

MINA'BENTE OCHO NA LIHESLATURAN GUAHAN  
2005 (FIRST) Regular Session

Bill No. 237 (EC)

Introduced by:

L. Leon Guerrero 

B.J. Cruz 

AN ACT TO ADD SUBSECTION (e) TO SECTION 6103,  
TITLE 5, DIVISION 1, CHAPTER 6, ARTICLE 1 AND TO  
AMEND SECTION 6301 SUB-SECTION (d) ITEMS 1-4 OF  
TITLE 5, DIVISION 1, CHAPTER 6, ARTICLE 3, GUAM  
CODE ANNOTATED RELATIVE TO EXTENDING THE  
MAXIMUM LIMITS OF GOVERNMENT LIABILITY TO  
PHYSICIANS AT THE GUAM MEMORIAL HOSPITAL  
WHEN CONDUCTING FOLLOW UP VISITS WITH  
HOUSE PATIENTS AT THEIR PRIVATE MEDICAL  
FACILITY.

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

2 **Section 1. Legislative Findings and Intent.** The *I Liheslaturan Guahan* finds that  
3 the utilization of the Guam Memorial Hospital (GMH) by private physicians to treat their  
4 patients is a privilege. As part of the privilege to see their private patients at GMH, the  
5 participating physicians are required to treat patients who present themselves at GMH,  
6 typically at the emergency room and are medically indigent, without any health insurance  
7 and/or do not have a private physician. These participating physicians are called House Call  
8 Physicians and the patients are referred to as House Patients.

9 The *I Liheslaturan Guahan* further finds that according to the GMH Medical Staff  
10 Bylaws, Physicians are considered agents of GMH and are covered under the Government of  
11 Guam Claims Act for liability and insurance when they: 1) provide care to a patient by  
12 virtue of being: a) on house call, b) called in consultation by the house call physician to  
13 provide additional expertise to a patient, c) called to provide emergency expertise not  
14 otherwise available to a patient, d) health professionals of the hospital as delineated in

1 house call physician to provide additional expertise to a patient, c) called to provide  
2 emergency expertise not otherwise available to a patient, d) health professionals of  
3 the hospital as delineated in Section 2 of Public Law 24-80; and 2) accept  
4 reimbursement through the GMH's Physician Reimbursement Program at the house  
5 patient reimbursement rate.

6 Often times, house patients require follow up care, depending upon the  
7 medical diagnosis. The physicians conduct the necessary follow up medical  
8 treatment on these patients, however the liability coverage does not extend to their  
9 private medical facility.

10 The *I Liheslaturan Guahan* thus intends to extend the Government Claims Act  
11 coverage for liability and insurance to physicians *only* while treating house patients  
12 as a follow up at their private medical facility and *only* for treatment based on the  
13 initial diagnosis while the house patient was treated at GMH. It is further the intent  
14 of the *I Liheslaturan Guahan* that by extending this coverage, house patients will  
15 receive the continuity of care for the betterment of their health and welfare, while  
16 extending liability and insurance coverage for physicians to protect them and their  
17 practice when treating house patients, and minimizing the cost of healthcare by  
18 treating house patients at a private medical facility rather than at GMH.

19 **Section 2. Section 6103, Sub-Section (e), Title 5, Division 1, Chapter 6,**  
20 **Article 1, Guam Code Annotated is hereby added to read:**

21 “(e) *House Patient* means a patient who presents to Guam Memorial Hospital  
22 who does not have a private practitioner or who does not request and/or is unable to  
23 identify an accepting practitioner. For the purposes of the Government Claims Act  
24 and for Agent for Hospital Reimbursement, “House Patient” designation is given to  
25 the care provided by agents of the hospital.”

26 **Section 3. Section 6301, Sub-Section (d) items 1-4, Title 5, Division 1,**  
27 **Chapter 6, Article 3, Guam Code Annotated is hereby amended to read:**

1           “(d)(1) In the case of the Guam Memorial Hospital Authority, it shall also be  
2 liable in tort, not to exceed the limits stated in subsection (b), above, for damages  
3 arising from negligent acts of Government Health Professionals performed within  
4 facilities operated by said Authority as agents of the government of Guam at the  
5 request of the Governmen or performed at the private medical facility of a  
6 government health professional as follow up care for a house patient limited to  
7 specific treatment for the condition(s) medically diagnosed by the Physician or the  
8 Emergency Room Physician while treating House Patients at the Guam Memorial  
9 Hospital. Government Health Professionals shall be considered agents of the  
10 government of Guam within the meaning of § 6212 of this Chapter.

11           (2) Government Health Professionals performing services in government  
12 facilities other than those operated by the Guam Memorial Hospital Authority shall  
13 be considered agents of the line department or autonomous agency they serve.

14           (3) A Government Health Professional is any person who is licensed or  
15 certified to practice a healing art in Guam and is practicing that art within a  
16 government of Guam facility as an agent of the government of Guam, or in the case  
17 of Physicians at the Guam Memorial Hospital who shall be considered an agent of  
18 the government of Guam while conducting follow up medical care services for  
19 House Patients at their private medical facility.

20           (4) Government Health Professionals, including independent contractors,  
21 serving as agents of the government and government employees covered under the  
22 provisions of the Government Claims Act, shall not be liable for more than the  
23 amount stated in Subsection (b). Any award against the government employer as  
24 herein provided bars further award from the Health Professional or the government  
25 employee in the same cause of action for injuries arising out of the same acts or  
26 omissions unless:

1 (i) to the extent that any liability of the government of Guam or all other  
2 government agencies, (including, but not limited to, all instrumentalities,  
3 autonomous agencies, semi-autonomous agencies, public corporations), is covered  
4 by a policy or policies of insurance, the government waives the limitation of liability  
5 found in Title 5 of the Guam Code Annotated § 6301; provided, that the government  
6 shall not be liable in damages for tort in any amount which exceeds the coverage of  
7 insurance and the limitation of liability contained in 5 GCA § 6213; or

8 (ii) the Court finds that the agent or the government employee was acting  
9 outside the scope of her/his employment.

10 **Section 3. Severability.** *If any provision of this Act or its application to any*  
11 *person or circumstance is held invalid, the invalidity does not affect other provisions*  
12 *or applications of this Act which can be given effect without the invalid provision or*  
13 *application, and to this end the provisions of this Act are severable.*

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