

MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN
2015 (FIRST) Regular Session

Bill No. 45-33 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES,
BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the proposed amending of the 'Rules And Regulations Governing The Issuance Of Health Certificates', as provided pursuant to Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, has gone through the Administrative Adjudication Law process.

Subject to public hearing and legislative review, it is the intent of *I Liheslaturan Guåhan* to provide additional public scrutiny of the proposal governing the issuance of health certificates and for the eventual adoption of these rules and regulations.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and Executive Order, the RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, and attached hereto as Exhibit "A", are hereby adopted by *I Mina'Trentai Dos Na Liheslaturan Guåhan*, and shall be codified under Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

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1 **Section 3. Amendment of Rules.** The Director, Department of Public
2 Health and Social Services, Division of Environmental Health *shall*, in keeping
3 with the provisions of Article 3 of Chapter 4, 4 GCA, and pursuant to Article 3-
4 rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
5 amend, as may be necessary, the Rules and Regulations adopted pursuant to
6 Section 2 of this Act.

7 **Section 3. Severability.** If any provision of this Act or its application to
8 any person or circumstance is found to be invalid or contrary to law, such
9 invalidity shall not affect other provisions or applications of this Act which can be
10 given effect without the invalid provisions or application, and to this end the
11 provisions of this Act are severable.

12 **Section 4. Effective Date.** This Act shall become immediately effective
13 upon enactment.

Exhibit "A"

Title 26, Guam Administrative Rules and Regulations

Article 4 of Chapter 4

[Rule-making authority cited for formulation of Health Certificate Regulations by the Director of Public Health and Social Services, 10 GCA §29195 and §22104]

RULES AND REGULATIONS GOVERNING

THE ISSUANCE OF HEALTH CERTIFICATES

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2 General Provisions and Definitions

3 **§4401. Short Title.** These rules and regulations may also be cited as the
4 'Health Certificate Regulations.'

5 **§4402. Authority.** §22104, Chapter 22 of Title 10 Guam Code Annotated,
6 authorizes the Director of the Department of Public Health and Social Services to
7 establish, by rules and regulations, the requirements and fees for the issuance of a
8 Health Certificate.

9 **§4403. Purpose.** These rules and regulations are established to ensure that
10 the holder of a Health Certificate is free of communicable diseases that could
11 potentially spread to fellow employees or their clients as a result of the holder's
12 work activities and/or possesses the minimum knowledge in preventing the spread
13 of communicable diseases at the Health-Regulated Establishment where the holder
14 is employed. Upon adoption, these rules and regulations will repeal and replace
15 the previously adopted regulations entitled, Rules and Regulations Governing the
16 Issuance of Health Certificates.

17 **§4404. Definitions.** Wherever in these rules and regulations the following
18 words appear, they shall have the following definition:

19 (a) 'Category' shall mean the following types of establishments and their
20 activities that are regulated by the Department by these rules and regulations, and
21 other rules and regulations of the Department, which require a Health Certificate:

22 (1) Eating and Drinking Establishment

- 1 (2) Food Establishment;
- 2 (3) Cosmetic Establishment;
- 3 (4) Institutional Facility;
- 4 (5) Laundry and Dry Cleaning Establishments;
- 5 (6) Swimming Pool
- 6 (7) Hotel; and
- 7 (8) Tattoo Shop.

8 (b) 'Certificate of Management Certification' shall mean a certification
9 issued by the Department or any authorized institution, as determined by the
10 Director, to a person employed, or designated, as a manager or supervisor within
11 any Health-Regulated Establishment who has demonstrated his or her knowledge
12 of applicable governing rules and regulations, including but not limited to,
13 sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and
14 insect control, as determined by the Director.

15 (c) 'Cosmetic Establishment'. (1) Cosmetic establishment shall mean any
16 premises or portions thereof, wherein any of the following is practiced for
17 compensation:

18 (A) Singeing, shampooing, arranging, adorning, dressing, curling,
19 waving, permanent waving, tinting, applying tonic to, or dyeing human hair;

20 (B) Shaving, clipping, trimming or cutting human hair;

1 (C) Giving facial, scalp, neck or body massages or treatments with
2 oils, creams, lotions, or other preparations to the hands, scalp, face, or neck
3 by hand or mechanical appliance; and

4 (D) Manicuring or pedicuring.

5 (2) As used in these rules and regulations, cosmetic establishment shall
6 include:

7 (A) "Shop," which shall mean any establishment or facility where
8 cosmetology is practiced for fee or charge for hire. The term includes, but is
9 not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair
10 styling salons, nail salons, or other establishments where cosmetology is
11 practiced for reimbursement;

12 (B) "School of Cosmetology," which shall mean any establishment
13 or facility where the practice of cosmetology is taught for a fee. The term
14 includes, but is not limited, to barber colleges or other closely related
15 institutions or establishments teaching cosmetology for reimbursement;

16 (C) "Massage Parlor," which shall mean any establishment or
17 facility occupied and used for the purpose of practicing massage for
18 compensation, provided that when any massage parlor is situated in any
19 building for residential or sleeping purposes, the massage parlor shall be set
20 apart and shall not be used for any other purpose; and

21 (D) "Therapeutic Massage Establishment," which shall mean any
22 premise intended, occupied and used for the purpose of practicing massage
23 therapy for compensation.

1 (d) 'Department' shall mean the Department of Public Health and Social
2 Services.

3 (e) 'Director' shall mean the Director of the Department of Public Health
4 and Social Services or his designated and authorized representative.

5 (f) 'Eating and Drinking Establishment' shall mean any mobile food
6 service establishment; vending machine; restaurant; coffee shop; public or private
7 school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or
8 employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe;
9 sandwich stand; drink stand; cafeteria or similar facility connected with an
10 institution; any other eating establishment within an organization, club, veteran's
11 club, boarding house, guest house, political subdivision, stall, stand, and booth; and
12 a concession within any public market which gives, sells, or offers for sale, or
13 promotes food to the public, guests, patrons, or employees; and as well as kitchens
14 in which food is prepared on the premises for serving elsewhere, including catering
15 functions.

16 (g) 'Food Establishment' shall mean every establishment or place which is
17 used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing
18 house; grocery; supermarket; meat or poultry market; fruit or vegetable market;
19 delicatessen; beverage plant; slaughter house; poultry processing plant; fish
20 processing plant; frozen food processing plant; bottling plant; food refrigeration
21 locker plant; ice plant; ice cream or frozen dessert plant; public market; food
22 warehouse; or any structure used for the production, processing, manufacture,
23 preparation for sale, canning, bottling, packing, packaging, storage, sale or
24 distribution, of any food.

1 (h) 'Health Certificate' shall mean a certificate issued by the Department
2 to a person employed within any Eating and Drinking Establishment, Food
3 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop,
4 Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other
5 establishment under the provisions of any other rules and regulations promulgated
6 by the Director to properly carry out the laws of Guam relating to environmental
7 health.

8 (i) 'Hotel' shall mean any structure or any portion of any structure,
9 including any lodging house, rooming house, dormitory (including a dormitory
10 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
11 private club, containing four (4) or more guest rooms and which is occupied or is
12 intended or designed for occupancy, by four (4) or more guests, whether rent is
13 paid in money, goods, labor, or otherwise, and whether with or without meals. It
14 does not include any penal institution, hospital, clinic, nursing home, school,
15 laboratory, or child care facility.

16 (j) 'Health-Regulated Establishment' shall mean any of the following:
17 Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment,
18 Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool,
19 Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop,
20 Temporary Food Service Establishment, and any other facilities governed by the
21 Department pursuant to law.

22 (k) 'Institutional Facility,' as used in these rules and regulations, shall
23 include:

24 (1) "Adult Group Day Care Center," which shall mean a place
25 maintained and operated by an individual, organization, or agency whether

1 for profit or not for the purpose of providing protective and supportive care
2 for two or more elderly and/or disabled adults, not related to the facility's
3 owner/operator by blood or marriage within the third degree of
4 consanguinity, for a specified time period of ten (10) hours or less in each
5 twenty-four (24) hour day. At the end of the specified time period, the
6 participant is discharged to the custody of his/her family, guardian, or
7 sponsor;

8 (2) "Child Care Facility," which shall mean any person or place
9 which receives or arranges placement of one or more children who are not
10 related to such person, whether for gain or otherwise, apart from the parents
11 or guardian, with or without the transfer of the right of custody for the
12 purpose of providing regular care or training for such child or children
13 during either the day or night, or both. Except as otherwise provided, the
14 term "Child Care Facility" includes, but is not limited to, all facilities
15 defined by the Department as "family day care homes," "foster family
16 homes," "group day care homes," "residential treatment facilities," "day care
17 center," "day nurseries," "nursery school," "kindergarten school," "day care
18 homes," or similar institutions or units regardless of name;

19 (3) "Penal Institution," which shall mean any jail, detention center,
20 prison camp, home, juvenile detention home or cottages, or other facility
21 used as a holding facility, jail, or residential custodial facility. This
22 definition does not include hospitals or childcare facilities or adult group day
23 care center;

24 (4) "School," which shall mean any establishment that provides
25 care and education to students from pre-kindergarten through Grade 12 and

1 any college, trade school, university, or any other educational institutional of
2 higher learning;

3 (5) "Hospital," which shall mean any building, structure, institution
4 or place whether organized for profit or not, devoted primarily to the
5 maintenance and operation of facilities for the diagnosis, evaluation,
6 treatment, and provision of medical or surgical care for three (3) or more
7 non-related individuals admitted for overnight stay or longer in order to
8 obtain medical services; including obstetric, psychiatric, and nursing care of
9 illness, disease, injury, or deformity, whether physical or mental; and
10 regularly making available at least clinical laboratory service, diagnostic
11 radiology services, and treatment facilities, or surgery, obstetrical care or
12 other definitive medical treatment;

13 (6) "Clinic," which shall mean any building; structure; institution
14 or place; public or private; whether organized for profit or not, devoted
15 primarily to the maintenance and operation of facilities for the medical or
16 dental evaluation, diagnosis, or treatment of human illness, injury or
17 deformity; or the veterinary medical or veterinary dental evaluation,
18 diagnosis, or treatment of animal illness, injury or deformity;

19 (7) "Nursing Home," which shall mean any facility established, for
20 profit or non-profit, which provides nursing care and related medical
21 services twenty-four (24) hours per day for two or more individuals because
22 of illness, disease, or mental or physical infirmity. It provides care for these
23 persons not in need of hospital care but requiring nursing care or related
24 medical services, which medical services shall be administered by a

1 professional nurse, a physical therapist, or an occupational therapist; or other
2 licensed medical practitioners, depending upon the service required; and

3 (8) "Laboratory," which shall mean any building, structure,
4 institution or place, whether organized for profit or not, devoted primarily to
5 the maintenance and operation of facilities for the examination or testing of
6 humans or animals, living or dead, or any parts or physiologic products
7 thereof, for the purpose of detecting or confirming the presence of illness or
8 infirmity.

(l) '**Interim Health Certificate**' shall mean a provisional certificate
issued by the Director to a person employed within any ~~Eating and Drinking
Establishment or Food Establishment~~ Health-Regulated Establishment or any other
establishment under the provisions of any other rules and regulations promulgated
by the Director to properly carry out Title 10 G.C.A. relating to environmental
health, who is waiting to attend a training course offered by the Department or
another entity authorized by the Department.

9 (m) '**Laundry or Dry Cleaning Establishment**' shall mean any place,
10 building, structure, room, or partition thereof, used in the business of dyeing;
11 washing; starching; ironing; or dry cleaning apparels, household linens, and other
12 fabric articles, including any establishment providing laundering equipment for use
13 by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
14 operated Laundromat.

15 (n) '**Massage Parlor**' shall mean premises occupied and used for the
16 purpose of practicing massage, provided that when any massage establishment is

1 situated in any building used for residential or sleeping purposes, the massage
2 establishment premises shall be set apart and shall not be used for any other
3 purpose.

4 (o) ~~'Massage Therapy' shall mean the manipulation of the superficial~~
5 ~~tissues of the human body with the hand, foot, arm, or elbow by a massage~~
6 ~~therapist licensed by the applicable professional licensing board of Guam whether~~
7 ~~or not such manipulation is aided by hydrotherapy, including colonic irrigation, or~~
8 ~~thermal therapy; any electrical or mechanical device; or the application to the~~
9 ~~human body of a chemical or herbal preparation.~~

10 (p) 'Person Employed' shall mean the following:

11 (1) In an "Eating and Drinking Establishment," any person
12 employed for compensation or otherwise who transports food or food
13 containers, engages in food preparation or service, or comes in contact with
14 any food and food utensils or equipment;

15 (2) In a "Food Establishment," any person employed for
16 compensation or otherwise who transports, stocks, stores, packs, packages,
17 processes, manufactures, cans, bottles, or otherwise handles raw or
18 processed foods;

19 (3) In an "Institutional Facility," any person employed for
20 compensation or otherwise at that facility; and

21 (4) In a "Cosmetic Establishment," any person employed for
22 compensation or otherwise who singes, shampoos, arranges, adorns, dresses,
23 curls, waves, permanent waves, tints, applies tonics, dyes, shaves, clips,

1 trims or cuts human hair, gives facial, scalp, neck or body massages or
2 treatments with oils, creams, lotions, or other preparations to the hands,
3 scalp, face, or neck by hand or mechanical appliance, and manicures and
4 pedicures;

5 (5) In a "Laundry or Dry Cleaning Establishment," any person
6 employed for compensation or otherwise who handles soiled or cleaned
7 linens or other laundry items; and

8 (6) In a "Swimming Pool," any person employed for compensation
9 or otherwise at the facility who is in charge of its operation and/or
10 maintenance.

11 (7) In a "Tattoo Shop," any person employed for compensation or
12 otherwise at that facility who performs or assist in performing tattooing.

13 (q) 'Swimming Pool' shall mean any artificial structure, basin, chamber
14 or tank constructed or impervious material used or intended to be used for
15 swimming, diving, wading or recreation al bathing. It does not include
16 conventional bathtubs where the primary purpose is the cleaning of the body or
17 individual therapeutic tubs. A "public swimming pool" shall mean any swimming
18 or wading pool that is available for public use, whether for a fee or free of charge;
19 or any swimming or wading pool owned or used by any business, partnership,
20 corporation, or person for the use of their customers, clients, guest or employees
21 including but not limited to a commercial pool, a community pool or a pool at a
22 hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental
23 unit, private club, public club, public or private school, gymnasium or health
24 establishment.

1 (r) 'Tattooing' shall mean to mark or color the skin by pricking and
2 introducing subcutaneously, non-toxic dyes, pigments, or by the production of
3 scars to form indelible marks and figures.

4 (s) 'Tattoo Shop' shall mean any premises where a tattoo artist does
5 tattooing for a fee or other consideration.

6 (r) 'Temporary Food Service Establishment' shall mean any Eating and
7 Drinking Establishment which operates at a fixed location for a period of time not
8 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or
9 other transitory gathering not of a permanent nature, and shall include catering.

10 ~~(s) 'Temporary Health Certificate' shall mean a certificate issued to a person~~
11 ~~employed within any temporary food service establishment under the provisions of~~
12 ~~these rules and regulations.~~

13 (t) 'Therapeutic Massage Establishment' shall mean a business which
14 performs the manipulation of the superficial tissues of the human body with the
15 hand, foot, arm, or elbow by a massage therapist licensed by the applicable
16 professional licensing board of Guam whether or not such manipulation is aided by
17 hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
18 mechanical device; or the application to the human body of a chemical or herbal
19 preparation.

20 **§4405. Health Certificate Required.** Unless otherwise stated within these
21 rules and regulations, or any other rules and regulations promulgated by the
22 Department relating to environmental health, every person employed within an
23 Eating and Drinking Establishment, Food Establishment, Institutional Facility,
24 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment,

1 Hotel, Swimming Pool, or any other establishments under the provisions of any
2 other rules and regulations promulgated by the Director to properly carry out Title
3 10 G.C.A. relating to environmental health, shall be required to obtain a Health
4 Certificate.

5 **§4406. Exemption of Health Certificate.** The selling of the following
6 articles shall not require the obtaining of a Health Certificate:

7 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live
8 pigs; or

9 (b) Canned or bottled drinks, including alcoholic beverages, in the
10 original container of their manufacturer; or

11 (c) Candies or other confections in the original container of their
12 manufacturer.

13 **§4407. Application for Health Certificate and Temporary Health**
14 **Certificate.** (a) Any person desiring to engage in employment requiring a Health
15 Certificate or Temporary Health Certificate under these rules and regulations shall
16 make an application for a Health Certificate or Temporary Health Certificate to the
17 Department. The applicant shall be required to show a current and valid photo
18 identification or other evidence attesting to the applicant's true identity. The
19 applicant shall also be required to show a valid Social Security Card and
20 documentation that attests approved by the Director attesting to the applicant's
21 United States citizenship, permanent resident alien, or non-immigrant status, that
22 authorizes the applicant to work in the United States by the U.S. federal
23 government. The following are acceptable forms of photo identification:

- 1 (1) Government of Guam Identification Card;
- 2 (2) Guam Driver's License;
- 3 (3) United States Military Identification Card;
- 4 (4) Passport; and
- 5 (5) Credit card with photo; and
- 6 (6) Any other photo identification acceptable by the
- 7 Department.

8 The following are acceptable forms of identification for permanent resident
9 aliens or non-immigrant applicants who are authorized to work in the United
10 States:

- 11 (1) Passport; and
- 12 (2) Alien Registration Receipt Card (Green Card).

13 (b) Whenever an applicant is unable to apply to renew for a Health
14 Certificate or ~~Temporary Health Certificate~~ in person, the applicant may designate
15 an authorized representative to make an application for the applicant, provided the
16 representative has the following information available:

- 17 (1) Signed and dated authorization letter from applicant, along with
- 18 an explanation of the applicant's relation to the representative;
- 19 (2) Completed, original application; and

1 (3) Copy of the representative's and the applicant's acceptable
2 photo identification cards.

3 (c) An applicant, ~~or duly authorized representative of the applicant,~~
4 applying for a Health Certificate shall complete all application requirements and
5 submit all necessary information at any time but not more than one month before
6 commencement of employment. ~~An applicant, or duly authorized representative of~~
7 ~~the applicant, applying for a Temporary Health Certificate shall complete all~~
8 ~~application requirements and submit all necessary information, not more than~~
9 ~~twenty (20) and not less than five (5) working days, before commencement of~~
10 ~~employment, unless approved by the Director.~~

11 (d) A person applying for an additional Health Certificate for another
12 category, or under the conditions stated in Subsections (a) and (b) of §4412 of
13 these rules and regulations, shall submit a separate application and pay the
14 appropriate fee for each additional Health Certificate.

15 **§4408. General Requirements for Health Certificate.** (a) Unless stated
16 otherwise in these rules and regulations, all new Health Certificate applicants,
17 including Temporary Health Certificate applicants, shall submit an application
18 approved by the Department, pay all applicable fees, and shall:

19 (1) Be tested, or screened, and be free of infectious Tuberculosis
20 within six (6) months prior to its submission, and any other communicable
21 diseases, as determined by the Director, ~~except applicants of Temporary~~
22 ~~Health Certificate; and~~

23 (2) Take and pass a training course provided by the Department, or
24 an authorized entity approved by the Department, specific to the category of

1 the Health Certificate the applicant is seeking under the provisions of this
2 and any other rules and regulations promulgated by the Director to properly
3 carry out Title 10 G.C.A. relating to environmental health.

4 (b) Renewing applicants, when applicable or as determined by the
5 Director, shall be required to be tested or screened for infectious Tuberculosis and
6 other communicable diseases, and pass a written examination.

7 **§4409. Training Course and Examination Requirements for Health**
8 **Certificate.**

9 (a) Unless otherwise stated in these rules or regulations or any other
10 separate rules and regulations promulgated by the Director to properly carry out
11 Title 10 G.C.A. relating to environmental health, the following are further and
12 specific requirements for any person desiring to engage in employment requiring a
13 Health Certificate under these and other rules and regulations of the Department,
14 and must be complied with to qualify for, and hold, a Health Certificate:

15 (1) Any applicant who has not previously been issued a Health
16 Certificate by the Department or whose previous Health Certificate has
17 expired for more than thirty (30) calendar days shall attend and pass a
18 training course conducted by the Department, or any other entity approved
19 by the Department, before a Health Certificate is issued.

20 (2) Any applicant who fails to pass the training course shall be
21 scheduled to attend another training course at a later date, pay the re-testing
22 fee and the Health Certificate fee, and have the Interim Health Certificate's
23 issued with a new expiration date. expiration date extended to the date of the
24 re-testing.

1 (3) Any applicant, who fails to pass his second consecutive training
2 course for any category ~~the category of Eating and Drinking Establishment~~
3 ~~or Food Establishment~~, after failing the first training course, may be
4 provided a Health Certificate at the discretion of the Director. However,
5 prior to the issuance of the Health Certificate by the Director, the applicant's
6 supervisor, who must be certified in accordance with §4415 if for Eating and
7 Drinking Establishment and Food Establishment categories, shall be
8 required to enter into a written agreement with the Department (Annex I) if
9 the supervisor agrees to do so. The same shall apply for Health Certificate
10 applicants for non-food facilities governed by these rules and regulations
11 (Annex II). ~~For other food facilities not providing food directly to~~
12 ~~consumer, such as wholesalers, distributors, and any other food~~
13 ~~establishments specifically exempted through separate rules and regulations~~
14 ~~promulgated by the Director, the applicant's supervisor need not be certified~~
15 ~~in accordance with §4415, but shall be the applicant's immediate supervisor~~
16 ~~and shall be required to enter into a written agreement with the Department~~
17 ~~(Appendix II).~~ A Health Certificate issued under such condition shall have a
18 distinguishing mark or symbol printed on the certificate.

19 (4) There shall be no limit to the number times an applicant may
20 take the training course.

21 (5) At the discretion of the Director, the requirement for taking the
22 training course may be waived if the applicant shows proof of disability, but
23 shall be required to enter into the written agreement in Appendix I or
24 Appendix II.

1 (b) The Director shall identify Health Certificate categories which will
2 require the renewing applicant to attend and pass a refresher training course. A
3 ~~renewing applicant may be required to attend and pass a training course based on~~
4 ~~however, the applicant shall take and pass a written examination before the~~
5 ~~Department issues a renewal Health Certificate to the applicant.~~

6 (1) Any renewing applicant who attends the training course and
7 does not pass the examination shall be scheduled to attend a training course
8 at a later date, pay the retesting fee and the Health Certificate fee, and be
9 issued an Interim Health Certificate with a new expiration date. ~~with a new~~
10 ~~expiration date extended to the date of the re-testing.~~

11 (2) Any renewing applicant, who fails to pass his/her second
12 consecutive training course, after failing the first training course, may be
13 provided a Health Certificate at the discretion of the Director in the same
14 manner and condition as §4409(a)(3). ~~However, prior to the issuance of the~~
15 ~~Health Certificate by the Director, the applicant's supervisor, who must be~~
16 ~~certified in accordance with §4415, shall be required to enter into a written~~
17 ~~agreement with the Department (Appendix I).~~

18 (3) As determined by the Director, a renewing applicant may forgo
19 the training course and take the examination only; however, if such applicant
20 fails the examination, he/she shall be required to take the training course.

21 (c) [Reserved.]

22 (d) The Director may revoke any Health Certificate issued in §4409(a)(3)
23 or §4409(b)(2), upon reasonable belief that the written agreement has been
24 breached.

1 (e) Any person in possession of a valid and current Certificate of
2 Management Certification shall be exempt from its respective training course;
3 however, he/she shall still be required to obtain a Health Certificate.

4 (f) The Department, if it wishes, may authorize another Government of
5 Guam entity to provide or supplement the training courses required pursuant to
6 these rules and regulations, provided a written memorandum of agreement between
7 the Department and the other entity is formally established.

8 (g) In the event an entity authorized by the Department to provide a
9 training course is unable to provide the minimum standard of training that is
10 acceptable to the Department in the issuance of Health Certificates, or fails to
11 timely provide the required training course, the Department may seek the
12 assistance of another approved entity in carrying out the provision of this section.

13 **§4410. Specific Requirements by Category.** Any person required to
14 attend and pass a training course as indicated in this section may be waived from
15 such course if he or she possesses an applicable current and valid certification that
16 is recognized by the Department that attests to the individual's adequate
17 knowledge of disease prevention in the respective establishment category.
18 However, the individual must still submit the application and all supporting
19 documents and obtain a Health Certificate.

20 (a) **Eating and Drinking Establishment and Food Establishment.** The
21 following individuals shall obtain a Health Certificate:

22 (1) An employee of the establishment who regularly enters the food
23 preparation area, regardless of his/her position and duty, whose presence
24 may likely contaminate food directly or indirectly without the training; and

1 (2) Any employee of the establishment who may come in contact
2 with food during the course of that individual's work, including, but not
3 limited to, a cashier.

4 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or
5 renewed unless the applicant has undergone a physical examination performed by a
6 healthcare professional using report forms provided by the Department, updated
7 ~~immunization for mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
8 ~~other vaccinations and exams at the discretion of the Director. Records of all such~~
9 ~~examinations shall be kept in a file in the institution where the applicant is~~
10 ~~employed.~~

11 (c) **Institutional Facility.** No Health Certificate shall be issued or
12 renewed unless the applicant has undergone a physical examination performed by a
13 healthcare professional using report forms provided by the Department. The
14 ~~applicant shall have updated immunization for mumps, measles, rubella, tetanus,~~
15 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the~~
16 ~~Director. Records of all such examinations shall be kept in a file in the institution~~
17 ~~where the applicant is employed.~~

18 (d) **Hotel Sanitation.** All persons conducting housekeeping duties, such
19 as changing of linens and towels, shall be required to obtain a Health Certificate
20 and attend and pass the training course provided by the Department. However, that
21 person shall not be required to be tested or screened for infectious Tuberculosis or
22 other communicable diseases.

23 (e) Swimming Pool. Every person responsible for the operation of a
24 regulated swimming pool shall be required to obtain a Health Certificate and attend

1 and pass the training course provided by the Department. However, that person
2 shall not be required to be tested or screened for infectious Tuberculosis or other
3 communicable diseases.

4 (f) **Tattoo Shop.**

5 (1) All persons employed at the tattoo facility that clean, handle,
6 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the
7 preparation of the client; shall be required to possess a Health Certificate and
8 pass the training course provided by the Department.

9 (2) In addition to the test or screening for active Tuberculosis,
10 individual required to obtain a Health Certificate shall also undergo a
11 physical examination performed by a healthcare professional using report
12 forms provided by the Department. ~~and shall have an updated immunization~~
13 ~~for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
14 ~~other vaccinations and exams at the discretion of the Director, and records of~~
15 ~~all such examinations shall be kept in a file in the institution where the~~
16 ~~applicant is employed.~~

17 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall
18 not be issued or renewed unless the applicant has undergone a physical
19 examination performed by a healthcare professional using report forms provided
20 by the Department and passes a training course provided by the Department.
21 ~~Records of all such examinations shall be kept in a file in the institution where the~~
22 ~~applicant is employed.~~

23 ~~§4411. Requirements for Temporary Health Certificate.~~ All persons
24 ~~applying for a Temporary Health Certificate to work in a carnival, fair, or other~~

1 ~~temporary food concession will be required to attend and pass a training course~~
2 ~~provided by the Department; however, test or screening for Tuberculosis may not~~
3 ~~be required.~~

4 **§4411. Single Health Certificate for Multiple Locations per Category.**

5 (a) Each person may possess only one Health Certificate per category, regardless
6 of the number of different employed locations or businesses within that same
7 category. The Health Certificate shall state the category the holder is authorized to
8 work and shall be valid at all locations within that category.

9 (b) The Department may issue a single Health Certificate for categories of
10 both Eating and Drinking Establishment and Food Establishment if the Department
11 determines that the application, training, fee, and other applicable requirements are
12 the same and issuing a single certificate will not compromise the spirit and intent
13 of these rules and regulations.

14 **§4412. Additional Health Certificate.** (a) Any person employed within
15 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
16 Cosmetic Establishment, Swimming Pool, Laundry and Dry Cleaning
17 Establishment, or Tattoo Shop, or any other health-regulated establishments, who
18 holds a Health Certificate within such category shall not be issued, upon
19 submission of a separate application with appropriate fee, a Health Certificate for
20 other categories without meeting the qualifications enumerated under each
21 category. An exception to this requirement could occur for Eating and Drinking
22 Establishment and Food Establishment, which may be a single Health Certificate
23 in accordance to §4412(b).

1 **§4413. Interim Health Certificate.** (a) After submitting the application,
2 payment, and meeting all other requirements, an applicant who is required to
3 attend and pass a training course shall be issued an Interim Health Certificate for
4 employment until the applicant's completion and passage of the training course,
5 whereupon he or she shall receive a Health Certificate.

6 (b) An Interim Health Certificate shall indicate the name of the applicant;
7 category of the Health-Regulated Establishment the certificate is for; ~~the name and~~
8 ~~location of employment~~; date, time, and location of the training course; expiration
9 date; and any other information as determined by the Director. Expiration date
10 shall not exceed more than three (3) working days after the date of the training
11 course.

12 (c) An applicant in possession of an Interim Health Certificate who fails
13 to attend the training course shall be scheduled for another training course and
14 granted an extension of the expiration date, provided that no more than ten (10)
15 working days have elapsed from the date of the original training course. The
16 extension of the new expiration date shall not exceed beyond the no more than 3
17 working days after the date of the rescheduled training course date.

18 (d) An applicant who fails to attend the rescheduled training course or
19 whose Interim Health Certificate has expired more than 14 working days from the
20 date of the original training course shall be considered a new applicant and shall be
21 required to apply as a new applicant. Such applicant may submit his/her initial
22 physical test and/or tuberculosis test results with the application, provided the
23 testing or screening was within the six (6) months of submission of the new
24 application.

1 (e) An Interim Health Certificate does not exempt the applicant from all
2 other requirements of these rules and regulations or any other rules and regulations
3 promulgated by the Director relevant to Health Certificates.

4 **§4414. Certificate of Management Certification and Health Certificate.**

5 (a) Unless otherwise stated within these rules and regulations, or any other rules
6 and regulations promulgated by the Department relating to environmental health,
7 every Eating and Drinking Establishment and Food Establishment, excluding those
8 facilities that do not provide food directly to consumers, such as manufacturers,
9 wholesalers, and distributors, and any other food facilities specifically exempted
10 through separate rules and regulations promulgated by the Director, shall have a
11 designated manager or supervisor who shall be certified under the provisions of
12 these rules and regulations.

13 (b) Any person employed or designated as a manager or supervisor within
14 an Eating and Drinking Establishment and Food Establishment, excluding
15 manufacturers, wholesalers, and distributors, and any other food facilities
16 specifically exempted, shall be required to take and pass a prescribed course
17 provided by the Department, or any other course approved by the Department,
18 before a Certificate of Management Certification, or an equivalent certification as
19 approved by the Director, is issued by the institution administering the course. The
20 course shall require the candidate for managerial certification to show evidence by
21 examination of satisfactory knowledge [scoring seventy Percent (70%) or higher]
22 of rules and regulations governing food facilities including, but not limited to,
23 microbiology, food-borne diseases, food storage, food preparation and service,
24 equipment design and construction, employee hygiene, cleaning and sanitary
25 procedures, and rodent and insect control. Those candidates who fail to show

1 evidence by examination of satisfactory knowledge [scoring sixty-nine Percent
2 (69%) or lower] shall repeat the course until the required minimum passing score
3 of seventy percent (70%) or higher is met. No restrictions are placed on the
4 number of times a designated manager or supervisor may take the course to obtain
5 a passing score.

6 (c) The acquisition of the Certificate of Management Certification, or its
7 equivalent as approved by the Director, by a designated manager or supervisor is a
8 requirement in addition to, and not in lieu of, a Health Certificate.

9 (d) The Certificate of Management Certification shall be renewed every
10 three (3) years.

11 (e) Any person renewing the Certificate of Management Certification
12 may waive the prescribed course in (b) of this section, and promptly take the
13 examination to obtain the certification. However, any person who waives the
14 course and fails to show evidence by examination of satisfactory knowledge
15 [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course,
16 and not permitted to waive the course again, and shall meet the required minimum
17 passing score of seventy percent (70%) or higher, before certification is granted.

18 (f) Any person waiting to take the course in §4415(c) to renew his or her
19 Certificate of Management Certification shall not be penalized if his or her
20 Certificate of Management Certification expires prior to the date of the scheduled
21 course, provided:

22 (1) That the course the person is waiting to attend is the most
23 immediate course available after the expiration of his Certificate of
24 Management Certification, and

1 (2) He or she has taken the necessary steps to properly register for
2 the course.

3 Any person with an expired Certificate of Management Certification in a
4 situation described in this section shall be considered to have a current and valid
5 certification up until the date of the scheduled course.

6 (g) The Department, if it wishes, may authorize another Government of
7 Guam entity to provide or supplement the Certificate of Management Certification
8 course, provided a written memorandum of agreement between the Department
9 and the other entity is formally established.

10 **§4415. Fees.** A non-refundable fee shall be required of applicants at the
11 time of application for Health Certificates. In the event of failure to qualify for a
12 Health Certificate, non-fulfillment, or termination of employment, the fee shall not
13 be refunded to the applicant.

14 (a) The annual fee for a Health Certificate for a person employed within
15 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
16 Cosmetic Establishment, Swimming Pool, Tattoo Shop, Laundry and Dry
17 Cleaning, or any other establishment where an employee is required to obtain a
18 Health Certificate ~~through rules and regulations promulgated by the Director~~, shall
19 be Ten Dollars (\$10.00).

20 (b) The fee for training workshop for a person employed within an Eating
21 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
22 Establishment, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or any
23 other establishment where an employee is required to obtain a Health Certificate,
24 shall be Fifteen Dollars (\$15.00).

1 (c) The fee for the re-issuance of a Health Certificate for any amendments
2 made to the Health Certificate shall be Five Dollars (\$5.00)

3 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate ~~and~~
4 ~~Temporary Health Certificate~~ due to loss or damage shall be Two Dollars (\$2.00).

5 (e) ~~The fee for an applicant who has failed to pass the training course and~~
6 ~~is required to attend another training course for re-testing shall be Ten Dollars~~
7 ~~(\$10.00).~~ An applicant who has failed to pass the training course and is required to
8 attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00)
9 for such re-testing, and a fee of Five dollars (\$5.00) for a new Interim Health
10 Certificate, provided he/she returns within ten (10) working days of the expiration
11 date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten
12 Dollars (\$10.00).

13 (f) An establishment desiring and requesting for a training course and
14 testing for its employees at its own facility or another location during regular
15 government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director,
16 comply with the criteria established by the Department, and pay the onsite training
17 workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar
18 (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

19 (g) An establishment desiring and requesting for a training course and
20 testing for its employees at its own facility or another location outside regular
21 government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the
22 approval of the Director, comply with the criteria established by the Department,
23 and pay the special onsite training workshop fee of Five Hundred Dollars

1 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
2 employee attending the special onsite workshop.

3 **§4416. Effective Date of Health Certificate.** Unless indicated elsewhere
4 in these rules and regulations, or any other rules and regulations promulgated by
5 the Director under Guam law relevant to environmental health, all Health
6 Certificates shall expire one (1) year after the date of application ~~issuance~~ and for
7 the category indicated on the certificate. Applications for renewal of a Health
8 Certificate shall not be accepted more than thirty (30) ~~fifteen (15)~~ days prior to its
9 expiration, unless authorized by the Director.

10 ~~(b) All Temporary Health Certificates shall be valid for only six (6)~~
11 ~~months from the date of application issuance and for the location indicated on the~~
12 ~~certificate, and can only be renewed upon the renewal of the temporary food~~
13 ~~service establishment's Sanitary Permit.~~

14 **§4417. Presentation of Health Certificate, Interim Health Certificate,**
15 **and Certificate of Management Certification.** (a) Every person required to have
16 a Health Certificate under §22101 of Title 10 GCA, shall have the Health
17 Certificate in that person's personal possession at all times during his or her
18 working hours.

19 (b) Unless exempted elsewhere in these rules and regulations or any
20 other rules and regulations promulgated by the Department, ~~Except for Cosmetic~~
21 ~~Establishments,~~ all valid copies of Health Certificates, Interim Health Certificates,
22 and Certificates of Management Certification shall be conspicuously posted at
23 facility where the employee is working. The location within the establishment
24 where the Health Certificates are to be posted is at the discretion of the

1 establishment; however, it shall be readily available when requested by the
2 Director during inspection of the establishment. "Readily available" shall mean
3 that the documents are separated from all other records and made available for
4 inspection in reasonable amount of time.

5 ~~(e) All Health Certificates for Cosmetic Establishments shall be placed in~~
6 ~~a conspicuous place designated by the Director.~~

7 **§4418. Suspension or Revocation of Health Certificate and Certificate**
8 **of Management Certification.** (a) The Director may suspend or revoke any
9 Health Certificate, or Interim Health Certificate issued under these rules and
10 regulations, or any other rules and regulations promulgated by the Director
11 requiring a Health Certificate, for providing false information in his or her
12 application, violation of the provisions of these or any other related rules and
13 regulations, or in the event the holder of the Health Certificate has been determined
14 to be harboring a communicable disease. The holder of the suspended or revoked
15 Health Certificate shall return the said certificate to the Department.

16 (b) The Director may suspend or revoke any Certificate of Management
17 Certification issued under these rules and regulations when the holder or the
18 persons under his/her supervision repeatedly fails to comply with rules and
19 regulations for eating and drinking establishments.

20 (c) Before any Health Certificate, Interim Health Certificate, or
21 Certificate of Management Certification is suspended or revoked, the person shall
22 have the right to written notice of the action to be taken and other administrative
23 remedies in accordance with §4420 of these Rules and Regulations ~~a hearing in~~
24 ~~accordance with Administrative Adjudication Law.~~

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request for a hearing
5 must be made within ten (10) days of the date that the notice is served upon the
6 person or health-regulated establishment. The hearing shall be conducted in
7 accordance with §4420 of these Rules and Regulations.

8 **§4419. Administrative Penalties.** (a) In accordance with Title 10 GCA,
9 Chapter 22, §22106, the Director may impose a fine for any health-regulated
10 establishment that permits a person to perform services without having in their
11 possession a valid Health Certificate at the time the services are performed. The
12 monetary fine for the administrative violation is not to exceed Three Hundred
13 Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand
14 Dollars (\$1,000.00) for a second offense involving the same person occurring
15 within one (1) year of the first offense.

16 (b) Any person who is required to obtain a Health Certificate under §4405
17 of these rules and regulations shall be cited for administrative violation if they are
18 found working at a health-regulated establishment without a valid Health
19 Certificate or not having the valid Health Certificate in the person's personal
20 possession during working hours. The Director shall assess the monetary fine in
21 accordance to law.

22 (c) When more than one person is cited within the same health-regulated
23 establishment, at the same time, for not possessing valid Health Certificates, each
24 citation shall be considered a separate administrative violation and the Director
25 shall assess the required monetary fines to the establishment.

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request must be
5 made within ten (10) days of the date that the notice is served upon the person or
6 health-regulated establishment.

7 (e) Any person or health-regulated establishment may seek review of any
8 administrative penalty imposed before the Superior Court of Guam. Such review
9 shall be upon the record established before the Director and not de novo. The
10 Superior Court may sustain, modify or vacate any administrative penalty it
11 reviews.

12 (f) If any person, or a health-regulated establishment, fails to comply
13 with an administrative penalty order after it has become final, the Attorney General
14 shall bring a civil action to enforce the order and to recover the amount ordered or
15 assessed, plus current interest from the date of the final order or decision. To
16 prevail in such an action, the Director need establish only that:

17 (1) notice was given as required;

18 (2) a hearing was granted to the defendant or that the defendant
19 requested no hearing; and

20 (3) the penalty was imposed and has become final either because
21 the administrative order was not appealed to the Superior Court, or that after
22 judicial review the administrative order remains an unsatisfied obligation.

1 **§4420. Right to Notice, Hearing, and Administrative Process.** (a) Any
2 person who has been denied a Health Certificate, Interim Health Certificate, or
3 Certificate of Management Certification under these Rules and Regulations, whose
4 Health Certificate, Interim Health Certificate, or Certificate of Management
5 Certification is to be suspended or revoked under these Rules and Regulations, or
6 any person or health-regulated establishment that is subject to an Administrative
7 Penalty under these Rules and Regulations has the right to a notice in writing from
8 the Director stating the action to be taken by the Department, has the right to
9 request in writing for an administrative hearing, has the right to an administrative
10 hearing, and has the right to an appeal of an administrative hearing decision. Any
11 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and
12 Regulations shall advise that the right to notice, hearing, and appeal is available as
13 provided in these Rules and Regulations, and to the extent consistent herewith,
14 pursuant to the Administrative Adjudication Law, Title 5, Guam Code Annotated,
15 Sections 9200 through 9242, as amended.

16 (b) The procedures and requirements set out in these Rules and
17 Regulations, and to the extent consistent herewith, in the Administrative
18 Adjudication Law at Title 5, Guam Code Annotated, Sections 9200 through 9242,
19 as amended, shall be followed by the Director, and by any person or health-
20 regulated establishment adversely affected by decisions of the Department
21 pursuant to these Rules and Regulations.

22 (c) Upon an administrative adjudication the Director shall make the final
23 determination whether to issue a Health Certificate, Interim Health Certificate, or
24 Certificate of Management Certification, to suspend or revoke a Health Certificate,

1 Interim Health Certificate, or Certificate of Management Certification, or to uphold
2 an Administrative Penalty.

3 **§4421. Variances.** (a) The Director of the Department may grant a
4 variance to a requirement only if doing so will not endanger the health and welfare
5 of the public and does not contradict the spirit and intent of these rules and
6 regulations.

7 (b) Any variance issued by the Director of the Department shall be put
8 forth in writing providing explanation for the variance and its approval with the
9 signature of the Director and date and filed accordingly for records.

10 **§4422. Effective Date.** These rules and regulations shall be immediately
11 effective upon enactment. At that time, all other rules and regulations or parts of
12 other rules and regulations that conflict with these rules and regulations are
13 repealed. The adoption of these rules and regulations shall not prohibit the
14 Department from delaying the implementation of all or certain sections of these
15 rules and regulations if the Department believes doing so would better effectuate
16 its purpose; provided, such delay shall not exceed 365 days of its effective date.

17 **§4423. Severability.** If any provision or application of any provision of
18 these regulations is held invalid, that invalidity shall not affect the other provisions
19 or applications of these rules and regulations.

20
21 I, _____, a holder of "Certificate of
22 Management Certification" and the supervisor of
23 _____ at _____

1 enter into this voluntary agreement with the Department of Public Health and
2 Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate
3 Regulations, to provide the basic knowledge and skill in the proper sanitary
4 handling, preparing, and/or cooking of foods at the establishment to the above
5 employee. In a cooperative effort with the Department of Public Health and Social
6 Services, along with my responsibility and obligation to practice and promote food
7 safety at the work-place, I will ensure that the employee is taught the following so
8 that the food commodity made available by this establishment for human
9 consumption may not endanger the health and welfare of the public:

10

(To be determined by DPHSS.)

12

13 I understand that any failing on my part to fulfill the agreement in properly
14 training the above employee may lead to the revocation of the employee's Health
15 Certificate in accordance to §4419 of the Health Certificate Regulations.

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EMPLOYEE-Print

SIGNATURE

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SUPERVISOR-Print SIGNATURE DATE

DPHSS REPRESENTATIVE-Print SIGNATURE DATE

APPENDIX I ANNEX I

I, _____, the immediate supervisor of
_____ at _____
enter into this voluntary agreement with the Department of Public Health and
Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate
Regulations, to provide basic sanitation knowledge and skill in the operation of my
business. in the proper sanitary handling, preparing, and/or cooking of foods at
the establishment to the above employee.

In a cooperative effort with the Department of Public Health and Social
Services, along with my responsibility and obligation to practice and promote
proper sanitation and safety at the work place, food safety at the I will ensure that
the employee is taught the following so that the food commodity made available by

1 this establishment for human consumption activities of my employee identified in
2 this agreement may not endanger the health and welfare of the public:

3

4 (To be determined by DPHSS.)

5

6 I understand that any failing on my part to fulfill the agreement in properly
7 training the above employee may lead to the revocation of the employee's Health
8 Certificate in accordance to §4419 of the Health Certificate Regulations.

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EMPLOYEE-Print SIGNATURE DATE

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DPHSS REPRESENTATIVE-Print SIGNATURE DATE