



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

2008 APR 21 AM 10:15 AM

Bill No. 276(LS)

Introduced by:

Dr. David L.G. Shimizu 
Tina Rose Muna Barnes
Judith T. Won Pat, Ed.D. 
Benjamin J. Cruz
Judith P. Guthertz
v.c. pangelinan
Adolpho b. Palacios
Rory J. Respicio

AN ACT TO ADD A NEW ARTICLE 11 TO
CHAPTER 12 OF PART I OF TITLE 10 OF THE
GUAM CODE ANNOTATED TO ADD
SAFEGUARDS TO DUE PROCESS IN HEARINGS
REGARDING REMOVAL OF LICENSURE FOR
PERSONS PRACTICING THE HEALING ARTS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 11 is added to Chapter 12 of Part 1 of Title
3 10 of the Guam Code Annotated to read:

4 "Article 11

5 Due Process Protection for Persons Practicing the Healing Arts.

1 **§ 121101. Policy.** It is the policy of the government of Guam that due
2 process be protected in hearings which may result in the suspension or
3 removal of licenses already granted to individuals licensed on Guam to
4 practice the healing arts according to the provisions of this Chapter 12.
5 Notwithstanding any other law, rule, or regulation, the processes for hearing
6 complaints or grievances against any individual practicing the healing arts
7 which may result in the suspension or removal of licenses already granted
8 shall be in accordance with the provisions of this Article 11.

9 **§ 121102. Establishment of lists for panels to hear complaints or**
10 **grievances.** The Boards of each of the healing arts in this Chapter 12 shall
11 establish a list of persons licensed in good standing in each of the respective
12 healing arts who are available to participate on a panel to hear complaints or
13 grievances against individuals in the respective healing arts which may result
14 in suspension or removal of licenses already granted pursuant to this Chapter.
15 The lists shall be representative of the membership of each healing art and
16 shall contain, if possible, at least Ten (10) persons. These lists shall be open to
17 the scrutiny of any member of the healing arts.

18 **§ 121103. Establishment of panels to hear complaints or grievances.**
19 Immediately after receiving a complaint or grievance by a respective board of
20 a healing art, the respective board shall chose a panel of Three (3) members
21 from that healing art's listing. The panel members shall be chosen randomly
22 from the list. The panel so chosen shall hear the complaint or grievance for
23 which the panel is chosen. Each complaint or grievance received shall result in
24 choosing a new panel.

1 **§ 121104. Conflicts of Interest.** No person shall be seated on a panel
2 to hear any particular complaint or grievance if that person has a conflict of
3 interest with the individual against whom the complaint or grievance is being
4 heard. Conflicts of interest include but are not limited by the following:

5 (a) The panel member is in any supervisory position to the
6 person subject to the hearing, including being a board
7 member of an organization or in a supervisory position of an
8 organization in which the person subject to the hearing is
9 employed.

10 (b) The panel member is involved in the generation of the
11 complaint or grievance.

12 (c) The panel member has a financial interest in the outcome of
13 the subject matter of the complaint or grievance.

14 (d) The panel member has any other conflict of interest which
15 would render the hearing biased.

16 **§ 121105. Timely hearing of motions.** All motions filed on behalf of
17 either party prior to the hearing on the complaint or grievance shall be
18 heard and ruled upon by each panel in a timely fashion so that there is
19 at least One (1) week between the ruling on the last motion filed and the
20 hearing on the merits of the complaint or grievance by the panel. This
21 serves the ends of due process so that any hearing on the merits is well
22 prepared and all witnesses and documents are available at the outset of
23 the hearing.

24 **§ 121106. Notice of complaint or grievance must be set out with**
25 **specificity.** Any complaint or grievance against an individual practicing

1 the healing arts for which the suspension or removal of licensure of a
2 license already granted under Chapter 12 of this Title shall set out with
3 specificity the facts underlying the complaint or grievance. The facts
4 shall be accompanied by relevant documents, if applicable. A statement
5 of the facts shall be specific with regard to the facts occurring and with
6 respect to their applicability to the violation constituting the complaint
7 or grievance. The complaint or grievance, as specifically set out, and
8 with accompanying documents, shall be served upon the person against
9 whom the complaint or grievance is lodged within Ten (10) days of
10 receipt of the complaint or grievance.

11 **§ 121107. Ex parte communication.** No ex parte communication
12 shall take place between a complainant or grievant, or a party
13 presenting evidence of a complaint or grievance before a panel, and the
14 members of the panel, or the list from which the panel is drawn, during
15 the pendency of the proceeding and until a decision is rendered
16 concerning suspension or removal of a license to practice the healing art.

17 **§ 121108. Board action on the decision of a panel.** Any board of
18 a healing art shall receive the final decision of a panel after the hearing
19 on a complaint or grievance and shall serve the panel decision on the
20 party against whom the complaint or grievance was made. A board may
21 authorize a rehearing of the complaint or grievance by a new panel if
22 the board determines that due process was violated in the hearing of the
23 complaint or grievance, but otherwise shall approve the decision. An
24 authorization for new hearing or approval of decision shall take place
25 within Fifteen (15) days of receipt of the panel decision. A notice of an

1 authorization of rehearing, or an approval of the decision, shall be
2 served within Ten (10) days on the party against whom a complaint or
3 grievance was lodged.

4 **§ 121109. Appeal of decision of a panel.** An appeal of a decision
5 for rehearing or approval of a panel decision by a board shall be taken in
6 accordance with the laws of Guam for a decision of a board of a healing
7 art.”