

MINA'BENTE NUEBI NA LIHESLATURAN GUAHAN  
2008 (SECOND) Regular Session

Bill No. 205 Executive Committee

Introduced by:

v.c. pangelinan  
B.J. Cruz



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

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that the  
3 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 most often do not have a private physician. These participating private physicians are  
8 called House Call Physicians and the patients are referred to as House Patients.

9           *I Liheslaturan Guahan* further finds that according to the GMH Medical Staff bylaws,  
10 private 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 when: a)  
12 on house call, b) called in consultation by the house call physician to provide additional  
13 expertise to a patient, c) called to provide emergency expertise not otherwise available to a  
14 patient, d) acting as health professionals of the hospital as delineated in Section 2 of Public  
15 Law 24-80; and 2) accept reimbursement through the GMH's Physician Reimbursement  
16 Program at the house patient reimbursement rate.

17           Often times, house patients require follow up care outside of the hospital setting.  
18 When the private physicians conduct the necessary follow up medical treatment on these

1 patients outside of the hospital, the liability coverage does not extend to the follow-up care  
2 given at their private medical facility.

3 *I Liheslaturan Guahan* intends to extend coverage of the Government Claims Act to  
4 physicians for follow-up treatment of house patients given at their private medical facility  
5 and *only* for treatment based on the initial diagnosis while the house patient was treated at  
6 GMH. Additionally, *I Liheslaturan Guahan* finds by extending this coverage, house patients  
7 will receive the continuity of care for the betterment of their health and welfare, while  
8 extending liability and insurance coverage to the private physicians protects them and their  
9 practice when treating house patients at a private medical facility rather than at GMH reduces  
10 the cost of healthcare to the government for the treatment of house patients

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

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

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

20 “(d)(1) In the case of the Guam Memorial Hospital Authority, it shall also be liable in  
21 tort, not to exceed the limits stated in subsection (b), above, for damages arising from  
22 negligent acts of Government Health Professionals performed within facilities operated by  
23 said Authority as agents of the government of Guam at the request of the Government or  
24 performed at the private medical facility of a private physician acting as a Government  
25 Health Professional for follow up care to a house patient limited to specific treatment for the  
26 condition(s) medically diagnosed by the physician or the Emergency Room physician while  
27 treating House Patients at the Guam Memorial Hospital. Government Health Professionals  
28 shall be considered agents of the government of Guam within the meaning of § 6212 of this  
29 Chapter.

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

4 (3) A Government Health Professional is any person who is licensed or certified to  
5 practice a healing art in Guam and (a) is practicing that art within a government of Guam  
6 facility as an agent of the government of Guam, or (b) performing follow up care to a House  
7 Patient within a private medical facility, which follow up care is limited to specific treatment  
8 for the condition(s) medically diagnosed by the physician or the Emergency Room physician  
9 while treating the House Patient at the Guam Memorial Hospital.

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

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

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

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

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