

I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
275-32 (COR)	Dennis G. Rodriguez, Jr.	AN ACT TO ENSURE THE SANCTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY, BY AMENDING SUBSECTION (n) OF §80109, CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED.	2/13/14 1:59 p.m.	02/14/14	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens	3/13/14 9:00 a.m.	5/5/14 9:22 a.m.	Fiscal Note Requested 02/20/14 Fiscal Note Received 03/31/14



SENATOR DENNIS G. RODRIGUEZ, JR.

APR 02 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'Trentai Dos Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules *[Signature]*

RE: Committee Report – Bill No. 275-32 (COR), as Substituted

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report on BILL NO. 275-32 (COR)- An act to ensure the sanctity of the Medical Peer Review process at the Guam Memorial Hospital Authority, by amending Subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated; Sponsored Senator Dennis G. Rodriguez, Jr., and referred to the Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens.** Bill No. 275-32 (COR), as introduced, was publicly heard on March 13, 2014.

Committee votes are as follows:

4 TO PASS
1 NOT TO PASS
1 ABSTAIN
2 TO REPORT OUT ONLY
1 TO PLACE IN INACTIVE FILE

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments

2014 MAY -5 AM 9:22

**COMMITTEE REPORT
ON**

**BILL NO. 275-32 (COR),
As substituted**

Sponsored by Senator Dennis G. Rodriguez, Jr.

An act to ensure the sanctity of the Medical Peer Review process at the Guam Memorial Hospital Authority, by amending Subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated.



SENATOR DENNIS G. RODRIGUEZ, JR.

March 17, 2014

MEMORANDUM

To: ALL MEMBERS
Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens.

From: Senator Dennis G. Rodriguez, Jr. ✓
Committee Chairperson

Subject: Committee Report on Bill no. 275-32 (COR), as Substituted.

Transmitted herewith, for your consideration, is the **Committee Report on BILL NO. 275-32 (COR)- An act to ensure the sanctity of the Medical Peer Review process at the Guam Memorial Hospital Authority, by amending Subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated; Sponsored Senator Dennis G. Rodriguez, Jr., and referred to the Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens.**

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 275-32 (COR) and Substituted copy of Bill No. 275-32 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 275-32 (COR)
- Notices of Public Hearing (1st and 2nd)
- Copy of the Public Hearing Agenda
- Related News Articles (Public hearing publication of public notice)

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'!

Attachments



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE VOTING SHEET

SUBSTITUTE BILL NO. 275-32 (COR)- An act to ensure the sanctity of the Medical Peer Review process at the Guam Memorial Hospital Authority, by amending Subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated; Sponsored Senator Dennis G. Rodriguez, Jr.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman		✓				
V. ANTHONY ADA Vice Chairman					✓	
JUDITH T. WON PAT, Ed.D. Speaker (Ex-officio)						
BENJAMIN J. F. CRUZ Vice-Speaker		✓				
TINA ROSE MUNA-BARNES Legislative Secretary						
FRANK B. AGUON, Jr.						
VICENTE C. PANGELINAN						
RORY J. RESPICIO		4-2-14 				
ALINE A. YAMASHITA, Ph.D.					✓	
MICHAEL LIMTIACO						
BRANT T. MCCREADIE		✓				
CHRISTOPHER M. DUENAS						



SENATOR DENNIS G. RODRIGUEZ, JR.

COMMITTEE REPORT DIGEST

Bill No. 275-32 (COR)

I. OVERVIEW: The Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens conducted a public hearing on March 13, 2014. The hearing convened at 9:03am in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **BILL NO. 275-32 (COR)- An act to ensure the sanctity of the Medical Peer Review process at the Guam Memorial Hospital Authority, by amending Subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated; Sponsored Senator Dennis G. Rodriguez, Jr.**

Public Notice Requirements

Notices were disseminated via hand-delivery/fax and/or email to all senators and all main media broadcasting outlets on March 5, 2014 (5-day notice), and again on March 11, 2014 (48-hour notice).

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Frank Aguon, Jr.	Member
Senator Brant McCreadie	Member

The public hearing on agenda item Bill No. 275-32 (COR) was called to order at 9:03AM.

II. SUMMARY OF TESTIMONY & DISCUSSION.

Chairman Rodriguez: Okay Senator do you have anything else? Okay thank you again for being here congratulations again we'll keep your record open so whoever wishes to submit they may do so through a written testimony and send it to my office. Thank you very much. We did conclude the hearing of 275, but I see Dr. Richardson here I would reopen it if you would like to testify I welcome you up, absolutely. Mr. Perez, I think it will be good for you to stick around if you can. This is regarding the bill that we've just heard earlier. Dr. Richardson if you can state your name for the record.

Dr. Richardson: Richardson and I work at GMH. I am a doctor at GMH. I am vice chairman of the ER and I am vice president of the medical staff. Both of which positions are elected, voluntary, and unpaid and that's kind of crucial on how the hospital works. One of the fascinating things which how we make these arrangements make the hospital run is how we function within the laws and finances of the country and I keep hearing that it is said that we can't turn the patients away, private hospitals can turn patients away, but if you accept 1 dollar of Medicare, you can't hold that dollar. I don't understand once it is the law of the land, its federal law. 60% of the finances in medical care of America are federal government. Nobody can function without at least 18% gross national product or medical compared to and 10% of it is Medicare or Medicaid. With the new hospital opening,



SENATOR DENNIS G. RODRIGUEZ, JR.

when half of the patient's disappear, all of the pain patients, how does GMH remain any kind of viable operations and the Chair and I understand legal reasons of why it happens. Any other community that I've worked in, government agencies distribute scarce resources and they allocate resources where they see the community needs it, so I trained in NY and I spend years training in NY. Medical oversight committee there establishes each year how many beds we pay for in psychiatry how many will we pay for in surgery, how much are they going to get there is always oversight, so the astonishing and terrifying to me is that our community seems to be allowing a new hospital taking all our patients, but we don't feel any duty to comply with the overall requirements of the community to provide care for everyone so you know it's a pickle and I'm not sure how we get out of it and maybe the law that we came to talk about today is a good entry. First of all, thanks a lot for helping us with this I have always worked in public hospital and I've always liked a hospital that sees everyone, so it's just what I grew up with and what I like and so this issue of peer review. What it is it is not really obvious to people, when I finished medical school, I didn't know what it was, I saw it, but I didn't understand it, but when I've been working for a few years that you realize the only thing that gives patients safety is peer review. If something were to go wrong, and the lawsuits it's kind of too late. Peer review is basically it's a collegiate thing. It's not done for punishment that's the licensing board; it's done so there is constant ongoing oversight of all medical care. The only people that only understand is the people with the same training doing the same job and the reason that it is not knocked down for punishment is because we want people to be involved. We want people to be able to come forward, to feel the weakness and see the mistake somewhere else, it's hard to point fingers at someone if you think they are going to get punished, it's hard. Peer review is to avoid that problem if you use a problem you take it to your department you do a peer review, but it is not accusatory. We've always done peer review at GMH what normally happens when there is a problem, we discuss it, understand why did it happen and mostly if you look what is the goal is more education, proctoring we have to do proctoring and maybe even more training very unusually does a peer review that requires punishment very unusual, 99% of the time. Peers discuss it, you see a problem, you find a solution the person involve in the problem feels bad about it and sometimes they feel terrible about it and they want to do something better, and it works out. Occasionally it doesn't work that way and you end up with things that become issues and punishments. With the I'm not sure Mr. Chair with that section 3-2 in the law because peer review has nothing to do with licensing, nothing at all, in the US, most jurisdictions allow you to have a license after one year of training, after you have done an internship, but no hospital anywhere would give you one year of training so licensing is a very low baseline and it is where things go if it becomes a problem it has nothing to do with peer review. In the states, licensing buddies are paid they are professional, they have special training, they have lawyers specialized in medical law, they have investigation teams, it's a pretty big operation for us it's voluntary, it's politically appointed, it has a minimal staff, and so as the issue of confusing licensing with peer review would be a major problem because how licensing board doesn't have anywhere near the capacity to do peer review, which requires that you have all these other resources. Well, just to conclude on what peer review is, in order to get privileges in the hospital, it is mandatory that you participate in peer review. You can't keep your privileges if you don't participate in peer review and basically it is this constant routine oversight of anything that goes on. Now GMH has always did peer review, we did it every single month until a year ago and since a year ago we've done none. It's cease occurring because kind of bizarre dramatic event happened in which the board of trustees and the administration manipulated the peer review process on behalf and they overturned well I should say they overturned

Chairman, Committee on Health & Human Services, Health Insurance Reform, Economic Development, & Senior Citizens

Ufsinan Todu Guam • I Mina' Trenta Dos Na Libesaturan Guåban • 32nd Guam Legislature

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SENATOR DENNIS G. RODRIGUEZ, JR.

they threw out a peer review without even reviewing it and did something was simply criminal. They communicated with the national practitioner databank in which the doctors, we know if you lie to the national practitioner databank you will go to prison, it's a felony you go to prison. Nobody does it, it's really bad so our hospital administrator communicated with the national practitioner databank and misinformed them, misled them and told them that the hospital had undone some peer review which it never had, never reviewed it, and it was never appealed. Since that happened the professional staff, the medical staff at GMH, has tried every single month to get the administration and the board of trustees to overturn this thing and to support our peer review process. The reason we haven't done peer review since that happened because we were about to, we were immediately threaten with lawsuits that the people that we're going to do peer review said how can you do it on me but you don't do it on them? The only reason you're doing it on me because I don't have friends in the governor's office, it was true, so we couldn't do it and went back to the Board of Trustees, we begged them and we implored them we made multiple unanimous votes the medical staff of GMH said, we can't function if the board of trustees and the administration claimed the right to overturn peer review whenever they feel like it. The board of trustees rejected us every single time and the administration has rejected us every single time. The only reason why we still have accreditation on GMH, losing it will be a disaster, it is a Medicare equivalent, we have trouble getting Medicare, walking around GMH there is all these cracks. We normally have accreditation problems in the building before they get anywhere else that's not right, but with accreditation there is a Medicare equivalent then we can continue to build Medicare losing the accreditation for us will be huge. We would've lost our accreditation at the last inspection because of this lack of peer review because of this political manipulation of the peer review process and essentially, the physicians did something sneaky we simply hid and did not speak with the crediting people. They're meant to come back and we have now a new president of the medical staff very professional guy very above and said, this is awful he can't do this and he wrote to the accrediting saying will you help us cause we can't get our hospital to participate and follow the law, will you help us and they said yes. We sent them a letter you will lose your accreditation if you do this, so we've reported this to the board of trustees, the administration, they don't care. We have been trying to get the board of trustees, Mr. Webber and Mr. Vega to follow the law and we cannot do it the chair and this committee decided to put in a law to simply require them to follow the law that does exist and to not do anything unusual as I understand that we really appreciate that. It is really crucial for us because we have failed in any type of normal practices.

Chairman Rodriguez: If you'd like to yes, sure before we do that though, Senator McCreadie did you have any questions?

Senator McCreadie: I just had one question is this the first time you're speaking to these subjects and these problems are there something never heard this before?

Chairman Rodriguez: If I may Dr. Richardson, this is as I indicated earlier in the opening, as a result of the committee hearings that happened in the last term. This was an issue that was ongoing and when Dr. Ngyuen did come on board, it was brought again to the committee's attention. We did move forward with this because the fear we had there isn't any peer review happening at the hospital and from our understanding is that because there was this issue that was still pending out there that if the non medical board can overturn the peer review that is done by the medical staff that is where the



SENATOR DENNIS G. RODRIGUEZ, JR.

push back from doctors were. We did not want to continue that from happening, so we move this forward to ensure sanctity of peer review is reaffirm at the hospital.

Dr. Richardson: About a year ago in which the whole issue of this returning was discussed it was a committee that had a big turnout where about 12 senators were present and were unanimously condemned and rejected the contract that the board of trustees and the administration signed in order to commit this overturning. We all thought at that time that the issue was resolved because it was publicly discussed and in the contract from which this was bathe, it says if you read it is pretty astonishing, we did this at the best interest of GMH, but at this table the administrator of GMH and the medical director of GMH both under oath did admit that it had nothing to do with the best interest of GMH, it was not in the best interest of GMH, but we thought then it was dealt with it was a big surprise to us this year even though the legislators had rejected it they went ahead and did that anyway.

Chairman Rodriguez: If I could limit the discussion to the bill because we don't have the other parties here to be able to speak on that, so we'll limit it to the context of the bill.

Valentino Perez: I guess a couple of questions this peer review process, now ill speak from a finance point of view, does that require any other personnel costs, any time for a doctor or physician?

Chairman Rodriguez: Mr. Perez and doc if any testimony is to be have for the bill; we'll have it here, but any other discussion should be held outside the public hearing.

Valentino Perez: Okay I understand, I apologize. And so the bill itself is to mandate?

Chairman Rodriguez: It is to protect the peer review process the board of trustees in which you will be serving in cannot overturn a peer review process that has been done by medical professionals. We do have now a file we have this thick that I will be happy to share with you.

Valentino Perez: Not a problem, that is fine, I will alter my question I guess.

Chairman Rodriguez: And if you direct the questions to the committee.

Valentino Perez: Okay now as far as a peer review process goes and I guess in a corporate world and most companies they all heard of something called best practices and what actually helps companies and organizations in a certain industry or sector be the best, most proficient, most efficient. Is it my understanding that even though there is a slight chance proven by recent history and others that a peer review process may and in some sort of punishment or penalty that the majority of the cases in which peer review process reviews and with kind of a best practices nature in which we say that this is the way it should be done. You need it this way not a problem moving forward let's do this. Is that correct?

Chairman Rodriguez: Yes that is what the doctor has indicated earlier.
(Talking amongst themselves)



SENATOR DENNIS G. RODRIGUEZ, JR.

Dr. Richardson: It implements some kind of corrective action to move towards best practices. Most of the time because it is done in cooperative matter and it is effective way occasionally there will be disagreement and very occasionally then it needs to go to another stand.

Valentino Perez: Okay.

Chairman Rodriguez: And Dr. Richardson just to ask a question when peer review is done when is it reported to the national practitioner databank?

Dr. Richardson: Peer review the reason that it doesn't cost any money to the hospital because it is mandatory as a condition as having privileges at the hospital, so any doctors that asked to have privileges in order to keep them you have to be a part of peer review. Peer review is part of the responsibility, the peer review process is all written out in the bylaws we didn't event anything new we took it from other hospitals, it has a simple process, it goes into the department if the department cannot resolve it easily in a successful and positive manner, it is then referred to the medical staff which is the overall body of the doctors, which goes to the medical executive committee and a couple other people who will evaluate it and in order for a problem peer review case to be concluded it has to be reviewed by the medical executive committee and the decision is made there. When that decision is completed that is then reported to the board of trustees and the board of trustees by our bylaws has the authority to either agree with it or send it back to the medical executive committee. They don't have the authoritative to throw it out.

Chairman Rodriguez: When is it then reported?

Dr. Richardson: So once it has gone to the board of trustees and they made their decision, if they disagree with it the process would continue, it wouldn't die. Eventually it is going to be rejected by the MEC or accepted by the board of trustees the moment it is accepted it is then reported to the national practitioner databank.

Chairman Rodriguez: So then what this bill does is that when it is reported in the board of trustees they don't have the authority to overturn it they must continue the process and bring it back to the MEC.

Dr. Richardson: My reading of the bill it will essentially be taken parts of the federal legislation that simply stated out loud the fact that this is the law of Guam as well.

Chairman Rodriguez: That is right.

Dr. Richardson: My only—is that the law (interrupted by Senator Rodriguez)

Chairman Rodriguez: This is the bill and we do have your concern that you did submit via email and we also do have a written testimony from the hospital that has indicated the same sections that you are referring to, so the committee would do its work on it and will make the necessary adjustments if needed okay. Mr. Perez would you like to close up.



SENATOR DENNIS G. RODRIGUEZ, JR.

Valentino Perez: Yeah basically just one point of clarification for me and this may be a little premature. If somebody is very interested, the peer review process has several steps as you mentioned, it goes to the committee, to the board of trustees, to the databank, but in knowing that it is equivalent of sorts to best practices, I just want to make sure that I am very clear on this that the peer review process please correct me if I am wrong, if anybody knows I'm wrong please let me know, but my understanding is that the peer review process is the medical industry being the medical professionals, doctors, nurses, telling doctors how to be doctors and provide service or not necessarily telling them but making sure that it is done the right way will that be better?

Dr. Richardson: Yeah, it is a requirement being a doctor, in anything other than a private clinic, so if any time you work essentially in the public realm, as part of your professional ethic, this even is a side from licensing, although licensing always agrees with this, the licensing of the doctor always says you are held to the medical ethics of the clinic, so that's how it is tied in, so it's not something that is optional for physicians to do peer review, no institution in America would allow a physician by laws you can't have privileges except that you participate in peer review and the reason for it and then it is very tied it is very tied to the national practitioner databank. Well it was recognized that peers could understand if you're doing something wrong, and they are absolutely tied to maintaining this practices and when deviation practices occur to make corrective actions and the reason it is made is to be non accusatory and not punishment was really a realistic presentation that if you make it accusatory, people will hide and you won't get what you are aiming for which is to help those guys.

Valentino Perez: Right.

Chairman Rodriguez: Okay, so Senator McCreadie? Senator Aguon? If there is nothing else we will now conclude this public hearing again for Bill 275, but we'll keep it open for any additional testimonies for the public who wishes to submit. Thank you very much it is 9:45am and we're adjourned.

There being no other testimony, or comments by Senators, Chairman Rodriguez declared the bill as having been heard, and concluded the public hearing on Bill No. 275-32 (COR).

Fiscal Note: Request attached, dated February 20, 2014.

III. FINDINGS AND RECOMMENDATIONS

The Bill was amended so as to further clarify the authority and responsibility of the Guam Board of Medical Examiners in the review of peer review actions by medical organization. The physician who is the subject of a peer review action by a health care organization shall have the right of appeal before a competent professional board of oversight, which shall have the authority to review and act upon a peer review action. The Board may either, uphold the peer review action and finding, refer the peer review action back to the initiating health care organization for further consideration or reconsideration, or reverse the peer review action and findings in favor of the plaintiff. The Board is not a court of last resort or final determination, and the appellant shall still have the right of judicial recourse subsequent any determination by the Board. A new Section 3 was added to Bill No. 275-32 (COR), providing for a new Item 15 under § 12203(a) of Article 2,



SENATOR DENNIS G. RODRIGUEZ, JR.

Chapter 12. 10 GCA, to clarify and reinforce the authority and responsibility of the Guam Board of Medical Examiners in an administrative appeals process relative to *peer review actions* by health care organizations.

The Committee on Health & Human Services, Health Insurance Reform, Economic Development and Senior Citizens, hereby **reports out Bill No. 275-32 (COR), as Substituted**, with the recommendation to

Report out only.

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 275-32(000)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ENSURE THE SANCTITY OF THE
MEDICAL PEER REVIEW PROCESS AT THE
GUAM MEMORIAL HOSPITAL AUTHORITY, BY
AMENDING SUBSECTION (n) OF §80109,
CHAPTER 80, TITLE 10, GUAM CODE
ANNOTATED.**

2014 FEB 13 PM 1:59

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that all necessary efforts must be taken to further ensure the quality, safety and provision of health care at the Guam Memorial Hospital, by holding it to the highest professional standards. This is in significant part assured and accomplished through strict adherence to national health care standards, and related applicable laws, rules and regulations intended to provide for this.

Further, Section 423(a)(1), of the Health Care Quality Improvement Act, as Amended (HCQIA), Title IV of Public Law 99-660 (42 U.S.C. 11101 et seq.), states that a health care entity (including hospitals) must report to the National Practitioners Data Bank (NPDB), each time it *“takes a professional review action that adversely affects the clinical privileges of a physician for a period longer than 30 days.”*

I Liheslaturan Guåhan takes due note of the mandate and example provided in federal law, rules and regulations, as stated in the *NPDB Guidebook, Publication*

1 *No. HRSA-95-255, at Chapter E5*, wherein it provides an example of a valid action
2 to 'void' (reverse, rescind): "*Example: A State Medical Board submits an AAR*
3 *when it revokes a physician's license. Six months later, the revocation is*
4 *overturned by a State court. The State Medical Board should submit a Void of*
5 *Initial Report.*" There is a clear process, and any effort to 'void', reverse, rescind
6 and/or amend/correct a report to the NPDB *must* follow specific and stringent
7 criteria and guidelines pursuant to Federal law, rules and regulations.

8 *I Liheslaturan Guåhan* takes further note that, "*Reporting clinical privilege*
9 *actions and certain other adverse actions against health care practitioners is*
10 *mandatory and cannot be the subject of negotiations. Any such attempts would be*
11 *viewed as trying to shirt the law. . .*", as stated by the Director, Division of
12 National Practitioner Data Banks, U.S. Department of Health & Human Services,
13 in a communication to GMHA received on September 10, 2012, relative to the
14 actions by the GMHA Board to "void" a GMHA medical peer action conducted by
15 qualified medical professionals, pursuant to a negotiated settlement agreement in
16 an effort to avoid litigation.

17 It is the intent of *I Liheslaturan Guåhan* to ensure that the sanctity and
18 integrity of GMHA medical peer process *shall* be reestablished, reaffirmed and
19 strictly adhered to, as provided pursuant to applicable Federal law, rules and
20 regulations, and as further provided pursuant to the standards and processes, duly
21 adopted by GMHA, of the American Medical Association relative to procedures
22 and practices for the conduct medical peer reviews.

23 **Section 2.** Subsection (n) of §80109, Chapter 80, Title 10, Guam Code
24 Annotated, is *amended*, to read:

25 "(n) Adopt rules and regulations governing selection, compensation,
26 promotion, performance evaluation, disciplinary action and other terms and

1 conditions of employment affecting personnel, subject to the provisions of the
2 Administrative Adjudication Law Act. Such rules and regulations *shall* provide
3 for the employment and retention of persons on the basis of merit, and *shall*
4 include an orderly and systematic method of recruitment and the establishment of a
5 list of qualified applicants for employment purposes, *except* that compensation for
6 non-medical personnel *shall* remain consistent with compensation plans and pay
7 scales as determined by the Civil Service Commission or its successor. *Non-*
8 *medical personnel* are defined as personnel employed by the Authority who are *not*
9 physicians, nurses, medical technicians or technologists, licensed or certificated
10 therapists of any sort, laboratory technicians, personnel certificated in any medical
11 or nursing field, nurse practitioners, pharmacists or other medical personnel. It is,
12 further, provided:

13 (1) The conduct of any GMHA Medical Peer Review proceeding *shall* be
14 conducted in strict compliance with the Health Care Quality
15 Improvement Act, as Amended (HCOIA), Title IV of Public Law 99-
16 660 (42 U.S.C. 11101 et seq.) authorizing the Secretary, U.S.
17 Department of Health & Human Services to establish a National
18 Practitioner Data Bank (NPDB) to collect and release certain
19 information relating to the professional competence and conduct of
20 physicians, dentists and other health care practitioners; and, §1921 of
21 the Social Security Act (42 U.S.C. 1396r-2) (§1921) requiring each
22 State to adopt a system of reporting to the Secretary adverse licensure
23 actions taken against health care practitioners and entities;

24 (2) A medical peer review *shall* not be overturned by the Board except as
25 strictly prescribed by the National Practitioner Data Bank, as provided
26 pursuant to Title 45 – Public Welfare, Part 60, Code of Federal

1 Regulations, and as the regulations and authorizing statutes may be
2 may be revised;

3 (3) No “Void” or Reversal of Professional Peer Review Action by Board
4 Without Successful Appeal; Mandatory. No GMHA medical peer
5 review action that adversely affects the clinical privileges’ of
6 physicians, dentists and other health care practitioners shall be
7 reversed by the Board, nor shall a “void” be sought with the National
8 Practitioners Data Bank: 1) without the appellant having successfully
9 appealed the initial action before a subsequent GMHA peer review
10 committee duly conducted by medical professionals authorized to
11 conduct the appeal proceeding; or, 2) without the finding(s) of the
12 GMHA medical peer action having been reversed by the Guam Board
13 of Medical Examiners, wherein the appellant successfully appealed
14 the GMHA medical peer review action; or, 3) without the appellant
15 having successfully appealed the GMHA medical peer review action
16 before the judiciary of Guam; any one of which may be deemed to
17 satisfactory to reverse the initial GMHA medical peer review action
18 and seek a “void” with the NPDB, *provided*, the conduct of the appeal
19 and action taken in granting the appeal is legally acceptable to the
20 National Practitioner Data Bank pursuant to applicable federal law,
21 rules and regulations.

22 (4) Personal Liability – No Waiver of Immunity. The members of the
23 Board of Trustees, and the GMHA Legal Counsel, *shall not* be
24 personally immune from legal and civil liability for a knowing
25 violation of Items (1) through (3) of this Subsection (n).”

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

6 **Section 4. Effective Date.** This Act shall become immediately effective
7 upon enactment.

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 275-32 (COR), as Substituted
Committee on Health & Human Services,
Health Insurance Reform, Economic
Development, and Senior Citizens

Introduced by:

D.G. RODRIGUEZ, JR.

**AN ACT TO ENSURE THE SANCTITY OF THE
MEDICAL PEER REVIEW PROCESS AT THE
GUAM MEMORIAL HOSPITAL AUTHORITY, BY
AMENDING SUBSECTION (n) OF §80109,
CHAPTER 80, TITLE 10, GUAM CODE
ANNOTATED.**

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

2 **Section 1. Legislative Findings and Intent:** *I Liheslaturan Guåhan* finds
3 that all necessary efforts must be taken to further ensure the quality, safety and
4 provision of health care at the Guam memorial Hospital, by holding it to the
5 highest professional standards. This is in significant part assured and
6 accomplished through strict adherence to national health care standards, and
7 related applicable laws, rules and regulations intended to provide for this.

8 Further, Section 423(a)(1), of the Health Care Quality Improvement Act, as
9 Amended (HCQIA), Title IV of Public Law 99-660 (42 U.S.C. 11101 et seq.),
10 states that a health care entity (including hospitals) must report to the National
11 Practitioners Data Bank (NPDB), each time it "*takes a professional review action*
12 *that adversely affects the clinical privileges of a physician for a period longer than*
13 *30 days.*"

14 *I Liheslaturan Guåhan* takes due note of the mandate and example provided
15 in federal law, rules and regulations, as stated in the *NPDB Guidebook, Publication*

1 *No. HRSA-95-255, at Chapter E5*, wherein it provides an example of a valid action
2 to ‘void’ (reverse, rescind): “*Example: A State Medical Board submits an AAR*
3 *when it revokes a physician’s license. Six months later, the revocation is*
4 *overturned by a State court. The State Medical Board should submit a Void of*
5 *Initial Report.*” There is a clear process, and any effort to ‘void’, reverse, rescind
6 and/or amend/correct a report to the NPDB *must* follow specific and stringent
7 criteria and guidelines pursuant to Federal law, rules and regulations.

8 *I Liheslaturan Guåhan* takes further note that, “*Reporting clinical privilege*
9 *actions and certain other adverse actions against health care practitioners is*
10 *mandatory and cannot be the subject of negotiations. Any such attempts would be*
11 *viewed as trying to shirt the law. . .*”, as stated by the Director, Division of
12 National Practitioner Data Banks, U.S. Department of Health & Human Services,
13 in a communication to GMHA received on September 10, 2012, relative to the
14 actions by the GMHA Board to “void” a GMHA medical peer action conducted by
15 qualified medical professionals, pursuant to a negotiated settlement agreement in
16 an effort to avoid litigation.

17 It is the intent of *I Liheslaturan Guåhan* to ensure that the sanctity and
18 integrity of GMHA medical peer process *shall* be reestablished, reaffirmed and
19 strictly adhered to, as provided pursuant to applicable Federal law, rules and
20 regulations, and as further provided pursuant to the standards and processes, duly
21 adopted by GMHA, of the American Medical Association relative to procedures
22 and practices for the conduct medical peer reviews.

23 **Section 2.** Subsection (n) of §80109, Chapter 80, Title 10, Guam Code
24 Annotated, is *amended*, to read:

25 “(n) Adopt rules and regulations governing selection, compensation,
26 promotion, performance evaluation, disciplinary action and other terms and

1 conditions of employment affecting personnel, subject to the provisions of the
2 Administrative Adjudication Law Aet. Such rules and regulations *shall* provide
3 for the employment and retention of persons on the basis of merit, and *shall*
4 include an orderly and systematic method of recruitment and the establishment of a
5 list of qualified applicants for employment purposes, *except* that compensation for
6 non-medical personnel *shall* remain consistent with compensation plans and pay
7 scales as determined by the Civil Service Commission or its successor. *Non-*
8 *medical personnel* are defined as personnel employed by the Authority who are *not*
9 physicians, nurses, medical technicians or technologists, licensed or certificated
10 therapists of any sort, laboratory technicians, personnel certificated in any medical
11 or nursing field, nurse practitioners, pharmacists or other medical personnel. It is,
12 further, provided:

13 (1) The conduct of any GMHA Medical Peer Review proceeding *shall* be
14 conducted in strict compliance with the Health Care Quality
15 Improvement Act, as Amended (HCQIA), Title IV of Public Law 99-
16 660 (42 U.S.C. 11101 et seq.) authorizing the Secretary, U.S.
17 Department of Health & Human Services to establish a National
18 Practitioner Data Bank (NPDB) to collect and release certain
19 information relating to the professional competence and conduct of
20 physicians, dentists and other health care practitioners; and, §1921 of
21 the Social Security Act (42 U.S.C. 1396r-2) (§1921) requiring each
22 State to adopt a system of reporting to the Secretary adverse licensure
23 actions taken against health care practitioners and entities;

24 (2) A medical peer review *shall* not be overturned by the Board except as
25 strictly prescribed by the National Practitioner Data Bank, as provided
26 pursuant to Title 45 – Public Welfare, Part 60, Code of Federal

1 Regulations, and as the regulations and authorizing statutes may be
2 may be revised;

3 (3)No “Void” or Reversal of Professional Peer Review Action by Board
4 Without Successful Appeal; Mandatory. No GMHA medical peer
5 review action that adversely affects the clinical privileges’ of
6 physicians, dentists and other health care practitioners shall be
7 reversed by the Board, nor shall a “void” be sought with the National
8 Practitioners Data Bank: 1) without the appellant having successfully
9 appealed the initial action before a subsequent GMHA peer review
10 committee duly conducted by medical professionals authorized to
11 conduct the appeal proceeding; or, 2) without the finding(s) of the
12 GMHA medical peer action having been reversed by the Guam Board
13 of Medical Examiners, wherein the appellant successfully appealed
14 the GMHA medical peer review action; or, 3) without the appellant
15 having successfully appealed the GMHA medical peer review action
16 before the judiciary of Guam; any one of which may be deemed
17 satisfactory to reverse the initial GMHA medical peer review action
18 and seek a “void” with the NPDB, *provided*, the conduct of the appeal
19 and action taken in granting the appeal is legally acceptable to the
20 National Practitioner Data Bank pursuant to applicable federal law,
21 rules and regulations.

22 (4)Personal Liability – No Waiver of Immunity. The members of the
23 Board of Trustees, and the GMHA Legal Counsel, *shall not* be
24 personally immune from legal and civil liability for a knowing
25 violation of Items (1) through (3) of this Subsection (n).”

1 **Section 3.** A new Item (15) is hereby *added* to § 12203(c) of Article 2,
2 Chapter 12, 10 GCA, to read:

3 “(15) receive, review and investigate a peer review finding and action
4 received from a health care organization pertinent to the professional
5 performance of a licensee. Upon the receipt of an appeal of a peer review
6 finding and action, the Board shall have:

7 (i) the responsibility to review the peer review findings and action by a
8 health care organization, and, shall have the authority to, either, 1)
9 uphold the peer review action and finding, 2) refer the peer review
10 action back to the initiating health care organization for further
11 consideration or reconsideration, or, 3) reverse, vacate, or otherwise
12 ‘void’ the peer review action and findings.”

13 **Section 4. Severability.** *If* any provision of this Act or its application to
14 any person or circumstance is found to be invalid or contrary to law, such
15 invalidity shall *not* affect other provisions or applications of this Act which can be
16 given effect without the invalid provisions or application, and to this end the
17 provisions of this Act are severable.

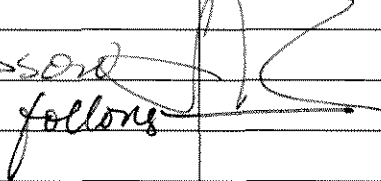
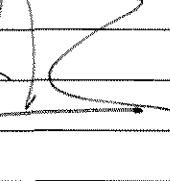
18 **Section 5. Effective Date.** This Act shall become immediately effective
19 upon enactment.



SENATOR DENNIS G. RODRIGUEZ, Jr., Chairman
 COMMITTEE ON HEALTH & HUMAN SERVICES, HEALTH INSURANCE REFORM,
 ECONOMIC DEVELOPMENT AND SENIOR CITIZENS
 Mina'trentai Dos Na Liheslaturan Guåhan • 32nd Guam Legislature

PUBLIC HEARING DATE / TIME: Thursday, March 13, 2014 9am

- **Bill 275-32 (COR)**- An act to ensure the sanctity of the medical peer review process at the Guam Memorial Hospital Authority, by amending subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated.

PRINT NAME	SIGNATURE	AGENCY	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	OPPOSE	CONTACT NUMBERS	EMAIL ADDRESS
IAN RICHARDSON	 — None follows							



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



850 GOV. CARLOS CAMACHO ROAD
OKA, TAMUNING, GUAM 96913
TEL: 647-2444 or 647-2330
FAX: (671) 649-0145

March 12, 2014

Hon. Senator Dennis Rodriguez
176 Serenu Avenue, Suite 107
Tamuning, Guam 96931

Re: Testimony regarding Proposed Peer Review Legislation Bill 275-32 (COR)

Dear Honorable Senator Rodriguez,

Buenas yan Hafa Adai.

Please accept my written testimony in reference to the proposed peer review legislation Bill 275-32 (COR). This is a very complex matter. While I support the spirit of the bill and agree that the BOT should not unilaterally reverse a peer review decision and action without following a well-defined mechanism that involves allowing the medical staff to present the facts and rationale for their decisions and actions I advise extreme caution moving forward and do have several concerns with the proposed legislation as written. One of the main responsibilities of the Board of Trustees as the ultimate authority at a hospital is to hold the medical staff accountable for its actions or inactions especially since said actions or inactions by the medical staff may lead to lawsuits against the hospital and compromise safety and quality of care. The legislation as proposed leaves out any appeal mechanism directed to the Board of Trustees (BOT) first before any other remedy is sought and also does not consider that the BOT as the ultimate authority over all hospital matters has the right to seek second opinions and external reviews and recommendations regarding peer review decisions and actions that may adversely affect the hospital and patients. In the event there are conflicts (perceived or otherwise) regarding peer review decisions or actions the BOT has the fiduciary responsibility to determine the final disposition and action.

Also Section 2. items number 2 & 3 of the legislation refers to a "reversal of peer review action by the Guam Board of Medical Examiners". This is not valid or appropriate as the Guam Board of

Medical Examiners are not involved with and play no role in professional peer review processes in this hospital when violation of a licensing requirement has occurred. The medical licensing Board of any State plays no role in hospital peer review matters. It is my recommendation this provision be removed before considering moving forward with

OFISINAN TODU GUAM
Received by the
Office of Senator
Dennis G. Rodriguez, Jr.

March 12, 2014
#2 10



Guam Memorial Hospital Authority Aturidåt Espetåt Mimuriåt Guåhan



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this bill. Finally the reference to an appeal of a peer review decision or action to the judiciary of Guam is unnecessary and redundant since every individual or group (such as the medical staff) has the right to file a lawsuit and appeal to the courts to seek a remedy if they feel they have been unfairly treated.

Furthermore, nowhere in the proposed legislation is confidentiality addressed. I also recommend that the legislation be amended to direct the BOT to develop and adopt policies and procedures that clearly address these matters and submit said policies and procedures to the legislature.

In conclusion I recommend that this proposed legislation and Bill 275-32 (COR) be tabled or held in abeyance for the present until these matters can be more fully explored and addressed and the impact of any potential legislation on peer review matters be thoroughly assessed.

I remain available to discuss this matter with you and the Committee further at your convenience.

Thank you for your time and consideration.

Joseph Verga, CEO
GMHA

cc. Hon. Gov. Eddie Calvo
Frank Arriola, Chief of Staff
Arthur Clark, Chief advisor to the Governor
GMHA BOT
Tom Fisher
Minakshi V. Hemlani
Brian San Nicolas, Health Advisor to the Governor



COMMITTEE ON RULES

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Aline Yamashita
Member

Certification of Waiver of Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **BILL NO. 275-32 (COR)**, "AN ACT TO ENSURE THE SACTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY , BY AMENDING SUBSECTION (n) OF §80109, CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED." – on February 20, 2014. COR hereby certifies that BBMR confirmed receipt of this request February 20, 2014 at 9:39 A.M.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 275-32 (COR) to be included in the committee report on said bill, is hereby waived.**

Certified by:

Senator Rory J. Respicio
Chairperson, Committee on Rules

May 5, 2014

Date



COMMITTEE ON RULES

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February 20, 2014

VIA E-MAIL
john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 275-32 (COR) through 277-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsors	Title
275-32(COR)	D. G. Rodriguez, Jr.	AN ACT TO ENSURE THE SACTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY , BY <i>AMENDING</i> SUBSECTION (n) OF §80109, CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED.
276-32 (COR)	Michael T. Limtiaco	AN ACT TO ELIMINATE THE SETTING OF SENATORS' SALARIES AS A PERCENTAGE OF THE SALARY PAID TO THE JUDGES OF THE SUPERIOR COURT OF GUAM.
277-32 (COR)	Brant T. McCreadie	AN ACT TO ADD A NEW SECTION 3349 TO ARTICLE 3, CHAPTER 3, TITLE 16 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTIES OF DRIVERS WHEN APPROACHING STATIONARY VEHICLES DISPLAYING EMERGENCY OR WARNING LIGHTS.



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Aline Yamashita
Member

February 14, 2014

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Vice Speaker Benjamin J.F. Cruz**
Acting Chairperson of the Committee on Rules

Subject: **Referral of Bill Nos. 275-32(COR) and 276-32(COR)**

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 275-32(COR) and 276-32(COR)**.

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
275-32 (COR)	Dennis G. Rodríguez, Jr.	AN ACT TO ENSURE THE SANCTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY, BY AMENDING SUBSECTION (n) OF §80109, CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED.	2/13/14 1:59 p.m.	02/14/14	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens			



Joseph Anthony Mesngon <jmesngon.senator@rodriguez@gmail.com>

FIRST NOTICE of HEARINGS for Thursday, March 13, 2014

1 message

Joseph Anthony Mesngon <jmesngon.senator@rodriguez@gmail.com>

Wed, Mar 5, 2014 at 11:10 AM

To: phnotice@guamlegislature.org

March 5, 2014

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Dennis G. Rodriguez, Jr.

Subject: FIRST NOTICE of HEARINGS for Thursday, March 13, 2014

Hafa Adai!

The Committee on Health and Human Services will conduct hearings on Thursday, March 13, 2014 at 9am in Liheslatura's Public Hearing Room.

The Committee will hear and accept testimonies on the following:

*Confirmation hearing on the Executive Appointment of Mr. Valentino G. Perez to serve as a General Member of the Guam Memorial Hospital Authority Board of Trustees.

*Public Hearing on Bill 275-32 (COR)- An act to ensure the sanctity of the medical peer review process at the Guam Memorial Hospital Authority, by *amending* subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated. Introduced by Senator Dennis G. Rodriguez, Jr.

Individuals who wish to submit written testimony may do so by addressing Senator Dennis G. Rodriguez, Jr., Chairman, Committee on Health and Human Services and send via email to senator@rodriguez@gmail.com or deliver to 176 Serenu Avenue Suite 107 Tamuning, Guam or to the Legislature's Mailroom at 155 Hesler St. Hagatna, Guam.

Individuals requiring special accommodations are asked to contact the office of Senator Rodriguez no later than 48 hours prior to the hearing at 649-8638/0511.

Si Yu'os Ma'ase!

Joseph A. Q. Mesngon
Office of Senator Dennis G. Rodriguez, Jr.

I Mina'trentai Dos Na Liheslaturan Guahan
32nd Guam Legislature
176 Serenu Avenue Suite 107
Tamuning, Guam 96913
Tel: 671.649.8638/0511



Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>

SECOND NOTICE of HEARINGS for Thursday, March 13, 2014

2 messages

Joseph Anthony Mesngon <jmesngon.senatorrodriguez@gmail.com>
 To: phnotice@guamlegislature.org

Tue, Mar 11, 2014 at 8:23 AM

March 11, 2014

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Dennis G. Rodriguez, Jr.

Subject: SECOND NOTICE of HEARINGS for Thursday, March 13, 2014

Hafa Adai!

The Committee on Health and Human Services will conduct hearings on Thursday, March 13, 2014 at 9am in Liheslatura's Public Hearing Room.

The Committee will hear and accept testimonies on the following:

*Confirmation hearing on the Executive Appointment of Mr. Valentino G. Perez to serve as a General Member of the Guam Memorial Hospital Authority Board of Trustees.

*Public Hearing on Bill 275-32 (COR)- An act to ensure the sanctity of the medical peer review process at the Guam Memorial Hospital Authority, by *amending* subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated. Introduced by Senator Dennis G. Rodriguez, Jr.

Individuals who wish to submit written testimony may do so by addressing Senator Dennis G. Rodriguez, Jr., Chairman, Committee on Health and Human Services and send via email to senatorrodriguez@gmail.com or deliver to 176 Serenu Avenue Suite 107 Tamuning, Guam or to the Legislature's Mailroom at 155 Hesler St. Hagatna, Guam.

Individuals requiring special accommodations are asked to contact the office of Senator Rodriguez no later than 48 hours prior to the hearing at 649-8638/0511.

Si Yu'os Ma'ase!

Joseph A. Q. Mesngon
Office of Senator Dennis G. Rodriguez, Jr.

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As of March 13, 2014**

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SENATOR DENNIS G. RODRIGUEZ, JR.

AGENDA

Thursday, March 13, 2014

Public Hearing Room, *I Liheslatura*

I. Call to Order

II. Items for Public Consideration

- **Bill 275-32 (COR)- An act to ensure the sanctity of the medical peer review process at the Guam Memorial Hospital Authority, by amending subsection (n) of §80109, Chapter 80, Title 10, Guam Code Annotated.**
- **Confirmation Hearing on the Executive Appointment of Mr. Valentino G. Perez as a General Member of the Guam Memorial Hospital Authority Board of Trustees.**

III. Adjournment

Testimonies may be addressed to Sen. Dennis G. Rodriguez, Jr. and sent or to 155 Hesler St. Hagatna, Guam, the Guam Legislature's Mailroom, or via email at senatordrodriguez@gmail.com.

Si Yu'os Ma'åse' for your participation in today's hearings and discussions!



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

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CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

February 20, 2014

VIA E-MAIL

john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 275-32 (COR) through 277-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsors	Title
275-32(COR)	D. G. Rodriguez, Jr.	AN ACT TO ENSURE THE SACTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY , BY <i>AMENDING</i> SUBSECTION (n) OF §80109, CHAPTER 80, TITLE 10, GUAM CODE ANNOTATED.
276-32 (COR)	Michael T. Limtiaco	AN ACT TO ELIMINATE THE SETTING OF SENATORS' SALARIES AS A PERCENTAGE OF THE SALARY PAID TO THE JUDGES OF THE SUPERIOR COURT OF GUAM.
277-32 (COR)	Brant T. McCreadie	AN ACT TO ADD A NEW SECTION 3349 TO ARTICLE 3, CHAPTER 3, TITLE 16 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTIES OF DRIVERS WHEN APPROACHING STATIONARY VEHICLES DISPLAYING EMERGENCY OR WARNING LIGHTS.



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Member

February 14, 2014

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Vice Speaker Benjamin J.F. Cruz**
Acting Chairperson of the Committee on Rules

Subject: **Referral of Bill Nos. 275-32(COR) and 276-32(COR)**

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 275-32(COR) and 276-32(COR)**.

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

**MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session**

Bill No. 275-32(002)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ENSURE THE SANCTITY OF THE
MEDICAL PEER REVIEW PROCESS AT THE
GUAM MEMORIAL HOSPITAL AUTHORITY, BY
AMENDING SUBSECTION (n) OF §80109,
CHAPTER 80, TITLE 10, 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 all necessary efforts must be taken to further ensure the quality, safety and
4 provision of health care at the Guam Memorial Hospital, by holding it to the
5 highest professional standards. This is in significant part assured and
6 accomplished through strict adherence to national health care standards, and
7 related applicable laws, rules and regulations intended to provide for this.

8 Further, Section 423(a)(1), of the Health Care Quality Improvement Act, as
9 Amended (HCQIA), Title IV of Public Law 99-660 (42 U.S.C. 11101 et seq.),
10 states that a health care entity (including hospitals) must report to the National
11 Practitioners Data Bank (NPDB), each time it *“takes a professional review action*
12 *that adversely affects the clinical privileges of a physician for a period longer than*
13 *30 days.”*

14 *I Liheslaturan Guåhan* takes due note of the mandate and example provided
15 in federal law, rules and regulations, as stated in the *NPDB Guidebook, Publication*

1 *No. HRSA-95-255, at Chapter E5*, wherein it provides an example of a valid action
2 to ‘void’ (reverse, rescind): “*Example: A State Medical Board submits an AAR*
3 *when it revokes a physician’s license. Six months later, the revocation is*
4 *overturned by a State court. The State Medical Board should submit a Void of*
5 *Initial Report.*” There is a clear process, and any effort to ‘void’, reverse, rescind
6 and/or amend/correct a report to the NPDB *must* follow specific and stringent
7 criteria and guidelines pursuant to Federal law, rules and regulations.

8 *I Liheslaturan Guåhan* takes further note that, “*Reporting clinical privilege*
9 *actions and certain other adverse actions against health care practitioners is*
10 *mandatory and cannot be the subject of negotiations. Any such attempts would be*
11 *viewed as trying to shirt the law. . .*”, as stated by the Director, Division of
12 National Practitioner Data Banks, U.S. Department of Health & Human Services,
13 in a communication to GMHA received on September 10, 2012, relative to the
14 actions by the GMHA Board to “void” a GMHA medical peer action conducted by
15 qualified medical professionals, pursuant to a negotiated settlement agreement in
16 an effort to avoid litigation.

17 It is the intent of *I Liheslaturan Guåhan* to ensure that the sanctity and
18 integrity of GMHA medical peer process *shall* be reestablished, reaffirmed and
19 strictly adhered to, as provided pursuant to applicable Federal law, rules and
20 regulations, and as further provided pursuant to the standards and processes, duly
21 adopted by GMHA, of the American Medical Association relative to procedures
22 and practices for the conduct medical peer reviews.

23 **Section 2.** Subsection (n) of §80109, Chapter 80, Title 10, Guam Code
24 Annotated, is *amended*, to read:

25 “(n) Adopt rules and regulations governing selection, compensation,
26 promotion, performance evaluation, disciplinary action and other terms and

1 conditions of employment affecting personnel, subject to the provisions of the
2 Administrative Adjudication Law Aet. Such rules and regulations *shall* provide
3 for the employment and retention of persons on the basis of merit, and *shall*
4 include an orderly and systematic method of recruitment and the establishment of a
5 list of qualified applicants for employment purposes, *except* that compensation for
6 non-medical personnel *shall* remain consistent with compensation plans and pay
7 scales as determined by the Civil Service Commission or its successor. *Non-*
8 *medical personnel* are defined as personnel employed by the Authority who are *not*
9 physicians, nurses, medical technicians or technologists, licensed or certificated
10 therapists of any sort, laboratory technicians, personnel certificated in any medical
11 or nursing field, nurse practitioners, pharmacists or other medical personnel. It is,
12 further, provided:

13 (1)The conduct of any GMHA Medical Peer Review proceeding *shall* be
14 conducted in strict compliance with the Health Care Quality
15 Improvement Act, as Amended (HCQIA), Title IV of Public Law 99-
16 660 (42 U.S.C. 11101 et seq.) authorizing the Secretary, U.S.
17 Department of Health & Human Services to establish a National
18 Practitioner Data Bank (NPDB) to collect and release certain
19 information relating to the professional competence and conduct of
20 physicians, dentists and other health care practitioners; and, §1921 of
21 the Social Security Act (42 U.S.C. 1396r-2) (§1921) requiring each
22 State to adopt a system of reporting to the Secretary adverse licensure
23 actions taken against health care practitioners and entities;

24 (2)A medical peer review *shall* not be overturned by the Board except as
25 strictly prescribed by the National Practitioner Data Bank, as provided
26 pursuant to Title 45 – Public Welfare, Part 60, Code of Federal

1 Regulations, and as the regulations and authorizing statutes may be
2 may be revised;

3 (3) No “Void” or Reversal of Professional Peer Review Action by Board
4 Without Successful Appeal; Mandatory. No GMHA medical peer
5 review action that adversely affects the clinical privileges’ of
6 physicians, dentists and other health care practitioners shall be
7 reversed by the Board, nor shall a “void” be sought with the National
8 Practitioners Data Bank: 1) without the appellant having successfully
9 appealed the initial action before a subsequent GMHA peer review
10 committee duly conducted by medical professionals authorized to
11 conduct the appeal proceeding; or, 2) without the finding(s) of the
12 GMHA medical peer action having been reversed by the Guam Board
13 of Medical Examiners, wherein the appellant successfully appealed
14 the GMHA medical peer review action; or, 3) without the appellant
15 having successfully appealed the GMHA medical peer review action
16 before the judiciary of Guam; any one of which may be deemed to
17 satisfactory to reverse the initial GMHA medical peer review action
18 and seek a “void” with the NPDB, *provided*, the conduct of the appeal
19 and action taken in granting the appeal is legally acceptable to the
20 National Practitioner Data Bank pursuant to applicable federal law,
21 rules and regulations.

22 (4) Personal Liability – No Waiver of Immunity. The members of the
23 Board of Trustees, and the GMHA Legal Counsel, *shall not be*
24 personally immune from legal and civil liability for a knowing
25 violation of Items (1) through (3) of this Subsection (n).”

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

6 **Section 4. Effective Date.** This Act shall become immediately effective
7 upon enactment.