communicating drug abuse prevention messages to the students, teachers and parents.

The Commission on Higher Education (CHED) shall continue to enrich and update the integration of dangerous drug prevention concerns, in the general education components of all higher education course offerings, as well as in the professional subjects particularly that of Health-related, other Science and Teacher Education courses.

The Technical Education and Skills Development Authority (TESDA) shall:

(1) integrate drug abuse prevention concepts in the technical, vocational and agro-industrial courses; and

(2) include such concepts in appropriate instructional materials for technical education and skills development.

The DepEd, CHED and TESDA shall:

(1) provide a continuing in-service training of teachers on the effective utilization of the support instructional materials and on teaching strategies on drug education;

(2) continuously monitor and evaluate the effectiveness of the overall impact of the dangerous drug abuse prevention program through their respective regional/field offices;

(3) secure funds from local and foreign donor agencies for the implementation of the drug education program whenever possible;

- (4) enlist the assistance of any government agency or instrumentality to carry out the objectives of the education program; and
- (5) include the pertinent provisions of the Act as one of the major topics of drug education in appropriate courses.

SECTION 44. *Heads, Supervisors, and Teachers of Schools.* - For the purpose of enforcing the provisions of Article II of the Act, all school heads, supervisors and teachers shall be deemed persons in authority and, as such, are hereby empowered to apprehend, arrest or cause the apprehension or arrest of any person who shall violate any of the said provisions, pursuant to Section 5, Rule 113 of the Rules of Court. They shall be deemed persons in authority if they are in the school or within its immediate vicinity, or even beyond such immediate vicinity if they are in attendance at any school or class function in their official capacity as school heads, supervisors, and teachers.

Any teacher or school employee, who discovers or finds that any person in the school or within its immediate vicinity is liable for violating any of said provisions, shall have the duty to report the same to the school head or immediate superior who shall, in turn, report the matter to the proper authorities.

Failure to do so in either case, within a reasonable period from the time of discovery of the violation shall, after due hearing, constitute sufficient cause for disciplinary action by the school authorities.

(a) The school heads, supervisors and teachers:

- a.1) shall effect the arrest of any person violating Article II of the Act inside the school campus and/or within its immediate vicinity or in other places as provided for in Section 44 of the Act, and turn over the investigation of the case to the PDEA;
- a.2) may summon the services of other law enforcement agencies to arrest or cause the apprehension or arrest of persons violating Article II of the Act;
- a.3) shall be trained on arrest and other legal procedures relative to the conduct of arrest of violators of the Act along with student leaders and Parents-Teachers Association (PTA) officials; and
- a.4) shall refer the students or any other violators found to be using dangerous drugs to the proper agency/office.

(b) A Special Unit or Task Force from existing school personnel, student leaders and PTA officials shall be organized in every school and trained to assist in the apprehension or arrest of violators of Article II of the Act within their areas of jurisdiction.

(c) Appropriate protection of the concerned school officials shall be put in place to ensure personal security and peace of mind among them, such as free legal assistance, police protection and any other assistance as may be deemed necessary.

SECTION 45. *Publication and Distribution of Materials on Dangerous Drugs.* - With the

assistance of the Board, the Secretary of the Department of Education (DepEd), the Chairperson of the Commission on Higher Education (CHED), and the Director-General of the Technical Education and Skills Development Authority (TESDA) shall cause the development, publication and distribution of information and support educational materials on dangerous drugs to the students, the faculty, the parents and the community.

(a) DepEd, CHED and TESDA shall develop and provide adequate information materials on dangerous drug abuse and prevention;

(b) An Evaluation Committee composed of DepEd, CHED, TESDA, DOH and DDB shall be organized, the main task of which, is to determine the appropriateness of all instructional and information materials to be used in schools; and

(c) DepEd, CHED and TESDA shall include drug abuse prevention and control activities in their Manual of Regulations/Service Manual. Schools, colleges and universities shall include information/guidelines on drug abuse prevention and control in the Student's Handbook/Gabay sa Mag-aaral and school publications/official organs.

SECTION 46. *Special Drug Education Center.* - With the assistance of the Board, the Department of Interior and Local Government (DILG), the National Youth Commission (NYC), and the Department of Social Welfare and Development (DSWD) shall establish in each of its provincial office a special drug education center for out-of-school youth and street children. Such Center which shall be headed by the Provincial Social Welfare Development Officer shall sponsor drug prevention programs and

activities and information campaigns with the end in view of educating the out-of-school youth and street children regarding the pernicious effects of drug abuse. The programs initiated by the Center shall likewise be adopted in all public and private orphanage and existing special centers for street children.

(a) The Establishment of Special Drug Education Center (SDEC)

a.1) A Special Drug Education Center for out-of school youth and street children shall be established in every province to be headed by a Provincial Social Welfare Development Officer (PSWDO). The concerned Provincial Government shall establish and maintain the center with the assistance of the Board, the DILG, the NYC and the DSWD.

The SDEC in the province may serve the out-of-school youth and children in the component cities and municipalities within its geographical coverage. However, highly urbanized and non-component cities shall be encouraged to establish their own SDECs to carry out an effective drug education prevention program.

a.2) The SDEC may be established through any of the following manner:

a.2.1) As part of existing facilities of any government organization (GO), non-government organization (NGO), civic, labor or religious organization, or the private sector; or

a.2.2) As a new center constructed through government funds, donations, grants and the like.

a.3) The Provincial Government shall provide the personnel, supplies, equipment and others as it may deem necessary to carry out the effective implementation of a preventive drug education program. The Board, DILG, NYC and DSWD shall provide support in the operation of the SDEC.

(b) Functions of the SDEC. –It shall exercise the following:

b.1) Develop and implement drug abuse prevention programs such as community information and education activities on the ill effects of drug abuse, literacy programs, skills and livelihood activities, among others, for out-of-school youth, street children and their parents;

b.2) Conduct life skills and leadership training, peer counseling and values education towards the promotion of a positive lifestyle;

b.3) Advocate local legislations, policies and programs, as well as generate resources to support the SDEC;

b.4) Maintain a data bank on out-of-school youth, street children and young drug dependents; and

b.5) Establish linkages with anti-drug abuse councils, youth-serving agencies, youth organizations, rehabilitation centers,

after-care facilities and other networks to ensure coordinated efforts in the prevention of drug abuse;

(c) Roles and Responsibilities of DILG, NYC and DSWD. – The following agencies shall have their respective roles and responsibilities:

c.1) The Dangerous Drugs Board (DDB)

c.1.1) Develop a national prevention program, in cooperation with the DILG, NYC and DSWD, designed for out-of-school youth and street children.

c.1.2) Require the SDECs to submit periodic reports on their activities pertaining to said program.

c.2) Department of Interior and Local Government (DILG)

c.2.1) Assist and monitor the Provincial Government in order to ensure the establishment of the SDEC;

c.2.2) Provide technical assistance on the operation and management of the SDEC;

c.2.3) Establish linkages with local, national and international agencies for technical and financial support to the SDEC; and

c.2.4) Monitor and ensure the submission of SDEC reports to the Board.

c.3) National Youth Commission (NYC)

c.3.1) Conduct life skills training to the out-of-school youth, street children and young drug dependents; and

c.3.2) Provide access to existing programs/services of NYC, such as, but not limited to, Ship for Southeast Asian Youth Program, Youth Entrepreneurship Program, and National Youth Parliament and Government Internship Program.

c.4) Department of Social Welfare and Development (DSWD)

c.4.1) Provide technical assistance in the development of a drug abuse prevention program;

c.4.2) Undertake training/capability building activities for center staff;

c.4.3) Develop standards for the SDEC; and

c.4.4) Accredit SDEC and monitor its compliance with set standards.

(d) Programs of the SDEC. – The programs of the SDEC shall be accredited by the DSWD and be adopted in all private and public orphanages/child caring agencies and existing special centers whenever applicable.

(e) Appropriations. –The funds for the establishment and maintenance of the SDEC shall be sourced out from the following:

e.1) Annual budget of the Local Social Welfare and Development Office;

e.2) Development funds of the LGU subject to the approval of the Sangguniang Panlalawigan; and

e.3) Other sources, such as, but not limited to, share from the Philippine Amusement and Gaming Corporation (PAGCOR) and gaming and amusement centers.

ARTICLE V

PROMOTION OF A NATIONAL DRUG-FREE WORKPLACE PROGRAM WITH THE PARTICIPATION OF PRIVATE AND LABOR SECTORS AND THE DEPARTMENT OF LABOR AND EMPLOYMENT

SECTION 47. *Drug-Free Workplace.* - It is deemed a policy of the State to promote drug-free workplaces using a tripartite approach. With the assistance of the Board, the Department of Labor and Employment (DOLE) shall develop, promote and

implement a national drug abuse prevention program in the workplace to be adopted by private companies with ten (10) or more employees. Such program shall include the mandatory drafting and adoption of company policies against drug use in the workplace in close consultation and coordination with the DOLE, labor and employer organizations, human resource development managers and other such private sector organizations.

(a) A National Drug-Free Workplace Abuse Prevention Program shall be formulated by a tripartite Task Force composed of representatives from the DOLE, workers' and employers' groups. It shall be supported by the Board, other concerned government organizations (GOs) and non-government organizations (NGOs).

(b) The Secretary of the DOLE shall issue a Department Order creating a Task Force consisting of tripartite and other agencies to formulate policies and strategies for the purpose of developing a National Action Agenda on drug abuse prevention in the workplace. Pursuant to the declared policy of the State and the national workplace policy, the DOLE shall issue a Department Order (DO) requiring all private companies to adopt and implement drug abuse prevention programs in the workplace, including the formulation of company policies.

(c) Pursuant to the functions of the Board under Section 81(a) of the Act, the existing Civil Service rules and policies needed to respond to drug abuse in the public sector shall be adopted.

SECTION 48. Guidelines for the National Drug-Free Workplace Program - The Board and the DOLE shall formulate the necessary guidelines for the

implementation of the national drug-free workplace program. The amount necessary for the implementation of which shall be included in the annual General Appropriations Act.

The Task Force shall develop a comprehensive National Drug-Free Workplace Program in accordance with the following guidelines:

(a) All private sector organizations with ten (10) or more personnel shall implement a drug abuse prevention program.

a.1) The workplace program shall include advocacy and capability building and other preventive strategies including but not limited to: company policies, training of supervisors/managers, employee education, random drug testing, employee assistance program and monitoring and evaluation.

a.2) The workplace program shall be integrated in the safety and health programs.

(b) DOLE and labor and employers' groups shall also encourage drug-free policies and programs for private companies with nine (9) workers or less.

(c) Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of Book VI of the Labor Code.

(d) Private sector organizations may extend the drug education program to the

employees/personnel and immediate families to contribute in the promotion of a healthy drug-free family, community and society.

(e) All private sector organizations shall display in a conspicuous place a billboard or streamer with a standard message of "THIS IS A DRUG-FREE WORKPLACE: LET'S KEEP IT THIS WAY!" or such other messages of similar import.

ARTICLE VI

PARTICIPATION OF THE PRIVATE AND LABOR SECTORS IN THE ENFORCEMENT OF THE ACT

SECTION 49. *Labor Organizations and the Private Sector.* - All labor unions, federations, associations, or organizations in cooperation with the respective private sector partners shall include in their collective bargaining or any similar agreements, joint continuing programs and information campaigns for the laborers similar to the programs provided under Section 47 of the Act with the end in view of achieving a drug-free workplace.

It shall be required that the workplace drug abuse prevention policies and programs be included as part of the Collective Bargaining Agreement (CBA).

SECTION 50. *Government Assistance.* - The labor sector and the respective partners may, in pursuit of the programs mentioned in the preceding Section, secure the technical assistance, such as, but not limited to, seminars and information dissemination campaigns of the appropriate government and law enforcement agencies.

(a) The DOLE, DDB, and PDEA and other government agencies shall provide technical assistance in planning, developing, monitoring and evaluating drug abuse prevention programs, including a referral system for treatment and rehabilitation, in the labor sector both private and public.

(b) Workplace drug abuse prevention programs shall be included in existing advocacy and capability building programs of the government.

(c) The labor inspection arm of the DOLE shall develop an appropriate inspection form to be integrated in the on-going general labor standards inspection.

(d) The information and dissemination of pertinent provisions of the Act and the IRR shall be included in the agenda of the advisory visits of the labor enforcement advisory team.

ARTICLE VII

PARTICIPATION OF LOCAL GOVERNMENT UNITS

SECTION 51. *Local Government Units' Assistance.* - The LGUs shall appropriate a substantial portion of their respective annual budgets to assist in or enhance the enforcement of the Act giving priority to preventive or educational programs and the rehabilitation or treatment of drug dependents.

(a) Consistent with the principles of local autonomy, the local sanggunians shall appropriate substantial funds from their annual budgets to be utilized in assisting or enhancing the enforcement of the Act, giving priority to educational programs on

drug abuse prevention and control and rehabilitation and treatment of drug dependents, such amount to be determined by the sanggunian concerned based on the perceived need of the locality.

(b) As used in this Section, "perceived need" may cover such factors as, but not limited to, the following:

- b.1) Considerable increase in the number of drug dependents in the area;
- b.2) The rise in drug-related crime incidents as certified to by the local PNP and/or PDEA; and
- b.3) The need for preventive and advocacy initiatives.

SECTION 52. Abatement of Drug Related Public Nuisances. - Any place or premises which have been used on two or more occasions as the site of the unlawful sale or delivery of dangerous drugs, or used as drug dens for pot sessions and other similar activities, may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the following procedures:

(a) Any city or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances, to be composed of the following:

- a.1) City/Municipal Health Officer as chairperson;
- a.2) City/Municipal Legal Officer as member, provided that in

cities/municipalities with no Legal Officer, the City/Municipal Administrator shall act as member; and

a.3) The Local Chief of Police as member;

(b) Any employee, officer, or resident of the city or municipality may bring a complaint before the administrative board after giving not less than three (3) days written notice of such complaint to the owner of the place or premises at his/her last known address;

(c) Within three (3) days from receipt of the complaint, a hearing shall then be conducted by the administrative board, with notice to both parties, and the administrative board may consider any evidence submitted, including evidence of general reputation of the place or premises;

(d) The owner/manager of the premises or place shall also be given an opportunity to present any evidence in his/her defense;

(e) After hearing, the administrative board may declare the place or premises to be a public nuisance; and

(f) The hearing shall be terminated within ten (10) days from commencement.

Subject to the limitation on personal services under the Local Government Code of 1991, the availability of funds and the existing Department of Budget and Management (DBM) Local Budget Circulars, the Sangguniang Bayan/Panlungsod may grant reasonable honoraria to the chairperson and members of the administrative board.

ARTICLE VIII

PROGRAM FOR TREATMENT AND REHABILITATION OF DRUG DEPENDENTS

SECTION 53. *Effect of the Administrative Board Declaration.*

- If the administrative board declares a place or premises to be a public nuisance, it shall issue an order immediately prohibiting the conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance. The city/municipal mayor shall implement the order of the administrative board and shall assume full responsibility in seeing to it that the order is immediately complied with.

The order issued by the administrative board shall expire after one (1) year, or at such an earlier time as stated in the order. The administrative board may bring a complaint seeking a permanent injunction against any nuisance described under this IRR.

The administrative board, upon showing that the place is no longer a public nuisance, may conduct hearing with the complainant duly notified, for the possible lifting of the order.

The DDB shall issue guidelines on the proper implementation of the order of the administrative board in case the place or premises declared as a public nuisance is a residential house, without prejudice to the filing of criminal case against the owner of the house pursuant to Section 6 of the Act.

This IRR does not restrict the right of any person to proceed under the Civil Code on public nuisance. Neither shall this restrict the power of the Sangguniang Bayan and Sangguniang Panlungsod per Section 447 [a] [4] [i] and Section 458 [a] [4] [i], respectively, of the Local Government Code, to declare or abate any nuisance.

SECTION 54. *Voluntary Submission of a Drug Dependent to Confinement, Treatment and Rehabilitation.*

- A drug dependent or any person who violates Section 15 of the Act may, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, apply to the Board or its duly recognized representative, for treatment and rehabilitation of the drug dependency. Upon such application, the Board shall bring forth the matter to the court which shall order that the applicant be examined for drug dependency. If the examination by a DOH-accredited physician results in the issuance of a certification that the applicant is a drug dependent, he/she shall be ordered by the court to undergo treatment and rehabilitation in a Center designated by the Board for a period of not less than six (6) months: *Provided*, that a drug dependent may be placed under the care of a DOH-accredited physician where there is no Center near or accessible to the residence of the drug dependent or where said drug dependent is below eighteen (18) years of age and is a first-time offender and non-confinement in a Center will not pose a serious danger to his/her family or community.

Confinement in a Center for treatment and rehabilitation shall not exceed one (1) year, after which time the court, as well as the Board, shall be apprised by the head of the treatment and rehabilitation center of the status of said drug dependent and determine whether further confinement will be for the welfare of

the drug dependent and his/her family or the community.

The DOH, in consultation with the DDB, shall provide standards and guidelines for the accreditation of the physicians.

SECTION 55. *Exemption from the Criminal Liability Under the Voluntary Submission Program.* - A drug dependent under the voluntary submission program, who is finally discharged from confinement, shall be exempt from the criminal liability under Section 15 of the Act subject to the following conditions:

(a) He/she has complied with the rules and regulations of the Center, the applicable rules and regulations of the Board, including the after-care and follow-up program for at least eighteen (18) months following temporary discharge from confinement in the Center or, in the case of a drug dependent placed under the care of the DOH-accredited physician, the after-care program and follow-up schedule formulated by the DSWD and approved by the Board: *Provided*, that capability-building of local government social workers shall be undertaken by the DSWD;

(b) He/she has never been charged or convicted of any offense punishable under the Act, the Dangerous Drugs Act of 1972 or Republic Act No. 6425, as amended; the Revised Penal Code, as amended; or any special penal laws;

(c) He/she has no record of escape from a Center: *Provided*, that had he/she escaped, he/she surrendered by himself/herself or through his/her parent, spouse, guardian or relative within the fourth

degree of consanguinity or affinity, within one (1) week from the date of the said escape; and

(d) He/she poses no serious danger to himself/herself, his/her family or the community by his/her exemption from criminal liability.

SECTION 56. *Temporary Release From the Center, After-Care and Follow-up Treatment Under the Voluntary Submission Program.* - Upon certification of the Center that the drug dependent within the voluntary submission program may be temporarily released, the court shall order his/her release on condition that said drug dependent shall report to the DOH for after-care and follow-up treatment, including urine testing, for a period not exceeding eighteen (18) months under such terms and conditions that the court may impose.

If during the period of after-care and follow-up, the drug dependent is certified to be rehabilitated, he/she may be discharged by the court, subject to the provisions of Section 55 of the Act, without prejudice to the outcome of any pending case filed in court.

However, should the DOH find that during the initial after-care and follow-up program of eighteen (18) months, the drug dependent requires further treatment and rehabilitation in the Center, he/she shall be recommitted to the Center for confinement. Thereafter, he/she may again be certified for temporary release and ordered released for another after-care and follow-up program pursuant to this Section.

The DOH shall formulate standards and guidelines, in consultation with the DDB, for after-care

and follow-up treatment wherein the following provisions, among others, shall be incorporated:

(a) The DOH-accredited physician can recommend to the court the release of a drug dependent at least forty-five (45) days after initial admission to a facility; and

(b) The physician should likewise prescribe a comprehensive after-care and follow-up program which the dependent should adhere to in order to complete at least eighteen (18) months, depending on the assessment and evaluation of the physician and subject to the approval of the court.

SECTION 57. *Probation and Community Service Under the Voluntary Submission Program.* - A drug dependent who is discharged as rehabilitated by the DOH-accredited Center through the voluntary submission program, but does not qualify for exemption from criminal liability under Section 55 of the Act, may be charged under the provisions of the Act, but shall be placed on probation and undergo community service in lieu of imprisonment and/or fine in the discretion of the court, without prejudice to the outcome of any pending case filed in court.

Such drug dependent shall undergo community service as part of his/her after-care and follow-up program, which may be done in coordination with non-government, civic organizations accredited by the DSWD, with the recommendation of the Board.

SECTION 58. *Filing of Charges Against a Drug Dependent Who is Not Rehabilitated Under the Voluntary Submission Program.* - A drug dependent who is not rehabilitated after the second commitment to the Center under the voluntary

submission program, shall, upon recommendation of the Board, be charged with violation of Section 15 of the Act and prosecuted like any other offender. If convicted, he/she shall be credited for the period of confinement and rehabilitation in the Center in the service of his/her sentence.

SECTION 59. *Escape and Recommitment for Confinement and Rehabilitation Under the Voluntary Submission Program.* - Should a drug dependent under the voluntary submission program escape from the Center, he/she may submit himself/herself for recommitment within one (1) week therefrom, or his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity may, within said period, surrender him for recommitment, in which case the corresponding order shall be issued by the Board.

Should the escapee fail to submit himself/herself or be surrendered after one (1) week, the Board shall apply to the court for a recommitment order. Upon proof of previous commitment or his/her voluntary submission by the Board, the court may issue an order for recommitment within one (1) week.

If, subsequent to a recommitment, the dependent once again escapes from confinement, he/she shall be charged with violation of Section 15 of the Act and be subjected under Section 61 of the Act, either upon order of the Board or upon order of the court, as the case may be.

SECTION 60. *Confidentiality of Records Under the Voluntary Submission Program.* - Judicial and medical records of drug dependents under the voluntary submission program shall be confidential and shall not be used against him/her for any purpose,

except to determine how many times, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, he/she voluntarily submitted himself/herself for confinement, treatment and rehabilitation or has been committed to a Center under this program.

However, where the drug dependent is not exempt from criminal liability under Section 55 of the Act, or when he/she is not rehabilitated under the voluntary submission program, or when he/she escapes again from confinement after recommitment, the records mentioned in the immediately preceding provisions, which are necessary for his/her conviction, may be utilized as evidence in court against him/her.

SECTION 61. *Compulsory Confinement of a Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program.* -

Notwithstanding any law, rule and regulation to the contrary, any person determined and found to be dependent on dangerous drugs shall, upon petition by the Board or any of its authorized representatives, be confined for treatment and rehabilitation in any Center duly designated or accredited for the purpose.

A petition for the confinement of a person alleged to be dependent on dangerous drugs to a Center may be filed by any person authorized by the Board with the Regional Trial Court of the province or city where such person is found.

After the petition is filed, the court, by an order, shall immediately fix a date for the hearing, and a copy of such order shall be served on the person alleged to be dependent on dangerous drugs, and to the one having charge of him/her.

If, after such hearing and the facts so warrant, the court shall order the drug dependent to be examined by two (2) physicians accredited by the Board. If both physicians conclude that the respondent is not a drug dependent, the court shall order his/her discharge. If either physician finds him to be a dependent, the court shall conduct a hearing and consider all relevant evidence which may be offered. If the court finds him/her a drug dependent, it shall issue an order for his/her commitment to a treatment and rehabilitation center under the supervision of the DOH. In any event, the order of discharge or order of confinement or commitment shall be issued not later than fifteen (15) days from the filing of the appropriate petition.

SECTION 62. *Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation.* -

If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.

In the event the Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, it shall file a petition for his/her commitment with the regional trial court of the province or city where he/she is being investigated or tried: *Provided*, that where a criminal case is pending in court, such petition shall be filed in the said court. The court shall take judicial notice of the prior proceedings in the case and shall proceed to hear the

petition. If the court finds him to be a drug dependent, it shall order his/her commitment to a Center for treatment and rehabilitation. The head of said Center shall submit to the court every four (4) months, or as often as the court may require, a written report on the progress of the treatment. If the dependent is rehabilitated, as certified by the Center and the Board, he/she shall be returned to the court, which committed him, for his/her discharge therefrom.

Thereafter, his/her prosecution for any offense punishable by law shall be instituted or shall continue, as the case may be. In case of conviction, the judgment shall, if the accused is certified by the treatment and rehabilitation center to have maintained good behavior, indicate that he/she shall be given full credit for the period he/she was confined in the Center: *Provided*, however, that when the offense is for violation of Section 15 of the Act and the accused is not a recidivist, the penalty thereof shall be deemed to have been served in the Center upon his/her release therefrom after certification by the Center and the Board that he/she is rehabilitated.

SECTION 63. *Prescription of the Offense Charged Against a Drug Dependent Under the Compulsory Submission Program.* - The period of prescription of the offense charged against a drug dependent under the compulsory submission program shall not run during the time that the drug dependent is under confinement in a Center or otherwise under the treatment and rehabilitation program approved by the Board.

Upon certification of the Center that he/she may temporarily be discharged from the said Center, the court shall order his/her release on condition that he/she shall report to the Board through the DOH for

after-care and follow-up treatment for a period not exceeding eighteen (18) months under such terms and conditions as may be imposed by the Board.

If at anytime during the after-care and follow-up period, the Board certifies to his/her complete rehabilitation, the court shall order his/her final discharge from confinement and order for the immediate resumption of the trial of the case for which he/she is originally charged. Should the Board through the DOH find at anytime during the after-care and follow-up period that he/she requires further treatment and rehabilitation, it shall report to the court, which shall order his/her recommitment to the Center.

Should the drug dependent, having been committed to a Center upon petition by the Board escape therefrom, he/she may resubmit himself/herself for confinement within one (1) week from the date of his/her escape; or his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity may, within the same period, surrender him for recommitment. If, however, the drug dependent does not resubmit himself/herself for confinement or he/she is not surrendered for recommitment, the Board may apply with the court for the issuance of the recommitment order. Upon proof of previous commitment, the court shall issue an order for recommitment. If, subsequent to such recommitment, he/she should escape again, he/she shall no longer be exempt from criminal liability for use of any dangerous drug.

A drug dependent committed under this particular Section who is finally discharged from confinement shall be exempt from criminal liability under Section 15 of the Act, without prejudice to the outcome of any pending case filed in court. On the

other hand, a drug dependent who is not rehabilitated after a second commitment to the Center shall, upon conviction by the appropriate court, suffer the same penalties provided for under Section 15 of the Act, again without prejudice to the outcome of any pending case filed in court.

SECTION 64. Confidentiality of Records Under the Compulsory Submission Program. -

The records of a drug dependent who was rehabilitated and discharged from the Center under the compulsory submission program, or who was charged with violation of Section 15 of the Act, shall be covered by Section 60 of the Act. However, the records of a drug dependent who was not rehabilitated, or who escaped but did not surrender himself/herself within the prescribed period, shall be forwarded to the court and their use shall be determined by the court, taking into consideration public interest and the welfare of the drug dependent.

SECTION 65. Duty of the Prosecutor in the Proceedings. - It shall be the duty of the provincial or the city prosecutor or their assistants or state prosecutors to prepare the appropriate petition in all proceedings arising from the Act.

SECTION 66. Suspension of Sentence of a First-Time Minor Offender. - An accused who is over fifteen (15) years of age at the time of the commission of the offense mentioned in Section 11 of the Act, but not more than eighteen (18) years of age at the time when judgment should have been promulgated after having been found guilty of said offense, may be given the benefits of a suspended sentence, subject to the following conditions:

(a) He/she has not been previously convicted of violating any provision of the Act, or of the Dangerous Drugs Act of 1972, as amended; or of the Revised Penal Code; or of any special penal laws;

(b) He/she has not been previously committed to a Center or to the care of a DOH-accredited physician; and

(c) The Board favorably recommends that his/her sentence be suspended.

While under suspended sentence, he/she shall be under the supervision and rehabilitative surveillance of the Board, under such conditions that the court may impose for a period ranging from six (6) months to eighteen (18) months.

Upon recommendation of the Board, the court may commit the accused under suspended sentence to a Center, or to the care of a DOH-accredited physician for at least six (6) months, with after-care and follow-up program for not more than eighteen (18) months.

In the case of minors under fifteen (15) years of age at the time of the commission of any offense penalized under the Act, Article 192 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended by Presidential Decree No. 1179 shall apply, without prejudice to the application of the provisions of this Section.

SECTION 67. Discharge After Compliance with Conditions of Suspended Sentence of a First-Time Minor Offender. - If the accused first-time minor offender under suspended sentence complies with the applicable rules and regulations of the Board, including confinement in a Center, the

court, upon favorable recommendation of the Board for the final discharge of the accused, shall discharge the accused and dismiss all proceedings.

Upon the dismissal of the proceedings against the accused, the court shall enter an order to expunge all official records, other than the confidential record to be retained by the DOJ relating to the case. Such an order, which shall be kept confidential, shall restore the accused to his/her status prior to the case. He/she shall not be held thereafter to be guilty of perjury or of concealment or misrepresentation by reason of his/her failure to acknowledge the case or recite any fact related thereto in response to any inquiry made of him for any purpose.

SECTION 68. *Privilege of Suspended Sentence to be Availed of Only Once by a First-Time Minor Offender.* - The privilege of suspended sentence shall be availed of only once by an accused drug dependent who is a first-time offender over fifteen (15) years of age at the time of the commission of the violation of Section 15 of the Act but not more than eighteen (18) years of age at the time when judgment should have been promulgated.

SECTION 69. *Promulgation of Sentence for First-Time Minor Offender.* - If the accused first-time minor offender violates any of the conditions of his/her suspended sentence, the applicable rules and regulations of the Board exercising supervision and rehabilitative surveillance over him, including the rules and regulations of the Center should confinement be required, the court shall pronounce judgment of conviction and he/she shall serve sentence as any other convicted person.

SECTION 70. *Probation or Community Service for a First-Time Minor Offender in Lieu of Imprisonment.* - Upon promulgation of the sentence, the court may, in its discretion, place the accused under probation, even if the sentence provided under the Act is higher than that provided under existing law on probation, or impose community service in lieu of imprisonment. In case of probation, the supervision and rehabilitative surveillance shall be undertaken by the Board through the DOH in coordination with the Board of Pardons and Parole and the Probation Administration. Upon compliance with the conditions of the probation, the Board shall submit a written report to the court recommending termination of probation and a final discharge of the probationer, whereupon the court shall issue such an order.

The community service shall be complied with under conditions, time and place as may be determined by the court in its discretion and upon the recommendation of the Board and shall apply only to violators of Section 15 of the Act. The completion of the community service shall be under the supervision and rehabilitative surveillance of the Board during the period required by the court. Thereafter, the Board shall render a report on the manner of compliance of said community service. The court in its discretion may require extension of the community service or order a final discharge.

In both cases, the judicial records shall be covered by the provisions of Sections 60 and 64 of the Act.

If the sentence promulgated by the court requires imprisonment, the period spent in the Center

by the accused during the suspended sentence period shall be deducted from the sentence to be served.

SECTION 71. *Records to be kept by the Department of Justice.* - The DOJ shall keep a confidential record of the proceedings on suspension of sentence and shall not be used for any purpose other than to determine whether or not a person accused under the Act is a first-time minor offender.

SECTION 72. *Liability of a Person Who Violates the Confidentiality of Records.* - The penalty of imprisonment ranging from six (6) months and one (1) day to six (6) years and a fine ranging from One thousand pesos (P1,000.00) to Six thousand pesos (P6,000.00), shall be imposed upon any person who, having official custody of or access to the confidential records of any drug dependent under voluntary submission programs, or anyone who, having gained possession of said records, whether lawfully or not, reveals their content to any person other than those charged with the prosecution of the offenses under the Act and its implementation. The maximum penalty shall be imposed, in addition to absolute perpetual disqualification from any public office, when the offender is a government official or employee. Should the records be used for unlawful purposes, such as blackmail of the drug dependent or the members of his/her family, the penalty imposed for the crime of violation of confidentiality shall be in addition to whatever crime he/she may be convicted of.

SECTION 73. *Liability of a Parent, Spouse or Guardian Who Refuses to Cooperate with the Board or Any Concerned Agency.* - Any parent, spouse or guardian who, without valid reason, refuses to cooperate with the Board or any concerned agency in the treatment and rehabilitation of a drug dependent who is a minor, or in any manner, prevents or delays

the after-care, follow-up or other programs for the welfare of the accused drug dependent, whether under voluntary submission program or compulsory submission program, may be cited for contempt by the court.

SECTION 74. *Cost-Sharing in the Treatment and Rehabilitation of a Drug Dependent.* – The parent, spouse, guardian or any relative within the fourth degree of consanguinity of any person who is confined under the voluntary submission program or compulsory submission program shall be charged a certain percentage of the cost of his/her treatment and rehabilitation, the guidelines of which shall be formulated by the DSWD taking into consideration the economic status of the family of the person confined. The guidelines therein formulated shall be implemented by a social worker of the local government unit.

(a) Persons Sharing the Cost of Treatment and Rehabilitation of a Drug Dependent.–The parent, spouse, guardian or any relative within the fourth degree of consanguinity of any person who is confined under the voluntary submission program or compulsory submission program shall share the cost of treatment and rehabilitation of a drug dependent: *Provided*, however, that, in case a dependent has no parent, spouse, guardian or relative within the fourth degree of consanguinity, his/her rehabilitation shall be through the auspices of any government rehabilitation center.

(b) Factors in Determining Cost. – In government rehabilitation centers, the following factors shall be taken into consideration in determining the share of the cost:

- b.1) Family income in relation to poverty threshold based on assessment of the LGU social worker. Family income refers to the aggregate of primary income, property income, pension and other current transfers received by the immediate family or relatives of the drug dependent;
 - b.2) Capacity of the province/city/municipality based on their income classification; and
 - b.3) The cost of treatment and rehabilitation based on a center's facilities, programs and services.
- (c) Guiding Principles.–The following guiding principles shall be observed:
- c.1) A family whose income is within poverty threshold shall be fully subsidized by the government;
 - c.2) The higher the income of the family, the higher is its percentage share;
 - c.3) The higher the capacity of the LGU, the better the quality of programs, services and structures it shall provide;
 - c.4) Confidentiality of drug abuse cases shall be observed; and
 - c.5) Same quality of services shall be provided to both paying and non-paying drug dependents.

(d) Formulation of Cost Sharing Schedule. Within sixty (60) days upon the effectivity of this IRR, the respective provincial/city/municipal councils shall pass an ordinance prescribing the cost-sharing percentage for the treatment and rehabilitation of drug dependents.

SECTION 75. *Treatment and Rehabilitation Centers.* – The existing treatment and rehabilitation centers for drug dependents operated and maintained by the NBI and the PNP shall be operated, maintained and managed by the DOH, in coordination with other concerned agencies. For the purpose of enlarging the network of centers, the Board, through the DOH, shall encourage, promote or whenever feasible, assist or support in the establishment, operations and maintenance of private centers which shall be eligible to receive grants, donations or subsidy from either government or private sources. It shall also support the establishment of government-operated regional treatment and rehabilitation centers depending upon the availability of funds. The national government, through its appropriate agencies shall give priority funding for the increase of subsidy to existing government drug rehabilitation centers, and shall establish at least one (1) rehabilitation center in each province, depending on the availability of funds.

To ensure proper treatment and rehabilitation of drug dependents, the DOH shall perform the following;

- (a) Formulate standards and guidelines for the operation and maintenance of all treatment and rehabilitation centers nationwide;

(b) Develop a system for monitoring and supervision of all drug rehabilitation centers nationwide;

(c) Create programs which will advocate for the establishment of LGU-assisted rehabilitation facilities in each province;

(d) Submit to the Department of Budget and Management (DBM) a budget for the establishment and operation of drug rehabilitation centers; and

(e) Facilitate the turnover of all the rehabilitation centers from the PNP and NBI thru a Memorandum of Agreement

(f) that shall be signed within sixty (60) days after approval of this IRR.

SECTION 76. *The Duties and Responsibilities of the Department of Health (DOH) Under the Act.* The DOH shall:

(a) Oversee and monitor the integration, coordination and supervision of all drug rehabilitation, intervention, after-care and follow-up programs, projects and activities, as well as the establishment, operations, maintenance and management of privately-owned drug treatment rehabilitation centers and drug testing networks and laboratories throughout the country, in coordination with the DSWD and other agencies;

(b) License, accredit, establish and maintain drug test network and laboratory; and initiate, conduct and support scientific research on drugs and drug control;

(c) Encourage, assist and accredit private centers; and promulgate rules and regulations setting minimum standards for their accreditation to assure their competence, integrity and stability;

(d) Prescribe and promulgate rules and regulations governing the establishment of such Centers as it may deem necessary after conducting a feasibility study thereof;

(e) The DOH shall, without prejudice to the criminal prosecution of those found guilty of violating the Act, order the closure of a Center for treatment and rehabilitation of drug dependency when, after investigation it is found guilty of violating the provisions of the Act or regulations issued by the Board; and

(f) Charge reasonable fees for drug dependency examinations, other medical and legal services provided to the public, which shall accrue to the Board. All income derived from these sources shall be part of the funds constituted as special funds for the implementation of the Act under Section 87.

ARTICLE IX

**DANGEROUS DRUGS BOARD AND
PHILIPPINE DRUG ENFORCEMENT AGENCY**

SECTION 77. *The Dangerous Drugs Board.* – The Board shall be the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug

prevention and control. It shall develop and adopt a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy. It shall be under the Office of the President.

SECTION 78. *Composition of the Board.*

– The Board shall be composed of seventeen (17) members wherein three (3) of which are permanent members, the other twelve (12) members shall be in an ex-officio capacity and the two (2) shall be regular members.

The three (3) permanent members, who shall possess at least seven-year training and experience in the field of dangerous drugs and in any of the following fields: law, medicine, criminology, psychology or social work, shall be appointed by the President of the Philippines. The President shall designate a Chairperson, who shall have the rank of a secretary from among the three (3) permanent members who shall serve for six (6) years. Of the two (2) other members, who shall both have the rank of undersecretary, one (1) shall serve for four (4) years and the other for two (2) years. Thereafter, the persons appointed to succeed such members shall hold office for a term of six (6) years and until their successors shall have been duly appointed and qualified.

The other twelve (12) members who shall be ex-officio members of the Board are the following:

- (1) Secretary of the Department of Justice or his/her representative;
- (2) Secretary of the Department of Health or his/her representative;

- (3) Secretary of the Department of National Defense or his/her representative;
- (4) Secretary of the Department of Finance or his/her representative;
- (5) Secretary of the Department of Labor and Employment or his/her representative.
- (6) Secretary of the Department of the Interior and Local Government or his/her representative;
- (7) Secretary of the Department of Social Welfare and Development or his/her representative;
- (8) Secretary of the Department of Foreign Affairs or his/her representative;
- (9) Secretary of the Department of Education or his/her representative;
- (10) Chairperson of the Commission on Higher Education or his/her representative;
- (11) Chairperson of the National Youth Commission; and
- (12) Director General of the Philippine Drug Enforcement Agency.

Cabinet secretaries who are members of the Board may designate their duly authorized and permanent representative whose ranks shall in no case be lower than undersecretary.

The two (2) regular members shall be as follows:

(a) The president of the Integrated Bar of the Philippines; and

(b) The chairperson or president of a non-government organization involved in dangerous drug campaign to be appointed by the President of the Philippines.

The Director of the NBI and the Chief of the PNP shall be the permanent consultants of the Board, and shall attend all the meetings of the Board.

All members of the Board, as well as its permanent consultants, shall receive a per diem for every meeting actually attended subject to the pertinent budgetary laws, rules and regulations on compensation, honoraria and allowances: *Provided*, that where the representative of an ex-officio member or of the permanent consultant of the Board attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

SECTION 79. Meetings of the Board. – The Board shall meet once a week or more frequently as necessary at the discretion of the Chairperson or at the call of any four (4) other members. The presence of nine (9) members shall constitute a quorum.

SECTION 80. Secretariat of the Board. - The Board shall recommend to the President of the Philippines the appointment of an Executive Director, with the rank of an undersecretary, who shall be the Secretary of the Board and administrative officer of its secretariat, and shall perform such other duties that may be assigned to him/her. He/she must possess

adequate knowledge, training and experience in the field of dangerous drugs, and in any of the following fields: law enforcement, law, medicine, criminology, psychology or social work.

Two deputy executive directors, for administration and operations, with the ranks of assistant secretary, shall be appointed by the President upon recommendation of the Board. They shall possess the same qualifications as those of the executive director. They shall receive a salary corresponding to their position as prescribed by the Salary Standardization Law as a Career Service Officer.

The existing secretariat of the Board shall be under the administrative control and supervision of the Executive Director. It shall be composed of the following Services: Policy Studies, Research and Statistics; Preventive Education, Training and Information; Legal Affairs; and Administrative and Financial Management.

SECTION 81. Powers and Duties of the Board. – The Board shall:

(a) Formulate, develop and establish a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy;

(b) Promulgate such rules and regulations as may be necessary to carry out the purposes of the Act, including the manner of safekeeping, disposition, burning or condemnation of any dangerous drug and/or controlled precursor and essential chemical under the charge and custody of DDB, PDEA and other concerned agencies, and prescribe administrative remedies or sanctions for the violations of such rules and regulations;

(c) Conduct policy studies, program monitoring and evaluations and other researches on drug prevention, control and enforcement;

(d) Initiate, conduct and support scientific, clinical, social, psychological, physical and biological researches on dangerous drugs and dangerous drugs prevention and control measures;

(e) Develop an educational program and information drive on the hazards and prevention of illegal use of any dangerous drug and/or controlled precursor and essential chemical based on factual data, and disseminate the same to the general public, for which purpose the Board shall endeavor to make the general public aware of the hazards of any dangerous drug and/or controlled precursor and essential chemical by providing among others, literature, films, displays or advertisements and by coordinating with all institutions of learning, as well as with all national and local enforcement agencies, in planning and conducting its educational campaign programs to be implemented by the appropriate government agencies;

(f) Conduct continuing seminars for, and consultations with, and provide information materials to judges and prosecutors in coordination with the Office of the Court Administrator, in the case of judges, and the DOJ, in the case of prosecutors, which aim to provide them with the current developments and programs of the Board pertinent to its campaign against dangerous drugs and its scientific researches on dangerous drugs, its prevention and control measures;

(g) Design special trainings in order to provide law enforcement officers, members of the judiciary,

and prosecutors, school authorities and personnel of centers with knowledge and know-how in dangerous drugs and/or controlled precursors and essential chemicals control, in coordination with the Supreme Court, to meet the objectives of the national drug control programs;

(h) Design and develop, in consultation and coordination with the DOH, DSWD and other agencies involved in drugs control, treatment and rehabilitation, both public and private, a national treatment and rehabilitation program for drug dependents including a standard after-care and community service program for recovering drug dependents;

(i) Design and develop, jointly with the DOLE and in consultation with labor and employer groups, as well as non-government organizations, a drug abuse prevention program in the workplace that would include a provision for employee assistance programs for emotionally-stressed employees;

(j) Prescribe and promulgate rules and regulations governing the establishment of such centers, networks and laboratories as deemed necessary after conducting a feasibility study, in coordination with the DOH and other government agencies;

(k) Initiate and authorize closure proceedings against non-accredited and/or substandard rehabilitation centers based on verified reports of human rights violations, subhuman conditions, inadequate medical training and assistance and excessive fees for implementation by the PDEA;

In conjunction with sub-paragraphs (c), (d) and (e) of Section 76 and sub-paragraphs (j) and (k) of

Section 81, the DDB and the DOH shall jointly promulgate standards and guidelines for the establishment, operationalization, monitoring and closure of treatment and rehabilitation facilities.

(l) Receive, gather, collect and evaluate all information on the importation, exportation, production, manufacture, sale, stocks, seizures of and the estimated need for any dangerous drug and/or controlled precursor and essential chemical, for which purpose the Board may require from any official, instrumentality or agency of the government or any private person or enterprise dealing in, or engaged in activities having to do with any dangerous drug and/or controlled precursor and essential chemical such data or information as it may need to implement the Act;

(m) Gather and prepare detailed statistics on the importation exportation, manufacture, stocks, seizures of and estimated need for any dangerous drug and/or controlled precursor and essential chemical and such other statistical data on said drugs as may be periodically required by the United Nations Commission on Narcotic Drugs, the World Health Organization and other international organizations in consonance with the country's international commitments;

(n) Develop and maintain international networking coordination with international drug control agencies and organizations, and implement the provisions of international conventions and agreements thereon which have been adopted and approved by the Congress of the Philippines;

(o) Require all government and private hospitals, clinics, doctors, dentists and other practitioners' to submit a report to the Board, in coordination with the PDEA, about all dangerous drugs

and/or controlled precursors and essential chemicals-related cases to which they have attended for statistics and research purposes;

(p) Receive in trust legacies, gifts and donations of real and personal properties of all kinds, to administer and dispose of the same when necessary for the benefit of government and private rehabilitation centers subject to limitations, directions and instructions from the donors, if any;

(q) Issue guidelines as to the approval or disapproval of applications for voluntary treatment, rehabilitation or confinement, wherein it shall issue the necessary guidelines, rules and regulations pertaining to the application and its enforcement;

(r) Formulate guidelines, in coordination with other government agencies, the importation, distribution, production, manufacture, compounding, prescription, dispensing and sale of, and other lawful acts in connection with any dangerous drug, controlled precursor and essential chemical and other similar or analogous substances of such kind and in such quantity as it may deem necessary according to the medical and research needs or requirements of the country including diet pills containing ephedrine and other addictive chemicals and determine the quantity and/or quality of dangerous drugs and precursors and essential chemicals to be imported, manufactured and held in stock at any given time by authorized importer, manufacturer or distributor of such drugs: *Provided*, that the corresponding license for this purpose shall be issued by the PDEA;

(s) Develop, in consultation with concerned agencies, the utilization of a controlled delivery scheme in addressing the transshipment of dangerous drugs

into and out of the country to neutralize transnational crime syndicates involved in illegal trafficking of any dangerous drug and/or controlled precursor and essential chemical for implementation by the PDEA in collaboration with other agencies and foreign counterparts;

(t) Recommend the revocation of the professional license of any practitioner who is an owner, co-owner, lessee, or in the employ of the drug establishment, or manager of a partnership, corporation, association, or any juridical entity owning and/or controlling such drug establishment, and who knowingly participates in or consents to tolerates, or abets the commission of the act of violations as indicated in the preceding paragraph, all without prejudice to the criminal prosecution of the person responsible for the said violation;

(u) Appoint such technical, administrative and other personnel as may be necessary for the effective implementation of the Act, subject to the Civil Service Law and its rules and regulations;

(v) Establish a regular and continuing consultation with concerned government agencies and medical professional organizations to determine if balance exists in policies, procedures, rules and regulations on dangerous drugs and to provide recommendations on how the lawful use of dangerous drugs can be improved and facilitated;

(w) Approve changes in the organizational set-up of PDEA as submitted by the Director General of the PDEA, as provided for under Section 83;

(x) Approve the establishment of the PDEA Academy either in Baguio or Tagaytay City, and in such

other places as may be necessary, and provide for the qualifications and requirements of PDEA recruits who must be at least twenty-one (21) years old, of proven integrity and honesty and a baccalaureate degree holder, as provided for under Section 85;

(y) Reclassify, add to or remove any dangerous drug from, the lists of dangerous drugs and controlled precursors and essential chemicals, as provided for under Section 93;

(z) Receive from DOH all income derived from fees for drug dependency examinations and other medical and legal services provided to the public which shall be constituted as special funds for the implementation of the Act, as provided for under Section 76 (f);

(aa) Receive fines, fees, net proceeds of any sale or disposition of any property confiscated or forfeited, and other income authorized and imposed under the Act, including ten per cent (10%) of all unclaimed and forfeited sweepstakes and lotto prizes but not less than Twelve million pesos (P12,000,000.00) per year from the Philippine Charity Sweepstakes Office (PCSO), and Five million pesos (P5,000,000.00) a month from PAGGOR, which shall constitute as special account in the general fund for the implementation of the Act, excluding the operating expenses of the Board and other concerned agencies at least fifty per cent (50%) of all funds which shall be reserved for assistance to government-owned and/or operated rehabilitation centers, as provided for under Sections 76 (f) and 87;

(bb) Recommend to the concerned agency the grant of compensation, reward and award to any person providing information and to law enforcers

participating in a successful drug operation, as provided for in Section 22;

(cc) Manage the funds as it may deem proper for the attainment of the objectives of the Act. The Chairperson of the Board shall submit to the President of the Philippines and the Presiding Officers of both Houses of Congress, within fifteen (15) days from the opening of the regular session, an annual report on the dangerous drugs situation in the country which shall include detailed account of the programs and projects undertaken, statistics on crimes related to dangerous drugs, expenses incurred pursuant to the provisions of the Act, recommended remedial legislation, if needed, and such other relevant facts as it may deem proper to cite, as provided for under Section 88; and

(dd) Submit an annual and periodic reports to the President, the Congress of the Philippines and the Senate and House of Representatives Committees concerned as may be required from time to time, and perform such other functions as may be authorized or required under existing laws and as directed by the President himself/herself or as recommended by the Congressional Committees concerned.

SECTION 82. *Creation of the Philippine Drug Enforcement Agency (PDEA).* – To carry out the provisions of the Act, the PDEA, which serves as the implementing arm of the Board, shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in the Act.

The PDEA shall be headed by a Director General with the rank of Undersecretary, who shall be responsible for the general administration and

management of the Agency. The Director General of the PDEA shall be appointed by the President of the Philippines and shall perform such other duties that may be assigned to him/her. He/she must possess adequate knowledge, training and experience in the field of dangerous drugs, and in any of the following fields: law enforcement, law, medicine, criminology, psychology or social work.

The Director General of the PDEA shall be assisted in the performance of his/her duties and responsibilities by two (2) deputy director generals with the rank of Assistant Secretary, one for Operations and the other one for Administration. The two (2) deputy director generals shall likewise be appointed by the President of the Philippines upon recommendation of the Board. The two (2) deputy director generals shall possess the same qualifications as those of the Director General of the PDEA. The Director General and the two (2) deputy director generals shall receive the compensation and salaries as prescribed by law.

SECTION 83. *Organization of the PDEA.* – The present Secretariat of the National Drug Law Enforcement and Prevention Coordinating Center (DEP Center) as created by Executive Order No. 61 shall be accordingly modified and absorbed by the PDEA.

The Director General of the PDEA shall be responsible for the necessary changes in the organizational set-up which shall be submitted to the Board for approval.

For purposes of carrying out its duties and powers as provided for in the succeeding Section of this IRR, the PDEA shall have the following Services, namely: Intelligence and Investigation; International

Cooperation and Foreign Affairs; Preventive Education and Community Involvement; Plans and Operations; Compliance; Legal and Prosecution; Administrative and Human Resource; Financial Management; Logistics Management; and Internal Affairs.

The PDEA shall establish and maintain regional offices in the different regions of the country which shall be responsible for the implementation of the Act and the policies, programs, and projects of said agency in their respective regions.

SECTION 84. Powers and Duties of the PDEA. – The PDEA shall:

(a) Implement or cause the efficient and effective implementation of the national drug control strategy formulated by the Board thereby carrying out a national anti-drug campaign program which shall include drug law enforcement, control and prevention campaign with the assistance of concerned government agencies.

(b) Undertake the enforcement of the provisions of Article II of the Act relative to the unlawful acts and penalties involving any dangerous drug and/or controlled precursor and essential chemical and investigate all violators and other matters involved in the commission of any crime relative to the use, abuse or trafficking of any dangerous drug and/or controlled precursor and essential chemical as provided for in the Act and the provisions of Presidential Decree No. 1619;

(c) Administer oath, issue subpoena and subpoena duces tecum relative to the conduct of investigation involving the violations of the Act;

(d) Arrest and apprehend as well as search all violators and seize or confiscate, the effects or proceeds of the crimes as provided by law and take custody thereof, for this purpose the prosecutors and enforcement agents are authorized to possess firearms, in accordance with existing laws;

(e) Take charge and have custody of all dangerous drugs and/or controlled precursors and essential chemicals seized, confiscated or surrendered to any national, provincial or local law enforcement agency, if no longer needed for purposes of evidence in court;

(f) Establish forensic laboratories in each PNP office in every province and city in order to facilitate action on seized or confiscated drugs, thereby hastening the destruction of the same without delay;

(g) Recommend to the DOJ the forfeiture of properties and other assets of persons and/or corporations found to be violating the provisions of the Act and in accordance with the pertinent provisions of the Anti-Money Laundering Act of 2001;

(h) Prepare for prosecution or cause the filing of appropriate criminal and civil cases for violation of all laws on dangerous drugs, controlled precursors and essential chemicals, and other similar controlled substances, and assist, support and coordinate with other government agencies for the proper and effective prosecution of the same;

(i) Monitor and if warranted by circumstances, in coordination with the Philippine Postal Office and the Bureau of Customs, inspect all air cargo packages, parcels and mails in the central post office, which appear from the package and address itself to be a

possible importation of dangerous drugs and/or controlled precursors and essential chemicals, through on-line or cyber shops via the internet or cyberspace;

(j) Conduct eradication programs to destroy wild or illegal growth of plants from which dangerous drugs may be extracted;

(k) Initiate and undertake the formation of a nationwide organization which shall coordinate and supervise all activities against drug abuse in every province, city, municipality and barangay with the active and direct participation of all such local government units and non-government organizations, including the citizenry, subject to the provisions of previously formulated programs of action against dangerous drugs;

(l) Establish and maintain a national drug intelligence system in cooperation with law enforcement agencies, other government agencies/offices and local government units that will assist in its apprehension of big-time drug lords;

(m) Establish and maintain close coordination, cooperation and linkages with international drug control and administration agencies and organizations, and implement the applicable provisions of international conventions and agreements related to dangerous drugs to which the Philippines is a signatory;

(n) Create and maintain an efficient special enforcement unit to conduct investigation, file charges and transmit evidence to the proper court, wherein members of the said unit shall possess suitable and adequate firearms for their protection in connection with the performance of their duties: *Provided*, that

no previous special permit for such possession shall be required;

(o) Require all government and private hospitals, clinics, doctors, dentists and other practitioners to submit a report to it, in coordination with the Board, about all dangerous drugs and/or controlled precursors and essential chemicals which they have attended to for data and information purposes;

(p) Coordinate with the Board for the facilitation of the issuance of necessary guidelines, rules and regulations for the proper implementation of the Act;

(q) Initiate and undertake a national campaign for drug abuse prevention and drug control programs, where it may enlist the assistance of any department, bureau, office, agency or instrumentality of the government, including government-owned and/or controlled corporations, in the anti-illegal drugs drive, which may include the use of their respective personnel, facilities, and resources for a more resolute detection and investigation of drug-related crimes and prosecution of the drug traffickers; and

(r) Submit an annual and periodic reports to the Board as may be required from time to time, and perform such other functions as may be authorized or required under existing laws and as directed by the President himself/herself or as recommended by the Congressional Committees concerned.

SECTION 85. *The PDEA Academy.* - Upon the approval of the Board, the PDEA Academy shall be established either in Baguio or Tagaytay City, and in such other places as may be necessary. The PDEA

Academy shall be responsible in the recruitment and training of all PDEA agents and personnel. The Board shall provide for the qualifications and requirements of its recruits who must be at least twenty-one (21) years old, of proven integrity and honesty and a Baccalaureate degree holder.

The graduates of the Academy shall later comprise the operating units of the PDEA after the termination of the transition period of five (5) years during which all the intelligence network and standard operating procedures of the PDEA has been set up and operationalized.

The Academy shall be headed by a Superintendent, with the rank of Director. He/she shall be appointed by the PDEA Director General.

SECTION 86. *Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions.* -

The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished, however, they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: *Provided*, that such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other

emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of the Act: *Provided*, that personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in the Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: *Provided*, however, that when the investigation being conducted by the NBI, the PNP or any ad hoc anti-drug task force is found to be a violation of any of the provisions of the Act, the PDEA shall be the lead agency. The NBI, the PNP or any of the task force shall immediately transfer the same to the PDEA; *Provided, further*, that the NBI, the PNP and the Bureau of Customs shall maintain close coordination with the PDEA on all drug related matters.

(a) Relationship/Coordination between PDEA and Other Agencies - The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA: *Provided*, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; *Provided, further*, that, in any case, said agencies shall inform the PDEA of their anti-drug operations within twenty-four (24) hours from the time of the actual custody of the suspects or seizure of said drugs and substances, as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances, and shall regularly update the PDEA on the status of the cases

involving the said anti-drug operations; *Provided, furthermore,* that raids, seizures, and other anti-drug operations conducted by the PNP, the NBI, and other law enforcement agencies prior to the approval of this IRR shall be valid and authorized; *Provided, finally,* that nothing in this IRR shall deprive the PNP, the NBI, other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court.

(b) Roles of the PNP, NBI, Bureau of Customs and Other Law Enforcement Agencies – The PDEA may enter into a Memorandum of Agreement (MOA) with the PNP, the NBI, the Bureau of Customs and other law enforcement agencies to carry out the implementation of the Act, provided that the respective MOAs shall include specific roles of enumerated agencies in the administrative and operational matters. Said MOAs shall be entered into by the PDEA and the respective agencies fifteen (15) days after the implementation of this IRR.

ARTICLE X

APPROPRIATIONS, MANAGEMENT OF FUNDS AND ANNUAL REPORT

SECTION 87. Appropriations. - The amount necessary for the operation of the Board and the PDEA shall be charged against the current year's appropriations of the Board, the DEP Center, the Narcotics Group of the PNP, the Narcotics Division of the NBI and other drug abuse units of the different law enforcement agencies integrated into the PDEA in order to carry out the provisions of the Act. Thereafter, such sums as may be necessary for the

continued implementation of the Act shall be included in the annual General Appropriations Act.

All receipts derived from fines, fees and other income authorized and imposed in the Act, including ten percent (10%) of all unclaimed and forfeited sweepstakes and lotto prizes but not less than Twelve million pesos (P12,000,000.00) per year from the Philippine Charity Sweepstakes Office (PCSO), are hereby constituted as a special account in the general fund for the implementation of the Act: *Provided,* that no amount shall be disbursed to cover the operating expenses of the Board and other concerned agencies; *Provided, further,* that at least fifty percent (50%) of all the funds shall be reserved for assistance to government-owned and/or operated rehabilitation centers.

The fines shall be remitted to the Board by the court imposing such fines within thirty (30) days from the finality of its decisions or orders. The unclaimed and forfeited prizes shall be turned over to the Board by the PCSO within thirty (30) days after these are collected and declared forfeited.

A portion of the funds generated by the Philippine Amusement and Gaming Corporation (PAGCOR) in the amount of Five million pesos (P5,000,000.00) a month shall be set aside for the purpose of establishing adequate drug rehabilitation centers in the country and also for the maintenance and operations of such centers: *Provided,* that the said amount shall be taken from the fifty percent (50%) share of the National Government in the income of PAGCOR; *Provided, further,* that the said amount shall automatically be remitted by PAGCOR to the Board. The amount shall, in turn, be disbursed by the

Board, subject to the rules and regulations of the Commission on Audit (COA).

The fund may be augmented by grants, donations, and endowment from various sources, domestic or foreign, for purposes related to their functions, subject to the existing guidelines set by the government.

(a) No money shall be paid out of the National Treasury for the current operating and capital outlay requirement of the programs, projects and activities of the Board and the PDEA, including those funded from the Special Account in the General Fund (SAGF) constituted under Section 87 of the Act and the next succeeding Rule, except in pursuance of an express appropriation made by Congress in the annual General Appropriations Act. Until such time that such an express appropriation is made, the amounts necessary for the operation of the new DDB and PDEA shall be charged against the current year's appropriation of the old DDB of the DOH, the DEP Center, the Narcotics Group of the PNP, the Narcotics Division of the NBI and other drug enforcement units of the different law enforcement agencies integrated into the PDEA, subject to such guidelines as may be issued by DBM for the purpose.

(b) The Bureau of Treasury (BTr) shall open a SAGF in favor of the Board to which shall be deposited the following:

- b.1) Receipts derived from fines which shall be remitted by the court imposing such fines within thirty (30) days from the finality of its decisions or orders;

- b.2) Ten percent (10%) of all unclaimed and forfeited sweepstakes and lotto prizes, but in no case less than Twelve million pesos (P12,000,000.00) per year, which shall be remitted by the PCSO within thirty (30) days after these are collected and declared forfeited;

- b.3) Proceeds from fees and other incomes authorized and imposed pursuant to the Act;

- b.4) The Five million pesos (P5,000,000.00) monthly share of the Board from the fifty percent (50%) statutory share of the National Government in the income of the PAGCOR which shall automatically remit the same; and

- b.5) Grants, donations and endowments from various sources, domestic or foreign, for purposes relative to their functions and subject to existing guidelines.

(c) Release against the SAGF shall be governed by Section 35, Chapter 5, Book VI of E.O. No. 292 (The Administrative Code of 1987), the established programming considerations, and the observance of the following conditions specified by the Act:

- c.1) At least fifty percent (50%) of the total receipts derived from fines, fees and other income authorized and imposed under the Act, including the ten percent (10%) of all unclaimed

and forfeited sweepstakes and lotto prizes from PCSO, shall be reserved for assistance to drug treatment and rehabilitation centers owned and/or operated by the National Government and its political subdivisions and that no amount in the total of such receipts shall be disbursed to cover the operating expenses of the Board, the PDEA, and other concerned agencies; and

- c.2) The Five million pesos (P5,000,000.00) monthly share of the Board from the fifty percent (50%) statutory share of the National Government from the PAGCOR income shall be used exclusively for the establishment and maintenance of new drug treatment and rehabilitation centers in the country, as well as the operation and maintenance of existing ones.

SECTION 88. *Management of Funds Under the Act: Annual Report by the Board and the PDEA.* –

(a) Fund Management. – The Board and the PDEA shall manage their respective funds, whether appropriated by Congress or coming from other sources, as each may deem proper for the attainment of the objectives of the Act, and respectively account for the same, subject to the observance of the terms and conditions set in the annual general appropriations act and pertinent budgeting, accounting and auditing rules and regulations.

(b) Annual Report. – In addition to the periodic reports prescribed elsewhere in this IRR, the Chairperson of the Board shall submit to the President of the Philippines and to the presiding officers of the two chambers of Congress, within fifteen (15) days from the opening of the regular session, an annual report on the dangerous drugs situation in the country which shall include detailed account of the programs and projects undertaken, statistics on crimes related to the dangerous drugs, expenses incurred in pursuit of the mandate set under the Act, recommended remedial legislation, if needed, and such other relevant facts as it may deem proper to cite.

SECTION 89. *Auditing the Accounts and Expenses of the Board and the PDEA.* – All accounts and expenses of the Board and the PDEA shall be audited by the COA or its duly authorized representative.

ARTICLE XI

**JURISDICTION OVER
DANGEROUS DRUGS CASES**

SECTION 90. *Jurisdiction.* - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of the Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The DOJ, through its provincial/city prosecution offices, shall designate special prosecutors to exclusively handle cases involving violations of the Act.

The preliminary investigation of cases filed under the Act shall be terminated within a period of thirty (30) days from the date of their filing.

When the preliminary investigation is conducted by a public prosecutor and a probable cause is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a probable cause is found to exist, the corresponding information shall be filed by the proper prosecutor within forty-eight (48) hours from the date of receipt of the records of the case.

However, when the prosecutor disagrees with the finding of the Municipal Trial Court and he/she finds the need to conduct a formal reinvestigation of the case to clarify issues, or to afford either party the opportunity to be heard to avoid miscarriage of justice, the prosecutor has to terminate the reinvestigation within fifteen (15) days from receipt of the records, and if probable cause exists, to file the corresponding information in court within forty-eight (48) hours from termination of the reinvestigation.

Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution.

SECTION 91. Responsibility and Liability of Law Enforcement Agencies and other Government Officials and Employees in Testifying as Prosecution Witnesses in Dangerous Drugs Cases. - Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses intentionally or negligently, to appear as a witness for the prosecution in any proceeding, involving violations of the Act, without any valid reason, shall be punished with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years and a fine of not less than Five hundred thousand pesos (P500,000.00), in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or re-assigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or re-assigned for compelling

reasons: *Provided*, that his/her immediate superior shall notify the court in writing where the case is pending of the order to transfer or re-assign, within twenty-four (24) hours from its approval; *Provided, further*, that his/her immediate superior shall be penalized with imprisonment of not less than (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court in writing of such order to transfer or re-assign.

Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

SECTION 92. *Delay and Bungling in the Prosecution of Drug Cases.* Any government officer or employee tasked with the prosecution of drug-related cases under the Act, either as prosecutor, prosecution witness, or as law enforcement agent, who, through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug cases, shall suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years without prejudice to his/her prosecution under the pertinent provisions of the Revised Penal Code.

SECTION 93. *Reclassification, Addition or Removal of Any Drug from the List of Dangerous Drugs.* - The Board shall have the power to reclassify, add to or remove from the list of dangerous drugs. Proceedings to reclassify, add or remove a drug or other substance may be initiated by the PDEA, the

DOH , or by petition from any interested party, including the manufacturer of a drug, a medical society or association, a pharmacy association, a public interest group concerned with drug abuse, a national or local government agency, or an individual citizen. When a petition is received by the Board, it shall immediately begin its own investigation of the drug. The PDEA also may begin an investigation of a drug at any time based upon the information received from law enforcement laboratories, national and local law enforcement and regulatory agencies, or other sources of information.

The Board after notice and hearing shall consider the following factors with respect to each substance proposed to be reclassified, added or removed from control:

- (a) Its actual or relative potential for abuse;
- (b) Scientific evidence of its pharmacological effect if known;
- (c) The state of current scientific knowledge regarding the drug or other substance;
- (d) Its history and current pattern of abuse;
- (e) The scope, duration, and significance of abuse;
- (f) Risk to public health; and
- (g) Whether the substance is an immediate precursor of a substance already controlled under the Act.

The Board shall also take into account the obligations and commitments to international treaties, conventions and agreements to which the Philippines is a signatory.

The Dangerous Drugs Board shall give notice to the general public of the public hearing of the reclassification, addition to or removal from the list of any drug by publishing such notice in any newspaper of general circulation once a week for two (2) weeks.

The effect of such reclassification, addition or removal shall be as follows:

(a) In case a dangerous drug is reclassified as precursor and essential chemical, the penalties

for the violations of the Act pertaining to precursors and essential chemicals shall, in case of conviction, be imposed in all pending criminal prosecutions;

(b) In case a precursor and essential chemical is reclassified as dangerous drug, the penalties for violations of the Act involving precursors and essential chemicals shall, in case of conviction, be imposed in all pending criminal prosecutions;

(c) In case of the addition of a new drug to the list of dangerous drugs and precursors and essential chemicals, no criminal liability involving the same under the Act shall arise until after the lapse of fifteen (15) days from the last publication of such notice;

(d) In case of removal of a drug from the list of dangerous drugs and precursors and essential chemicals, all persons convicted and/or detained for the use and/or possession of such a drug shall be automatically released and all pending criminal

prosecution involving such a drug under the Act shall forthwith be dismissed; and

(e) The Board shall, within five (5) days from the date of its promulgation, submit to Congress a detailed reclassification, addition, or removal of any drug from the list of dangerous drugs.

ARTICLE XII

FINAL PROVISIONS

SECTION 94. *Congressional Oversight Committee on Dangerous Drugs (COCDD).* - The COCDD created under Section 95 of the Act shall be composed of seven (7) Members from the Senate and seven (7) Members from the House of Representatives. The Members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the Minority. The Members from the House of Representatives shall be appointed by the Speaker, also based on the proportional representation of the parties or coalitions therein with at least two (2) Members representing the Minority.

The COCDD shall be headed by the respective Chairpersons of the Senate Committee on Public Order and Illegal Drugs and the House of Representatives Committee on Dangerous Drugs.

SECTION 95. *Powers and Functions of the COCDD.* - The COCDD shall, in aid of legislation, perform the following functions, among others:

(a) To set the guidelines and overall framework to monitor and ensure the proper implementation of the Act;

(b) To ensure transparency and require the submission of reports from government agencies concerned on the conduct of programs, projects and policies relating to the implementation of the Act;

(c) To approve the budget for the programs of the COCDD and all disbursements therefrom, including compensation of all personnel;

(d) To submit periodic reports to the President of the Philippines and Congress on the implementation of the provisions of the Act;

(e) To determine inherent weaknesses in the law and recommend the necessary remedial legislation or executive measures; and

(f) To perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of the Act.

SECTION 96. *Adoption of Committee Rules and Regulations, and Funding.* - The COCDD shall adopt its internal rules of procedure, conduct hearings and receive testimonies, reports, and technical advice, invite or summon by *subpoena ad testificandum* any public official, private citizen, or any other person to testify before it, or require any person by *subpoena duces tecum* documents or other materials as it may require consistent with the provisions of the Act.

The COCDD shall be assisted by a secretariat to be composed by personnel who may be seconded from

the Senate and the House of Representatives and may retain consultants.

To carry outS the powers and functions of the COCDD, the initial sum of Twenty-five million pesos (P25,000,000.00) shall be charged against the current appropriations of the Senate. Thereafter, such amount necessary for its continued operations shall be included in the annual General Appropriations Act.

The COCDD shall exist for a period of ten (10) years from the effectivity of the Act and may be extended by a joint concurrent resolution.

SECTION 97. *Limited Applicability of the Revised Penal Code.* - Notwithstanding any law, rule or regulation to the contrary, the provisions of the Revised Penal Code (Act No. 3814), as amended, shall not apply to the provisions of this IRR, except in the case of minor offenders. Where the offender is a minor, the penalty for acts punishable by life imprisonment to death provided herein shall be reclusion perpetua to death.

SECTION 98. *Separability Clause.* - If for any reason any section or provision of this IRR, or any portion thereof, or the application of such Section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this IRR shall not be affected by such declaration and shall remain in force and effect.


SECTION 99. *Repealing Clause.* - All memorandum circulars, resolutions, orders, and other issuances or parts thereof which are inconsistent with the Act or with this IRR are hereby repealed, amended or modified accordingly.

SECTION 100. *Implementing Details.* -

The Board shall issue such additional implementing rules and regulations as may be necessary to further clarify any part of this IRR.

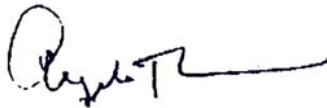
SECTION 101. *Effectivity Clause.* This IRR shall take effect upon its publication in three (3) newspapers of general circulation and upon registration with the Office of the National Administrative Register at the University of the Philippines Law Center, UP. Diliman, Quezon City.

DONE in the City of Quezon this 30th day of August, 2002.



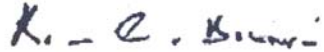
CORAZON JULIANO-SOLIMAN

Secretary of Social Welfare and Development
Ex-Officio Member



ANGELO T. REYES

Secretary of National Defense
Ex-Officio Member



RAMON C. BACANI

Officer-In-Charge, Department of Education
Ex-Officio Member

JOSE ISIDRO N. CAMACHO

Secretary of Finance
Ex-Officio Member



BERNARDO T. LASTIMOSO, CESO III

Executive Director, Dangerous Drugs Board
Board Member



MANUEL M. DAYRIT

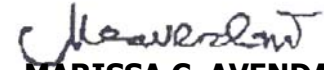
Secretary of Health
Acting Vice-Chair



HERNANDO B. PEREZ

Secretary of Justice
Acting Chair

ATTESTED:



MARISSA C. AVENDANO

Board Secretary II

Note:

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