RA 10354

A Primer on the

Reproductive Health Law

Since 1989

PLCPD

Philippine Legislators' Committee on Population and Development Foundation, Inc.

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MINISTERIO DE ASUNTOS EXTERIORES Y DE COOPERACIÓN

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In 2012, the Philippines finally saw the enactment of the Reproductive Health (RH) bill. After a long and arduous battle in the legislative mill, surpassing four Congresses in fact, Filipinos can now benefit from a law that will provide comprehensive information and services on reproductive health. With the passage of the RH bill, or what is now known as RA 10354 or the Responsible Parenthood and Reproductive Health Act of 2012, the national government and local government units (LGU) will be able to strategically and comprehensively address perennial problems of the country on maternal mortality, child mortality, teenage pregnancies, and prevalence of HIV and AIDS, among others. In the same manner, RA 10354 is also seen to contribute in addressing population and development concerns of the country – foremost of which is poverty.

But as in most cases, enactment of policies is not the be all and end all of policy advocacy. Implementing the law will be one of the most crucial battles to win. In the case of RA 10354, national and government agencies, together with civil society stakeholders need to join hands to ensure that the intents and purposes of this piece of legislation are realized. In a way, this is also to ensure that the grueling process that the law has gone through would not be put to waste.

For these reasons, this primer was developed by the Philippine Legislators' Committee on Population and Development Foundation, Inc. (PLCPD) to facilitate the most basic of questions that implementing institutions may have in mind regarding the law. PLCPD hopes that no hurdle is insurmountable when it comes to implementing RA 10354, be it at the national or at the local level.

What is the RH Law?

Republic Act 10354 or the Responsible Parenthood and Reproductive Health Law of 2012 (RH Law) is a national policy that mandates the Philippine government to comprehensively address the needs of Filipino citizens when it comes to responsible parenthood and reproductive health. As such, the RH Law guarantees the following: (1) access to services on Reproductive Health (RH) and Family Planning (FP), with due regard to the informed choice of individuals and couples who will accept these services, (2) maternal health care services, including skilled birth attendance and facility-based deliveries, (3) reproductive health and sexuality education for the youth, and (4) regular funding for the law's full implementation.

What does the RH Law uphold?

The RH Law is rooted on the human rights of every individual including their right to equality and nondiscrimination, the right to sustainable human development, the right to health including RH, and the right to make decisions for themselves in accordance with their religious convictions, ethics, cultural beliefs, and the demands of responsible parenthood. The RH Law also recognizes the inviolable institution and foundation of the family and guarantees the promotion of gender equality, gender equity, women empowerment and dignity as a health and human rights concern and as a social responsibility.

Consistent with its foundations, the RH Law reiterates that the State guarantees universal access to medically-safe, non-abortifacient, effective, legal, affordable, and quality

RH care services, methods, devices, and supplies which do not prevent the implantation of a fertilized ovum. The RH Law also reiterates that the State guarantees the provision of relevant information and education thereon according to the priority needs of women, children and other underprivileged sectors who shall be voluntary beneficiaries of RH care, services and supplies for free.

How does the RH Law intend to improve people's access to RH services?

The main objective of the advocacy for a comprehensive law on reproductive health is to ensure that RH services and information are provided to the people, especially to the marginalized sectors of the society. The RH Law guarantees that Filipinos have an informed choice and they will be able to avail of services based on this informed choice. The RH Law outlined the following measures all aimed at improving the delivery of RH services and information to the people:

a. The State shall provide additional and necessary funding and other necessary assistance for the hiring of adequate number of nurses, midwives and other skilled health professionals for maternal health care and skilled birth attendance. This provision aims to achieve an ideal skilled health professional-to-patient ratio providing the same level of access to health care to people in geographically isolated or highly populated and depressed areas. *(Sec. 5, RA 10354: An Act Providing for a National Policy on Responsible Parenthood and Reproductive Health)*[1]

[1] hereinafter referred to as RA 10354

b. The State shall provide additional funding and other necessary assistance for the effective establishment and upgrading of hospitals and facilities complete with adequate and qualified personnel, equipment and supplies and able to provide emergency obstetric and newborn care. This provision will be implemented giving utmost importance to delivery of services to geographically isolated or highly populated and depressed areas. *(Sec. 6, RA 10354)*

c. There shall be a program for the procurement and distribution of FP supplies which will be coupled with a monitoring system to define the current levels and projections of: (1) number of women of reproductive age and couples who want to space or limit their children; (2) contraceptive prevalence rate, by type of method used; and (3) cost of FP supplies. *(Sec. 10, RA 10354)*

d. Prime importance will be afforded to the training of Barangay Health Workers (BHW) and other barangay volunteers on the promotion of reproductive health. The State will ensure the provision of additional and necessary funding and other necessary assistance for the effective implementation of this provision, including the provision of medical supplies and equipment needed by BHWs in performing their functions and possible provision of additional honoraria for BHWs. *(Sec. 16, RA 10354)*

Who shall benefit from the RH Law?

Foremost of the beneficiaries of the RH Law are Filipino women who have for long been deprived of comprehensive information and services on RH. According to the 2011 Family Health Survey (FHS), unmet need for FP[2] among married women remains high at 19.3% (10.5% for birth spacing and 8.8% for limiting births).[i] More importantly, total unmet need for FP is substantially greater among women considered poor (25.8%) compared to non-poor women (16.6 %).[ii] With the RH Law in place, women, especially the poor, will now have full access to RH information and avail of services that they deem necessary to address their RH concerns. In turn, women will have the power to decide on matters that concern their own bodies.

[2] Unmet need means the percentage of women of reproductive age who are married or in a union who report not wanting any more children or wanting to delay the birth of their next child but are not using any method of contraception. (WHO definition available at http://www.who.int/reproductivehealth/topics/family_planning/unmet_need_fp/en/index.html)

Table 1. Percentage of currently married women age 15-49 with unmet need for family planning, Philiipines: 2006 and 2011

	For Spacing			For Limiting			Total Unmet Need			Number of currently married women (In thousand)
	Est. %	95% Confidence Interval		Est. %	95% Confidence Interval		Est. %	95% Confidence Interval		
		Lower Bound	Upper Bound		Lower Bound	Upper Bound		Lower Bound	Upper Bound	
Survey										
2011 FHS	10.5	10.1	10.9	8.8	8.4	9.1	19.3	18.8	19.8	13,271
2006 FPS	8.4	8.1	8.8	7.3	6.9	7.6	15.7	15.2	16.2	13,238
Background Characteristics										
Socio-Economic Indicator										
Poor	13.1	12.3	13.9	12.6	11.9	13.4	25.8	25.8	26.8	3,856
Non-Poor	9.4	9.0	9.9	7.2	6.8	7.6	16.6	16.0	17.2	9,414

Source: National Statistics Office, 2006 Family Planning Survey and 2011 Family Health Survey

Alongside its benefits to Filipino women, an efficient implementation of the RH Law will also benefit the health of children. While it is important to note that the country is achieving a continued decline in under-five and infant mortality rates, there is still an estimated 30 children for every 1,000 live births who will likely die before reaching the age of five, and 22 infants per 1,000 live births who will likely die before reaching the age of one year.[iii] With mothers' health taken care of during their pregnancy and delivery under a comprehensive RH program, the effective implementation of the RH Law will also translate into healthier children.

The RH Law also provides a whole section that underscores the special needs of persons with disabilities (PWD) for RH information and services. Section 18 of RA 10354 outlines measures that will ensure PWDs' access to RH programs even with their conditions. These measures include: (1) Providing physical access, and resolving transportation and proximity issues to clinics, hospitals and places where RH services are provided; (2) Adapting examination tables and laboratory procedures to the needs and conditions of PWDs; (3) Increasing access to information and communication materials on sexual and reproductive health in Braille, large print, simple language, sign language, and pictures; (4) Providing continuing education and inclusion of rights of PWDs among health care providers; and (5) Undertaking activities to raise awareness and address misconceptions among the general public on the stigma and their lack of knowledge on the sexual and RH needs and rights of PWDs.

Moreover, the complete RH program as outlined in the RH Law will also benefit: (1) adolescents by allowing the State

to take up measures, including age- and development-appropriate RH and sexuality education, to veer them away from unplanned pregnancies; and (2) sectors who are prone to HIV and AIDS infection by providing maximum health benefits for serious and life-threatening reproductive health conditions such as HIV and AIDS, among others, including the provision of Anti-Retroviral Medicines (ARV) under the programs of the Philippine Health Insurance Corporation (PHIC). *(Sec. 12, RA 10354)*

THE ELEMENTS OF REPRODUCTIVE HEALTH

(Sec. 4, RA 10354)

1) Family planning information and services which shall include as a first priority making women of reproductive age fully aware of their respective cycles to make them aware of when fertilization is highly probable, as well as highly improbable;
2) Maternal, infant and child health and nutrition, including breastfeeding;
3) Proscription of abortion and management of abortion complications;
4) Adolescent and youth reproductive health guidance and counseling;
5) Prevention, treatment and management of reproductive tract infections (RTI), HIV and AIDS and other sexually transmittable infections (STI);
6) Elimination of violence against women and children and other forms of sexual and gender-based violence;
7) Education and counseling on sexuality and reproductive health;
8) Treatment of breast and reproductive tract cancers and other gynecological conditions and disorders;
9) Male responsibility and involvement and men's reproductive health;
10) Prevention, treatment and management of infertility and sexual dysfunction;
11) Reproductive health education for the adolescents; and
12) Mental health aspect of reproductive health care.

How does the RH Law intend to ensure maternal and child health?

Foremost of the objectives of RA 10354 is to address the maternal health concern of the country. As of 2011, the Department of Health (DOH) reports an increase in maternal mortality rate from 162 per 100,000 live births in 2006 to 221 per 100,000 live births in 2011.[iv] With comprehensive RH services provided under RA 10354, the State will be able to finally address the perennial concern of reducing maternal mortality rate.

More particularly, under the RH Law, the State will ensure that an adequate number of nurses, midwives, and other skilled health professionals are hired and are able to provide maternal health care and skilled birth attendance. *(Sec. 5, RA 10354)* Further, RA 10354 permits midwives and nurses to administer lifesaving drugs such as oxytocin and magnesium sulfate provided that: (1) this is in accordance with the guidelines set by the DOH; (2) the administration of the drugs was performed under emergency conditions and no physicians are available; and (3) the midwives and nurses administering the drugs were properly trained and certified to do so. *(Sec. 5, RA 10354)*

Upgrading of health care facilities is also one of the major programs under RA 10354. This includes establishing or upgrading hospitals and facilities with adequate and qualified personnel, equipment and supplies to be able to provide emergency obstetric and newborn care. (*Sec. 6, RA 10354)* Furthermore, the RH Law mandates "(a)ll LGUs,[3]

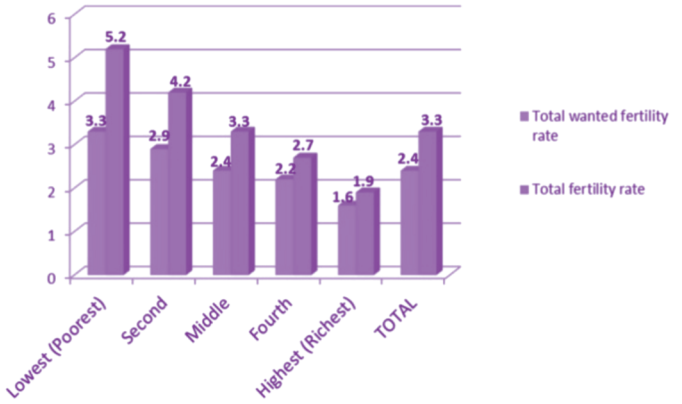
[3] Local Government Units

national and local government hospitals, and other public health units shall conduct an annual Maternal Death Review and Fetal and Infant Death Review in accordance with the guidelines set by the DOH. Such Review should result in an evidence-based programming and budgeting process that would contribute to the development of more responsive RH services to promote women's health and safe motherhood." *(Sec. 8, RA 10354)*

How will the RH Law facilitate access of the poor to RH and FP supplies?

Apart from the general concern of reducing maternal mortality and providing access to RH services, the RH Law gives premium to making RH programs available to the poor. Latest data reveal that use of FP method is lower among women in poor household than those in non-poor households at 43.1% and 51.3%, respectively.[v] Sadly, it has been confirmed and established that there is a big difference in the wanted and total fertility rates among women from the poorest quintile. As of 2008, women from the poorest section of the society would have wanted an average of 3.3 children but actually had an average of 5.2 children – a difference of 2.[vi] These women would have achieved their fertility goals if RH and FP information and services were afforded to them.

Total Fertility Rate and Total Wanted Fertility Rate by Wealth Quintile, NDHS 2008



RA 10354 outlines several measures to ensure that the poor and marginalized sectors of the society are given prime importance in the delivery of RH information and services. For one, the National Drug Formulary now lists hormonal contraceptives, intrauterine devices, injectables and other safe, legal, non-abortifacient, and effective FP products and supplies as essential medicines.[4] This means that these products and supplies shall be included in the regular purchase of essential medicines and supplies of all national hospitals *(Sec. 9, RA 10354)* and can now be made easily available to the general public.

[4] The World Health Organization (WHO) defines essential medicines as, "(T)hose that satisfy the priority health care needs of the population. They are selected with due regard to public health relevance, evidence on efficacy and safety, and comparative cost-effectiveness. Essential medicines are intended to be available within the context of functioning health systems at all times in adequate amounts, in the appropriate dosage forms, with assured quality and adequate information, and at a price the individual and the community can afford. The implementation of the concept of essential medicines is intended to be flexible and adaptable to many different situations; exactly which medicines are regarded as essential remains a national responsibility."

More importantly, RA 10354 has defined a multidimensional approach in the implementation of RH programs especially in relation to achieving the objective of poverty reduction. It mandates the DOH to implement RH programs prioritizing full access of poor and marginalized women as identified through the National Household Targeting System for Poverty Reduction (NHTS-PR) and other government measures of identifying marginalization to RH care, services, products and programs. *(Sec. 11, RA 10354)*

Catering to remote and marginalized communities, the RH Law provides the national and local government the mandate to make Mobile Health Care Services (MHCS) available to each provincial, city, municipal, and district hospital in the form of a van or other means of transportation appropriate to its terrain. *(Sec. 11, RA 10354)* Operated by skilled health providers and adequately equipped with a wide range of health care materials and information dissemination devices and equipment, the MCHS will fill in the gap in the RH information and services needed in remote communities particularly catering to the poor and needy. *(Sec. 11, RA 10354)*

In addition and most importantly, the RH Law defines in Section 17 its focus on delivering pro-bono services for indigent women. Section 17 of RA 10354 states that, "(p)rivate and nongovernment reproductive health care service providers, including, but not limited to, gynecologists and obstetricians, are encouraged to provide at least forty-eight (48) hours annually of reproductive health services, ranging from providing information and education to rendering medical services, free of charge

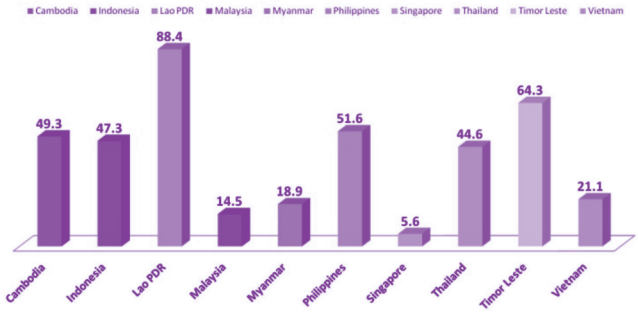
to indigent and low-income patients as identified through the NHTS-PR — other government measures of identifying marginalization, especially to pregnant adolescents. The forty-eight (48) hours annual pro bono services shall be included as a prerequisite in the accreditation under the Philhealth."[5]

How will the RH Law ensure the RH needs of the adolescents?

Compared with other ASEAN countries, the Philippines ranks third in terms of teenage pregnancy with a birth rate of 51.6% among women age 15-19.[vii] Unfortunately, the Philippines is the only ASEAN country which registered an increasing trend in teenage pregnancies. A comparative data from 1995-2000 and 2000-2005 shows that teenage pregnancies in the country rose from 46.9% to 51.6%. Lao PDR, which has the highest rate of teenage pregnancies, registered a decrease from 90.5 to 88.4 while Timor Leste, the country that registers the second highest rate of teenage pregnancies, showed a decline from 114.3% to 64.3%.[viii] Indeed, the Philippines is faced with a growing concern on teenage pregnancies and adolescent reproductive health.

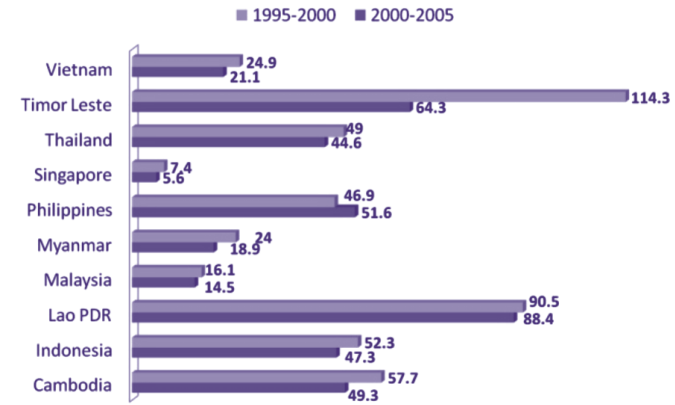
[3] Philippine Health Insurance Corporation

Births per 000 women age 15-19
ASEAN countries (2000-2005)



Source: UN Data. A World of Information as cited in a presentation by Dr. Josefina Natividad of the UP Population Institute for the National Summit on Teen Pregnancy

Births per 000 women age 15-19 ASEAN



Source: UN Data. A World of Information as cited in a presentation by Dr. Josefina Natividad of the UP Population Institute for the National Summit on Teen Pregnancy

More particularly, the RH Law mandates the State to provide age- and development-appropriate RH education to adolescents, which shall be taught by adequately

trained teachers in formal and nonformal educational system and integrated in relevant subjects. The curriculum shall include topics on values formation, knowledge and skills in self-protection against discrimination, sexual abuse and violence against women and other forms of gender-based violence and teen pregnancy, physical, social and emotional changes in adolescents, women's rights and children's rights, responsible teenage behavior, gender and development, and responsible parenthood. *(Sec. 14, RA 10354)* Age- and development-appropriate reproductive health education shall be provided to public schools following a curriculum that shall be formulated by the Department of Education (DepEd), which may be adopted by private schools. *(Sec. 14, RA 10354)*

Who shall be the implementing arm/s of the RH Law at the national level?

The DOH shall serve as the lead agency for the implementation of the RH Law. More explicitly, the law defines the functions of the DOH as:

a. Strengthen the capacities of health regulatory agencies to ensure safe, high quality, accessible and affordable RH services and commodities with the concurrent strengthening and enforcement of regulatory mandates and mechanisms;
b. Facilitate the involvement and participation of NGOs and the private sector in RH care service delivery and in the production, distribution and delivery of quality reproductive health and family planning supplies and commodities to make them accessible and affordable to ordinary citizens;
c. Engage the services, skills and proficiencies of

experts in natural family planning who shall provide the necessary training for all BHWs;

d. Supervise and provide assistance to LGUs in the delivery of RH care services and in the purchase of family planning goods and supplies; and
e. Furnish LGUs, through their respective local health offices, appropriate information and resources to keep the latter updated on current studies and researches relating to family planning, responsible parenthood, breastfeeding and infant nutrition.

These functions will be performed by the DOH in coordination with the PHIC as may be applicable. The DOH shall also be in charge of initiating and sustaining a heightened nationwide multimedia campaign to raise the level of public awareness on the protection and promotion of reproductive health and rights. *(Sec. 20, RA 10354)*

On the other hand, the Food and Drug Administration (FDA) is mandated to issue strict guidelines with respect to the use of contraceptives while corporate citizens are mandated to exercise prudence in advertising their products or services especially those relating to sexuality. *(Sec. 19, RA 10354)* A Congressional Oversight Committee (COC) was also created composed of five members each from the Senate and the House of Representatives (HOR). The COC shall monitor and ensure the effective implementation of the RH Law, recommend necessary remedial legislation or administrative measures, and shall conduct a review of the RH Law every five years from its effectivity. *(Sec. 22, RA 10354)*

(LGU) in the successful implementation of the RH Law?

Local Government Units (LGU) will play a crucial role in ensuring that the RH Law will be implemented effectively and will serve the purpose of its enactment especially in the context that health services in the country are devolved and such functions are carried out by LGUs. In fact, majority of the RH programs specified under the law will be under the aegis of LGUs. More specifically, LGUs are mandated to:

a. Ensure that an ideal skilled health professional-to-patient ratio is achieved by hiring an adequate number of nurses, midwives and other skilled health professionals for maternal health care and skilled birth attendance; *(Sec. 5, RA 10354)*
b. Endeavor to establish or upgrade hospitals and facilities with adequate and qualified personnel, equipment and supplies and able to provide emergency obstetric and newborn care; *(Sec. 6, RA 10354)*
c. Conduct an annual Maternal Death Review and Fetal and Infant Death Review in accordance with the guidelines set by the DOH; *(Sec. 8, RA 10354)*
d. Taking into consideration the health care needs of constituencies, LGUs may provide each provincial, city, municipal and district hospitals with a Mobile Health Care Service (MHCS) in the form of a van or other means of transportation appropriate to its terrain; *(Sec. 13, RA 10354)*
e. With technical assistance of the DOH, the LGUs shall be responsible for the training of BHWs and

other barangay volunteers on the promotion of reproductive health; *(Sec. 16, RA 10354)* and

f. Together with DOH, LGUs shall initiate and sustain a heightened nationwide multimedia campaign to raise the level of public awareness on the protection and promotion of reproductive health and rights. *(Sec. 20, RA 10354)*

What acts are prohibited under RA 10354?

RA 10354 lists the following as prohibited acts *(Sec. 23, RA 10354)*:

a. For any health care service provider to knowingly withhold information or restrict the dissemination of, and/or intentionally provide incorrect information regarding, programs and services on RH including the right to informed choice and access to a full range of legal, medically-safe, non-abortifacient and effective FP methods;
b. For any health care service provider to refuse to perform legal and medically-safe RH procedures on any person of legal age on the ground of lack of consent or authorization of spouse, as in the case of married persons, and parents or guardians, as in the case of minors;
c. For any health care service provider to refuse to extend quality health care services and information on account of the person's marital status, gender, age, religious convictions, personal circumstances, or nature of work; the conscientious objection of a health care service provider based on his/her ethical or religious beliefs shall be respected but the same

should immediately refer the person to another health care service provider within the same facility or one which is conveniently accessible so long as the person is not in an emergency condition;

d. For any public officer, elected or appointed, mandated to implement the provisions of RA 10354 to prohibit or restrict the delivery of legal and medically-safe RH care services, including FP; to force, coerce or induce any person to use such services; to refuse to allocate, approve or release any budget for RH care services; to do any act that hinders the full implementation of a reproductive health program; all these, either personally or through a subordinate;
e. For any employer to suggest, require, unduly influence or cause any applicant for employment or an employee to submit himself/herself to sterilization, use any modern methods of FP, or not use such methods as a condition for employment, continued employment, promotion or the provision of employment benefits, or consider pregnancy or the number of children as a ground for non-hiring or termination from employment;
f. For any person to falsify a Certificate of Compliance to acquire a marriage license from the Local Civil Registrar; and
g. For ay pharmaceutical company or its agents or distributors, whether domestic or multinational, to directly or indirectly collude with government officials, whether appointed or elected, in the distribution, procurement and/or sale by the national government and LGUs of modern FP supplies, products and devices.

RA 10354 also specifies that any violation or commission of the prohibited acts shall be penalized by imprisonment ranging from one (1) month to six (6) months or a fine of ten thousand pesos (P10,000) to one hundred thousand pesos (P100,000), or both fine and imprisonment at the discretion of the competent court. If the offender is a public officer, whether elected or appointed, such person shall also be suspended for a period not exceeding one (1) year or removal and forfeiture of retirement benefits depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. *(Sec. 24, RA 10354)*

In cases when the offender is a juridical person (e.g. firm, organization, entity) the penalty shall be imposed upon the president or any responsible officer. The Bureau of Immigration shall deport an alien offender immediately without further proceedings after serving his/her sentence. Finally, if the offender is a pharmaceutical company, its agent or distributor, their license or permit to operate or conduct business in the Philippines shall be perpetually revoked, and a fine, triple the amount involved in the violation, shall be imposed. *(Sec. 24, RA 10354)*

What are the LGUs' sources of funds in implementing RH programs?

In general, LGUs can tap their Gender and Development (GAD) funds to implement RH programs. However, the DOH is also mandated to appropriate funds to assist LGUs in implementing RH programs utilizing its funds for reproductive health and natural and artificial family planning and responsible parenthood with its funding from the annual General Appropriations Act or GAA.

(Sec. 25, RA 10354) More particularly, the DOH is required to assist LGUs in hiring skilled health professionals for maternal health care and skilled birth attendance *(Sec. 5, RA 10354)*; establishing or upgrading hospitals and facilities to provide emergency obstetric and newborn care *(Sec. 6, RA 10354)*; procurement and distribution of FP supplies *(Sec. 10, RA 10354)*; and capacity building of BHWs. *(Sec. 16, RA 10354)*

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[viii] Ibid.