

**COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES**

**RESPONSE TO THE QUESTIONNAIRE**

**RIGHT OF PERSONS WITH DISABILITIES TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH**

March 2018

1. The Commission on Human Rights of the Philippines (herewith the Commission) submits to the Office of the High Commissioner for Human Rights (OHCHR), its inputs relative to the right of persons with disabilities to the highest attainable standard of health.
2. This submission took into consideration local and international reports from government, civil society, the media, and international non-government organizations. This submission also utilized the Commission’s own documentation of independent monitoring activities and statements on the right of persons with disabilities to sexual and reproductive health, which were subjected to the internal deliberations of the Commission En Banc.

Hereunder are the responses of the CHRP to the questionnaire on the right of persons with disabilities to the highest attainable standard of health:

1. **Please provide information on existing or planned legislation and policies to ensure the realization of the right to health of persons with disabilities, including current challenges and good practices.**

* The 1987 Philippine Constitution institutes democratic principles in the government and society, it explicitly declares full equality of all in the eyes of the law and in the benefits of liberty and freedom and the subsequent social and economic progress. The Constitution provisions prohibits discrimination on the bases of race, religion, gender, and physical conditions.
* The primary law with respect to the rights of persons with disabilities in the Philippines is Republic Act (R.A.) No. 7277 or the Magna Carta for Disabled Persons – An act providing for the rehabilitation, self-development and self-reliance of persons with disabilities and their integration into the mainstream of society and for other purpose. The act was amended in 2006 by Republic Act No. 9442 – “An act providing for the Rehabilitation and Self-Reliance of Disabled Persons and Their Integration to the Mainstream of Society and Other Purposes granting Additional Privileges and Incentives and Prohibitions on Verbal, Non-Verbal Ridicule and Vilification Against Persons with Disability,” which required the Department of Health (DOH) to institute a national health program for PWDs, establish medical rehabilitation centers in provincial hospitals and adopt an integrated and comprehensive approach to the health development of PWDs which shall make essential services available to them at affordable cost.
* In response to RA 9442, Administrative Order 2006-003, “Strategic Framework and Operational Guidelines for the Implementation of Health Programs for Persons with Disabilities” was formulated and amended by AO 2015-0004, “Revised Policy on Strengthening the Health and Wellness Program for Persons with Disabilities.” The objectives of the administrative orders are as follows:[[1]](#footnote-1)

1. To address Barriers and improve access and reasonable accommodation of PWDs to health care services and programs.
2. To ensure accessibility, availability, appropriateness and affordability of habilitation and rehabilitation services for PWDs, including children and disabilities.
3. To ensure the development and implementation of policies and guidelines, health service packages, including financing and provider payment schemes for health services of PWDs
4. To enhance capacity of health providers and stakeholders in improving health status of PWDs.
5. To strengthen collaboration and synergy with and among stakeholders and sectors of society to improve response to disability inclusive health agenda through regular dialogues and interactions.
6. To provide mechanism in facilitating the collection, analysis and dissemination of reliable, timely and complete data and researches on health related issues of PWDs in order to develop and implement evidence-based policies and interventions.

**Sexual and Reproductive Health**

* On April 9th 2014, after more than a year deliberating the constitutionality of the Responsible Parenthood and Reproductive Health Act of 2012 (widely known as the “RH Bill”), the Philippine Supreme Court upheld the constitutionality of the bill ending a fourteen year struggle for supporters of the Bill.
* The RH Law makes specific mention of access to sexual and reproductive health services for people with disabilities, stating “the cities and municipalities shall endeavor that barriers to reproductive health service for people with disabilities are obliterated” (RH Law, Section 18)
* There is an ongoing provision of support to the national training program currently being implemented by the Department of Health to increase disability inclusion in primary health care settings with focus on ensuring inclusion of sexual reproductive health (SRH), violence prevention, and gender sensitivity. Organizations focusing on persons with disabilities are working towards the development of guidelines and resources for health facilities to increase disability inclusion and accessibility of sexual reproductive health services and violence prevention and response services, and to strengthen current referral practices to ensure that they are responsive to the needs of women with disabilities.

**Health Care Insurance Coverage**

* The 17th Congress of the Philippines is currently deliberating on the enactment of an act providing for mandatory health insurance coverage for all persons with disabilities, amending for this purpose the Magna Carta for Disabled Persons. Once enacted, all PWDs shall be able to enjoy automatic health insurance coverage under the Philippine Health Insurance Corporation (Philhealth). [[2]](#footnote-2)

**Mental Health**

* Mental health bills were passed in the Senate on 2 May 2017 and in the House of Representatives on 20 November 2017, respectively. A bicameral conference committee reconciled the two bills and submitted the instrument to the Office of the President for signature. The proposed legislation has been lauded by legislators and some mental health advocates as a milestone, as the law would establish policies addressing mental health of all in the country. However, there are contentious provisions in the bills, particularly involuntary treatment and confinement, and legal capacity to give consent. The Commission has released a position paper on these issues. The full position paper can be read here: <https://drive.google.com/file/d/17Ob-MjmCoejIdsOkoxxOsXMqhQ504OLj/view?usp=sharing>

**Benefits and Privileges**

* Section 4 of the Implementing Rules and Regulations of Republic Act No. 10754 – "An Act Expanding the Benefits and Privileges of Persons with Disabilities (PWDs)" provides PWDs the opportunity to participate fully into the mainstream of society by granting them at least twenty percent (20%) discount and exemption from the value added tax on the sale of certain goods and services. Such benefit extends to the purchase of medicines and foods for special medical purposes.

**Challenges:**

* Although there are policies in place for the provision of sexual and reproductive health education, local government units (LGUs) still need to manage a range of competing priorities and demands across diverse sectors. LGUs may have strengths in particular areas (provision of disability services such as rehabilitation) but less experience in others (such as provision of high quality SRH services), and have limited opportunities to learn from how other governments do things. This weakens their ability to coordinate and foster a supportive local environment for disability inclusive SRH.
* There is also a need to limited training programs involving health service practitioners and providers resulting to failure to provide accessibility measures that would properly respond to the health needs of PWDs.
* The Commission noted that some rural health facilities are inaccessible or whenever accessible are not equipped with and lack supplies and commodities for family planning. Issue along this line include lack of information on the accessibility as well as information about available goods and services themselves.
* Women and girls with disabilities and their families have limited knowledge about sexual reproductive health and services and rights related thereto. Oftentimes, this restriction in the access to information on sexual reproductive health is brought about by the families of persons with disabilities. Discourse on this issue in the country remains to be a sensitive and taboo topic due to the country’s traditional culture. As a result, demand for sexual reproductive health services are undermined.

1. **Please provide any information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the exercise of the right to health of persons with disabilities in general, as well as with particular focus in the following areas:**

**• Availability of barrier-free general healthcare services and programs, which take into account all accessibility aspects for persons with disabilities;**

* In 2013, the World Health Organization released the Global Disability Action Plan 2014-2021. The said document intends to assist countries in their efforts towards addressing the concerns of PWDs. It identified the three major objectives: to remove barriers and improve access to health services and programs; (2) to strengthen and extend rehabilitation, habilitation, assistive technology, assistance and support services, and community-based rehabilitation; (3) to strengthen collection of relevant and internationally comparable data on disability and support research on disability and related services.
* In consideration of the action plan, the Health and Wellness Program of Persons with Disabilities was configured by the DOH to address PWD issues on health. The Action Framework for the program involves three (3) action areas:

1. removal of barriers and improve access to health services and programs;
2. strengthening and expansion of rehabilitation, habilitation, assistive technology, and community-based rehabilitation;
3. strengthen collection of relevant and internationally comparable data on disability and support research on disability and related services.

* SEC. 18 of the Reproductive Health Law – Sexual and Reproductive Health Programs for Persons with Disabilities (PWDs) mandates that cities and municipalities shall endeavor that barriers to reproductive health services for PWDs are obliterated by the following:
  + Adapting examination tables and other laboratory procedures to the needs and conditions of PWDs;
  + Increasing access to information and communication materials on sexual and reproductive health in braille, large print, simple language, sign and reproductive health in braille, large print, simple language, sign
  + Providing continuing education and inclusion of rights of PWDs among health care providers; and
  + Undertaking activities to raise awareness and address misconceptions among the general public on the stigma and their lack of knowledge on the sexual and reproductive health needs and rights of PWDs. [[3]](#footnote-3)
* The Department of Health, as part of its licensing requirements, requires all hospitals to ensure infrastructure accessibility for PWDs. The Department is set to issue a minimum standard facility design for rural health units and community health centers to guarantee convenience and accessibility for PWDs.

## **• access to free or affordable general healthcare services and programmes, including mental health services, services related to HIV/AIDS and universal health coverage;**

* **access to free or affordable disability-specific healthcare services and programmes; and**
* **access to free or affordable health-related habilitation and rehabilitation goods and services, including early identification and intervention.**

**Access to health Care Insurance**

* While Philhealth, an agency attached to the Department of Health, is mandated by the State to provide social health insurance coverage to Filipinos, delivery of health services are decentralized, privatized and subsidized by government, private sectors and other stakeholders.
* In terms of access, Philhealth is not accessible to all members of society. Currently, majority of Philhealth members are those formally employed in private and public sectors that require contributions to the social health scheme. People in the informal sector that can access Philhealth are those who can pay such as high-skilled and semi-skilled workers paying individual contributions. “Indigents” can avail of Philhealth through sponsored programs, they have to apply or be identified for this sponsorship. The rest of the members of the informal and vulnerable sectors (poorest of the poor, street vendors, small-scale farmers, fisherfolk, people with disabilities, older persons, indigenous peoples, etc) are unable to register in the program due to financial hardship or difficulty in accessing the insurance (lack of information, physical and social barriers among others).
* On 9 October 2017, the Commission has lauded the “strong political will” of the government after the House of Representatives passed a measure that will provide universal health care access for all Filipinos. The approved House Bill 5784 or the Universal Health Coverage bill is a significant move toward reducing inequalities between classes in terms of access to health services. This legislation provides equal opportunity for everyone to enjoy the highest attainable standard of health through an established system of health protection. The Commission has urged the government to observe the fundamental principles of accessibility, acceptability and adaptability in implementing such policy.[[4]](#footnote-4)

**Access to free or affordable healthcare services**

* Republic Act No. 9442 (Magna Carta for Disabled Persons, as amended in 2006) provides for additional social, economic and human rights provisions. In addition to significant discounts on transportation fares and purchases of medicines and other basic daily essentials, RA 9442 strictly prohibits and penalizes any act that has an effect of vilifying persons with disabilities. Among the benefits under RA 9442 is the provision of free medical and dental services, diagnostic and laboratory fees such as, but not limited to, x-rays, computerized tomography scans and blood tests, in all government facilities, subject to the guidelines to be issued by the DOH in coordination with the PhilHealth.

1. **Please provide information on discrimination against persons with disabilities in the provision of healthcare, health insurance and/or life insurance by public or private service providers.**

**•** In 2016, the Commission launched its National Inquiry Report on Reproductive Health Rights entitled: “Let our voices be heard: Report of the Commission on Human Rights Philippines’. The inquiry looked into the barriers women face when accessing reproductive health services. Fifteen regional consultations were held across all areas wherein regional offices of the Commission are located, hearing from a wide range of groups, including persons with disabilities.

* During the course of the inquiry, Complaints have been gathered on the attitude of some government health service providers and the lack of professionalism resulting to the patients’ lack of trust and confidence in the ability of government hospitals to respond

to their needs.

* In addition to the issues/attitudes of health workers and health service providers, common unprofessional and unethical practices surfaced including requiring donations for RH goods and services that are supposed to be free; mistreating women seeking Post Abortion Care, refusing services to a woman seeking surgery due to her transgender identity, her disability, or HIV Status, delaying or refusing medical services to women for various reasons including concerns over lack of records to their lack of capacity to pay.
* During the inquiry, PWD respondent likewise raised the failure of duty bearers to provide accommodations suited for their needs.

1. **Please provide information on the observance of the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.**

With regard to the observance of the right to free and informed consent of PWDs regarding healthcare, among the findings of the Commission in the course of the RH inquiry is the requirement of consent from parents for adolescents to access reproductive health services. Also, it was found that there are mixed levels of knowledge of sexual and reproductive health (SRH) among women and girls with disabilities. SHR knowledge showed to be mostly low among specific impairment groups such as women and girls with intellectual disabilities and women and girls who are deaf or hard of hearing.

Women and girls with disabilities reported a range of barriers to accessing sexuality education and information. These included miscommunication of concepts; limited community and educator awareness about the sexual rights of women with disabilities; and the reluctance of parents, carers, teachers and social workers to discuss sex and sexuality with young women with disability. For women who are deaf or hard of hearing, limited availability of sign language interpreters was also a barrier to accessing information on sexuality.[[5]](#footnote-5)

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* The results of the inquiry specific to women and girls with disabilities were likewise highlighted in the Commission's submission to the OHCHR's questionnaire on the Right to Sexual and Reproductive Health of Girls with Disabilities in the Philippines.

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**Good Practices: Reproductive Health**

The following are good practices documented by the Commission both at the community and the local government level to the national level with respect to access to reproductive health.

* + Strong national and local government partnerships and cooperation with civil society organization in the implementation of Reproductive Health Law.
  + Strong and active National and Regional Implementation Team coordination and regular meetings. This results in the ability to immediately address complaints regarding availability and accessibility of RH services.
  + The practice of a principal in one of the public schools in Brgy. Pontod, Cagayan de Oro wherein he incorporated reproductive health and sexuality lessons in the curriculum as a response to the alarming rise of teenage pregnancy among high school girls. The incorporation of reproductive health and sexuality lessons resulted in lower number of pregnancy in his high school.

1. **Please describe to what extent and how are persons with disabilities and their representative organizations involved in the design, planning, implementation and evaluation of health policies, programmes and services.**

* The National Council for Disability Affairs (NCDA) is often consulted during policy planning and program development by national government agencies and local government units as well are before service or delivery of programs. [[6]](#footnote-6)
* Civil Society Organizations focused on advancing the rights of persons with disabilities are likewise given the opportunity participate in the policy making process as well as in the implementation of programs and services through consultations facilitated by the NCDA.
* The Commission also conducts roundtable discussions and consultations involving PWDs in line with its international obligations monitoring mandate.

1. Department of Health. Health and Wellness of Persons with Disabilities: Situational Analysis – Cordillera Administrative Region. (2016) <http://caro.doh.gov.ph/wp-content/uploads/2016/01/PWD-situational-analysis.pdf> (last accessed on 28 February 2018) [↑](#footnote-ref-1)
2. 17th Congress. House Bill No. 209 – An act providing for the mandatory philhelth coverage for all persos with disabilities (PWDs), amending for the purpose Republic Act No. 7277, as amended by Republic Act 9442, otherwise known as the "Magna Carta for Disabled Persons", and for other purposes. <http://www.congress.gov.ph/legisdocs/basic_17/HB00209.pdf> (last accessed on 28 February 2018) [↑](#footnote-ref-2)
3. W-DARE: Women with Disability taking Action on Reproductive and Sexual Health. 2014. Issue focus: “The Responsible Parenthood and Reproductive Health Act of 2012”.https://wdare.wordpress.com/2014/05/12/issue focus the-responsible-parenthood-and-reproductive-health-act-of-2012/ (last accessed on 22 May 2017) [↑](#footnote-ref-3)
4. Janvic Mateo, “*CHR lauds passage of universal healthcare bill*”, 9 October 2017, Published by The Philippine Star, <https://www.pressreader.com/philippines/the-philippine-star/20171009/281711204863526>, Last Accessed: 19 February 2018. [↑](#footnote-ref-4)
5. W-DARE: Women with Disability taking Action on Reproductive and Sexual Health. 2014. Issue focus: The Responsible Parenthood and Reproductive Health Act of 2012”. <https://wdare.wordpress.com/2014/05/12/issue-focus-the-responsible-parenthood-and-reproductive-health-act-of-2012/> (last accessed on 22 May 2017) [↑](#footnote-ref-5)
6. National Council for Disability Affairs, *Operational Framework of Disability Inclusive Development in line with NCDA Mandate of Policy Development*. (2017) <http://www.ncda.gov.ph/wp-content/uploads//2017/01/DID_Operational-Framework-1.pdf> (last accessed on 28 February 2018) [↑](#footnote-ref-6)