

**ON THE PROPOSITION OF THE CITY OF CEBU TO DISTRIBUTE (DISPOSABLE) SYRINGES TO KNOWN ILLEGAL DRUG ADDICTS/USERS WITH THE VIEW OF CURTAILING THE SPREAD OF HIV/AIDS VIRUS**

There is nothing in R.A. 8504, "*The Philippine AIDS Prevention and Control Act of 1998*" that can be made as legal basis for the City of Cebu to carry out its plan to distribute syringes to illegal drug users/addicts as a means to curtail the spread of HIV/AIDS virus.

The intended action is even prohibited under R.A. 9165, The "*Comprehensive Dangerous Drugs Act of 2002.*" It is provided therein

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**"Sec. 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 this 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 this Act.** (underscoring supplied)

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**"Sec. 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 this Act.  
(underscoring supplied)

X X X

**Sec. 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 this 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.**

From the foregoing provisions, it can be gleaned that the persons in possession of any instrument, apparatus and other paraphernalia (such as syringes) fit or intended for administering or injecting any dangerous drugs are presumed to have violated Section 15 (use of dangerous drugs) of said law. City Hall personnel who are tasked to do the distribution of the syringes are at risk of being apprehended in view thereof. The City of Cebu in carrying out its plan of action cannot invoke Section 16 of the Local Government Code of 1991 nor any of the provisions of R.A. 8504 because of the express prohibition in R.A. 9165.

Respectfully submitted,

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