

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

Bill No. 165-33 (CS)

Introduced by:

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RORY J. RESPICIO *RJ*
TOMMY A. MORRISON *TAM*

**AN ACT TO CREATE THE GUAM BUREAU OF
HEALTH PLANNING AND DEVELOPMENT
(GBHPD) UNDER THE OFFICE OF THE
GOVERNOR, AND TO TRANSFER THE HEALTH
PROFESSIONAL LICENSING OFFICE TO
GBHPD, ESTABLISH SPECIAL FUNDS, BY
ADDING A NEW ARTICLE 11 TO CHAPTER 1,
TITLE 5, GUAM CODE ANNOTATED.**

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1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

3 that the statute repealing the Division of Health Planning & Development under

4 the Department of Integrated Services for Disability should not have been

5 repealed, but should have been amended to transfer the Division of Health

6 Planning & Development, as a Bureau under the Governor’s Office. Guam, like

7 most states of the United States, has undergone a tremendous change in health

8 planning. The National Health Planning and Resources Development Act of 1974

9 (U.S. Public Law 93-641) was signed into law in January 1975. The Act provided

10 federal guidelines and funding for the development and implementation of state

11 level health planning entities to ensure that equal access to quality and affordable

12 health care would be made available to the people. The Act also funded the State

13 Health Planning and Development Programs throughout the U.S. and the territories

14 for 10 years. Section 1536 of the federal law prescribed the functions of the

1 Agency as a State Health Planning and Development Agency. Each state and
2 territory was mandated to produce a 5-year health plan and to update such plan in
3 its third year.

4 Locally, Public Law 14-150 established the first Guam Health Planning and
5 Development Agency in 1978 as an instrumentality under the Executive Branch.
6 The local law mirrored the national law, accepting all its guidelines. However, in
7 the latter part of 1986, the United States Congress ceased funding for the state
8 agencies and repealed the former provisions of the original act. Every state and
9 territory was to have a sustainable plan at the end of the ten years. However, the
10 Guam Health Planning and Development Agency was disestablished on September
11 30, 1987 with most of the function of the agency transferred administratively, with
12 no funding, to the Bureau of Planning. The only function not transferred was the
13 Certificate-of-Need Program, because of specific wording in the statute that would
14 require an amendment to the statute.

15 The Health Planning & Development Agency was reestablished in August
16 1990, with the passage of Section 3, Guam Public Law 20-200. It became a
17 'functional' office in August 1991 when the total work force authorized for the
18 Agency was in place and the executive order was promulgated. The Governor
19 appointed a 5-member Health Coordinating Council, who were sworn into office
20 October 1991. The Council was 11 members short as required by Public Law 14-
21 150 and was static in their role and the planning process. It was not until Governor
22 Gutierrez's administration that a 16-member Council was selected and appointed
23 assuming its role in the developing of the Guam Health Plan. Additionally, under
24 Executive Order 95-09, the Agency was given the responsibility to render all
25 technical assistance and coordination of the Governor's Council on Physical
26 Fitness and Sports' activities and responsibilities.

1 Public Law 24-92 an Act to amend Chapter 41 of Title 17 of GCA
2 established the Division of Health Planning and Development under the
3 Department of Integrated Services for Individuals with Disabilities and narrowed
4 the planning and development focus to the disability population. In 2001, Public
5 Law 26-76 repealed the Guam Health Planning and Development Agency as a
6 Division of DISID.

7 It is with great concern that the critical role that the Health Planning and
8 Development Agency plays on Guam has not been fully recognized. 10 GCA,
9 Chapter 86 Department of Mental Health and Substance Abuse Section 86105.
10 Powers and Duties B. (1) states... “The Department in applying for mental health,
11 alcohol and/or drug abuse grants from all sources is required to coordinate the
12 development of such grant proposals with the Guam Health Planning and
13 Development Agency to insure programs and services secured through such grant
14 applications are in harmony with the plans developed by the Department.”

15 It is therefore the intent of the *I Liheslaturan Guåhan* to reenact the Guam
16 Health Planning and Development Agency as the Bureau of Guam Health Planning
17 and Development under the Office of the Governor, to immediately address the
18 monitoring of healthcare development, to implement the Certificate of Need
19 regulations, to develop a repository of health data and to be the clearinghouse for
20 all health grants.

21 **Section 2.** A new Article 11 is hereby added to Chapter 1, Title 5, Guam
22 Code Annotated, to read:

23 **“ARTICLE 11**

24 **§2000. Guam Bureau of Health Planning & Development (GBHPD);**
25 **Established.** (a) There is established within the Executive Branch of the

1 government of Guam, the Guam Bureau of Health Planning and Development
2 (GBHPD). The GBHPD shall be headed by an Executive Director who shall be
3 appointed by the Governor of Guam, and confirmed by the Guam Legislature. The
4 GBHPD shall administer the state health planning, resource development, data
5 repository and cost containment activities as required by law.

6 (b) There is established, as a specific division within the Guam Bureau of
7 Health Planning and Development, the Division of the Health Professional
8 Licensing Office (HPLO) to conduct licensure and related activities for "Health
9 care providers" and the "healing arts."

10 (c) Rules and Regulations.

11 (1) The GBHPD shall promulgate rules and regulations for the
12 operations of the GBHPD in accordance with the implementation of this
13 Act, subject to the approval of the Guam Health Coordinating Council, and
14 pursuant to Article 3 (Rule Making Procedures) of Chapter 9
15 (Administrative Adjudication Law), Title 5, Guam Code Annotated.

16 **§2001. Purpose.** The purpose of this chapter is to establish the Guam
17 Bureau of Health Planning and Development, which shall be known herein as
18 'GBHPD', to promote accessibility for all the people of Guam to quality health
19 care services at reasonable cost by determining need, sustainability and
20 appropriateness of proposed healthcare development so as not to negatively impact
21 Guam's healthcare industry.

22 In addition to the preceding paragraph, the GBHPD shall facilitate the
23 activities of the HPLO Division.

1 **§2002. Definitions.** As used in this Chapter:

2 "*Applicant*" means any person who applies for a certificate of need under §2012.

3 "*Assisted living facility*" means a combination of housing, health care services, and
4 personalized support services designed to respond to individual needs, and to
5 promote choice, responsibility, independence, privacy, dignity, and individuality.
6 In this context, the provision of services in an assisted living facility means the
7 health care services that assists the resident in achieving and maintaining the
8 highest state of positive well-being (i.e., psychological, social, physical, and
9 spiritual) and functional status. This may include nursing assessment and
10 monitoring, and the delegation of nursing tasks by registered nurses, care
11 management, monitoring, records management, arranging for, and/or coordinating
12 health and social services, pursuant to 10 GCA Health and Safety, Chapter 12,
13 Article 3 of the Nurse Practice Act.

14 "*Capital expenditure*" means any purchase or transfer of money or anything of
15 value or enforceable promise or agreement to purchase or transfer money or
16 anything of value incurred by or in behalf of any person for construction,
17 expansion, alteration, conversion, development, initiation, or modification as
18 defined in this section. The term includes the:

19 (1) Cost of studies, surveys, designs, plans, working drawings,
20 specifications, and other preliminaries necessary for construction, expansion,
21 alteration, conversion, development, initiation, or modification;

22 (2) Fair market values of facilities and equipment obtained by donation or
23 lease or comparable arrangements as though the items had been acquired by
24 purchase; and

1 (3) Fair market values of facilities and equipment transferred for less than
2 fair market value, if a transfer of the facilities or equipment at fair market
3 value would be subject to review.

4 "*Certificate of need*" means an authorization, when required, to construct, expand,
5 alter, or convert a health care facility or to initiate, expand, develop, or modify a
6 health care service.

7 "*Construct*", "*expand*", "*alter*", "*convert*", "*develop*", "*initiate*", or "*modify*"
8 includes the erection, building, reconstruction, modernization, improvement,
9 purchase, acquisition, or establishment of a health care facility or health care
10 service; the purchase or acquisition of equipment attendant to the delivery of health
11 care service and the instruction or supervision therefore; the arrangement or
12 commitment for financing the offering or development of a health care facility or
13 health care service; any obligation for a capital expenditure by a health care
14 facility; and studies, surveys, designs, plans, working drawings, specifications,
15 procedures, and other actions necessary for any such undertaking, which will:

16 (1) Result in a total capital expenditure in excess of the expenditure
17 minimum,

18 (2) Substantially modify, decrease, or increase the scope or type of health
19 service rendered, or

20 (3) Increase, decrease, or change the class of usage of the bed complement
21 of a health care facility.

22 "*Expenditure minimum*" means \$4,000,000 for capital expenditures, \$1,000,000 for
23 new or replacement medical equipment and \$400,000 for used medical equipment.

1 *"Extended care adult residential care home"* means an adult residential care home
2 providing twenty-four-hour living accommodation for a fee, for adults unrelated to
3 the licensee. The primary caregiver shall be qualified to provide care to nursing
4 facility level individuals who have been admitted to a Medicaid waiver program, or
5 persons who pay for care from private funds and have been certified for this type
6 of facility. There shall be two categories of extended care adult residential care
7 homes, which shall be licensed in accordance with rules adopted by the department
8 of health:

9 (1) *"Type I home"* shall consist of five or less unrelated persons with no
10 more than two extended care adult residential care home residents; and

11 (2) *"Type II home"* shall consist of six or more unrelated persons and one or
12 more persons may be extended care adult residential care home residents.

13 *"Guam Bureau of Health Planning and Development"* shall mean or be cited as
14 *GBHPD*, for the purposes of this Article 11.

15 *"Guam Health Coordinating Council"* shall mean or be cited as *GHCC* as
16 established in §2005.

17 *"Guam Health Data Warehouse"* shall mean a repository of health related
18 information, reports, surveys and other documents maintained in an electronic
19 format and available to the public on a website.

20 *"Health"* includes physical and mental health.

21 *"Health care facility"* and *"health care service"* include any program, institution,
22 place, building, or agency, or portion thereof, private or public, other than federal
23 facilities or services, whether organized for profit or not, used, operated, or

1 designed to provide medical diagnosis, treatment, nursing, rehabilitative, or
2 preventive care to any person or persons. The terms include, but are not limited to,
3 health care facilities and health care services commonly referred to as hospitals,
4 extended care and rehabilitation centers, nursing homes, skilled nursing facilities,
5 intermediate care facilities, hospices for the terminally ill that require licensure or
6 certification by the department of health, kidney disease treatment centers
7 including freestanding hemodialysis units, outpatient clinics, organized ambulatory
8 health care facilities, emergency care facilities and centers, home health agencies,
9 health maintenance organizations, and others providing similarly organized
10 services regardless of nomenclature.

11 "*Health care provider*" and the "*healing arts*" shall mean and include, but are not
12 limited to, physicians, optometry, nursing, chiropractic, dentistry, medicine and
13 surgery, physician assistants, podiatry, psychology, osteopathic, pharmacy,
14 physical therapy, acupuncture, speech language pathology, audiology, respiratory
15 therapy, nutritionist/clinical dietician, veterinary medicine, and additionally
16 includes barbering and cosmetology.

17 "*Organized ambulatory health care facility*" means a facility not part of a hospital,
18 which is organized and operated to provide health services to outpatients. The
19 GBHPD may adopt rules to establish further criteria for differentiating between the
20 private practice of medicine and organized ambulatory health care facilities.

21 "*Person*" means an individual or a natural person, a trust or estate, a society, a
22 firm, an assembly, a partnership, a corporation, a professional corporation, an
23 association, or any instrumentality of Guam.

1 *"Physician"* means a doctor of medicine or osteopathy who is legally authorized to
2 practice medicine and surgery on Guam.

3 *"Primary care clinic"* means a clinic for outpatient services providing all
4 preventive and routine health care services, management of chronic diseases,
5 consultation with specialists when necessary, and coordination of care across
6 health care settings or multiple providers or both. Primary care clinic providers
7 include:

- 8 (1) General or family practice physicians;
- 9 (2) General internal medicine physicians;
- 10 (3) Pediatricians;
- 11 (4) Obstetricians and gynecologists;
- 12 (5) Physician assistants; and
- 13 (6) Advanced practice registered nurses.

14
15 *"Review panel"* means the panel established pursuant to §2013.

16 *"State health services and facilities plan"* means the comprehensive plan for the
17 economical delivery of health services on Guam prepared by the GHCC.

18 *"Substantially modify, decrease, or increase the scope or type of health service"*
19 refers to the establishment of a new health care facility or health care service or the
20 addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service
21 not previously provided or the termination of such a service which had previously
22 been provided.

23 **§2003. Guam Bureau of Health Planning and Development (GBHPD)**
24 **Functions.** (a) The GBHPD shall:

- 25 (1) Have as a principal function the responsibility for promoting
26 accessibility for all the people of Guam to quality health care services at

1 reasonable cost. The GBHPD shall conduct such studies and investigations
2 as may be necessary as to the causes of health care costs including inflation.
3 The GBHPD may contract for services to implement this paragraph. The
4 certificate of need program mandated under §2012 shall serve this function.
5 The GBHPD shall promote the sharing of facilities or services by health care
6 providers whenever possible to achieve sustainable economies of scale and
7 shall restrict unusual or unusually costly services to individual facilities or
8 providers where appropriate;

9 (2) Serve as staff to and provide technical assistance and advice to the
10 GHCC in the preparation, review, and revision of the state health services
11 and facilities plan;

12 (3) Prepare such reports and recommendations on Guam's health care
13 costs and public or private efforts to reduce or control costs and improve
14 health care quality as it deems necessary. The report may include, but not be
15 limited to, a review of health insurance plans, the availability of various
16 kinds of health insurance and malpractice insurance to consumers, and
17 strategies for increasing competition in the health insurance field;

18 (4) Prepare and revise as necessary the State Health Services and
19 Facilities Plan, the Annual Implementation Plan and the 5 year Strategic
20 Plan;

21 (5) Provide technical assistance, advice, health data, annual reports
22 and requested health information to *I Liheslaturan Guåhan, Committee on*
23 *Health, or its successive committee;*

24 (6) Conduct the health planning activities of Guam in coordination
25 with health agencies, implement the state health services and facilities plan,
26 and determine the statewide health needs of Guam after consulting with the
27 Guam Health Coordinating Council;

1 Collaborate regional health planning activities with United States
2 Affiliated Pacific Island nations, educational institutions and regional health
3 organizations to assist in developing a regional approach to health related
4 initiatives.

5 Collaborate with other Government of Guam agencies, utilizing a
6 “health in all policies” methodology in preparing applicable health impact
7 assessments on proposed legislation and policies, reviewing expenditures
8 from the Healthy Future Fund in relationship to the goals established in State
9 Health Plan and to propose applicable outcome measures to monitor
10 progress of said initiatives.

11 (7) Serve as the repository for health data from government health
12 agencies, health related not for profits, and other community based
13 organizations in an attempt to standardize the collection and management of
14 Guam’s health data and support the goal of health initiatives such as the
15 Healthy People 2020 Initiative and the Guam Non-Communicable Disease
16 (NCD) Consortium Strategic Plan. This function is titled the Guam Health
17 Data Warehouse (GHDW). GHDW administers the design, development,
18 and management of the centralized data repository. It is responsible for all
19 education and technical trainings related to the utilization of the data
20 warehouse. GHDW aims to provide instantaneous access to credible public
21 health data and reports.

22 (8) Develop and maintain a GBHPD website that makes available
23 data, reports, studies and findings to consumers, policy makers, students,
24 health providers etc.

25 (9) Administer the Guam Certificate of Need program pursuant to
26 §2012.

1 (10) Determine the need for new health services proposed to be
2 offered within Guam, and assess existing health care services and facilities
3 to determine whether there are redundant, excessive, or inappropriate
4 services or facilities and make public findings of any that are found to be so.
5 The GBHPD shall weigh the costs of the health care services or facilities
6 against the benefits the services or facilities provide and there shall be a
7 negative presumption against marginal services.

8 (11) Prepare reports, studies, and recommendations on work force
9 status and development, emerging health issues, such as medical ethics,
10 health care rationing, involuntary care, care for the indigent, and standards
11 for research and development of biotechnology and genetic engineering.

12 Notwithstanding any other provision of law to the contrary, the
13 Bureau shall have exclusive purview at the Guam level over all Federal aid
14 programs, grants, loans, contracts, contributions, appropriations, advances,
15 direct Federal development and other Federal funding sources for the
16 government of Guam and exclusively serve as the clearinghouse for health
17 related grants and to actively seek grant opportunities applicable to
18 advancing the goals outlined in the State Health Plan or other health
19 initiatives. To collaborate with government agencies, health related not for
20 profits and community based organizations in securing such grants. To
21 develop a program for local grant opportunities “mini grants” to incentivize
22 the development of new or existing ventures to meet the health needs
23 identified in the State Health Plan.

24 (12) Conduct such other activities as are necessary to meet the
25 purposes of this Chapter.

1 **§2004. Guam Bureau of Health Planning and Development Revolving Fund;**
2 **created; deposits; expenditures; fees.** (a) There is hereby established the Guam
3 Bureau of Health Planning and Development Revolving Fund, apart and separate
4 from all other accounts of the government of Guam, to be administered by the
5 GBHPD.

6 (b) There shall be an additional 4% (four percent) indirect fee added to all
7 health grants. The 4% indirect fee will be deposited into the GBHPD Revolving
8 Fund.

9 (c) There shall be fees charged for Certificate of Need application
10 processing, which shall be deposited into the GBHPD's revolving fund.

11 (d) Moneys in the revolving fund shall be expended by the GBHPD to assist
12 in offsetting program expenses of the Bureau. The annual GBHPD fiscal year
13 budget request shall also include a budget justifying the amount and expenditures
14 to be used from the revolving fund and shall be submitted with the annual
15 Executive Branch fiscal year budget request of the Governor to *I Liheslaturan*
16 *Guåhan*.

17 **§2005. Guam Health Coordinating Council (GHCC); Established.** (a) There is
18 established a Guam Health Coordinating Council (GHCC) which shall be the
19 governing council to the GBHPD and the membership of which shall be appointed
20 by the Governor, with the advice and consent of *I Liheslaturan Guåhan*, which
21 shall not exceed nine (9) members. The GHCC shall adopt Rules and regulations
22 promulgated for the purposes set forth in this Act.

23 (b) The membership of the GHCC shall be broadly representative of the
24 age, sex, ethnic, income, and other groups that make up the population of Guam
25 and shall include representation from the business, labor, and health care providers.

1 A member who is the representative of U.S. Military Veterans' shall be designated
2 by the Guam Veterans' Administration.

3 (c) The GHCC shall select a chairperson from among its members. The
4 members of the GHCC shall be paid fifty dollars (\$50) per meeting, for each day
5 on which services are rendered by them in connection with authorized activities of
6 the Board, not to exceed one hundred dollars (\$100) per month. The board
7 members shall be reimbursed for necessary expenses incurred in the performance
8 of their duties, provided, however, the monthly stipend accrual and actual payment
9 for GHCC members shall be subject to the annual budget authorization, and any
10 limitation therefore, as provided for in the Executive Branch appropriation for such
11 purposes, pursuant to the applicable Fiscal Year Budget Act of the government of
12 Guam.

13 (d) The number of members necessary to constitute a quorum to do business
14 shall consist of a majority of all members who have accepted nomination to the
15 GHCC, and have been confirmed by the Legislature and qualified as members of
16 the GHCC. When a quorum is in attendance, the concurrence of a majority of the
17 members in attendance shall make any action of the GHCC valid.

18 (e) No member of the GHCC shall, in the exercise of any function of the
19 GHCC described in §2006, vote on any matter before the GHCC respecting any
20 individual or entity with which the member has or, within the twelve months
21 preceding the vote, had any substantial ownership, employment, medical staff,
22 fiduciary, contractual, creditor, or consultative relationship. The GHCC shall
23 require each of its members who has or has had such a relationship with an
24 individual or entity involved in any matter before the GHCC to make a written
25 disclosure of the relationship before any action is taken by the GHCC with respect

1 to the matter in the exercise of any function described in this ACT and to make the
2 relationship public in any meeting in which the action is to be taken.

3 (f) The GHCC *shall not* have any authority over the respective healing arts
4 Boards of Examiners facilitated and served by the Health Professional Licensing
5 Office, and such healing arts boards shall remain independent and continue to
6 function pursuant to their respective enabling statutes, rules and regulations.

7 **§2006. Functions of the Guam Health Coordinating Council (GHCC).** (a)
8 The Guam Health Coordinating Council (GHCC) shall:

9 (1) Prepare and revise as necessary the state health services and
10 facilities plan;

11 (2) Advise the GBHPD on the Implementation Plan, the Five-Year
12 Strategic Plan and actions taken under §2013.

13 (3) Appoint the review panel; and

14 (4) Review and comment upon the following actions by the GBHPD
15 before such actions are made final:

16 (A) The making of findings as to applications for certificate of
17 need; and

18 (B) The making of findings as to the appropriateness of those
19 institutional and non-institutional health services offered in Guam.

20 **§2007. State Health Services and Facilities Plan, Implementation Plan, and a
21 Five Year Strategic Plan.** (a) There shall be a State Health Services and

22 Facilities Plan, which shall address the health care needs of Guam, including
23 inpatient care, health care facilities, and special needs. The plan shall depict the
24 most economical and efficient system of care commensurate with adequate quality
25 of care, and shall include standards for utilization of health care facilities and

1 major medical equipment. The plan shall provide for the reduction or elimination
2 of underutilized, redundant, or inappropriate health care facilities and health care
3 services.

4 (b) There shall be a Five-Year Strategic Plan that will address the Healthy
5 People 2020 goals and Guam NCD Consortium strategic plan and an action plan
6 that maps the implementation of the goals and objectives.

7 **§2008. Public hearings required.** The GBHPD and the GHCC shall conduct
8 public hearings on any proposed plan or amendments to the State Health Services
9 and Facilities Plan, the Five-Year Strategic Plan, Implementation Plan, Rules and
10 Regulations, and shall comply with the provisions for notice of public hearings. A
11 copy of the proposed plan and/or implementation shall be transmitted to *I*
12 *Maga'lahaen Guåhan* the Speaker and to the Chairperson of the Committee on
13 Health of *I Liheslaturan Guåhan* .

14 **§2009. Information Required of Health Providers** (a) Providers of health care
15 doing business on Guam shall submit to the GBHPD, such statistical and other
16 reports of information related to health and health care that the GBHPD finds
17 necessary to the performance of its functions. The information deemed necessary
18 includes but is not limited to:

19 (1) Information regarding changes in the class of usage of the bed
20 complement of a health care facility;

21 (2) Information and data of health services implemented;

22 (3) Projects that are dedicated to meeting Guam's obligations under
23 court orders, including consent decrees;

24 (4) Replacement of existing equipment with an updated equivalent;

25 (5) Primary care clinics under the expenditure thresholds; and

1 (6) Equipment and services related to that equipment that is primarily
2 intended for research purposes as opposed to usual and customary diagnostic
3 and therapeutic care.

4 **§2010. Information from Providers of Health Insurance.** The GBHPD may
5 request providers of health insurance doing business on Guam to submit to the
6 GBHPD available statistical, financial, and other reports of information that the
7 GBHPD finds necessary to perform its functions.

8 **§2011. Confidentiality of Information.** The GBHPD shall adopt rules on
9 confidentiality of all sensitive information submitted to the GBHPD by providers
10 of health care and health care insurance.

11 **§2012. Certificates of Need.** (a) No person, public or private, nonprofit or for
12 profit, shall:

13 (1) Construct, expand, alter, convert, develop, initiate, or modify a
14 health care facility or health care services on Guam that requires a total
15 capital expenditure in excess of the expenditure minimum; or

16 (2) Substantially modify or increase the scope or type of health
17 service rendered; or

18 (3) Increase, decrease, or change the class of usage of the bed
19 complement of a health care facility, or relocate beds from one physical
20 facility or site to another, unless a certificate of need therefore has first been
21 issued by the GBHPD.

22 (b) No certificate of need shall be issued unless the GBHPD has determined
23 that:

24 (1) There is a public need for the facility or the service; and

1 (2) The cost of the facility or service will not be unreasonable in the
2 light of the benefits it will provide and its impact on health care costs.

3 (c) The GBHPD may adopt criteria for certificate of need review which are
4 consistent with this section. Such criteria may include but are not limited to need,
5 cost, quality, accessibility, availability, and acceptability.

6 (d) Each decision of the GBHPD to issue a certificate of need shall, except
7 in an emergency situation that poses a threat to public health, be consistent with the
8 state health services and facilities plan in effect under §2007. Each certificate of
9 need issued shall be valid for a period of one year from the date of issuance unless
10 the period is extended for good cause by the GBHPD and expenditures for the
11 project shall not exceed the maximum amount of the expenditures approved in the
12 certificate of need.

13 **§2013. Certificate of Need Review Panel.** There is established a review panel
14 for the purposes of reviewing applications for certificates of need. The review
15 panel shall be appointed by the GHCC. The review panel shall include at least one
16 member from the Bureau, one member from the business community, and a
17 majority of the members shall be consumers. Membership on the GHCC shall not
18 preclude membership on the review panel established in this section.

19 **§2014. Applications for Certificates of Need (CON).** (a) An applicant for a
20 certificate of need shall file an application with the GBHPD. The GBHPD shall
21 provide technical assistance to the applicant in the preparation and filing of the
22 application.

23 (1) Each application shall include a statement evaluating the facility's
24 or services probable impact on health care costs and providing additional

1 data as required by rule. The statement shall include cost projections for at
2 least the first and third years after its approval.

3 (2) The GBHPD shall not accept an application for review until the
4 application is complete and includes all necessary information required by
5 the GBHPD. The GBHPD shall determine if the application is complete
6 within thirty days of receipt of the application. If the GBHPD determines
7 that the application is incomplete, the GBHPD shall inform the applicant of
8 the additional information that is required to complete the application. When
9 the GBHPD determines that the application is complete, the period for
10 agency review described in rules and regulations shall begin, and the
11 GBHPD shall transmit the completed application to the GHCC, the review
12 panel, appropriate individuals, and appropriate public agencies.

13 (3) The GBHPD may require the applicant to provide copies of the
14 application to the GBHPD, the review panel, the GHCC, appropriate
15 individuals, and appropriate public agencies. If, during the period for
16 agency review, the GBHPD requires the applicant to submit information
17 respecting the subject of the review, the period for agency review shall, at
18 the request of the applicant, be extended fifteen days.

19 (b) The GBHPD shall issue a decision on the application within ninety days
20 after the beginning of the period for agency review, unless the GBHPD within the
21 ninety days notifies the applicant in writing that the period for agency review has
22 been extended by the GBHPD, sixty days beyond the ninety days. The decision
23 shall be subject to post-decision review procedures which the GBHPD shall
24 provide for by promulgated rules.

1 (c) The GBHPD may adopt rules for the issuance of certificates of need for
2 those applications for which the procedures would be infeasible because of an
3 emergency situation or other unusual circumstances.

4 (d) Notwithstanding anything to the contrary in this section, the GBHPD
5 may adopt rules providing that all completed applications pertaining to similar
6 types of services, facilities, or equipment affecting the same health service area
7 shall be considered in relation to each other but no less often than twice a year.

8 **§2015. Administrative Review of Certain Applications for Certificate of Need**
9 **(CON).** (a) The GBHPD shall adopt rules in conformity with this Act providing
10 for administrative review and decision on certain applications for certificate of
11 need (CON).

12 (b) Each application reviewed under this section may be subject to a public
13 information meeting before the GBHPD makes its decision. The GBHPD, shall
14 give public notice of applications for administrative review received by the agency.

15 (c) Interested persons may request in writing a public meeting before the
16 GBHPD renders a decision on the administrative application. If a request for a
17 public meeting is received, the executive director will preside over the meeting. If
18 no request is received by the GBHPD within seven days of the public notice date,
19 no public meeting need be scheduled.

20 (d) Applications subject to administrative review and decision under this
21 section shall include but are not limited to applications that are:

22 (1) Inconsistent with or contrary to the State Health Services and
23 Facilities Plan under §2007;

24 (2) Determined not to have a significant impact on the health care
25 system; or

1 (3) Involve capital or annual operating expenses below a significant
2 level.

3 **§2016. Review of Certain Applications for Certificate of Need; Waiver.** The
4 GHCC, and the review panel, may, at their discretion, choose to waive their
5 respective prerogatives of review of any certificate of need application.

6 **§2017. Monitoring of Approved Certificates of Need.** The GBHPD may
7 monitor implementation of approved certificates of need granted by the agency.

8 **§2018. Recommendations for Issuance or Denial of Certificates of Need.** (a)
9 Except for an administrative review as provided in §2014, or in an emergency
10 situation or other unusual circumstances, the GBHPD shall refer every application
11 for a certificate of need to the GHCC and the review panel. The GHCC and the
12 review panel shall consider all relevant data and information submitted by the
13 GBHPD, and the applicant, and may request from them additional data and
14 information. The review panel shall consider each application at a public meeting
15 and shall submit its recommendations with findings to the GHCC. The GHCC shall
16 consider the recommendation of the review panel at a public meeting and shall
17 submit its recommendations to the GBHPD within such time as the GBHPD
18 prescribes. The GHCC and the review panel may join together to hear or consider
19 simultaneously information related to an application for a certificate of need.

20 (b) At a public meeting in which the review panel considers an application
21 for a certificate of need, any person shall have the right to be represented by
22 counsel and to present oral or written arguments and evidence relevant to the
23 application; any person directly affected by the application may conduct
24 reasonable questioning of persons who make factual allegations relevant to the

1 application; any staff member of the GBHPD may conduct reasonable questioning
2 of persons who make factual allegations relevant to the application; and a record of
3 the meeting shall be kept.

4 **§2019. Ex Parte Contacts Prohibited.** (a) There shall be no ex parte contacts:

5 (1) In the case of an application for a certificate of need, between the
6 applicant for the certificate of need, any person acting on behalf of the
7 applicant, any person in favor of the application or any person opposed to
8 the issuance of a certificate of need and any person in the GBHPD who
9 exercises any responsibility respecting the application, after the
10 commencement of the GBHPD's review of the application and before the
11 GBHPD makes a decision on the application, on any matter related to or
12 arising out of the application for a certificate of need;

13 (2) In the case of a proposed withdrawal of a certificate of need,
14 between the holder of the certificate of need, any person acting on behalf of
15 the holder, any person opposed to the withdrawal or any person in favor of
16 the withdrawal and any person in the GBHPD who exercises any
17 responsibility respecting withdrawal of the certificate of need, after the
18 commencement of GBHPD proceedings on the proposed withdrawal and
19 before the GBHPD makes a decision on the proposed withdrawal, on any
20 matter related to or arising out of the proposed withdrawal of the certificate
21 of need; and

22 (3) In the case of an application for an exemption from obtaining a
23 certificate of need, between the applicant for an exemption, any person
24 acting on behalf of the applicant, any person in favor of the application or
25 any person opposed to the application and any person in the GBHPD who

1 exercises any responsibility respecting the application, after the
2 commencement of the GBHPD's review of the application and before the
3 GBHPD makes a decision on the application, on any matter related to or
4 arising out of the application for an exemption from obtaining a certificate of
5 need.

6 (b) The prohibition against ex parte contacts shall not apply to any written
7 communication or a copy thereof which is promptly filed as a public record with
8 the GBHPD.

9 **§2020. Approval of Applications Required to Meet Safety, Licensure, or**
10 **Accreditation Standards.** (a) The GBHPD shall approve an application for a
11 certificate of need for a capital expenditure which is required:

12 (1) To eliminate or prevent imminent safety hazards as defined by
13 federal or Guam fire, building, or life safety codes or regulations;

14 (2) To comply with Guam licensure standards;

15 (3) To comply with accreditation standards, compliance with which is
16 required to receive reimbursements under title XVIII of the Social Security
17 Act or payments under a state plan for medical assistance approved under
18 title XIX of such Act, unless the GBHPD finds that the facility or service
19 with respect to which the capital expenditure is proposed to be made is not
20 needed or that the obligation of the capital expenditure is not consistent with
21 the state health services and facilities plan in effect.

1 (b) An application for a certificate of need approved by the GBHPD under
2 this section shall be approved only to the extent that the capital expenditure is
3 required to eliminate or prevent the hazards described in rules.

4 **§2021. Conditional Certification.** The GBHPD shall provide by rules adopted in
5 conformity with this Act for the conditional certification of those proposals which,
6 by modification of specific items of the proposal, would successfully meet the
7 criteria for approval. The GBHPD shall establish a time period not to exceed one
8 hundred fifty days from the date of the conditional certification within which the
9 applicant shall certify to the GBHPD that the required modifications have been
10 made. The GBHPD shall require a statement from the applicant certifying that the
11 required modifications have been made before a certificate of need is issued. The
12 GBHPD shall deny any application in which the required modifications have not
13 been made within the time period established by the GBHPD.

14 **§2022. Withdrawal of a Certificate of Need.** (a) After the issuance of a
15 certificate of need, the GBHPD shall periodically review the progress of the
16 project. The GBHPD may withdraw the certificate of need, if the GBHPD
17 determines on the basis of the review that:

18 (1) The holder of the certificate of need is not meeting the timetable
19 specified in the approved application for the certificate of need and is not
20 making a good faith effort to meet it; or

21 (2) The project being implemented differs substantially from that
22 which was approved by the GBHPD.

23 (b) The GBHPD may withdraw at any time a certificate of need or an
24 exemption from obtaining a certificate of need, if the GBHPD determines that the
25 applicant procured the certificate of need or the exemption by fraud,
26 misrepresentation, or corruption, or that the applicant submitted or caused to be

1 submitted to the GBHPD false statements or information in connection with the
2 application for the certificate of need or the exemption.

3 (c) The GBHPD shall adopt rules in conformity with Act for the withdrawal
4 of certificates of need.

5 **§2023. Request for Reconsideration.** (a) The GBHPD may provide by rules
6 adopted in conformity with the Act for a procedure by which any person may, for
7 good cause shown, request in writing a public hearing before a reconsideration
8 committee for purposes of reconsideration of the Bureau's decision. The
9 reconsideration committee shall consist of the Executive Director of the GBHPD
10 and the chairperson of the GHCC, the review panel, and the plan development
11 committee of the GHCC. The Executive Director shall be the chairperson of the
12 reconsideration committee. A request for a public hearing shall be deemed by the
13 reconsideration committee to have shown good cause, if:

14 (1) It presents significant, relevant information not previously
15 considered by the GBHPD;

16 (2) It demonstrates that there have been significant changes in factors
17 or circumstances relied upon by the GBHPD in reaching its decision;

18 (3) It demonstrates that the GBHPD has materially failed to follow its
19 adopted procedures in reaching its decision;

20 (4) It provides such other bases for a public hearing as the GBHPD
21 determines constitutes good causes; or

22 (5) The decision of the administrator differs from the recommendation
23 of the GHCC.

24 (b) To be effective a request for such a hearing shall be received within ten
25 working days of the GBHPD decision. A decision of the reconsideration

1 committee following a public hearing under this section shall be considered a
2 decision of the GBHPD.

3 **§2024. Judicial Review of GBHPD Decisions.** (a) If an application for a
4 certificate of need or for an exemption from obtaining a certificate of need is
5 denied, the GBHPD shall give notice to the applicant in writing stating the grounds
6 for the denial. Any person adversely affected by a final decision of the GBHPD
7 with respect to a certificate of need or an application for an exemption may appeal
8 in the manner provided in rules.

9 (b) Any person adversely affected by a final decision of the GBHPD with
10 respect to the withdrawal of a certificate of need may appeal in the manner
11 provided in rules.

12 (c) Judicial review may be had by any party who deems himself affected
13 adversely by a final decision pursuant to subsection (a) and (b) of this section
14 subsequent to an unsuccessful appeal as provided in the rules.

15 **§2025. Certificates of Need; Licenses and Permits.** (a) No permit or license
16 shall be issued by any Guam officer for the development, construction, expansion,
17 alteration, conversion, initiation, or modification of a health care facility or health
18 care service, other than an existing hospital, or for the operation of a new health
19 care facility or health care service unless there is submitted in connection with the
20 application for such permit or license a current certificate of need issued by the
21 GBHPD or a statement issued by the GBHPD that the health care facility or health
22 care service is not required to hold a certificate of need under this part.

23 (b) No building permit shall be issued by any Guam officer for the
24 development, construction, expansion, alteration, conversion, initiation, or

1 modification of an existing hospital unless there is submitted in connection with
2 the application for such building permit a current certificate of need issued by the
3 GBHPD or a statement issued by the GBHPD that the existing hospital is not
4 required to hold a certificate of need under this part.

5 **§2026. Certificates of Need, Penalties.** (a) Any person who violates any
6 provision of this Act, or rules there under, with respect to the requirement for
7 certificate of need shall be guilty of a misdemeanor for each seven-day period or
8 fraction thereof that the violation continues. Each subsequent seven-day period
9 shall constitute a separate offense.

10 (b) Any license to operate a health facility may be revoked or suspended by
11 the GBHPD at any time in a proceeding before the GBHPD for any person
12 proceeding with an action covered under this Act without a certificate of need. If
13 any such license is revoked or suspended by the GBHPD, the holder of the license
14 shall be notified in writing by the GBHPD of the revocation or suspension. Any
15 license to operate a health facility that has been revoked under this section shall not
16 be restored except by action of the GBHPD.

17 (c) Any person who violates any provision of this Act or rules adopted under
18 this Act, with respect to the GBHPD's requests for reporting, may be subject to an
19 administrative penalty not to exceed \$2,000 for each seven-day period or fraction
20 thereof that the violation continues. The administrator of the GBHPD may impose
21 the administrative penalty specified in this section by order; provided that no
22 penalty shall be assessed unless the person charged shall have been given notice
23 and an opportunity for a hearing pursuant to this Act. The administrative penalty
24 contained in the notice of finding of violation shall become a final order unless,
25 within twenty days of receipt of the notice, the person charged makes a written

1 request for a hearing. For any judicial proceeding to recover the administrative
2 penalty imposed, the administrator need only show that notice was given, a hearing
3 was held or the time granted for requesting a hearing has expired without such a
4 request, the administrative penalty was imposed, and that the penalty remains
5 unpaid.

6 **§2027. Injunctive relief.** (a) The GBHPD may, in the name of the people of
7 Guam, through the attorney general of Guam, apply for an injunction in any court
8 of competent jurisdiction to enjoin any person who is not the holder of a certificate
9 of need and who is not exempted from obtaining a certificate of need; and, upon
10 the filing of a verified petition in the court, the court or any judge thereof, if
11 satisfied by affidavit or otherwise, that the person is or has been proceeding with
12 an action covered under this Act without a certificate of need, may issue a
13 temporary injunction, without notice or bond, enjoining the defendant from further
14 action.

15 (b) A copy of the verified complaint shall be served upon the defendant
16 and the proceedings shall thereafter be conducted as in other civil cases.

17 (c) If it is established that the defendant has been or is proceeding with an
18 action covered under this Act without a certificate of need, the court or any judge
19 thereof may enter a decree enjoining the defendant from further action. In case of
20 violation of any injunction issued under this section, the court may summarily try
21 and punish the offender for contempt of court.

22 (d) The injunction proceeding shall be in addition to, and not in lieu of, all
23 penalties and other remedies provided in this Act.

1 **§2028. Letters of Intent.** Persons proposing construction projects shall submit to
2 the GBHPD letters of intent in such detail as may be necessary to inform the
3 agency of the scope and nature of the projects at the earliest possible opportunity in
4 the course of planning of such construction projects.

5 **§2029. Periodic Reports from Health Facilities.** (a) Any health facility or
6 business subject to regulation under certificate of need section shall, at the request
7 of the GBHPD, supply such information to the GBHPD as is necessary to carry out
8 the purposes of this Act, including but not limited to:

9 (1) Periodic reports from holders of certificates of need respecting the
10 development of the proposals for which certificates have been issued;

11 (2) Master plans, feasibility studies, and other long-range plans and
12 studies;

13 (3) Financial information; and

14 (4) Utilization information.

15 **§2030. Exemptions from Certificate of Need Requirements.** (a) Nothing in this
16 Act or rules with respect to the requirement for certificates of need applies to:

17 (1) Offices of physicians, dentists, or other practitioners of the healing
18 arts in private practice as distinguished from organized ambulatory health
19 care facilities, except in any case of purchase or acquisition of equipment
20 attendant to the delivery of health care service and the instruction or
21 supervision for any private office or clinic involving a total expenditure in
22 excess of the expenditure minimum;

23 (2) Laboratories, except in any case of purchase or acquisition of
24 equipment attendant to the delivery of health care service and the instruction

1 or supervision for any laboratory involving a total expenditure in excess of
2 the expenditure minimum;

3 (3) Dispensaries and first aid stations located within business or
4 industrial establishments and maintained solely for the use of employees;
5 provided such facilities do not regularly provide inpatient or resident beds
6 for patients or employees on a daily twenty-four-hour basis;

7 (4) Dispensaries or infirmaries in correctional or educational facilities;

8 (5) Dwelling establishments, such as hotels, motels, and rooming or
9 boarding houses that do not regularly provide health care facilities or health
10 care services;

11 (6) Any home or institution conducted only for those who, pursuant to
12 the teachings, faith, or belief of any group, depend for healing upon prayer
13 or other spiritual means;

14 (7) Dental clinics;

15 (8) Non-patient areas of care facilities such as parking garages and
16 administrative offices;

17 (9) Bed changes that involve ten per cent or ten beds of existing
18 licensed bed types, whichever is less, of a facility's total existing licensed
19 beds within a two-year period;

20 (10) Projects that are wholly dedicated to meeting the government of
21 Guam's obligations under court orders, including consent decrees, that have
22 already determined that need for the projects exists;

23 (11) Replacement of existing equipment with its modern-day
24 equivalent;

25 (12) Primary care clinics under the expenditure thresholds in this Act;

1 (13) Equipment and services related to that equipment, that is
2 primarily invented and used for research purposes as opposed to usual and
3 customary diagnostic and therapeutic care;

4 (14) Capital expenditures that are required:

5 (i) To eliminate or prevent imminent safety hazards as defined
6 by federal or Guam fire, building, or life safety codes or regulations;

7 (ii) To comply with Guam licensure standards;

8 (iii) To comply with accreditation standards, compliance with
9 which is required to receive reimbursements under Title XVIII of the
10 Social Security Act or payments under a Guam plan for medical
11 assistance approved under Title XIX of such Act;

12 (15) Extended care adult residential care homes and assisted living
13 facilities; or

14 (16) Other facilities or services that the agency through the GHCC
15 chooses to exempt, by rules pursuant to this Act.

16 **§2031. Budget, Appropriation and Personnel.** (a) The Executive Director of
17 the GBHPD shall annually prepare a budget for inclusion in the annual fiscal year
18 Executive Branch Budget Request. The budget request shall include funding
19 required for the operations and functions of the GBHPD and the Division of the
20 Health Professional Licensing Office.

21 (b) The Executive Director of the GBHPD shall determine the necessary
22 personnel to carry out the purposes of this Act, provided however:

23 (1) The Health Professional Licensing Office (HPLO) of the
24 Department of Public Health and Social Services, to include all personnel,
25 responsibilities relative to examinations and services for all healing arts

1 licensure and related functions, budget allocation, and any special funds, to
2 include the Revolving Fund (10 GCA § 12229) within the HPLO, and any
3 other special fund of boards of examiners of professions listed in § 2032 (b)
4 of this Chapter, *shall* be immediately transferred to and under the
5 jurisdiction of the GBHPD. All special funds transferred shall be designated
6 *solely* for HPLO expenditure. The HPLO *shall* function as a specific
7 permanent division within the GBHPD.

8 **§2032. Health Professional Licensing Office.** (a) The Division of the Health
9 Professional Licensing Office (HPLO) *shall* have a HPLO Administrator. The
10 HPLO shall function *solely* for the purpose of facilitating the activities of the
11 respective healing arts Boards of Examiners. This *shall* include, but is not limited
12 to, the processing of applications for licensure, certification or renewal,
13 background and other required investigations, facilitating the proctoring of
14 examinations for national certifications, and the conduct of meetings.

15 (1) The Executive Director *shall* have the authority to designate the HPLO
16 Administrator to be the Procurement Officer for the Division.

17 (2) The HPLO *shall* employ an Administrative Services Officer, and to that
18 end, the authorization and establishment of the full time equivalent position
19 is approved.

20 (b) As provided pursuant to Articles 1 *et seq* Article 23 of Chapter 12 Part 1
21 and Part 2, and Chapter 18, all of 10 GCA, the HPLO shall conduct its licensing
22 functions pursuant to the applicable laws, rules, regulations and policies of the
23 respective healing arts boards' of examiners, and shall facilitate the respective
24 boards' functions. Pursuant to 10 GCA § 12101(b), the healing arts include, but
25 are not limited to, physicians, optometry, nursing, chiropractic, dentistry, medicine

1 and surgery, physician assistants, podiatry, psychology, osteopathic, pharmacy,
2 physical therapy, acupuncture, speech language pathology, audiology, respiratory
3 therapy, nutritionist/clinical dietician, veterinary medicine, and additionally
4 includes barbering and cosmetology.

5 **§ 2033. HPLO Fiscal Authority.** (a) There is hereby established a special
6 fund to be known as the “Health Professional Licensing Operations Fund” (HPLO
7 Fund), which shall be maintained separate and apart from other funds of the
8 government of Guam and independent records and accounts shall be maintained in
9 connection therewith. The HPLO Fund shall not be comingled with the Guam
10 Bureau of Health Planning and Development Revolving Fund. The HPLO Fund
11 *shall* not be subject to the transfer authority of the Governor;

12 (b) All moneys received by the HPLO from whatever source derived from
13 fees and payments for license and certification application processing shall be
14 deposited in the HPLO Fund in eligible banks as defined in Title 5 GCA, and shall
15 be expended for the purposes provided pursuant to §2032.

16 (c) Rules and Regulations. The HPLO Administrator, in coordination with
17 the Executive Director of the GBHPD, shall promulgate rules, regulations and
18 policies relative to the functions of the HPLO with regard to the provision of
19 services for the respective boards of examiners, to include the direct receipt and
20 management of fees and payments received from license and certificate applicants,
21 and pursuant to Article 3 (Rule Making Procedures) of Chapter 9 (Administrative
22 Adjudication Law), Title 5, Guam Code Annotated.

23 The promulgated rules, regulations and policies *shall* provide for the direct
24 management and use of the fees and payments received in the processing of
25 licenses as provided pursuant to the applicable laws, rules, regulations, policies and

1 fee schedules of the respective healing arts boards' of examiners in accordance
2 with the procedures set out in the Administrative Adjudication Law. These shall
3 provide for, at a minimum:

4 (i) The establishment of accounts for fees and payments which shall
5 be directly received, controlled and expended by the HPLO for
6 purposes of license or certification application processing and
7 related activities;

8 (ii) Accounting for fees and payments made by the respective
9 healings arts profession applicants;

10 (iii) The direct expenditure of funds received from an applicant for
11 licensure or certificate processing, to include the costs of services
12 of recognized national organizations for exams and certifications;

13 (d) The HPLO shall annually prepare, in coordination with the
14 Executive Director, a properly audited financial statement for transmittal to *I*
15 *Maga'lahaen Guåhan* and the Speaker of *I Liheslaturan Guåhan*.

16 (e) The HPLO *shall*, in conjunction with the respective healing arts
17 boards of examiners, review the fee schedules and amend, as necessary, so
18 as to be reflective of the actual costs of licensure processing, pursuant to the
19 Administrative Adjudication Law.

20 (f) The HPLO *shall* ensure that the fees and payments received for
21 purposes of licensure or certification application processing for applicants to
22 the respective Healing Arts boards of examiners are accounted for and
23 allocated solely for the needs and functions of the specific board for the
24 profession for which the fee or payment was received for licensure or
25 certification processing.

1 **§2033. Severability.** *If any provision of this Code or its application to any person*
2 *or circumstance is found to be invalid or contrary to law by a court of competent*
3 *jurisdiction, the invalidity shall not affect other provisions or applications of this*
4 *Code, which can be given effect without the invalid provisions or application, and*
5 *to this end, the provisions of this Code are severable.”*

6 **Section 3. Applicability to Agencies; Mandatory.** Notwithstanding any
7 other provision of law, rule, regulation or executive order, all agencies or
8 departments of the government of Guam, responsible for the licensing, permitting,
9 approval or authorization of any development, new or existing, relative to a health
10 care facility, as defined and regulated pursuant to Article 11 of Chapter 1, Title 5,
11 Guam Code Annotated, *shall* require a ‘certificate of need’ issued by the Bureau of
12 Health Planning and Development, as provided pursuant to Article 1, Chapter 1,
13 Title 5, Guam Code Annotated, *prior* to the issuance of any license, permit,
14 approval or authorization for the development of a health care facility.

15 **Section 4. Saving Clause.** This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were begun, before its
17 effective date.

18 **Section 5.** A new §5121 is hereby added to Sub article B of Article 2,
19 Chapter 5 of Division 1, Title 5, Guam Code Annotated, to read:

20 **“§5121. Procurement shall be delegated to the Guam Bureau of Health**
21 **Planning and Development.** Notwithstanding any other provision of Guam
22 Procurement Law, the authority to procure supplies and services for the Health
23 Professional Licensing Office shall be delegated by the Chief Procurement Officer
24 to the Board of Directors of the Guam Bureau of Health Planning and
25 Development.”

1 **Section 6. Initial Determination and Submission of Bureau**
2 **Requirements.** *I Maga'lahaen Guåhan* shall, within sixty (60) days of the
3 enactment of this Act and in coordination with the Department of Public Health
4 and Social Services, the Department of Administration, and the Bureau of Budget
5 and Management Research, determine the initial staffing and funding requirements
6 for the Guam Bureau of Health Planning and Development for submission to *I*
7 *Liheslaturan Guåhan*.

8 **Section 7. A new §2101.4 is added to Article 2 of Chapter 5, Title 5,**
9 **Guam Code Anotated, to read:**

10 **“§ 2101.4. Guam Bureau of Health Planning and Development**
11 **Exemption.**

12 The Guam Bureau of Health Planning and Development (Bureau) shall be
13 exempted from the provisions prescribed in Title 5 GCA §§ 2101, 2101.1 and
14 2101.2. The Bureau shall have exclusive purview at the Guam level over all
15 Federal aid programs, grants, loans, contracts, contributions, appropriations,
16 advances, direct Federal development and other Federal funding sources for the
17 government of Guam for all health care agencies, departments, or authority, by
18 whatever name, to include autonomous and line agencies. However, the Director
19 of the Bureau shall separately perform the following duties and responsibilities:

20 (a) administer the initiation, coordination and review process of all activities
21 within the institution involving Federal financial assistance;

22 (b) ensure that grant proposals for Federal assistance are in accordance with
23 plans, policies, programs, objectives and procedures of the government of Guam;

1 (c) ensure that proposed projects for which Federal financial assistance is
2 sought are fiscally and environmentally sound and are in compliance with all
3 applicable Federal laws;

4 (d) ensure that the institution complies with all applicable Federal laws
5 relating to Federal financial assistance, and that there exists sound tracking,
6 management, and financial accountability for

7 all Federal Programs awarded to the institution;

8 (e) perform cost analysis on all Federal aid programs, grants, loans,
9 contracts, contributions, advances, direct Federal development, or other Federal
10 funding that the institution is applying for, for the financial impact on the
11 institution and the government of Guam's General Fund or special funds used to
12 fund the local matching requirement as prescribed by Federal law; and the
13 financial impact on the institution and the government of Guam for the
14 continuation of the Federal program should the Federal funding expire and require
15 the government of Guam to financially assume the program's operation one
16 hundred percent (100%); and

17 (f) the Director of the Bureau may delegate any of the foregoing duties and
18 responsibilities to any officers or employees of the Bureau.

19 The Guam Bureau of Health Planning and Development *shall* be exempt
20 from the provisions of §§ 2101, 2101.1 and 2101.3 of Chapter 2, Title 5, Guam
21 Code Annotated.”

22 **Section 8. Severability.** If any provision of this Act or its application to
23 any person or circumstance is found to be invalid or contrary to law, such
24 invalidity shall not affect other provisions or applications of this Act which can be

1 given effect without the invalid provisions or application, and to this end the
2 provisions of this Act are severable.

3 **Section 9. Effective Date.** This Act shall be immediately effective upon
4 enactment.