1.0 REFERENCES

A. The 1987 Constitution which was ratified on February 2, 1987;

B. Republic Act No. 2382 otherwise known as “The Medical Act of 1959” dated June 20, 1959;

C. Philippine Medical Association (PMA) Code of Ethics Implementing Guidelines dated February 7, 2009;

D. The 2015 NELSON MANDELA RULES also known as the “United Nations Standard Minimum Rules for the Treatment of Prisoners”; and


2.0 BACKGROUND/RATIONALE

Section 11, Article XIII of the 1987 Constitution provides that, “(T)he State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.” Moreover, Section 15, Article II provides, “(T)he State shall protect and promote the right to health of the people and instill health consciousness among them.”

Additionally, Rule 27 of the United Nations Standard Minimum Rules for the Treatment of Prisoners otherwise known as the Nelson Mandela Rules categorically provides that, “(A)ll prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.”

Likewise, Section 45(V)(4)(b), Rule VI of the BJMP Comprehensive Operations Manual 2015 Edition provides that, “(I)n cases of between life and death situations, whether the cause is natural or one that resulted from a fatal injury inflicted inside the jail, the inmate or inmates [PDL] must be referred to personnel concerned for appropriate medical care and attention.”

Hence, consistent with the objective of the State to strengthen the delivery of basic services to the citizenry though the institutionalization of highly efficient and competent jail services as reflected in Section 2 of R.A. No. 9263, there is a need to promulgate necessary rules and regulations on the matter.
3.0 OBJECTIVE

This Memorandum Circular prescribes the guidelines in allowing limited practice of profession by Medical Doctors during the period of their detention under the jurisdiction of the Bureau of Jail Management and Penology (BJMP).

4.0 DEFINITION OF TERMS

For purposes of this Memorandum Circular:

A. Practice of Medicine. A person shall be considered as engaged in the practice of medicine (a) who shall, for compensation, fee, salary or reward in any form, paid to him directly or through another, or even without the same, physically examine any person, and diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition or any ailment, real or imaginary, regardless of the nature of the remedy or treatment administered, prescribed or recommended; or (b) who shall, by means of signs, cards, advertisements, written or printed matter, or through the radio, television or any other means of communication, either offer or undertake by any means or method to diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, mental or physical condition.

B. Medical or Health Product. A medical or health product is defined as any product used by health professionals to fulfill their mission of preventing, screening, diagnosing, treating and monitoring of patients and it encompasses products available to the general public for health purposes.

C. Hospitals. Hospitals are defined as facilities devoted primarily to the diagnosis, treatment, and care of individuals suffering from illness, disease, injury or deformity or in need of obstetrical or other medical or nursing care. They shall also be construed as an institution, building or place where there are facilities and personnel for the continued and prolonged care of patients.

D. Clinics. Clinics are places where patients can avail of consultation or treatment on an outpatient basis.

5.0 GUIDELINES

A. General Guidelines

1. A PDL who is a registered Medical Doctor may be permitted to practice medicine while under detention. Provided, however, that the practice shall be limited in such a way that it shall only be allowed “in cases of between life and death situations” occurring inside the jail facility. Provided, further, that his/her license was not yet revoked by competent authorities and that no professional fee shall be collected.

2. They may be allowed to act as lecturer, moderator or speaker during the conduct of health related activities inside the jail. In acting as such, they shall not demand compensation, fee, salary or reward in any form. However, nominal gifts during such occasions may be received by them.
3. They shall not be allowed to maintain clinics inside the jail facility. They shall not be allowed to physically examine any person and diagnose, treat, operate or prescribe any remedy for any human disease, injury, deformity, physical, mental or physical condition or any ailment to any person inside the jail. In no case shall they be allowed to prescribe any medical or health product to anybody inside the jail most especially the personnel.

4. They shall not be permitted to administer medicines or any other health products to any person in the jail except “in cases of between life and death situations” for purposes of administering first aid before taking the person to a hospital.

5. They shall not be allowed to issue or sign the referral form needed in bringing the injured person to the hospital. The same shall be accomplished by the Jail Nurse.

6. All medical procedures administered on the PDL shall be properly recorded by the Jail Nurse in the PDL Health Record.

B. Specific Guidelines

1. A PDL who is a registered Medical Doctor shall be required to present his/her valid license card to the Welfare and Development Officer of the jail.

2. The Welfare and Development Officer shall maintain a record of all licensed Medical Doctors presently detained in the jail which shall be made known to the Jail Warden and to all personnel.

3. When health related activities are conducted in the jail, the Jail Warden through the Chief, Welfare and Development Section, may solicit the services of the Medical Doctor to act as lecturer, moderator or speaker.

4. In cases of between life and death situations requiring the immediate administration of first aid before taking the person to a hospital, the duty personnel shall require the licensed Medical Doctor to perform the necessary procedures as he may deem best to save the life or limb of an injured person. After administration of first aid, the person shall be immediately brought to the hospital for further medical attention.

5. When a PDL Medical Doctor is required to perform first aid on the ill or injured person inside the jail, in cases of between life and death situations, the administration of necessary medical procedures should be done in the presence of the Jail Nurse or duty personnel trained in the administration of first aid.

6. When the services of the PDL Medical Doctor are no longer needed, as when the ill or injured person was already brought out of the jail, he/she shall likewise be immediately brought inside his/her cell.

7. The Jail Nurse shall indicate all the medical procedures conducted during the administration of first aid in the PDL Health Record.
6.0 SEPARABILITY CLAUSE

If any provision or part thereof is held invalid or unconstitutional, the remainder or the provision not otherwise affected shall remain valid and subsisting.

7.0 REPEALING CLAUSE

All existing BJMP issuances which are inconsistent herewith are hereby repealed or modified accordingly.

8.0 EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) days from filing thereof with the Office of the National Administrative Register (ONAR), University of the Philippines Law Center (UPLC) in accordance with Sections 3 and 4, Chapter II, Book VII of Executive Order No. 292 otherwise known as the "Administrative Code of 1987".

9.0 MONITORING CLAUSE

The Welfare and Development Officer and Health Officer of the Jail Unit shall submit report to the Regional Office the number of Medical Doctors incarcerated in their respective jails, further, to submit after activity report on the procedures undertaken by the PDL Medical Doctor in case of an incident wherein his/her intervention is required. The Regional Health Service shall keep record of this data for future reference.

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