



## POLICY BRIEF

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# The Law on HIV/AIDS Prevention and Control: Legal Services Providers

The HIV/AIDS law (passed June 29, 2006, effective January 1, 2007) and implementing Decree 108 (issued June 26, 2007) provide a strong foundation for *human rights- and evidence-based HIV/AIDS policies and programs* in Vietnam, in terms of prevention, care and treatment, support for people living with HIV/AIDS (PLHA) and their families, and ending HIV/AIDS-related stigma and discrimination.

*This brief is designed to provide those who are responsible for providing legal services on HIV/AIDS prevention with a summary of key provisions, rights, and responsibilities under the HIV/AIDS law and implementing Decree No. 108/2007/ND-CP.*

### HIV Prevention

- **Harm reduction** interventions include peer education, needle/syringe provision, condom distribution, and substitution treatment for opiate addicts (except in drug rehabilitation centers – Decree 108). Provincial People’s Committees determine what specific programs are to be implemented (Decree 108);
- **Peer educators** are to be provided with ID cards and legal protection when distributing condoms and needles/syringes;
- **Provision of free needles/syringes** carried out through mobile and fixed networks include peer educators, HIV/AIDS prevention and control centers, preventive medicine centers, VCT centers, pharmacies, and “other appropriate sites” (Decree 108);
- **People’s Committees and police** at all levels are responsible for “creating favorable conditions” for operation of condom and needles/syringes distribution programs (Decree 108).

### HIV/AIDS Services in Closed-Settings

- **HIV/AIDS prevention programs** are to be provided with information on safe injection and substance abuse treatment;
- **HIV testing** shall only be conducted on a confidential and voluntary basis;
- **OI treatment** and access to ARVs;
- **Isolation of patients** with contagious diseases, such as TB;
- **Integration of HIV/AIDS education** in continuing education program of closed-settings.

### HIV Testing

- **Pre- and post-test** counseling shall be provided for all HIV testing;
- **Free voluntary HIV testing** shall be provided for pregnant women;
- **Mandatory HIV testing** is not permitted except in certain cases, such as by court order or a condition of employment for airline crews and “special occupations in the security and defense domains”;
- **All HIV testing** must be confidential with notification of results limited to the tested person, his/her spouse or fiancée, parent or guardian (only for minors), counseling staff, care providers, and staff of custodial facilities (05/06 centers, prisons); and

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- **Only HIV-testing** establishments which have been recognized by MOH shall carry out HIV confirmatory testing.

### HIV Care and Treatment

- **Treatment of opportunistic infections (OI)** and antiretroviral (ARV) treatment is to be provided for people who cannot afford to pay -- *refusing to provide treatment to an HIV+ person is prohibited*;
- **Free treatment prevention of mother-to-child-transmission (PMTCT)**, is to be provided to pregnant women and substitute milk to be provided to under-six-month babies born to HIV-infected mothers;
- **Free HIV treatment** to be provided to those who experience exposure in clinical settings and occupational situations, children under 6 years old, others who are in “difficult circumstances” and/or cannot afford to pay; priority may also be given to children 6-16 years old and PLHA actively involved in HIV prevention activities; and
- **Health insurance:** health examination and treatment are to be provided for people living with HIV/AIDS who are health insurance participants.

### HIV/AIDS-related Non-discrimination in the Workplace

- **Businesses** are encouraged to hire PLHA. (Provisions for tax exemption and other incentives for employers to hire PLHA and most at-risk populations, and to provide HIV/AIDS programs in the workplace are regulated in the Law on Corporate Income Tax and implementing legal documents);
- **Employers** may not terminate employees based on HIV status, or require HIV testing as a condition of employment – except for certain specified occupations (airline crews, security/defense positions);
- **Employers** may not demote or refuse to promote employees who are capable of doing the job based on HIV status;

### HIV/AIDS-related Non-discrimination in the School

- **School** may not refuse admission or expel a student based on his/her or family member’s HIV status;
- **School** may not request a student to be tested for HIV/AIDS or to verify HIV/AIDS test results.
- **School** may not separate, limit, or forbid a student from participating in school’s activities or services based on his/her HIV status.

### Greater Involvement of People Living with HIV/AIDS (GIPA)

- **Government** encourages people to live with PLHA groups, and other “self-care models” organized by PLHA;
- **PLHA** are to be involved in HIV/AIDS policy development; and
- **PLHA** are to be fully integrated into the community.

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