



SENATOR DENNIS G. RODRIGUEZ, JR.

APR 24 2015

Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'Trentai Tres Na Liheslaturan Guahan

155 Hesler Place

Hagåtña, Guam 96910

Rory J. Respicio

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report – Bill No. 45-33(COR), as Substituted.

Dear Speaker Won Pat:

Transmitted herewith, for your consideration, is the **Committee Report on Bill 45-33 (COR)- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations**, Sponsored by Senator Dennis G. Rodriguez, Jr., and referred to the Committee on Health, Economic Development, Homeland Security and Senior Citizens. Bill No. 45-33(COR), as introduced, was publicly heard on March 18, 2015 and April 8, 2015.

Committee votes are as follows:

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

Senseramente,

Senator Dennis G. Rodriguez, Jr.
Chairman

Attachments

2015 APR 24 PM 8:45



COMMITTEE REPORT ON

BILL NO. 45-33 (COR)

As Substituted

Sponsored by Senator Dennis G. Rodriguez, Jr.

An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.




SENATOR DENNIS G. RODRIGUEZ, JR.

April 22, 2015

MEMORANDUM

To: **ALL MEMBERS**
Committee on Health, Economic Development, Homeland Security and Senior Citizens

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

Subject: **Committee Report on Bill no. 45-33(COR), as Substituted.**

Transmitted herewith, for your consideration, is the **Committee Report on Bill 53-33 (COR)- Bill 45-33 (COR)- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, Sponsored by Senator Dennis G. Rodriguez, Jr.**

This report includes the following:

- Committee Voting Sheet
- Committee Report Narrative/Digest
- Copy of Bill No. 45-33(COR)
- Substitute Bill No. 45-33 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- Copy of COR Referral of Bill No. 45-33(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 45-33 (COR)- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, Sponsored by Senator Dennis G. Rodriguez, Jr.

	SIGNATURE	TO PASS	NOT TO PASS	ABSTAIN	REPORT OUT ONLY	PLACE IN INACTIVE FILE
DENNIS G. RODRIGUEZ, Jr. Chairman		✓ 4/23				
V. ANTHONY ADA Vice Chairman		✓ 4/23				
BENJAMIN J.F. CRUZ					✓ 4/23/15	
RORY J. RESPICIO		✓ 4-24-15				
TINA ROSE MUNA-BARNES						
THOMAS C. ADA					✓ 4/23/15	
FRANK B. AGUON, Jr.						
NERISSA B. UNDERWOOD						
THOMAS A. MORRISON						
BRANT T. MCCREADIE						



SENATOR DENNIS G. RODRIGUEZ, JR.
COMMITTEE REPORT DIGEST

Bill No. 45-33 (COR)

- I. OVERVIEW:** The Committee on Health, Economic Development, Homeland Security and Senior Citizens conducted a public hearing on March 18, 2015 and April 8, 2015. Both hearings convened at 5:30pm in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of **Bill 45-33 (COR)- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, Sponsored by 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 11, 2015 and March 31, 2015 (5-day notice), and again on March 16, 2015 and April 6, 2015 (48-hour notice).

Senators Present

Senator Dennis G. Rodriguez, Jr.	Chairman
Senator Benjamin J.F. Cruz	Committee Member
Senator Tina Muna-Barnes	Committee Member
Senator Tommy Morrison	Committee Member
Senator Brant McCreadie	Committee Member
Senator James V. Espaldon	
Senator Mary Camacho Torres	

The public hearing on agenda item Bill No. 45-33(COR) was called to order at 5:38pm and 5:40pm.

II. SUMMARY OF TESTIMONY & DISCUSSION.

TESTIMONY of APRIL 8, 2015 HEARING:

Chairman Senator Dennis Rodriguez, Jr.: Hafa Adai, good evening. The Committee in Health now reconvenes this public hearing. The time now is 5:35 pm the agenda this evening is bill 45-33 & also Bill 53- 33. The committee did have its first public hearing on these two measures several weeks ago in effort to ensure we get as much involve from stakeholders & in the community we scheduled this second public hearing.

Bill 45 will start with that is an act to adopt the rules and regulations governing the issuance of health certificates by amending article 4 of division 1, title 26, Guam Administrative rules & regulations this proposal was send down to the legislature through the Triple A process from the Department of Public Health & Social Services to just the public understand as well that before it was transmitted here the Public Health did there due diligence and had a public hearing and invited

Chairman, Committee on Health, Economic Development, Homeland Security & Senior Citizens

Ufsinan Todu Guam • I Mina' Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

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community the public to come in and testify on the propose changes they were making and so we are here to hear that extra layer of public scrutiny .

So we have Ms. Cynthia Naval and Mr. Jim Gillan, who are here to testify and so if there's anyone else who wishes to testify, I invite you to please approach the desk to my left to sign in and we will call you forward.

So Ms. Naval and Mr. Gillan. And also I want to recognize my Vice Chairman Senator Tony Ada for joining me this evening. Thank you. Mr. Gillan that's good you made me collect my thoughts here, again with this Bill 45 here there was some changes that Department of Public Health and Environmental Health particularly will like to make some changes, it's a requirement to get a health certificate.

The Committee did go out to all the hotels we hand deliver copy of the bill and the letter requesting to review it and any feedback to provide that to the committee at this hearing or to a written testimony. We also asked the Hotel & Restaurant Hotel Association to review this and I know that and they inform us that they will be here on this evening and if they come in we will have them catch up with us. We want to make sure that before we report it out and we are going to report it out for our next session so it will get us much input to the public. So we have here now the Director and Ms. Naval from Environmental Health to be able to answer any outstanding questions and probably also provide us with some update with your discussion with GHRA. Mr. Gillan?

Mr. Jim Gillan: Thank you Mr. Chairman and Senator Ada, nice to see you again. (please see attached written testimony)

Chairman Senator Dennis Rodriguez, Jr.: Thank you very much Mr. Gillan maybe Ms. Naval just for the benefit so we that on record now we have the changes that you propose but if I can ask Mr. Gillan or Ms. Naval whoever could cause there's only a few items here that you proposed to change and the proposal can you just highlight that for those who was not here first hearing.

Mr. Jim Gillan: Okay even section 1 page item 1 you have encourage us on March 18 meeting and that we are agreeable on retaining the health certificates provision .

Chairman Senator Dennis Rodriguez, Jr.: Yes

Mr. Jim Gillan: we know that it was problematic

Chairman Senator Dennis Rodriguez, Jr.: So you're removing that

Mr. Jim Gillan: no were retaining it.

Chairman Senator Dennis Rodriguez, Jr.: So you're retaining it, okay

Ms. Cynthia Naval: Senator so were retaining the temporary health certificate that has been encourage during the March 18 hearing but we are also putting some strict education requirement and increasing the fees to that among other things also shortening the time period before the event or



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and one way lengthening the time period to submit their application for temporary health certificates for up to 3 days before the events.

That will give us time to have our staff go out to the event and do some onsite training just getting the temporary. That is one of the reason that we wanted to remove it and our first proposal. Was that this people for the most part for the people who have no training in proper techniques in preventing food borne illness so we are giving health certificate but also in order to recover our cost increasing the fee for health certificate so will also in composed the cost in doing training on site on temporary event.

Chairman Senator Dennis Rodriguez, Jr.: So what is the proposed fee and you are asking us to amend it to include a fee that is higher than what it is today.

Ms. Cynthia Naval : yes the original fee of \$10.00 for a health certificate will have no requirement plus \$5.00 . The proposed fee is \$15.00 which is still less than having a permanent workshop.

Chairman Senator Dennis Rodriguez, Jr.: and the requirement will be 3 days before

Ms. Cynthia Naval : yes at the latest they can turn in an application will be 3 days before the event

Chairman Senator Dennis Rodriguez, Jr.: I think that's pretty fair.

Ms. Cynthia Naval : also after discussion with the Guam Hotel & Restaurant Association

Chairman Senator Dennis Rodriguez, Jr.: I'm sorry Senator Ada , you want

Vice Chairman Senator Tony Ada.: I was just looking at it , page but there's no page number, on the temporary health that \$15.00 then you got an additional for expedite it ?

Ms. Cynthia Naval : Yes , if they failed to meet the deadline

Vice Chairman Senator Tony Ada.: so that would be in addition to \$15.00

Ms. Cynthia Naval : correct

Vice Chairman Senator Tony Ada.: so okay I think you have to make that clear so the people will know that if you miss the deadline and I believed it's 3 days after and that additional \$10.00 will be assist so the total will be \$25.00 instead of the \$15.00

Ms. Cynthia Naval : correct yes if it's less than 3 days coz it will give our team less time. This normally turns in with the sanitary permit application for the event so then we will have to process all of these documents. Get them all paid and all process and get them out to the people who needed them so we feel it's reasonable that we charge them expedite fee.

Vice Chairman Senator Tony Ada.: okay thank you, Mr. Chairman



SENATOR DENNIS G. RODRIGUEZ, JR.

Ms. Cynthia Naval : correct. Also included in our last proposal the definition of health certificate for hotel after discussion with Guam Hotel & restaurant Association we change the definition of persons employed at the hotel required to have a health certificate and we can use the term housekeeper so we focus on the duties regardless of their title. So if they will be cleaning the room or responsible for the sanitation of it anyway or the movement of food in the room is like stocking the minibar and things like that they will be required to have a hotel category health certificates. I believe those are the major changes as proposal that we have submitted.

Chairman Senator Dennis Rodriguez, Jr.: You can just run down again so those are the changes but now with this proposal with the once you have the hearing on and the once you submitted here if you can just go through this.

Mr. Jim Gillan: if may save you some time but we did highlight all the proposal and the amendments.

Ms. Cynthia Naval : the list her for all of the propose changes since we still including temporary health certificates we revise & expanded all the fees and since we added in hotel & swimming pool that counts as the expansion definition of health regulated establishment overall .

We eliminated the word massage therapy & the definition and added the term therapeutic massage that's to keep consistent we the name of the establishment and of the operation that are found on our statute and other regulation. We are no longer social security number by means of identification on our application and we expanded the forms of identification except to include credit card with person photograph on it. New applicants that are coming in for the very first time must apply in person so that we can do the photo identification when they come in.

We are going to be requiring a workshop for every category health certificate presently it's only done for food related the eating and drinking and the food. But we decided in order to prevent transmission of illnesses it will be important to ask to teach sanitation to the other category that we give health certificate to tattoo, cosmetology, swimming pool. We also decided that applicant decide they can take the exam without attending the training course but if they do failed that test they will be require to take the test.

We would like to return the operation of the workshop from it's current operator which is Guam Community College to the Department and do the training ourselves. We also removed the childhood immunization requirement for those seeking health certificate from employment at cosmetic establishment. We are looking in the future to have a single for all food related current we offered two.

Definition of food establishment have change to the Guam Food Code to bring in our definition in line with the Guam Food Code definition. In for person who is renewing health certificate especially for those who made not taking a workshop for quite a number of years we also going to be instituting refresher workshop for them.



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Those are the major differences along with the definition with highly susceptible population and extending the expiration date of manager's certification course.

Chairman Senator Dennis Rodriguez, Jr.: Thank you very much. Cynthia you had discussion GHRA & some of the other hotels or was it just with GHRA?

Ms. Cynthia Naval : just the GHRA , we have 2 meetings with him.

Chairman Senator Dennis Rodriguez, Jr.: okay we trust that they will relay this to their member and to the other hotels.

Ms. Cynthia Naval : Yes they send us a list of questions and we responded to them . And the second meeting was yesterday and they were sending out those responses as well as our proposed amendment to the membership.

Chairman Senator Dennis Rodriguez, Jr.: Do you have any question. If not we don't have anyone else if anyone else wish to testify on this bill. I see people from the industry here, if you do I invite you to please come forward. If not, we will go ahead and move to the next bill. You can stay because you have for the next bill too. Thank you very much.

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.45-33(COR).

Fiscal Note: Fiscal note request, dated March 4, 2015 (attached).

III. FINDINGS AND RECOMMENDATIONS

Because of the potential to have a broad significant impact upon hotels, restaurants, and numerous other categories of businesses being required to comply with these revised rules and regulations, the Committee on Health conducted a public hearing on March 18, 2015 and again on April 8, 2015, so as to provide ample opportunity for commercial stakeholders and community to testify. There are, overall, 3,000 establishments the DPHSS Division of Environmental Health regulates, to include their employees. Additionally, DEH conducted two (2) meeting with the Guam Hotel and Restaurant Association to discuss and address their primary concerns. From the two public hearings and the meetings with GHRA, DEH made recommendations for amendments to the proposed rules and regulations. The amendment recommendations were submitted to the Committee on March 11, 2015, and revised amendment recommendations were again submitted on April 08, 2015, and are included in this committee report.

The recommendations were accepted by the Committee and are reflected in Substitute Bill No. 45-33 (COR). Along with the engrossed substitute bill, a digest of the changes, in Bill form, is also included in this report.



SENATOR DENNIS G. RODRIGUEZ, JR.

The Committee on Health, Economic Development, Homeland Security and Senior Citizens, hereby
reports out Substitute Bill No. 45-33(COR), with the recommendation to

Report out only.

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

Bill No. 45-33 (CoR)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES,
BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

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BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the proposed amending of the 'Rules And Regulations Governing The Issuance Of Health Certificates', as provided pursuant to Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, has gone through the Administrative Adjudication Law process.

Subject to public hearing and legislative review, it is the intent of *I Liheslaturan Guåhan* to provide additional public scrutiny of the proposal governing the issuance of health certificates and for the eventual adoption of these rules and regulations.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and Executive Order, the RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, and attached hereto as Exhibit "A", are hereby adopted by I Mina'Trentai Dos Na Liheslaturan Guåhan, and shall be codified under Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

1 **Section 3. Amendment of Rules.** The Director, Department of Public
2 Health and Social Services, Division of Environmental Health *shall*, in keeping
3 with the provisions of Article 3 of Chapter 4, 4 GCA, and pursuant to Article 3-
4 rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
5 amend, as may be necessary, the Rules and Regulations adopted pursuant to
6 Section 2 of this Act.

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

12 **Section 4. Effective Date.** This Act shall become immediately effective
13 upon enactment.

Exhibit “A”

Title 26, Guam Administrative Rules and Regulations

Article 4 of Chapter 4

[Rule-making authority cited for formulation of Health Certificate Regulations by the Director of Public Health and Social Services, 10 GCA §29195 and §22104]

RULES AND REGULATIONS GOVERNING

THE ISSUANCE OF HEALTH CERTIFICATES

§4401. Short Title.

§4402. Authority.

§4403. Purpose.

§4404. Definitions.

§4405. Health Certificate Required.

§4406. Exemption of Health Certificate.

§4407. Application for Health Certificate and Temporary
Health Certificate.

§4408. Requirements for Health Certificate.

§4409. Training Course and Examination Requirements
for Health Certificate.

§4410. Specific Requirements by Category.

1 §4411. ~~Requirements for Temporary Health Certificate.~~
2 Single Health Certificate for Multiple Locations per Category.

3 §4412. Additional Health Certificates.

4 §4413. Interim Health Certificate.

5 §4414. Certificate of Management Certification and
6 Health Certification.

7 §4415. Fees.

8 §4416. Effective Date of Health Certificate.

9 §4417. Presentation of Health Certificate, ~~Temporary Health~~
10 ~~Certificate~~, Interim Health Certificate, and Certificate of Management
11 Certification.

12 §4418. Suspension or Revocation of Health Certificate and
13 Certificate of Management Certification.

14 §4419. Administrative Penalties

15 §4420. Right to Notice, Hearing, and Administrative Process.

16 §4421. Variances.

17 §4422. Effective Date.

18 §4423. Severability.

19 ~~APPENDIX I~~ ANNEX I

1 ~~APPENDIX II~~ ANNEX II

2 General Provisions and Definitions

3 **§4401. Short Title.** These rules and regulations may also be cited as the
4 'Health Certificate Regulations.'

5 **§4402. Authority.** §22104, Chapter 22 of Title 10 Guam Code Annotated,
6 authorizes the Director of the Department of Public Health and Social Services to
7 establish, by rules and regulations, the requirements and fees for the issuance of a
8 Health Certificate.

9 **§4403. Purpose.** These rules and regulations are established to ensure that
10 the holder of a Health Certificate is free of communicable diseases that could
11 potentially spread to fellow employees or their clients as a result of the holder's
12 work activities and/or possesses the minimum knowledge in preventing the spread
13 of communicable diseases at the Health-Regulated Establishment where the holder
14 is employed. Upon adoption, these rules and regulations will repeal and replace
15 the previously adopted regulations entitled, Rules and Regulations Governing the
16 Issuance of Health Certificates.

17 **§4404. Definitions.** Wherever in these rules and regulations the following
18 words appear, they shall have the following definition:

19 (a) 'Category' shall mean the following types of establishments and their
20 activities that are regulated by the Department by these rules and regulations, and
21 other rules and regulations of the Department, which require a Health Certificate:

22 (1) Eating and Drinking Establishment

- (2) Food Establishment;
- (3) Cosmetic Establishment;
- (4) Institutional Facility;
- (5) Laundry and Dry Cleaning Establishments;
- (6) Swimming Pool
- (7) Hotel; and
- (8) Tattoo Shop.

(b) 'Certificate of Management Certification' shall mean a certification issued by the Department or any authorized institution, as determined by the Director, to a person employed, or designated, as a manager or supervisor within any Health-Regulated Establishment who has demonstrated his or her knowledge of applicable governing rules and regulations, including but not limited to, sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and insect control, as determined by the Director.

(c) 'Cosmetic Establishment'. (1) Cosmetic establishment shall mean any premises or portions thereof, wherein any of the following is practiced for compensation:

(A) Singeing, shampooing, arranging, adorning, dressing, curling, waving, permanent waving, tinting, applying tonic to, or dyeing human hair;

(B) Shaving, clipping, trimming or cutting human hair;

1 (C) Giving facial, scalp, neck or body massages or treatments with
2 oils, creams, lotions, or other preparations to the hands, scalp, face, or neck
3 by hand or mechanical appliance; and

4 (D) Manicuring or pedicuring.

5 (2) As used in these rules and regulations, cosmetic establishment shall
6 include:

7 (A) "Shop," which shall mean any establishment or facility where
8 cosmetology is practiced for fee or charge for hire. The term includes, but is
9 not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair
10 styling salons, nail salons, or other establishments where cosmetology is
11 practiced for reimbursement;

12 (B) "School of Cosmetology," which shall mean any establishment
13 or facility where the practice of cosmetology is taught for a fee. The term
14 includes, but is not limited, to barber colleges or other closely related
15 institutions or establishments teaching cosmetology for reimbursement;

16 (C) "Massage Parlor," which shall mean any establishment or
17 facility occupied and used for the purpose of practicing massage for
18 compensation, provided that when any massage parlor is situated in any
19 building for residential or sleeping purposes, the massage parlor shall be set
20 apart and shall not be used for any other purpose; and

21 (D) "Therapeutic Massage Establishment," which shall mean any
22 premise intended, occupied and used for the purpose of practicing massage
23 therapy for compensation.

1 (d) 'Department' shall mean the Department of Public Health and Social
2 Services.

3 (e) 'Director' shall mean the Director of the Department of Public Health
4 and Social Services or his designated and authorized representative.

5 (f) 'Eating and Drinking Establishment' shall mean any mobile food
6 service establishment; vending machine; restaurant; coffee shop; public or private
7 school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or
8 employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe;
9 sandwich stand; drink stand; cafeteria or similar facility connected with an
10 institution; any other eating establishment within an organization, club, veteran's
11 club, boarding house, guest house, political subdivision, stall, stand, and booth; and
12 a concession within any public market which gives, sells, or offers for sale, or
13 promotes food to the public, guests, patrons, or employees; and as well as kitchens
14 in which food is prepared on the premises for serving elsewhere, including catering
15 functions.

16 (g) 'Food Establishment' shall mean every establishment or place which is
17 used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing
18 house; grocery; supermarket; meat or poultry market; fruit or vegetable market;
19 delicatessen; beverage plant; slaughter house; poultry processing plant; fish
20 processing plant; frozen food processing plant; bottling plant; food refrigeration
21 locker plant; ice plant; ice cream or frozen dessert plant; public market; food
22 warehouse; or any structure used for the production, processing, manufacture,
23 preparation for sale, canning, bottling, packing, packaging, storage, sale or
24 distribution, of any food.

1 (h) 'Health Certificate' shall mean a certificate issued by the Department
2 to a person employed within any Eating and Drinking Establishment, Food
3 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop,
4 Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other
5 establishment under the provisions of any other rules and regulations promulgated
6 by the Director to properly carry out the laws of Guam relating to environmental
7 health.

8 (i) 'Hotel' shall mean any structure or any portion of any structure,
9 including any lodging house, rooming house, dormitory (including a dormitory
10 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
11 private club, containing four (4) or more guest rooms and which is occupied or is
12 intended or designed for occupancy, by four (4) or more guests, whether rent is
13 paid in money, goods, labor, or otherwise, and whether with or without meals. It
14 does not include any penal institution, hospital, clinic, nursing home, school,
15 laboratory, or child care facility.

16 (j) 'Health-Regulated Establishment' shall mean any of the following:
17 Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment,
18 Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool,
19 Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop,
20 Temporary Food Service Establishment, and any other facilities governed by the
21 Department pursuant to law.

22 (k) 'Institutional Facility,' as used in these rules and regulations, shall
23 include:

24 (1) "Adult Group Day Care Center," which shall mean a place
25 maintained and operated by an individual, organization, or agency whether

1 for profit or not for the purpose of providing protective and supportive care
2 for two or more elderly and/or disabled adults, not related to the facility's
3 owner/operator by blood or marriage within the third degree of
4 consanguinity, for a specified time period of ten (10) hours or less in each
5 twenty-four (24) hour day. At the end of the specified time period, the
6 participant is discharged to the custody of his/her family, guardian, or
7 sponsor;

8 (2) "Child Care Facility," which shall mean any person or place
9 which receives or arranges placement of one or more children who are not
10 related to such person, whether for gain or otherwise, apart from the parents
11 or guardian, with or without the transfer of the right of custody for the
12 purpose of providing regular care or training for such child or children
13 during either the day or night, or both. Except as otherwise provided, the
14 term "Child Care Facility" includes, but is not limited to, all facilities
15 defined by the Department as "family day care homes," "foster family
16 homes," "group day care homes," "residential treatment facilities," "day care
17 center," "day nurseries," "nursery school," "kindergarten school," "day care
18 homes," or similar institutions or units regardless of name;

19 (3) "Penal Institution," which shall mean any jail, detention center,
20 prison camp, home, juvenile detention home or cottages, or other facility
21 used as a holding facility, jail, or residential custodial facility. This
22 definition does not include hospitals or childcare facilities or adult group day
23 care center;

24 (4) "School," which shall mean any establishment that provides
25 care and education to students from pre-kindergarten through Grade 12 and

1 any college, trade school, university, or any other educational institutional of
2 higher learning;

3 (5) "Hospital," which shall mean any building, structure, institution
4 or place whether organized for profit or not, devoted primarily to the
5 maintenance and operation of facilities for the diagnosis, evaluation,
6 treatment, and provision of medical or surgical care for three (3) or more
7 non-related individuals admitted for overnight stay or longer in order to
8 obtain medical services; including obstetric, psychiatric, and nursing care of
9 illness, disease, injury, or deformity, whether physical or mental; and
10 regularly making available at least clinical laboratory service, diagnostic
11 radiology services, and treatment facilities, or surgery, obstetrical care or
12 other definitive medical treatment;

13 (6) "Clinic," which shall mean any building; structure; institution
14 or place; public or private; whether organized for profit or not, devoted
15 primarily to the maintenance and operation of facilities for the medical or
16 dental evaluation, diagnosis, or treatment of human illness, injury or
17 deformity; or the veterinary medical or veterinary dental evaluation,
18 diagnosis, or treatment of animal illness, injury or deformity;

19 (7) "Nursing Home," which shall mean any facility established, for
20 profit or non-profit, which provides nursing care and related medical
21 services twenty-four (24) hours per day for two or more individuals because
22 of illness, disease, or mental or physical infirmity. It provides care for these
23 persons not in need of hospital care but requiring nursing care or related
24 medical services, which medical services shall be administered by a

1 professional nurse, a physical therapist, or an occupational therapist; or other
2 licensed medical practitioners, depending upon the service required; and

3 (8) "Laboratory," which shall mean any building, structure,
4 institution or place, whether organized for profit or not, devoted primarily to
5 the maintenance and operation of facilities for the examination or testing of
6 humans or animals, living or dead, or any parts or physiologic products
7 thereof, for the purpose of detecting or confirming the presence of illness or
8 infirmity.

(l) '**Interim Health Certificate**' shall mean a provisional certificate
issued by the Director to a person employed within any ~~Eating and Drinking~~
~~Establishment or Food Establishment~~ Health-Regulated Establishment or any other
establishment under the provisions of any other rules and regulations promulgated
by the Director to properly carry out Title 10 G.C.A. relating to environmental
health, who is waiting to attend a training course offered by the Department or
another entity authorized by the Department.

9 (m) '**Laundry or Dry Cleaning Establishment**' shall mean any place,
10 building, structure, room, or partition thereof, used in the business of dyeing;
11 washing; starching; ironing; or dry cleaning apparels, household linens, and other
12 fabric articles, including any establishment providing laundering equipment for use
13 by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
14 operated Laundromat.

15 (n) '**Massage Parlor**' shall mean premises occupied and used for the
16 purpose of practicing massage, provided that when any massage establishment is

1 situated in any building used for residential or sleeping purposes, the massage
2 establishment premises shall be set apart and shall not be used for any other
3 purpose.

4 (o) ~~'Massage Therapy' shall mean the manipulation of the superficial~~
5 ~~tissues of the human body with the hand, foot, arm, or elbow by a massage~~
6 ~~therapist licensed by the applicable professional licensing board of Guam whether~~
7 ~~or not such manipulation is aided by hydrotherapy, including colonic irrigation, or~~
8 ~~thermal therapy; any electrical or mechanical device; or the application to the~~
9 ~~human body of a chemical or herbal preparation.~~

10 (p) 'Person Employed' shall mean the following:

11 (1) In an "Eating and Drinking Establishment," any person
12 employed for compensation or otherwise who transports food or food
13 containers, engages in food preparation or service, or comes in contact with
14 any food and food utensils or equipment;

15 (2) In a "Food Establishment," any person employed for
16 compensation or otherwise who transports, stocks, stores, packs, packages,
17 processes, manufactures, cans, bottles, or otherwise handles raw or
18 processed foods;

19 (3) In an "Institutional Facility," any person employed for
20 compensation or otherwise at that facility; and

21 (4) In a "Cosmetic Establishment," any person employed for
22 compensation or otherwise who singes, shampoos, arranges, adorns, dresses,
23 curls, waves, permanent waves, tints, applies tonics, dyes, shaves, clips,

1 trims or cuts human hair, gives facial, scalp, neck or body massages or
2 treatments with oils, creams, lotions, or other preparations to the hands,
3 scalp, face, or neck by hand or mechanical appliance, and manicures and
4 pedicures;

5 (5) In a "Laundry or Dry Cleaning Establishment," any person
6 employed for compensation or otherwise who handles soiled or cleaned
7 linens or other laundry items; and

8 (6) In a "Swimming Pool," any person employed for compensation
9 or otherwise at the facility who is in charge of its operation and/or
10 maintenance.

11 (7) In a "Tattoo Shop," any person employed for compensation or
12 otherwise at that facility who performs or assist in performing tattooing.

13 (q) 'Swimming Pool' shall mean any artificial structure, basin, chamber
14 or tank constructed or impervious material used or intended to be used for
15 swimming, diving, wading or recreation al bathing. It does not include
16 conventional bathtubs where the primary purpose is the cleaning of the body or
17 individual therapeutic tubs. A "public swimming pool" shall mean any swimming
18 or wading pool that is available for public use, whether for a fee or free of charge;
19 or any swimming or wading pool owned or used by any business, partnership,
20 corporation, or person for the use of their customers, clients, guest or employees
21 including but not limited to a commercial pool, a community pool or a pool at a
22 hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental
23 unit, private club, public club, public or private school, gymnasium or health
24 establishment.

1 (r) 'Tattooing' shall mean to mark or color the skin by pricking and
2 introducing subcutaneously, non-toxic dyes, pigments, or by the production of
3 scars to form indelible marks and figures.

4 (s) 'Tattoo Shop' shall mean any premises where a tattoo artist does
5 tattooing for a fee or other consideration.

6 (r) 'Temporary Food Service Establishment' shall mean any Eating and
7 Drinking Establishment which operates at a fixed location for a period of time not
8 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or
9 other transitory gathering not of a permanent nature, and shall include catering.

10 ~~(s) 'Temporary Health Certificate' shall mean a certificate issued to a person~~
11 ~~employed within any temporary food service establishment under the provisions of~~
12 ~~these rules and regulations.~~

13 (t) 'Therapeutic Massage Establishment' shall mean a business which
14 performs the manipulation of the superficial tissues of the human body with the
15 hand, foot, arm, or elbow by a massage therapist licensed by the applicable
16 professional licensing board of Guam whether or not such manipulation is aided by
17 hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
18 mechanical device; or the application to the human body of a chemical or herbal
19 preparation.

20 **§4405. Health Certificate Required.** Unless otherwise stated within these
21 rules and regulations, or any other rules and regulations promulgated by the
22 Department relating to environmental health, every person employed within an
23 Eating and Drinking Establishment, Food Establishment, Institutional Facility,
24 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment,

1 Hotel, Swimming Pool, or any other establishments under the provisions of any
2 other rules and regulations promulgated by the Director to properly carry out Title
3 10 G.C.A. relating to environmental health, shall be required to obtain a Health
4 Certificate.

5 **§4406. Exemption of Health Certificate.** The selling of the following
6 articles shall not require the obtaining of a Health Certificate:

7 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live
8 pigs; or

9 (b) Canned or bottled drinks, including alcoholic beverages, in the
10 original container of their manufacturer; or

11 (c) Candies or other confections in the original container of their
12 manufacturer.

13 **§4407. Application for Health Certificate and Temporary Health**
14 **Certificate.** (a) Any person desiring to engage in employment requiring a Health
15 Certificate ~~or Temporary Health Certificate~~ under these rules and regulations shall
16 make an application for a Health Certificate or Temporary Health Certificate to the
17 Department. The applicant shall be required to show a current and valid photo
18 identification or other evidence attesting to the applicant's true identity. The
19 applicant shall also be required to show ~~a valid Social Security Card and~~
20 ~~documentation that attests approved by the Director attesting~~ to the applicant's
21 United States citizenship, permanent resident alien, or non-immigrant status, that
22 authorizes the applicant to work in the United States by the U.S. federal
23 government. The following are acceptable forms of photo identification:

1 (1) Government of Guam Identification Card;

2 (2) Guam Driver's License;

3 (3) United States Military Identification Card;

4 (4) Passport; and

5 (5) Credit card with photo; and

6 (6) Any other photo identification acceptable by the
7 Department.

8 The following are acceptable forms of identification for permanent resident
9 aliens or non-immigrant applicants who are authorized to work in the United
10 States:

11 (1) Passport; and

12 (2) Alien Registration Receipt Card (Green Card).

13 (b) Whenever an applicant is unable to apply to renew for a Health
14 Certificate or ~~Temporary Health Certificate~~ in person, the applicant may designate
15 an authorized representative to make an application for the applicant, provided the
16 representative has the following information available:

17 (1) Signed and dated authorization letter from applicant, along with
18 an explanation of the applicant's relation to the representative;

19 (2) Completed, original application; and

1 (3) Copy of the representative's and the applicant's acceptable
2 photo identification cards.

3 (c) ~~An applicant, or duly authorized representative of the applicant,~~
4 applying for a Health Certificate shall complete all application requirements and
5 submit all necessary information at any time but not more than one month before
6 commencement of employment. ~~An applicant, or duly authorized representative of~~
7 ~~the applicant, applying for a Temporary Health Certificate shall complete all~~
8 ~~application requirements and submit all necessary information, not more than~~
9 ~~twenty (20) and not less than five (5) working days, before commencement of~~
10 ~~employment, unless approved by the Director.~~

11 (d) A person applying for an additional Health Certificate for another
12 category, or under the conditions stated in Subsections (a) and (b) of §4412 of
13 these rules and regulations, shall submit a separate application and pay the
14 appropriate fee for each additional Health Certificate.

15 **§4408. General Requirements for Health Certificate.** (a) Unless stated
16 otherwise in these rules and regulations, all new Health Certificate applicants,
17 including Temporary Health Certificate applicants, shall submit an application
18 approved by the Department, pay all applicable fees, and shall:

19 (1) Be tested, or screened, and be free of infectious Tuberculosis
20 within six (6) months prior to its submission, and any other communicable
21 diseases, as determined by the Director, ~~except applicants of Temporary~~
22 ~~Health Certificate; and~~

23 (2) Take and pass a training course provided by the Department, or
24 an authorized entity approved by the Department, specific to the category of

1 the Health Certificate the applicant is seeking under the provisions of this
2 and any other rules and regulations promulgated by the Director to properly
3 carry out Title 10 G.C.A. relating to environmental health.

4 (b) Renewing applicants, when applicable or as determined by the
5 Director, shall be required to be tested or screened for infectious Tuberculosis and
6 other communicable diseases, and pass a written examination.

7 **§4409. Training Course and Examination Requirements for Health**
8 **Certificate.**

9 (a) Unless otherwise stated in these rules or regulations or any other
10 separate rules and regulations promulgated by the Director to properly carry out
11 Title 10 G.C.A. relating to environmental health, the following are further and
12 specific requirements for any person desiring to engage in employment requiring a
13 Health Certificate under these and other rules and regulations of the Department,
14 and must be complied with to qualify for, and hold, a Health Certificate:

15 (1) Any applicant who has not previously been issued a Health
16 Certificate by the Department or whose previous Health Certificate has
17 expired for more than thirty (30) calendar days shall attend and pass a
18 training course conducted by the Department, or any other entity approved
19 by the Department, before a Health Certificate is issued.

20 (2) Any applicant who fails to pass the training course shall be
21 scheduled to attend another training course at a later date, pay the re-testing
22 fee and the Health Certificate fee, and have the Interim Health Certificate's
23 issued with a new expiration date. expiration date extended to the date of the
24 re-testing.

1 (3) Any applicant, who fails to pass his second consecutive training
2 course for any category ~~the category of Eating and Drinking Establishment~~
3 ~~or Food Establishment~~, after failing the first training course, may be
4 provided a Health Certificate at the discretion of the Director. However,
5 prior to the issuance of the Health Certificate by the Director, the applicant's
6 supervisor, who must be certified in accordance with §4415 if for Eating and
7 Drinking Establishment and Food Establishment categories, shall be
8 required to enter into a written agreement with the Department (Annex I) if
9 the supervisor agrees to do so. The same shall apply for Health Certificate
10 applicants for non-food facilities governed by these rules and regulations
11 (Annex II). ~~For other food facilities not providing food directly to~~
12 ~~consumer, such as wholesalers, distributors, and any other food~~
13 ~~establishments specifically exempted through separate rules and regulations~~
14 ~~promulgated by the Director, the applicant's supervisor need not be certified~~
15 ~~in accordance with §4415, but shall be the applicant's immediate supervisor~~
16 ~~and shall be required to enter into a written agreement with the Department~~
17 ~~(Appendix II).~~ A Health Certificate issued under such condition shall have a
18 distinguishing mark or symbol printed on the certificate.

19 (4) There shall be no limit to the number times an applicant may
20 take the training course.

21 (5) At the discretion of the Director, the requirement for taking the
22 training course may be waived if the applicant shows proof of disability, but
23 shall be required to enter into the written agreement in Appendix I or
24 Appendix II.

1 (b) The Director shall identify Health Certificate categories which will
2 require the renewing applicant to attend and pass a refresher training course. A
3 ~~renewing applicant may be required to attend and pass a training course based on~~
4 ~~however, the applicant shall take and pass a written examination before the~~
5 ~~Department issues a renewal Health Certificate to the applicant.~~

6 (1) Any renewing applicant who attends the training course and
7 does not pass the examination shall be scheduled to attend a training course
8 at a later date, pay the retesting fee and the Health Certificate fee, and be
9 issued an Interim Health Certificate with a new expiration date. ~~with a new~~
10 ~~expiration date extended to the date of the re-testing.~~

11 (2) Any renewing applicant, who fails to pass his/her second
12 consecutive training course, after failing the first training course, may be
13 provided a Health Certificate at the discretion of the Director in the same
14 manner and condition as §4409(a)(3). ~~However, prior to the issuance of the~~
15 ~~Health Certificate by the Director, the applicant's supervisor, who must be~~
16 ~~certified in accordance with §4415, shall be required to enter into a written~~
17 ~~agreement with the Department (Appendix I).~~

18 (3) As determined by the Director, a renewing applicant may forgo
19 the training course and take the examination only; however, if such applicant
20 fails the examination, he/she shall be required to take the training course.

21 (c) [Reserved.]

22 (d) The Director may revoke any Health Certificate issued in §4409(a)(3)
23 or §4409(b)(2), upon reasonable belief that the written agreement has been
24 breached.

1 (e) Any person in possession of a valid and current Certificate of
2 Management Certification shall be exempt from its respective training course;
3 however, he/she shall still be required to obtain a Health Certificate.

4 (f) The Department, if it wishes, may authorize another Government of
5 Guam entity to provide or supplement the training courses required pursuant to
6 these rules and regulations, provided a written memorandum of agreement between
7 the Department and the other entity is formally established.

8 (g) In the event an entity authorized by the Department to provide a
9 training course is unable to provide the minimum standard of training that is
10 acceptable to the Department in the issuance of Health Certificates, or fails to
11 timely provide the required training course, the Department may seek the
12 assistance of another approved entity in carrying out the provision of this section.

13 **§4410. Specific Requirements by Category.** Any person required to
14 attend and pass a training course as indicated in this section may be waived from
15 such course if he or she possesses an applicable current and valid certification that
16 is recognized by the Department that attests to the individual's adequate
17 knowledge of disease prevention in the respective establishment category.
18 However, the individual must still submit the application and all supporting
19 documents and obtain a Health Certificate.

20 (a) **Eating and Drinking Establishment and Food Establishment.** The
21 following individuals shall obtain a Health Certificate:

22 (1) An employee of the establishment who regularly enters the food
23 preparation area, regardless of his/her position and duty, whose presence
24 may likely contaminate food directly or indirectly without the training; and

1 (2) Any employee of the establishment who may come in contact
2 with food during the course of that individual's work, including, but not
3 limited to, a cashier.

4 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or
5 renewed unless the applicant has undergone a physical examination performed by a
6 healthcare professional using report forms provided by the Department. ~~updated~~
7 ~~immunization for mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
8 ~~other vaccinations and exams at the discretion of the Director. Records of all such~~
9 ~~examinations shall be kept in a file in the institution where the applicant is~~
10 ~~employed.~~

11 (c) **Institutional Facility.** No Health Certificate shall be issued or
12 renewed unless the applicant has undergone a physical examination performed by a
13 healthcare professional using report forms provided by the Department. The
14 ~~applicant shall have updated immunization for mumps, measles, rubella, tetanus,~~
15 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the~~
16 ~~Director. Records of all such examinations shall be kept in a file in the institution~~
17 ~~where the applicant is employed.~~

18 (d) **Hotel Sanitation.** All persons conducting housekeeping duties, such
19 as changing of linens and towels, shall be required to obtain a Health Certificate
20 and attend and pass the training course provided by the Department. However, that
21 person shall not be required to be tested or screened for infectious Tuberculosis or
22 other communicable diseases.

23 (e) **Swimming Pool.** Every person responsible for the operation of a
24 regulated swimming pool shall be required to obtain a Health Certificate and attend

1 and pass the training course provided by the Department. However, that person
2 shall not be required to be tested or screened for infectious Tuberculosis or other
3 communicable diseases.

4 (f) **Tattoo Shop.**

5 (1) All persons employed at the tattoo facility that clean, handle,
6 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the
7 preparation of the client; shall be required to possess a Health Certificate and
8 pass the training course provided by the Department.

9 (2) In addition to the test or screening for active Tuberculosis,
10 individual required to obtain a Health Certificate shall also undergo a
11 physical examination performed by a healthcare professional using report
12 forms provided by the Department. ~~and shall have an updated immunization~~
13 ~~for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
14 ~~other vaccinations and exams at the discretion of the Director, and records of~~
15 ~~all such examinations shall be kept in a file in the institution where the~~
16 ~~applicant is employed.~~

17 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall
18 not be issued or renewed unless the applicant has undergone a physical
19 examination performed by a healthcare professional using report forms provided
20 by the Department and passes a training course provided by the Department.
21 ~~Records of all such examinations shall be kept in a file in the institution where the~~
22 ~~applicant is employed.~~

23 ~~§4411. Requirements for Temporary Health Certificate.~~ All persons
24 ~~applying for a Temporary Health Certificate to work in a carnival, fair, or other~~

~~temporary food concession will be required to attend and pass a training course provided by the Department; however, test or screening for Tuberculosis may not be required.~~

§4411. Single Health Certificate for Multiple Locations per Category.

(a) Each person may possess only one Health Certificate per category, regardless of the number of different employed locations or businesses within that same category. The Health Certificate shall state the category the holder is authorized to work and shall be valid at all locations within that category.

(b) The Department may issue a single Health Certificate for categories of both Eating and Drinking Establishment and Food Establishment if the Department determines that the application, training, fee, and other applicable requirements are the same and issuing a single certificate will not compromise the spirit and intent of these rules and regulations.

§4412. Additional Health Certificate.

(a) Any person employed within an Eating and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic Establishment, Swimming Pool, Laundry and Dry Cleaning Establishment, or Tattoo Shop, or any other health-regulated establishments, who holds a Health Certificate within such category shall not be issued, upon submission of a separate application with appropriate fee, a Health Certificate for other categories without meeting the qualifications enumerated under each category. An exception to this requirement could occur for Eating and Drinking Establishment and Food Establishment, which may be a single Health Certificate in accordance to §4412(b).

1 **§4413. Interim Health Certificate.** (a) After submitting the application,
2 payment, and meeting all other requirements, an applicant who is required to
3 attend and pass a training course shall be issued an Interim Health Certificate for
4 employment until the applicant's completion and passage of the training course,
5 whereupon he or she shall receive a Health Certificate.

6 (b) An Interim Health Certificate shall indicate the name of the applicant;
7 category of the Health-Regulated Establishment the certificate is for; ~~the name and~~
8 ~~location of employment~~; date, time, and location of the training course; expiration
9 date; and any other information as determined by the Director. Expiration date
10 shall not exceed more than three (3) working days after the date of the training
11 course.

12 (c) An applicant in possession of an Interim Health Certificate who fails
13 to attend the training course shall be scheduled for another training course and
14 granted an extension of the expiration date, provided that no more than ten (10)
15 working days have elapsed from the date of the original training course. The
16 extension of the new expiration date shall not exceed beyond the no more than 3
17 working days after the date of the rescheduled training course date.

18 (d) An applicant who fails to attend the rescheduled training course or
19 whose Interim Health Certificate has expired more than 14 working days from the
20 date of the original training course shall be considered a new applicant and shall be
21 required to apply as a new applicant. Such applicant may submit his/her initial
22 physical test and/or tuberculosis test results with the application, provided the
23 testing or screening was within the six (6) months of submission of the new
24 application.

1 (e) An Interim Health Certificate does not exempt the applicant from all
2 other requirements of these rules and regulations or any other rules and regulations
3 promulgated by the Director relevant to Health Certificates.

4 **§4414. Certificate of Management Certification and Health Certificate.**

5 (a) Unless otherwise stated within these rules and regulations, or any other rules
6 and regulations promulgated by the Department relating to environmental health,
7 every Eating and Drinking Establishment and Food Establishment, excluding those
8 facilities that do not provide food directly to consumers, such as manufacturers,
9 wholesalers, and distributors, and any other food facilities specifically exempted
10 through separate rules and regulations promulgated by the Director, shall have a
11 designated manager or supervisor who shall be certified under the provisions of
12 these rules and regulations.

13 (b) Any person employed or designated as a manager or supervisor within
14 an Eating and Drinking Establishment and Food Establishment, excluding
15 manufacturers, wholesalers, and distributors, and any other food facilities
16 specifically exempted, shall be required to take and pass a prescribed course
17 provided by the Department, or any other course approved by the Department,
18 before a Certificate of Management Certification, or an equivalent certification as
19 approved by the Director, is issued by the institution administering the course. The
20 course shall require the candidate for managerial certification to show evidence by
21 examination of satisfactory knowledge [scoring seventy Percent (70%) or higher]
22 of rules and regulations governing food facilities including, but not limited to,
23 microbiology, food-borne diseases, food storage, food preparation and service,
24 equipment design and construction, employee hygiene, cleaning and sanitary
25 procedures, and rodent and insect control. Those candidates who fail to show

1 evidence by examination of satisfactory knowledge [scoring sixty-nine Percent
2 (69%) or lower] shall repeat the course until the required minimum passing score
3 of seventy percent (70%) or higher is met. No restrictions are placed on the
4 number of times a designated manager or supervisor may take the course to obtain
5 a passing score.

6 (c) The acquisition of the Certificate of Management Certification, or its
7 equivalent as approved by the Director, by a designated manager or supervisor is a
8 requirement in addition to, and not in lieu of, a Health Certificate.

9 (d) The Certificate of Management Certification shall be renewed every
10 three (3) years.

11 (e) Any person renewing the Certificate of Management Certification
12 may waive the prescribed course in (b) of this section, and promptly take the
13 examination to obtain the certification. However, any person who waives the
14 course and fails to show evidence by examination of satisfactory knowledge
15 [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course,
16 and not permitted to waive the course again, and shall meet the required minimum
17 passing score of seventy percent (70%) or higher, before certification is granted.

18 (f) Any person waiting to take the course in §4415(c) to renew his or her
19 Certificate of Management Certification shall not be penalized if his or her
20 Certificate of Management Certification expires prior to the date of the scheduled
21 course, provided:

22 (1) That the course the person is waiting to attend is the most
23 immediate course available after the expiration of his Certificate of
24 Management Certification, and

1 (2) He or she has taken the necessary steps to properly register for
2 the course.

3 Any person with an expired Certificate of Management Certification in a
4 situation described in this section shall be considered to have a current and valid
5 certification up until the date of the scheduled course.

6 (g) The Department, if it wishes, may authorize another Government of
7 Guam entity to provide or supplement the Certificate of Management Certification
8 course, provided a written memorandum of agreement between the Department
9 and the other entity is formally established.

10 **§4415. Fees.** A non-refundable fee shall be required of applicants at the
11 time of application for Health Certificates. In the event of failure to qualify for a
12 Health Certificate, non-fulfillment, or termination of employment, the fee shall not
13 be refunded to the applicant.

14 (a) The annual fee for a Health Certificate for a person employed within
15 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
16 Cosmetic Establishment, Swimming Pool, Tattoo Shop, Laundry and Dry
17 Cleaning, or any other establishment where an employee is required to obtain a
18 Health Certificate ~~through rules and regulations promulgated by the Director~~, shall
19 be Ten Dollars (\$10.00).

20 (b) The fee for training workshop for a person employed within an Eating
21 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
22 Establishment, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or any
23 other establishment where an employee is required to obtain a Health Certificate,
24 shall be Fifteen Dollars (\$15.00).

1 (c) The fee for the re-issuance of a Health Certificate for any amendments
2 made to the Health Certificate shall be Five Dollars (\$5.00)

3 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate ~~and~~
4 ~~Temporary Health Certificate~~ due to loss or damage shall be Two Dollars (\$2.00).

5 (e) ~~The fee for an applicant who has failed to pass the training course and~~
6 ~~is required to attend another training course for re-testing shall be Ten Dollars~~
7 ~~(\$10.00).~~ An applicant who has failed to pass the training course and is required to
8 attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00)
9 for such re-testing, and a fee of Five dollars (\$5.00) for a new Interim Health
10 Certificate, provided he/she returns within ten (10) working days of the expiration
11 date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten
12 Dollars (\$10.00).

13 (f) An establishment desiring and requesting for a training course and
14 testing for its employees at its own facility or another location during regular
15 government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director,
16 comply with the criteria established by the Department, and pay the onsite training
17 workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar
18 (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

19 (g) An establishment desiring and requesting for a training course and
20 testing for its employees at its own facility or another location outside regular
21 government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the
22 approval of the Director, comply with the criteria established by the Department,
23 and pay the special onsite training workshop fee of Five Hundred Dollars

1 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
2 employee attending the special onsite workshop.

3 **§4416. Effective Date of Health Certificate.** Unless indicated elsewhere
4 in these rules and regulations, or any other rules and regulations promulgated by
5 the Director under Guam law relevant to environmental health, all Health
6 Certificates shall expire one (1) year after the date of application issuance and for
7 the category indicated on the certificate. Applications for renewal of a Health
8 Certificate shall not be accepted more than thirty (30) ~~fifteen (15)~~ days prior to its
9 expiration, unless authorized by the Director.

10 ~~(b) All Temporary Health Certificates shall be valid for only six (6)~~
11 ~~months from the date of application issuance and for the location indicated on the~~
12 ~~certificate, and can only be renewed upon the renewal of the temporary food~~
13 ~~service establishment's Sanitary Permit.~~

14 **§4417. Presentation of Health Certificate, Interim Health Certificate,**
15 **and Certificate of Management Certification.** (a) Every person required to have
16 a Health Certificate under §22101 of Title 10 GCA, shall have the Health
17 Certificate in that person's personal possession at all times during his or her
18 working hours.

19 (b) Unless exempted elsewhere in these rules and regulations or any
20 other rules and regulations promulgated by the Department, Except for Cosmetic
21 Establishments, all valid copies of Health Certificates, Interim Health Certificates,
22 and Certificates of Management Certification shall be conspicuously posted at
23 facility where the employee is working. The location within the establishment
24 where the Health Certificates are to be posted is at the discretion of the

1 establishment; however, it shall be readily available when requested by the
2 Director during inspection of the establishment. "Readily available" shall mean
3 that the documents are separated from all other records and made available for
4 inspection in reasonable amount of time.

5 ~~(c) All Health Certificates for Cosmetic Establishments shall be placed in~~
6 ~~a conspicuous place designated by the Director.~~

7 **§4418. Suspension or Revocation of Health Certificate and Certificate**
8 **of Management Certification.** (a) The Director may suspend or revoke any
9 Health Certificate, or Interim Health Certificate issued under these rules and
10 regulations, or any other rules and regulations promulgated by the Director
11 requiring a Health Certificate, for providing false information in his or her
12 application, violation of the provisions of these or any other related rules and
13 regulations, or in the event the holder of the Health Certificate has been determined
14 to be harboring a communicable disease. The holder of the suspended or revoked
15 Health Certificate shall return the said certificate to the Department.

16 (b) The Director may suspend or revoke any Certificate of Management
17 Certification issued under these rules and regulations when the holder or the
18 persons under his/her supervision repeatedly fails to comply with rules and
19 regulations for eating and drinking establishments.

20 (c) Before any Health Certificate, Interim Health Certificate, or
21 Certificate of Management Certification is suspended or revoked, the person shall
22 have the right to written notice of the action to be taken and other administrative
23 remedies in accordance with §4420 of these Rules and Regulations ~~a hearing in~~
24 ~~accordance with Administrative Adjudication Law.~~

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request for a hearing
5 must be made within ten (10) days of the date that the notice is served upon the
6 person or health-regulated establishment. The hearing shall be conducted in
7 accordance with §4420 of these Rules and Regulations.

8 **§4419. Administrative Penalties.** (a) In accordance with Title 10 GCA,
9 Chapter 22, §22106, the Director may impose a fine for any health-regulated
10 establishment that permits a person to perform services without having in their
11 possession a valid Health Certificate at the time the services are performed. The
12 monetary fine for the administrative violation is not to exceed Three Hundred
13 Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand
14 Dollars (\$1,000.00) for a second offense involving the same person occurring
15 within one (1) year of the first offense.

16 (b) Any person who is required to obtain a Health Certificate under §4405
17 of these rules and regulations shall be cited for administrative violation if they are
18 found working at a health-regulated establishment without a valid Health
19 Certificate or not having the valid Health Certificate in the person's personal
20 possession during working hours. The Director shall assess the monetary fine in
21 accordance to law.

22 (c) When more than one person is cited within the same health-regulated
23 establishment, at the same time, for not possessing valid Health Certificates, each
24 citation shall be considered a separate administrative violation and the Director
25 shall assess the required monetary fines to the establishment.

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request must be
5 made within ten (10) days of the date that the notice is served upon the person or
6 health-regulated establishment.

7 (e) Any person or health-regulated establishment may seek review of any
8 administrative penalty imposed before the Superior Court of Guam. Such review
9 shall be upon the record established before the Director and not de novo. The
10 Superior Court may sustain, modify or vacate any administrative penalty it
11 reviews.

12 (f) If any person, or a health-regulated establishment, fails to comply
13 with an administrative penalty order after it has become final, the Attorney General
14 shall bring a civil action to enforce the order and to recover the amount ordered or
15 assessed, plus current interest from the date of the final order or decision. To
16 prevail in such an action, the Director need establish only that:

17 (1) notice was given as required;

18 (2) a hearing was granted to the defendant or that the defendant
19 requested no hearing; and

20 (3) the penalty was imposed and has become final either because
21 the administrative order was not appealed to the Superior Court, or that after
22 judicial review the administrative order remains an unsatisfied obligation.

1 **§4420. Right to Notice, Hearing, and Administrative Process.** (a) Any
2 person who has been denied a Health Certificate, Interim Health Certificate, or
3 Certificate of Management Certification under these Rules and Regulations, whose
4 Health Certificate, Interim Health Certificate, or Certificate of Management
5 Certification is to be suspended or revoked under these Rules and Regulations, or
6 any person or health-regulated establishment that is subject to an Administrative
7 Penalty under these Rules and Regulations has the right to a notice in writing from
8 the Director stating the action to be taken by the Department, has the right to
9 request in writing for an administrative hearing, has the right to an administrative
10 hearing, and has the right to an appeal of an administrative hearing decision. Any
11 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and
12 Regulations shall advise that the right to notice, hearing, and appeal is available as
13 provided in these Rules and Regulations, and to the extent consistent herewith,
14 pursuant to the Administrative Adjudication Law, Title 5, Guam Code Annotated,
15 Sections 9200 through 9242, as amended.

16 (b) The procedures and requirements set out in these Rules and
17 Regulations, and to the extent consistent herewith, in the Administrative
18 Adjudication Law at Title 5, Guam Code Annotated, Sections 9200 through 9242,
19 as amended, shall be followed by the Director, and by any person or health-
20 regulated establishment adversely affected by decisions of the Department
21 pursuant to these Rules and Regulations.

22 (c) Upon an administrative adjudication the Director shall make the final
23 determination whether to issue a Health Certificate, Interim Health Certificate, or
24 Certificate of Management Certification, to suspend or revoke a Health Certificate,

1 Interim Health Certificate, or Certificate of Management Certification, or to uphold
2 an Administrative Penalty.

3 **§4421. Variances.** (a) The Director of the Department may grant a
4 variance to a requirement only if doing so will not endanger the health and welfare
5 of the public and does not contradict the spirit and intent of these rules and
6 regulations.

7 (b) Any variance issued by the Director of the Department shall be put
8 forth in writing providing explanation for the variance and its approval with the
9 signature of the Director and date and filed accordingly for records.

10 **§4422. Effective Date.** These rules and regulations shall be immediately
11 effective upon enactment. At that time, all other rules and regulations or parts of
12 other rules and regulations that conflict with these rules and regulations are
13 repealed. The adoption of these rules and regulations shall not prohibit the
14 Department from delaying the implementation of all or certain sections of these
15 rules and regulations if the Department believes doing so would better effectuate
16 its purpose; provided, such delay shall not exceed 365 days of its effective date.

17 **§4423. Severability.** If any provision or application of any provision of
18 these regulations is held invalid, that invalidity shall not affect the other provisions
19 or applications of these rules and regulations.

20
21 I, _____, a holder of "Certificate of
22 Management Certification" and the supervisor of
23 _____ at _____

1 enter into this voluntary agreement with the Department of Public Health and
2 Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate
3 Regulations, to provide the basic knowledge and skill in the proper sanitary
4 handling, preparing, and/or cooking of foods at the establishment to the above
5 employee. In a cooperative effort with the Department of Public Health and Social
6 Services, along with my responsibility and obligation to practice and promote food
7 safety at the work-place, I will ensure that the employee is taught the following so
8 that the food commodity made available by this establishment for human
9 consumption may not endanger the health and welfare of the public:

10
11 (To be determined by DPHSS.)
12

13 I understand that any failing on my part to fulfill the agreement in properly
14 training the above employee may lead to the revocation of the employee's Health
15 Certificate in accordance to §4419 of the Health Certificate Regulations.
16
17
18

19 _____
20 EMPLOYEE-Print

SIGNATURE

DATE
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SUPERVISOR-Print SIGNATURE DATE

DPHSS REPRESENTATIVE-Print SIGNATURE DATE

APPENDIX I ANNEX I

I, _____, the immediate supervisor of
_____ at _____
enter into this voluntary agreement with the Department of Public Health and
Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate
Regulations, to provide basic sanitation knowledge and skill in the operation of my
business. in the proper sanitary handling, preparing, and/or cooking of foods at
the establishment to the above employee.

In a cooperative effort with the Department of Public Health and Social
Services, along with my responsibility and obligation to practice and promote
proper sanitation and safety at the work place, food safety at the I will ensure that
the employee is taught the following so that the food commodity made available by

1 this establishment for human consumption activities of my employee identified in
2 this agreement may not endanger the health and welfare of the public:

3
4 (To be determined by DPHSS.)
5

6 I understand that any failing on my part to fulfill the agreement in properly
7 training the above employee may lead to the revocation of the employee's Health
8 Certificate in accordance to §4419 of the Health Certificate Regulations.
9
10

11 _____
12 EMPLOYEE-Print

SIGNATURE

DATE

13
14
15 _____
16 SUPERVISOR-Print

SIGNATURE

DATE

17
18 _____
19 DPHSS REPRESENTATIVE-Print

SIGNATURE

DATE

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

Bill No. 45-33 (COR), as Substituted
Committee on Health, Economic Development,
Homeland Security and Senior Citizens

Introduced by:

D.G. RODRIGUEZ, JR.

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES,
BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the proposed amending of the 'Rules And Regulations Governing The Issuance Of Health Certificates', as provided pursuant to Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, has gone through the Administrative Adjudication Law process.

It is the intent of *I Liheslaturan Guåhan* to adopt these rules and regulations.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and Executive Order, the RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, as provided in this Act, are hereby adopted by *I Mina'Trentai Tres Na Liheslaturan Guåhan*, and shall be codified under Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

Section 3. Amendment of Rules. The Director, Department of Public Health and Social Services, Division of Environmental Health *shall*, in keeping with the provisions of Article 3 of Chapter 4, 4 GCA, and pursuant to Article 3-

1 rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
2 amend, as may be necessary, the Rules and Regulations adopted pursuant to this
3 Act.

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

9 **Section 4. Effective Date.** This Act shall become immediately effective
10 upon enactment.

Exhibit “A”

Title 26, Guam Administrative Rules and Regulations

Article 4 of Chapter 4

[NOTE: Rule-making authority cited for formulation of Health Certificate Regulations by the Director of Public Health and Social Services, 10 GCA §29195 and §22104]

RULES AND REGULATIONS GOVERNING

THE ISSUANCE OF HEALTH CERTIFICATES

§4401. Short Title.

§4402. Authority.

§4403. Purpose.

§4404. Definitions.

§4405. Health Certificate Required.

§4406. Exemption of Health Certificate.

§4407. Application for Health Certificate and Temporary Health Certificate.

§4408. General Requirements for Health Certificate.

§4409. Training Course and Examination Requirements for Health Certificate.

1	§4410.	Specific Requirements by Category.
2	§4411.	Requirements for Temporary Health Certificate.
3	§4412.	Single Health Certificate for Multiple Locations per
4	Category.	
5	§4413.	Additional Health Certificates.
6	§4414.	Interim Health Certificate.
7	§4415.	Certificate of Management Certification and Health
8	Certificate.	
9	§4416.	Fees.
10	§4417.	Effective Date of Health Certificate.
11	§4418.	Presentation of Health Certificate, Temporary Health
12	Certificate, Interim Health Certificate, and Certificate of Management	
13	Certification.	
14	§4419.	Suspension or Revocation of Health Certificate and
15	Certificate of Management Certification.	
16	§4420.	Administrative Penalties
17	§4421.	Right to Notice, Hearing, and Administrative Process.
18	§4422.	Variances.
19	§4423.	Effective Date.

§4424. Severability.

ANNEX I

ANNEX II

ANNEX III

General Provisions and Definitions

§4401. Short Title. These rules and regulations may also be cited as the 'Health Certificate Regulations.'

§4402. Authority. §22104, Chapter 22 of Title 10 Guam Code Annotated, authorizes the Director of the Department of Public Health and Social Services to establish, by rules and regulations, the requirements and fees for the issuance of a Health Certificate.

§4403. Purpose. These rules and regulations are established to ensure that the holder of a Health Certificate is free of communicable diseases that could potentially spread to fellow employees or their clients as a result of the holder's work activities and/or possesses the minimum knowledge in preventing the spread of communicable diseases at the Health-Regulated Establishment where the holder is employed. Upon adoption, these rules and regulations will repeal and replace the previously adopted regulations entitled, Rules and Regulations Governing the Issuance of Health Certificates.

§4404. Definitions. Wherever in these rules and regulations the following words appear, they shall have the following definition:

1 (a) **'Category'** shall mean the following types of establishments and their
2 activities that are regulated by the Department by these rules and regulations, and
3 other rules and regulations of the Department, which require a Health Certificate:

4 (1) Eating and Drinking Establishment

5 (2) Food Establishment;

6 (3) Cosmetic Establishment;

7 (4) Institutional Facility;

8 (5) Laundry and Dry Cleaning Establishments;

9 (6) Swimming Pool

10 (7) Hotel; and

11 (8) Tattoo Shop.

12 (b) **'Certificate of Management Certification'** shall mean a certification
13 issued by the Department or any authorized institution, as determined by the
14 Director, to a person employed, or designated, as a manager or supervisor within
15 any Health-Regulated Establishment who has demonstrated his or her knowledge
16 of applicable governing rules and regulations, including but not limited to,
17 sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and
18 insect control, as determined by the Director.

19 (c) **'Cosmetic Establishment'**. (1) Cosmetic establishment shall mean
20 any premises or portions thereof, wherein any of the following is practiced for
21 compensation:

1 (A) Singeing, shampooing, arranging, adorning, dressing, curling,
2 waving, permanent waving, tinting, applying tonic to, or dyeing human hair;

3 (B) Shaving, clipping, trimming or cutting human hair;

4 (C) Giving facial, scalp, neck or body massages or treatments with
5 oils, creams, lotions, or other preparations to the hands, scalp, face, or neck
6 by hand or mechanical appliance; and

7 (D) Manicuring or pedicuring.

8 (2) As used in these rules and regulations, cosmetic establishment shall
9 include:

10 (A) "Shop," which shall mean any establishment or facility where
11 cosmetology is practiced for fee or charge for hire. The term includes, but is
12 not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair
13 styling salons, nail salons, or other establishments where cosmetology is
14 practiced for reimbursement;

15 (B) "School of Cosmetology," which shall mean any establishment
16 or facility where the practice of cosmetology is taught for a fee. The term
17 includes, but is not limited, to barber colleges or other closely related
18 institutions or establishments teaching cosmetology for reimbursement;

19 (C) "Massage Parlor," which shall mean any establishment or
20 facility occupied and used for the purpose of practicing massage for
21 compensation, provided that when any massage parlor is situated in any
22 building for residential or sleeping purposes, the massage parlor shall be set
23 apart and shall not be used for any other purpose; and

1 (D) "Therapeutic Massage Establishment," which shall mean any
2 premise intended, occupied and used for the purpose of practicing massage
3 therapy for compensation.

4 (d) '**Department**' shall mean the Department of Public Health and Social
5 Services.

6 (e) '**Director**' shall mean the Director of the Department of Public Health
7 and Social Services or his designated and authorized representative.

8 (f) '**Eating and Drinking Establishment**' shall mean any mobile food
9 service establishment; vending machine; restaurant; coffee shop; public or private
10 school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or
11 employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe;
12 sandwich stand; drink stand; cafeteria or similar facility connected with an
13 institution; any other eating establishment within an organization, club, veteran's
14 club, boarding house, guest house, political subdivision, stall, stand, and booth; and
15 a concession within any public market which gives, sells, or offers for sale, or
16 promotes food to the public, guests, patrons, or employees; and as well as kitchens
17 in which food is prepared on the premises for serving elsewhere, including catering
18 functions.

19 (g) '**Food Establishment**' shall mean every establishment or place which is
20 used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing
21 house; grocery; supermarket; meat or poultry market; fruit or vegetable market;
22 delicatessen; beverage plant; slaughter house; poultry processing plant; fish
23 processing plant; frozen food processing plant; bottling plant; food refrigeration
24 locker plant; ice plant; ice cream or frozen dessert plant; public market; food

1 warehouse; or any structure used for the production, processing, manufacture,
2 preparation for sale, canning, bottling, packing, packaging, storage, sale or
3 distribution, of any food.

4 (h) **'Health Certificate'** shall mean a certificate issued by the Department
5 to a person employed within any Eating and Drinking Establishment, Food
6 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop,
7 Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other
8 establishment under the provisions of any other rules and regulations promulgated
9 by the Director to properly carry out the laws of Guam relating to environmental
10 health.

11 (i) **'Health-Regulated Establishment'** shall mean any of the following:
12 Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment,
13 Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool,
14 Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop,
15 Temporary Food Service Establishment, and any other facilities governed by the
16 Department pursuant to law.

17 (j) **'Highly susceptible population'** shall mean individuals who are
18 more likely than other people in the general population to experience foodborne
19 disease because they are immunocompromised, children age 9 and below, or older
20 adults.

21 (k) **'Hotel'** shall mean any structure or any portion of any structure,
22 including any lodging house, rooming house, dormitory (including a dormitory
23 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
24 private club, containing four (4) or more guest rooms and which is occupied or is

1 intended or designed for occupancy, by four (4) or more guests, whether rent is
2 paid in money, goods, labor, or otherwise, and whether with or without meals. It
3 does not include any penal institution, hospital, clinic, nursing home, school,
4 laboratory, or child care facility.

5 (l) **'Institutional Facility'** as used in these rules and regulations, shall
6 include:

7 (1) "Adult Group Day Care Center," which shall mean a place
8 maintained and operated by an individual, organization, or agency whether
9 for profit or not for the purpose of providing protective and supportive care
10 for two or more elderly and/or disabled adults, not related to the facility's
11 owner/operator by blood or marriage within the third degree of
12 consanguinity, for a specified time period of ten (10) hours or less in each
13 twenty-four (24) hour day. At the end of the specified time period, the
14 participant is discharged to the custody of his/her family, guardian, or
15 sponsor;

16 (2) "Child Care Facility," which shall mean any person or place
17 which receives or arranges placement of one or more children who are not
18 related to such person, whether for gain or otherwise, apart from the parents
19 or guardian, with or without the transfer of the right of custody for the
20 purpose of providing regular care or training for such child or children
21 during either the day or night, or both. Except as otherwise provided, the
22 term "Child Care Facility" includes, but is not limited to, all facilities
23 defined by the Department as "family day care homes," "foster family
24 homes," "group day care homes," "residential treatment facilities," "day care

center," "day nurseries," "nursery school," "kindergarten school," "day care homes," or similar institutions or units regardless of name;

(3) "Penal Institution," which shall mean any jail, detention center, prison camp, home, juvenile detention home or cottages, or other facility used as a holding facility, jail, or residential custodial facility. This definition does not include hospitals or childcare facilities or adult group day care center;

(4) "School," which shall mean any establishment that provides care and education to students from pre-kindergarten through Grade 12 and any college, trade school, university, or any other educational institutional of higher learning;

(5) "Hospital," which shall mean any building, structure, institution or place whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, evaluation, treatment, and provision of medical or surgical care for three (3) or more non-related individuals admitted for overnight stay or longer in order to obtain medical services; including obstetric, psychiatric, and nursing care of illness, disease, injury, or deformity, whether physical or mental; and regularly making available at least clinical laboratory service, diagnostic radiology services, and treatment facilities, or surgery, obstetrical care or other definitive medical treatment;

(6) "Clinic," which shall mean any building; structure; institution or place; public or private; whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the medical or

1 dental evaluation, diagnosis, or treatment of human illness, injury or
2 deformity; or the veterinary medical or veterinary dental evaluation,
3 diagnosis, or treatment of animal illness, injury or deformity;

4 (7) "Nursing Home," which shall mean any facility established, for
5 profit or non-profit, which provides nursing care and related medical
6 services twenty-four (24) hours per day for two or more individuals because
7 of illness, disease, or mental or physical infirmity. It provides care for these
8 persons not in need of hospital care but requiring nursing care or related
9 medical services, which medical services shall be administered by a
10 professional nurse, a physical therapist, or an occupational therapist; or other
11 licensed medical practitioners, depending upon the service required; and

12 (8) "Laboratory," which shall mean any building, structure,
13 institution or place, whether organized for profit or not, devoted primarily to
14 the maintenance and operation of facilities for the examination or testing of
15 humans or animals, living or dead, or any parts or physiologic products
16 thereof, for the purpose of detecting or confirming the presence of illness or
17 infirmity.

(m) **'Interim Health Certificate'** shall mean a provisional certificate
issued by the Director to a person employed within any ~~Eating and Drinking~~
~~Establishment or Food Establishment~~ Health-Regulated Establishment or any other
establishment under the provisions of any other rules and regulations promulgated
by the Director to properly carry out Title 10 G.C.A. relating to environmental
health, who is waiting to attend a training course offered by the Department or
another entity authorized by the Department.

1 (n) **'Laundry or Dry Cleaning Establishment'** shall mean any place,
2 building, structure, room, or partition thereof, used in the business of dyeing;
3 washing; starching; ironing; or dry cleaning apparels, household linens, and other
4 fabric articles, including any establishment providing laundering equipment for use
5 by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
6 operated Laundromat.

7 (o) **'Massage Parlor'** shall mean premises occupied and used for the
8 purpose of practicing massage, provided that when any massage establishment is
9 situated in any building used for residential or sleeping purposes, the massage
10 establishment premises shall be set apart and shall not be used for any other
11 purpose.

12 ~~(o) **'Massage Therapy'** shall mean the manipulation of the superficial~~
13 ~~tissues of the human body with the hand, foot, arm, or elbow by a massage~~
14 ~~therapist licensed by the applicable professional licensing board of Guam whether~~
15 ~~or not such manipulation is aided by hydrotherapy, including colonic irrigation, or~~
16 ~~thermal therapy; any electrical or mechanical device; or the application to the~~
17 ~~human body of a chemical or herbal preparation.~~

18 (p) **'Person Employed'** shall mean the following:

19 (1) In an "Eating and Drinking Establishment," any person
20 employed for compensation or otherwise who transports food or food
21 containers, engages in food preparation or service, or comes in contact with
22 any food and food utensils or equipment;

23 (2) In a "Food Establishment," any person employed for
24 compensation or otherwise who transports, stocks, stores, packs, packages,

1 processes, manufactures, cans, bottles, or otherwise handles raw or
2 processed foods;

3 (3) In an "Institutional Facility," any person employed for
4 compensation or otherwise at that facility; ~~and~~

5 (4) In a "Cosmetic Establishment," any person employed for
6 compensation or otherwise who singes, shampoos, arranges, adorns, dresses,
7 curls, waves, permanent waves, tints, applies tonics, dyes, shaves, clips,
8 trims or cuts human hair, gives facial, scalp, neck or body massages or
9 treatments with oils, creams, lotions, or other preparations to the hands,
10 scalp, face, or neck by hand or mechanical appliance, and manicures and
11 pedicures;

12 (5) In a "Hotel," any person employed for compensation or
13 otherwise who cleans and handles pre-packaged food (i.e., bottled water,
14 coffee, tea), food contact equipment (i.e., coffee makers, ice buckets, and
15 refrigerator/freezers), soiled or cleaned linens or other laundry items, and
16 who maintains sanitary condition and operation of the facility during the
17 course of their duties and responsibilities;

18 (6) In a "Laundry or Dry Cleaning Establishment," any person
19 employed for compensation or otherwise who handles soiled or cleaned
20 linens or other laundry items; and

21 (7) In a "Swimming Pool," any person employed for compensation
22 or otherwise at the facility who is in charge of its operation and/or
23 maintenance.

1 (8) In a "Tattoo Shop," any person employed for compensation or
2 otherwise at that facility who performs or assist in performing tattooing.

3 (q) **'Swimming Pool'** shall mean any artificial structure, basin, chamber
4 or tank constructed or impervious material used or intended to be used for
5 swimming, diving, wading or recreation al bathing. It does not include
6 conventional bathtubs where the primary purpose is the cleaning of the body or
7 individual therapeutic tubs. A "public swimming pool" shall mean any swimming
8 or wading pool that is available for public use, whether for a fee or free of charge;
9 or any swimming or wading pool owned or used by any business, partnership,
10 corporation, or person for the use of their customers, clients, guest or employees
11 including but not limited to a commercial pool, a community pool or a pool at a
12 hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental
13 unit, private club, public club, public or private school, gymnasium or health
14 establishment.

15 (r) **'Tattooing'** shall mean to mark or color the skin by pricking and
16 introducing subcutaneously, non-toxic dyes, pigments, or by the production of
17 scars to form indelible marks and figures.

18 (s) **'Tattoo Shop'** shall mean any premises where a tattoo artist does
19 tattooing for a fee or other consideration.

20 (t) **'Temporary Food Service Establishment'** shall mean any Eating and
21 Drinking Establishment which operates at a fixed location for a period of time not
22 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or
23 other transitory gathering not of a permanent nature, and shall include catering.

1 (u) 'Temporary Health Certificate' shall mean a certificate issued to a
2 person employed within any temporary food service establishment under the
3 provisions of these rules and regulations.

4 (v) 'Therapeutic Massage Establishment' shall mean a business which
5 performs the manipulation of the superficial tissues of the human body with the
6 hand, foot, arm, or elbow by a massage therapist licensed by the applicable
7 professional licensing board of Guam whether or not such manipulation is aided by
8 hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
9 mechanical device; or the application to the human body of a chemical or herbal
10 preparation.

11 **§4405. Health Certificate Required.** Unless otherwise stated within these
12 rules and regulations, or any other rules and regulations promulgated by the
13 Department relating to environmental health, every person employed within an
14 Eating and Drinking Establishment, Food Establishment, Institutional Facility,
15 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment,
16 Hotel, Swimming Pool, or any other establishments under the provisions of any
17 other rules and regulations promulgated by the Director to properly carry out Title
18 10 G.C.A. relating to environmental health, shall be required to obtain a Health
19 Certificate.

20 **§4406. Exemption of Health Certificate.** The selling of the following
21 articles shall not require the obtaining of a Health Certificate:

22 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live
23 pigs; or

1 (b) Canned or bottled drinks, including alcoholic beverages, in the
2 original container of their manufacturer; or

3 (c) Candies or other confections in the original container of their
4 manufacturer.

5 **§4407. Application for Health Certificate and Temporary Health**

6 **Certificate.** (a) Any person desiring to engage in employment requiring a Health
7 Certificate or Temporary Health Certificate under these rules and regulations shall
8 submit ~~make~~ an application for a Health Certificate or Temporary Health
9 Certificate to the Department. The applicant shall be required to show a current
10 and valid photo identification or other evidence attesting to the applicant's true
11 identity. The applicant shall also be required to show ~~a valid Social Security Card~~
12 ~~and~~ documentation that attests ~~approved by the Director attesting~~ to the applicant's
13 United States citizenship, permanent resident alien, or non-immigrant status, that
14 authorizes the applicant to work in the United States by the U.S. federal
15 government. The following are acceptable forms of photo identification:

16 (1) Government of Guam Identification Card;

17 (2) Guam Driver's License;

18 (3) United States Military Identification Card;

19 (4) Passport;

20 (5) Credit card with photo; and

21 (6) Any other photo identification acceptable by the
22 Department.

1 (b) The following are acceptable forms of identification for permanent
2 resident aliens or non-immigrant applicants who are authorized to work in the
3 United States:

4 (1) Passport; and

5 (2) Alien Registration Receipt Card (Green Card).

6 ~~(c)(b)~~ Whenever an applicant is unable to apply to renew for a Health
7 Certificate or ~~Temporary Health Certificate~~ in person, the applicant may designate
8 an authorized representative to make an application for the applicant, provided the
9 representative has the following information available:

10 (1) Signed and dated authorization letter from applicant, along with
11 an explanation of the applicant's relation to the representative;

12 (2) Completed, original application; and

13 (3) Copy of the representative's and the applicant's acceptable
14 photo identification cards.

15 ~~(d)(e)~~ An applicant, ~~or duly authorized representative of the applicant,~~
16 applying for a Health Certificate shall complete all application requirements and
17 submit all necessary information at any time but not more than one month before
18 commencement of employment. An applicant, ~~or duly authorized representative of~~
19 ~~the applicant,~~ applying for a Temporary Health Certificate shall complete all
20 application requirements and submit all necessary information, not more than
21 twenty (20) and not less than five (5) working days, before commencement of
22 employment, unless approved by the Director.

1 ~~(e)~~(d) A person applying for an additional Health Certificate for another
2 category, or under the conditions stated in Subsections (a) and (b) of §4411 of
3 these rules and regulations, shall submit a separate application and pay the
4 appropriate fee for each additional Health Certificate.

5 **§4408. General Requirements for Health Certificate.** (a) Unless stated
6 otherwise in these rules and regulations, all new Health Certificate applicants,
7 including Temporary Health Certificate applicants, shall submit an application
8 approved by the Department, pay all applicable fees, and shall:

9 (1) Be tested, or screened, and be free of infectious Tuberculosis
10 within six (6) months prior to its submission, and any other communicable
11 diseases, as determined by the Director, except applicants of Temporary
12 Health Certificate; and

13 (2) Take and pass a training course provided by the Department, or
14 an authorized entity approved by the Department, specific to the category of
15 the Health Certificate the applicant is seeking under the provisions of this
16 and any other rules and regulations promulgated by the Director to properly
17 carry out Title 10 G.C.A. relating to environmental health.

18 (b) Renewing applicants, when applicable or as determined by the
19 Director, shall be required to be tested or screened for infectious Tuberculosis and
20 other communicable diseases, and pass a written examination.

21 **§4409. Training Course and Examination Requirements for Health**
22 **Certificate.**

1 (a) Unless otherwise stated in these rules or regulations or any other
2 separate rules and regulations promulgated by the Director to properly carry out
3 Title 10 G.C.A. relating to environmental health, the following are further and
4 specific requirements for any person desiring to engage in employment requiring a
5 Health Certificate under these and other rules and regulations of the Department,
6 and must be complied with to qualify for, and hold, a Health Certificate:

7 (1) Any applicant who has not previously been issued a Health
8 Certificate by the Department or whose previous Health Certificate has
9 expired for more than thirty (30) calendar days shall attend and pass a
10 training course conducted by the Department, or any other entity approved
11 by the Department, before a Health Certificate is issued.

12 (2) Any applicant who fails to pass the training course shall be
13 scheduled to attend another training course at a later date, pay the re-testing
14 fee and the Health Certificate fee, and have the Interim Health Certificate's
15 issued with a new expiration date. ~~extended to the date of the re-testing.~~

16 (3) Any applicant, who fails to pass his second consecutive training
17 course for any category ~~the category of Eating and Drinking Establishment~~
18 ~~or Food Establishment~~, after failing the first training course, may be
19 provided a Health Certificate at the discretion of the Director. However,
20 prior to the issuance of the Health Certificate by the Director, the applicant's
21 supervisor, who must be certified in accordance with §4415 if for Eating and
22 Drinking Establishment and Food Establishment categories, shall be
23 required to enter into a written agreement with the Department (Annex I) if
24 the supervisor agrees to do so. The same shall apply for Health Certificate
25 applicants for non-food facilities governed by these rules and regulations

1 ~~(Annex II). For other food facilities not providing food directly to~~
2 ~~consumer, such as wholesalers, distributors, and any other food~~
3 ~~establishments specifically exempted through separate rules and regulations~~
4 ~~promulgated by the Director, the applicant's supervisor need not be certified~~
5 ~~in accordance with §4415, but shall be the applicant's immediate supervisor~~
6 ~~and shall be required to enter into a written agreement with the Department~~
7 ~~(Appendix II). A Health Certificate issued under such condition shall have a~~
8 ~~distinguishing mark or symbol printed on the certificate.~~

9 (4) There shall be no limit to the number times an applicant may
10 take the training course.

11 (5) At the discretion of the Director, the requirement for taking the
12 training course may be waived if the applicant shows proof of disability, but
13 shall be required to enter into the written agreement in Annex I or Annex II.

14 (b) The Director shall identify Health Certificate categories which will
15 require the renewing applicant to attend and pass a refresher training course. A
16 ~~renewing applicant may be required to attend and pass a training course, however,~~
17 ~~the applicant shall take and pass a written examination before the Department~~
18 ~~issues a renewal Health Certificate to the applicant.~~

19 (1) Any renewing applicant who attends the training course and
20 does not pass the examination shall be scheduled to attend a training course
21 at a later date, pay the retesting fee and the Health Certificate fee, and be
22 issued an Interim Health Certificate with a new expiration date. ~~with a new~~
23 ~~expiration date extended to the date of the re-testing.~~

1 (2) Any renewing applicant, who fails to pass his/her second
2 consecutive training course, after failing the first training course, may be
3 provided a Health Certificate at the discretion of the Director in the same
4 manner and condition as §4409(a)(3). ~~However, prior to the issuance of the~~
5 ~~Health Certificate by the Director, the applicant's supervisor, who must be~~
6 ~~certified in accordance with §4415, shall be required to enter into a written~~
7 ~~agreement with the Department (Appendix I).~~

8 (3) As determined by the Director, a renewing applicant may forgo
9 the training course and take the examination only; however, if such applicant
10 fails the examination, he/she shall be required to take the training course.

11 (c) [Reserved.]

12 (d) The Director may revoke any Health Certificate issued in §4409(a)(3)
13 or §4409(b)(2), upon reasonable belief that the written agreement has been
14 breached.

15 (e) Any person in possession of a valid and current Certificate of
16 Management Certification shall be exempt from its respective training course;
17 however, he/she shall still be required to obtain a Health Certificate.

18 (f) The Department, if it wishes, may authorize another Government of
19 Guam entity to provide or supplement the training courses required pursuant to
20 these rules and regulations, provided a written memorandum of agreement between
21 the Department and the other entity is formally established.

22 (g) In the event an entity authorized by the Department to provide a
23 training course is unable to provide the minimum standard of training that is

1 acceptable to the Department in the issuance of Health Certificates, or fails to
2 timely provide the required training course, the Department may seek the
3 assistance of another approved entity in carrying out the provision of this section.

4 **§4410. Specific Requirements by Category.** Any person required to
5 attend and pass a training course as indicated in this section may be waived from
6 such course if he or she possesses an applicable current and valid certification that
7 is recognized by the Department that attests to the individual's adequate
8 knowledge of disease prevention in the respective establishment category.
9 However, the individual must still submit the application and all supporting
10 documents and obtain a Health Certificate.

11 **(a) Eating and Drinking Establishment and Food Establishment.** The
12 following individuals shall obtain a Health Certificate:

13 (1) An employee of the establishment who regularly enters the food
14 preparation area, regardless of his/her position and duty, whose presence
15 may likely contaminate food directly or indirectly without the training; and

16 (2) Any employee of the establishment who may come in contact
17 with food during the course of that individual's work, including, but not
18 limited to, a cashier.

19 **(b) Cosmetic Establishment.** No Health Certificate shall be issued or
20 renewed unless the applicant has undergone a physical examination performed by a
21 healthcare professional using report forms provided by the Department. ~~updated~~
22 ~~immunization for mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
23 ~~other vaccinations and exams at the discretion of the Director. Records of all such~~

1 ~~examinations shall be kept in a file in the institution where the applicant is~~
2 ~~employed.~~

3 (c) **Institutional Facility.** No Health Certificate shall be issued or
4 renewed unless the applicant has undergone a physical examination performed by a
5 healthcare professional using report forms provided by the Department. ~~The~~
6 ~~applicant shall have updated immunization for mumps, measles, rubella, tetanus,~~
7 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the~~
8 ~~Director. Records of all such examinations shall be kept in a file in the institution~~
9 ~~where the applicant is employed.~~

10 (d) **Hotel Sanitation.** All persons employed at a Hotel, as defined in
11 these rules and regulations, who are tasked to clean food-contact surfaces, and
12 maintain sanitary condition and operation of such facility, shall be required to
13 obtain a Health Certificate and attend and pass the training course provided by the
14 Department. However, that person shall not be required to be tested or screened
15 for infectious Tuberculosis or other communicable diseases.

16 (e) **Swimming Pool.** Every person responsible for the operation of a
17 regulated swimming pool shall be required to obtain a Health Certificate and attend
18 and pass the training course provided by the Department. However, that person
19 shall not be required to be tested or screened for infectious Tuberculosis or other
20 communicable diseases. A responsible operator of a regulated swimming pool will
21 not be required to attend and pass the training course provided by the Department
22 if such operator possesses and shows proof of a valid Certified Pool/Spa Operator
23 certification with the National Swimming Pool Foundation, or its successor, or any
24 other nationally recognized certification approved by the Department; however, the
25 responsible operator shall still be required to obtain the required Health Certificate.

1 (f) **Tattoo Shop.**

2 (1) All persons employed at the tattoo facility that clean, handle,
3 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the
4 preparation of the client; shall be required to possess a Health Certificate and
5 pass the training course provided by the Department.

6 (2) In addition to the test or screening for active Tuberculosis,
7 individual required to obtain a Health Certificate shall also undergo a
8 physical examination performed by a healthcare professional using report
9 forms provided by the Department. ~~and shall have an updated immunization~~
10 ~~for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
11 ~~other vaccinations and exams at the discretion of the Director, and records of~~
12 ~~all such examinations shall be kept in a file in the institution where the~~
13 ~~applicant is employed.~~

14 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall
15 not be issued or renewed unless the applicant has undergone a physical
16 examination performed by a healthcare professional using report forms provided
17 by the Department and passes a training course provided by the Department.
18 ~~Records of all such examinations shall be kept in a file in the institution where the~~
19 ~~applicant is employed.~~

20 **§4411. Requirements for Temporary Health Certificate.** (a) All persons
21 applying for a Temporary Health Certificate to work in a carnival, fair, or other
22 temporary food service establishment shall be required to submit to the Department
23 a signed and completed written contract (Annex III) between the Department and
24 the applicant's supervisor who possesses the required Certificate of Management

1 ~~Certification. will be required to attend and pass a training course provided by the~~
2 ~~Department; however, test or screening for Tuberculosis may not be required.~~
3 Prior to the issuance of a Temporary Health Certificate, the employee shall, as
4 determined by the Director, attend and participate in a short briefing provided by
5 the Department, before the start of the event, which discusses the food safety
6 responsibilities and expectations for possessing a Temporary Health Certificate.

7 (b) A recipient of a Temporary Health Certificate who fails to attend the
8 short briefing provided by the Department in §4411(a) shall cause that certificate
9 to become invalid.

10 (c) Temporary Health Certificates shall not be issued for any event where
11 many of the consumers are members of a highly susceptible population.

12 **§4412. Single Health Certificate for Multiple Locations per Category.**

13 (a) Each person may possess only one Health Certificate per category,
14 regardless of the number of different employed locations or businesses within that
15 same category. The Health Certificate shall state the category the holder is
16 authorized to work and shall be valid at all locations within that category.

17 (b) The Department may issue a single Health Certificate for categories of
18 both Eating and Drinking Establishment and Food Establishment if the Department
19 determines that the application, training, fee, and other applicable requirements are
20 the same and issuing a single certificate will not compromise the spirit and intent
21 of these rules and regulations.

22 **§4413 §4412. Additional Health Certificate.** (a) Any person employed
23 within an Eating and Drinking Establishment, Food Establishment, Hotel,
24 Institutional Facility, Cosmetic Establishment, Swimming Pool, Laundry and Dry

1 Cleaning Establishment, or Tattoo Shop, or any other health-regulated
2 establishments, who holds a Health Certificate within such category shall not be
3 issued, upon submission of a separate application with appropriate fee, a Health
4 Certificate for other categories without meeting the qualifications enumerated
5 under each category. An exception to this requirement could occur for Eating and
6 Drinking Establishment and Food Establishment, which may be a single Health
7 Certificate in accordance to §4412(b).

8 **§4414 §4413. Interim Health Certificate.** (a) After submitting the
9 application, payment, and meeting all other requirements, an applicant who is
10 required to attend and pass a training course shall be issued an Interim Health
11 Certificate for employment until the applicant's completion and passage of the
12 training course, whereupon he or she shall receive a Health Certificate.

13 (b) An Interim Health Certificate shall indicate the name of the applicant;
14 category of the Health-Regulated Establishment the certificate is for; ~~the name and~~
15 ~~location of employment~~; date, time, and location of the training course; expiration
16 date; and any other information as determined by the Director. Expiration date
17 shall not exceed more than three (3) working days after the date of the training
18 course.

19 (c) An applicant in possession of an Interim Health Certificate who fails
20 to attend the training course shall be scheduled for another training course and
21 granted an extension of the expiration date, provided that no more than ten (10)
22 working days have elapsed from the date of the original training course. The
23 extension of the new expiration date shall not exceed beyond more than 3 working
24 days after the date of the rescheduled training course date.

1 (d) An applicant who fails to attend the rescheduled training course or
2 whose Interim Health Certificate has expired more than 14 working days from the
3 date of the original training course shall be considered a new applicant and shall be
4 required to apply as a new applicant. Such applicant may submit his/her initial
5 physical test and/or tuberculosis test results with the application, provided the
6 testing or screening was within the six (6) months of submission of the new
7 application.

8 (e) An Interim Health Certificate does not exempt the applicant from all
9 other requirements of these rules and regulations or any other rules and regulations
10 promulgated by the Director relevant to Health Certificates.

11 **§4415–§4414. Certificate of Management Certification and Health**
12 **Certificate.** (a) Unless otherwise stated within these rules and regulations, or any
13 other rules and regulations promulgated by the Department relating to
14 environmental health, every Eating and Drinking Establishment and Food
15 Establishment, excluding those facilities that do not provide food directly to
16 consumers, such as manufacturers, wholesalers, and distributors, and any other
17 food facilities specifically exempted through separate rules and regulations
18 promulgated by the Director, shall have a designated manager or supervisor who
19 shall be certified under the provisions of these rules and regulations.

20 (b) Any person employed or designated as a manager or supervisor within
21 an Eating and Drinking Establishment and Food Establishment, excluding
22 manufacturers, wholesalers, and distributors, and any other food facilities
23 specifically exempted, shall be required to take and pass a prescribed course
24 provided by the Department, or any other course approved by the Department,
25 before a Certificate of Management Certification, or an equivalent certification as

1 approved by the Director, is issued by the institution administering the course. The
2 course shall require the candidate for managerial certification to show evidence by
3 examination of satisfactory knowledge [scoring seventy Percent (70%) or higher]
4 of rules and regulations governing food facilities including, but not limited to,
5 microbiology, food-borne diseases, food storage, food preparation and service,
6 equipment design and construction, employee hygiene, cleaning and sanitary
7 procedures, and rodent and insect control. Those candidates who fail to show
8 evidence by examination of satisfactory knowledge [scoring sixty-nine Percent
9 (69%) or lower] shall repeat the course until the required minimum passing score
10 of seventy percent (70%) or higher is met. No restrictions are placed on the
11 number of times a designated manager or supervisor may take the course to obtain
12 a passing score.

13 (c) The acquisition of the Certificate of Management Certification, or its
14 equivalent as approved by the Director, by a designated manager or supervisor is a
15 requirement in addition to, and not in lieu of, a Health Certificate.

16 (d) The Certificate of Management Certification shall be renewed every
17 five(5) ~~three (3)~~ years.

18 (e) Any person renewing the Certificate of Management Certification
19 may waive the prescribed course in (b) of this section, and promptly take the
20 examination to obtain the certification. However, any person who waives the
21 course and fails to show evidence by examination of satisfactory knowledge
22 [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course,
23 and not permitted to waive the course again, and shall meet the required minimum
24 passing score of seventy percent (70%) or higher, before certification is granted.

1 (f) Any person waiting to take the course in §4415(b) ~~§4414(b)~~ to renew
2 his or her Certificate of Management Certification shall not be penalized if his or
3 her Certificate of Management Certification expires prior to the date of the
4 scheduled course, provided:

5 (1) That the course the person is waiting to attend is the most
6 immediate course available after the expiration of his Certificate of
7 Management Certification, and

8 (2) He or she has taken the necessary steps to properly register for
9 the course.

10 Any person with an expired Certificate of Management Certification in a
11 situation described in this section shall be considered to have a current and valid
12 certification up until the date of the scheduled course.

13 (g) The Department, if it wishes, may authorize another Government of
14 Guam entity to provide or supplement the Certificate of Management Certification
15 course, provided a written memorandum of agreement between the Department
16 and the other entity is formally established.

17 (h) At the discretion of the Department, and in the manner determined by
18 the Director, a nationally recognized food safety certification may be recognized
19 and accepted in lieu of the Certificate of Management Certification, provided its
20 curriculum meets or exceeds the Department's requirements.

21 **§4416 ~~§4415~~. Fees.** A non-refundable fee shall be required of applicants at
22 the time of application for Health Certificates. In the event of failure to qualify for

1 a Health Certificate, non-fulfillment, or termination of employment, the fee shall
2 not be refunded to the applicant.

3 (a) The annual fee for a Health Certificate for a person employed within
4 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
5 Cosmetic Establishment, Hotel, Swimming Pool, Tattoo Shop, Laundry and Dry
6 Cleaning, or any other establishment where an employee is required to obtain a
7 Health Certificate ~~through rules and regulations promulgated by the Director~~, shall
8 be Ten Dollars (\$10.00).

9 (b) The fee for training workshop for a person employed within an Eating
10 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
11 Establishment, Hotel, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or
12 any other establishment where an employee is required to obtain a Health
13 Certificate, shall be Fifteen Dollars (\$15.00).

14 (c) The fee for the re-issuance of a Health Certificate for any amendments
15 made to the Health Certificate shall be Five Dollars (\$5.00).

16 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate and
17 Temporary Health Certificate due to loss or damage shall be Two Dollars (\$2.00).

18 (e) ~~The fee for an applicant who has failed to pass the training course and~~
19 ~~is required to attend another training course for re-testing shall be Ten Dollars~~
20 ~~(\$10.00).~~ An applicant who has failed to pass the training course and is required to
21 attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00)
22 for such re-testing, and a fee of Five dollars (\$5.00) for a new Interim Health
23 Certificate, provided he/she returns within ten (10) working days of the expiration

1 date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten
2 Dollars (\$10.00).

3 (f) An establishment desiring and requesting for a training course and
4 testing for its employees at its own facility or another location during regular
5 government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director,
6 comply with the criteria established by the Department, and pay the onsite training
7 workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar
8 (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

9 (g) An establishment desiring and requesting for a training course and
10 testing for its employees at its own facility or another location outside regular
11 government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the
12 approval of the Director, comply with the criteria established by the Department,
13 and pay the special onsite training workshop fee of Five Hundred Dollars
14 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
15 employee attending the special onsite workshop.

16 (h) The fee for a Temporary Health Certificate for a person employed
17 within a Temporary Food Service Establishment shall be Fifteen Dollars (\$15.00).
18 An expedited processing fee of Ten Dollars (\$10.00) shall be assessed for every
19 applicant of a Temporary Health Certificate when such application is received less
20 than 3 days before the start of the event.

21 **§4417 §4416. Effective Date of Health Certificate.** Unless indicated
22 elsewhere in these rules and regulations, or any other rules and regulations
23 promulgated by the Director under Guam law relevant to environmental health, all
24 Health Certificates shall expire one (1) year after the date of application issuance

1 and for the category indicated on the certificate. Applications for renewal of a
2 Health Certificate shall not be accepted more than thirty (30) ~~fifteen (15)~~ days prior
3 to its expiration, unless authorized by the Director.

4 (b) All Temporary Health Certificates shall be valid for only the period of
5 the temporary event for which the certificate was issued ~~six (6) months from the~~
6 ~~date of application issuance and for the location indicated on the certificate and its~~
7 expiration date cannot exceed sixty (60) days, and the Temporary Health
8 Certificate cannot be renewed. A person may not possess two consecutive
9 Temporary Health Certificates within any six month period.

10 **§4418 §4417. Presentation of Health Certificate, Interim Health**
11 **Certificate, Temporary Health Certificate, and Certificate of Management**
12 **Certification.** (a) Every person required to have a Health Certificate under
13 §22101 of Title 10 GCA, shall have the Health Certificate in that person's personal
14 possession at all times during his or her working hours.

15 (b) Unless exempted elsewhere in these rules and regulations or any
16 other rules and regulations promulgated by the Department, ~~Except for Cosmetic~~
17 ~~Establishments,~~ all valid copies of Health Certificates, Interim Health Certificates,
18 and Certificates of Management Certification shall be conspicuously posted at
19 facility where the employee is working. The location within the establishment
20 where the Health Certificates are to be posted is at the discretion of the
21 establishment; however, it shall be readily available when requested by the
22 Director during inspection of the establishment. "Readily available" shall mean
23 that the documents are separated from all other records and made available for
24 inspection in reasonable amount of time.

1 ~~(c) All Health Certificates for Cosmetic Establishments shall be placed in~~
2 ~~a conspicuous place designated by the Director.~~

3 **§4419 §4418. Suspension or Revocation of Health Certificate and**
4 **Certificate of Management Certification.** (a) The Director may suspend or
5 revoke any Health Certificate, Temporary Health Certificate, or Interim Health
6 Certificate issued under these rules and regulations, or any other rules and
7 regulations promulgated by the Director requiring a Health Certificate, for
8 providing false information in his or her application, violation of the provisions of
9 these or any other related rules and regulations, or in the event the holder of any
10 ~~the~~ Health Certificate has been determined to be harboring a communicable
11 disease. The holder of the suspended or revoked Health Certificate shall return the
12 said certificate to the Department.

13 (b) The Director may suspend or revoke any Certificate of Management
14 Certification issued under these rules and regulations when the holder or the
15 persons under his/her supervision repeatedly fails to comply with rules and
16 regulations for eating and drinking establishments and food establishment.

17 (c) Before any Health Certificate, Interim Health Certificate, Temporary
18 Health Certificate, or Certificate of Management Certification is suspended or
19 revoked, the person shall have the right to written notice of the action to be taken
20 and other administrative remedies in accordance with §4421 §4420 of these Rules
21 and Regulations ~~a hearing in accordance with Administrative Adjudication Law.~~

22 (d) Before imposing an administrative penalty against a person or a
23 health-regulated establishment, the Director shall issue a notice of intent to impose
24 the penalty and provide the person or health-regulated establishment an

1 opportunity to request a hearing on the proposed penalty. The request for a hearing
2 must be made within ten (10) days of the date that the notice is served upon the
3 person or health-regulated establishment. The hearing shall be conducted in
4 accordance with §4420 of these Rules and Regulations.

5 **§4420 §4419. Administrative Penalties.** (a) In accordance with Title 10
6 GCA, Chapter 22, §22106, the Director may impose a fine for any health-regulated
7 establishment that permits a person to perform services without having in their
8 possession a valid Health Certificate at the time the services are performed. The
9 monetary fine for the administrative violation is not to exceed Three Hundred
10 Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand
11 Dollars (\$1,000.00) for a second offense involving the same person occurring
12 within one (1) year of the first offense.

13 (b) Any person who is required to obtain a Health Certificate under §4405
14 of these rules and regulations shall be cited for administrative violation if they are
15 found working at a health-regulated establishment without a valid Health
16 Certificate or not having the valid Health Certificate in the person's personal
17 possession during working hours. The Director shall assess the monetary fine in
18 accordance to law.

19 (c) When more than one person is cited within the same health-regulated
20 establishment, at the same time, for not possessing valid Health Certificates, each
21 citation shall be considered a separate administrative violation and the Director
22 shall assess the required monetary fines to the establishment.

23 (d) Before imposing an administrative penalty against a person or a
24 health-regulated establishment, the Director shall issue a notice of intent to impose

1 the penalty and provide the person or health-regulated establishment an
2 opportunity to request a hearing on the proposed penalty. The request must be
3 made within ten (10) days of the date that the notice is served upon the person or
4 health-regulated establishment.

5 (e) Any person or health-regulated establishment may seek review of any
6 administrative penalty imposed before the Superior Court of Guam. Such review
7 shall be upon the record established before the Director and not *de novo*. The
8 Superior Court may sustain, modify or vacate any administrative penalty it
9 reviews.

10 (f) If any person, or a health-regulated establishment, fails to comply
11 with an administrative penalty order after it has become final, the Attorney General
12 shall bring a civil action to enforce the order and to recover the amount ordered or
13 assessed, plus current interest from the date of the final order or decision. To
14 prevail in such an action, the Director need establish only that:

15 (1) notice was given as required;

16 (2) a hearing was granted to the defendant or that the defendant
17 requested no hearing; and

18 (3) the penalty was imposed and has become final either because
19 the administrative order was not appealed to the Superior Court, or that after
20 judicial review the administrative order remains an unsatisfied obligation.

21 **§4421. Right to Notice, Hearing, and Administrative Process.** (a) Any
22 person who has been denied a Health Certificate, Interim Health Certificate,
23 Temporary Health Certificate, or Certificate of Management Certification under

1 these Rules and Regulations, or whose Health Certificate, Interim Health
2 Certificate, Temporary Health Certificate, or Certificate of Management
3 Certification is to be suspended or revoked under these Rules and Regulations, or
4 any person or health-regulated establishment that is subject to an Administrative
5 Penalty under these Rules and Regulations has the right to a notice in writing from
6 the Director stating the action to be taken by the Department, has the right to
7 request in writing for an administrative hearing, has the right to an administrative
8 hearing, and has the right to an appeal of an administrative hearing decision. Any
9 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and
10 Regulations shall advise that the right to notice, hearing, and appeal is available as
11 provided in these Rules and Regulations, and to the extent consistent herewith,
12 pursuant to the Administrative Adjudication Law, Title 5, Guam Code Annotated,
13 Sections 9200 through 9242, as amended.

14 (b) The procedures and requirements set out in these Rules and
15 Regulations, and to the extent consistent herewith, in the Administrative
16 Adjudication Law at Title 5, Guam Code Annotated, Sections 9200 through 9242,
17 as amended, shall be followed by the Director, and by any person or health-
18 regulated establishment adversely affected by decisions of the Department
19 pursuant to these Rules and Regulations.

20 (c) Upon an administrative adjudication the Director shall make the final
21 determination whether to issue a Health Certificate, Interim Health Certificate, or
22 Certificate of Management Certification, to suspend or revoke a Health Certificate,
23 Interim Health Certificate, or Certificate of Management Certification, or to uphold
24 an Administrative Penalty.

1 **§4422. Variances.** (a) The Director of the Department may grant a
2 variance to a requirement only if doing so will not endanger the health and welfare
3 of the public and does not contradict the spirit and intent of these rules and
4 regulations.

5 (b) Any variance issued by the Director of the Department shall be put
6 forth in writing providing explanation for the variance and its approval with the
7 signature of the Director and date and filed accordingly for records.

8 **§4423. Effective Date.** These rules and regulations shall be immediately
9 effective upon enactment. At that time, all other rules and regulations or parts of
10 other rules and regulations that conflict with these rules and regulations are
11 repealed. The adoption of these rules and regulations shall not prohibit the
12 Department from delaying the implementation of all or certain sections of these
13 rules and regulations if the Department believes doing so would better effectuate
14 its purpose; provided, such delay shall not exceed 365 days of its effective date.

15 **§4424. Severability.** If any provision or application of any provision of
16 these regulations is held invalid, that invalidity shall not affect the other provisions
17 or applications of these rules and regulations.

1 I, _____, a holder of "Certificate of Management
2 Certification" and the supervisor of _____ at
3 _____ enter into this voluntary agreement with
4 the Department of Public Health and Social Services, in accordance with
5 §4409(a)(3)(1)(B) of the Health Certificate Regulations, to provide the basic
6 knowledge and skill in the proper sanitary handling, preparing, and/or cooking of
7 foods at the establishment to the above employee. In a cooperative effort with the
8 Department of Public Health and Social Services, along with my responsibility and
9 obligation to practice and promote food safety at the work-place, I will ensure that
10 the employee is taught the following so that the food commodity made available by
11 this establishment for human consumption may not endanger the health and
12 welfare of the public:

13 (To be determined by DPHSS.)

14
15 I understand that any failing on my part to fulfill the agreement in properly
16 training the above employee may lead to the revocation of the employee's Health
17 Certificate in accordance to §4419 of the Health Certificate Regulations.

18 _____

19 EMPLOYEE-Print SIGNATURE DATE

20

21 _____

22 SUPERVISOR-Print SIGNATURE DATE

1

2

3

DPHSS REPRESENTATIVE-Print	SIGNATURE	DATE
----------------------------	-----------	------

4

5

ANNEX I

6

1 I, _____, the immediate supervisor of
2 _____ at _____
3 enter into this voluntary agreement with the Department of Public Health and
4 Social Services, in accordance with ~~§4409(a)(3)(1)(B)~~ of the Health Certificate
5 Regulations, to provide basic sanitation knowledge and skill in the operation of my
6 business. ~~in the proper sanitary handling, preparing, and/or cooking of foods at the~~
7 ~~establishment to the above employee.~~

8 In a cooperative effort with the Department of Public Health and Social
9 Services, along with my responsibility and obligation to practice and promote
10 proper sanitation and safety at the work place, ~~food safety at the~~ I will ensure that
11 the employee is taught the following so that the ~~food commodity made available by~~
12 ~~this establishment for human consumption~~ activities of my employee identified in
13 this agreement may not endanger the health and welfare of the public:

14
15 (To be determined by DPHSS.)

16 I understand that any failing on my part to fulfill the agreement in properly
17 training the above employee may lead to the revocation of the employee's Health
18 Certificate in accordance to §4419 of the Health Certificate Regulations.

19
20 _____
21 EMPLOYEE-Print

SIGNATURE

DATE

1

2

SUPERVISOR-Print

SIGNATURE

DATE

3

4

5

DPHSS REPRESENTATIVE-Print

SIGNATURE

DATE

6

~~APPENDIX II~~ ANNEX II

7

1 **TEMPORARY HEALTH CERTIFICATE CONTRACT**

2 I, _____, a holder of "Certificate of Management
3 Certification" and the operator of the food establishment,
4 _____, during the temporary event,
5 _____, enter into
6 this written contract with the Department of Public Health and Social Services, in
7 accordance with §4411(a) of the Health Certificate Regulations, to ensure that my
8 employee, _____, who was
9 issued a Temporary Health Certificate to work in my food establishment, will be
10 supervised by me to ensure the employee abides by the requirements of the Guam
11 Food Code. Such supervision will include the following:

12 • Prohibit the employee from working if he/she is infected with
13 Norovirus, Shigella spp., Shiga toxin-producing E. coli; symptomatic with
14 vomiting, jaundice, and/or diarrhea; and possesses health conditions that would
15 cause the employee to be excluded from a food establishment pursuant to 2-201.12
16 of the Guam Food Code;

17 • Effective washing of hands when required pursuant to 2-301.12(b)
18 and 2-301.14 of the Guam Food Code; and

19 • Proper use of barriers when handling ready-to-eat meals pursuant to 3-
20 301.11 and 3-304.15 of the Guam Food;

21 I understand that failure on my part to fulfill this contract will cause the
22 employee's Temporary Health Certificate to become invalid, thereby prohibiting
23 the said employee from working at my food establishment.

1
2
3
4
5
6
7
8
9
10

<hr/>		
<u>EMPLOYEE-Print</u>	<u>SIGNATURE</u>	<u>DATE</u>
<hr/>		
<u>SUPERVISOR-Print</u>	<u>SIGNATURE</u>	<u>DATE</u>
<hr/>		
<u>DPHSS REPRESENTATIVE-Print</u>	<u>SIGNATURE</u>	<u>DATE</u>

ANNEX III

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

Bill No. 45-33 (COR), as Substituted
Committee on Health, Economic Development,
Homeland Security and Senior Citizens

Introduced by:

D.G. RODRIGUEZ, JR.

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES,
BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the proposed amending of the 'Rules And Regulations Governing The Issuance Of Health Certificates', as provided pursuant to Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, has gone through the Administrative Adjudication Law process.

It is the intent of *I Liheslaturan Guåhan* to adopt these rules and regulations.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and Executive Order, the RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, as provided in this Act, are hereby adopted by *I Mina'Trentai Tres Na Liheslaturan Guåhan*, and shall be codified under Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

Section 3. Amendment of Rules. The Director, Department of Public Health and Social Services, Division of Environmental Health *shall*, in keeping with the provisions of Article 3 of Chapter 4, 4 GCA, and pursuant to Article 3-

1 rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
2 amend, as may be necessary, the Rules and Regulations adopted pursuant to this
3 Act.

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

9 **Section 4. Effective Date.** This Act shall become immediately effective
10 upon enactment.

Exhibit “A”

Title 26, Guam Administrative Rules and Regulations

Article 4 of Chapter 4

[NOTE: Rule-making authority cited for formulation of Health Certificate Regulations by the Director of Public Health and Social Services, 10 GCA §29195 and §22104]

RULES AND REGULATIONS GOVERNING

THE ISSUANCE OF HEALTH CERTIFICATES

§4401. Short Title.

§4402. Authority.

§4403. Purpose.

§4404. Definitions.

§4405. Health Certificate Required.

§4406. Exemption of Health Certificate.

§4407. Application for Health Certificate and Temporary Health Certificate.

§4408. General Requirements for Health Certificate.

§4409. Training Course and Examination Requirements for Health Certificate.

- 1 §4410. Specific Requirements by Category.
- 2 §4411. Requirements for Temporary Health Certificate.
- 3 ~~§4412~~§4411. Single Health Certificate for Multiple Locations
4 per Category.
- 5 ~~§4413~~§4412. Additional Health Certificates.
- 6 ~~§4414~~§4413. Interim Health Certificate.
- 7 ~~§4415~~§4414. Certificate of Management Certification and
8 Health Certificate Certification.
- 9 ~~§4416~~§4415. Fees.
- 10 ~~§4417~~§4416. Effective Date of Health Certificate.
- 11 ~~§4418~~§4417. Presentation of Health Certificate, Temporary
12 Health Certificate, Interim Health Certificate, and Certificate of
13 Management Certification.
- 14 ~~§4419~~§4418. Suspension or Revocation of Health Certificate
15 and Certificate of Management Certification.
- 16 ~~§4420~~§4419. Administrative Penalties
- 17 ~~§4421~~§4420. Right to Notice, Hearing, and Administrative
18 Process.
- 19 ~~§4422~~§4421. Variances.
- 20 ~~§4423~~§4422. Effective Date.

~~§4424~~§4423. Severability.

APPENDIX I ANNEX I

APPENDIX II ANNEX II

ANNEX III

General Provisions and Definitions

§4401. Short Title. These rules and regulations may also be cited as the 'Health Certificate Regulations.'

§4402. Authority. §22104, Chapter 22 of Title 10 Guam Code Annotated, authorizes the Director of the Department of Public Health and Social Services to establish, by rules and regulations, the requirements and fees for the issuance of a Health Certificate.

§4403. Purpose. These rules and regulations are established to ensure that the holder of a Health Certificate is free of communicable diseases that could potentially spread to fellow employees or their clients as a result of the holder's work activities and/or possesses the minimum knowledge in preventing the spread of communicable diseases at the Health-Regulated Establishment where the holder is employed. Upon adoption, these rules and regulations will repeal and replace the previously adopted regulations entitled, Rules and Regulations Governing the Issuance of Health Certificates.

§4404. Definitions. Wherever in these rules and regulations the following words appear, they shall have the following definition:

(a) **'Category'** shall mean the following types of establishments and their activities that are regulated by the Department by these rules and regulations, and other rules and regulations of the Department, which require a Health Certificate:

(1) Eating and Drinking Establishment

(2) Food Establishment;

(3) Cosmetic Establishment;

(4) Institutional Facility;

(5) Laundry and Dry Cleaning Establishments;

(6) Swimming Pool

(7) Hotel; and

(8) Tattoo Shop.

(b) **'Certificate of Management Certification'** shall mean a certification issued by the Department or any authorized institution, as determined by the Director, to a person employed, or designated, as a manager or supervisor within any Health-Regulated Establishment who has demonstrated his or her knowledge of applicable governing rules and regulations, including but not limited to, sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and insect control, as determined by the Director.

(c) **'Cosmetic Establishment'**. (1) Cosmetic establishment shall mean any premises or portions thereof, wherein any of the following is practiced for compensation:

1 (A) Singeing, shampooing, arranging, adorning, dressing, curling,
2 waving, permanent waving, tinting, applying tonic to, or dyeing human hair;

3 (B) Shaving, clipping, trimming or cutting human hair;

4 (C) Giving facial, scalp, neck or body massages or treatments with
5 oils, creams, lotions, or other preparations to the hands, scalp, face, or neck
6 by hand or mechanical appliance; and

7 (D) Manicuring or pedicuring.

8 (2) As used in these rules and regulations, cosmetic establishment shall
9 include:

10 (A) "Shop," which shall mean any establishment or facility where
11 cosmetology is practiced for fee or charge for hire. The term includes, but is
12 not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair
13 styling salons, nail salons, or other establishments where cosmetology is
14 practiced for reimbursement;

15 (B) "School of Cosmetology," which shall mean any establishment
16 or facility where the practice of cosmetology is taught for a fee. The term
17 includes, but is not limited, to barber colleges or other closely related
18 institutions or establishments teaching cosmetology for reimbursement;

19 (C) "Massage Parlor," which shall mean any establishment or
20 facility occupied and used for the purpose of practicing massage for
21 compensation, provided that when any massage parlor is situated in any
22 building for residential or sleeping purposes, the massage parlor shall be set
23 apart and shall not be used for any other purpose; and

1 (D) "Therapeutic Massage Establishment," which shall mean any
2 premise intended, occupied and used for the purpose of practicing massage
3 therapy for compensation.

4 (d) '**Department**' shall mean the Department of Public Health and Social
5 Services.

6 (e) '**Director**' shall mean the Director of the Department of Public Health
7 and Social Services or his designated and authorized representative.

8 (f) '**Eating and Drinking Establishment**' shall mean any mobile food
9 service establishment; vending machine; restaurant; coffee shop; public or private
10 school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or
11 employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe;
12 sandwich stand; drink stand; cafeteria or similar facility connected with an
13 institution; any other eating establishment within an organization, club, veteran's
14 club, boarding house, guest house, political subdivision, stall, stand, and booth; and
15 a concession within any public market which gives, sells, or offers for sale, or
16 promotes food to the public, guests, patrons, or employees; and as well as kitchens
17 in which food is prepared on the premises for serving elsewhere, including catering
18 functions.

19 (g) '**Food Establishment**' shall mean every establishment or place which is
20 used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing
21 house; grocery; supermarket; meat or poultry market; fruit or vegetable market;
22 delicatessen; beverage plant; slaughter house; poultry processing plant; fish
23 processing plant; frozen food processing plant; bottling plant; food refrigeration
24 locker plant; ice plant; ice cream or frozen dessert plant; public market; food

warehouse; or any structure used for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale or distribution, of any food.

(h) **'Health Certificate'** shall mean a certificate issued by the Department to a person employed within any Eating and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other establishment under the provisions of any other rules and regulations promulgated by the Director to properly carry out the laws of Guam relating to environmental health.

~~(i) **'Hotel'** shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, and whether with or without meals. It does not include any penal institution, hospital, clinic, nursing home, school, laboratory, or child care facility.~~

(i) **'Health-Regulated Establishment'** shall mean any of the following: Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment, Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool, Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop, Temporary Food Service Establishment, and any other facilities governed by the Department pursuant to law.

(j) **'Highly susceptible population'** shall mean individuals who are more likely than other people in the general population to experience foodborne disease because they are immunocompromised, children age 9 and below, or older adults.

(k) **'Hotel'** shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, and whether with or without meals. It does not include any penal institution, hospital, clinic, nursing home, school, laboratory, or child care facility.

(l) **'Institutional Facility'** as used in these rules and regulations, shall include:

(1) "Adult Group Day Care Center," which shall mean a place maintained and operated by an individual, organization, or agency whether for profit or not for the purpose of providing protective and supportive care for two or more elderly and/or disabled adults, not related to the facility's owner/operator by blood or marriage within the third degree of consanguinity, for a specified time period of ten (10) hours or less in each twenty-four (24) hour day. At the end of the specified time period, the participant is discharged to the custody of his/her family, guardian, or sponsor;

(2) "Child Care Facility," which shall mean any person or place which receives or arranges placement of one or more children who are not

1 related to such person, whether for gain or otherwise, apart from the parents
2 or guardian, with or without the transfer of the right of custody for the
3 purpose of providing regular care or training for such child or children
4 during either the day or night, or both. Except as otherwise provided, the
5 term "Child Care Facility" includes, but is not limited to, all facilities
6 defined by the Department as "family day care homes," "foster family
7 homes," "group day care homes," "residential treatment facilities," "day care
8 center," "day nurseries," "nursery school," "kindergarten school," "day care
9 homes," or similar institutions or units regardless of name;

10 (3) "Penal Institution," which shall mean any jail, detention center,
11 prison camp, home, juvenile detention home or cottages, or other facility
12 used as a holding facility, jail, or residential custodial facility. This
13 definition does not include hospitals or childcare facilities or adult group day
14 care center;

15 (4) "School," which shall mean any establishment that provides
16 care and education to students from pre-kindergarten through Grade 12 and
17 any college, trade school, university, or any other educational institutional of
18 higher learning;

19 (5) "Hospital," which shall mean any building, structure, institution
20 or place whether organized for profit or not, devoted primarily to the
21 maintenance and operation of facilities for the diagnosis, evaluation,
22 treatment, and provision of medical or surgical care for three (3) or more
23 non-related individuals admitted for overnight stay or longer in order to
24 obtain medical services; including obstetric, psychiatric, and nursing care of
25 illness, disease, injury, or deformity, whether physical or mental; and

1 regularly making available at least clinical laboratory service, diagnostic
2 radiology services, and treatment facilities, or surgery, obstetrical care or
3 other definitive medical treatment;

4 (6) "Clinic," which shall mean any building; structure; institution
5 or place; public or private; whether organized for profit or not, devoted
6 primarily to the maintenance and operation of facilities for the medical or
7 dental evaluation, diagnosis, or treatment of human illness, injury or
8 deformity; or the veterinary medical or veterinary dental evaluation,
9 diagnosis, or treatment of animal illness, injury or deformity;

10 (7) "Nursing Home," which shall mean any facility established, for
11 profit or non-profit, which provides nursing care and related medical
12 services twenty-four (24) hours per day for two or more individuals because
13 of illness, disease, or mental or physical infirmity. It provides care for these
14 persons not in need of hospital care but requiring nursing care or related
15 medical services, which medical services shall be administered by a
16 professional nurse, a physical therapist, or an occupational therapist; or other
17 licensed medical practitioners, depending upon the service required; and

18 (8) "Laboratory," which shall mean any building, structure,
19 institution or place, whether organized for profit or not, devoted primarily to
20 the maintenance and operation of facilities for the examination or testing of
21 humans or animals, living or dead, or any parts or physiologic products
22 thereof, for the purpose of detecting or confirming the presence of illness or
23 infirmity.

(m) **'Interim Health Certificate'** shall mean a provisional certificate issued by the Director to a person employed within any ~~Eating and Drinking Establishment or Food Establishment~~ Health-Regulated Establishment or any other establishment under the provisions of any other rules and regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to environmental health, who is waiting to attend a training course offered by the Department or another entity authorized by the Department.

1 (n) **'Laundry or Dry Cleaning Establishment'** shall mean any place,
2 building, structure, room, or partition thereof, used in the business of dyeing;
3 washing; starching; ironing; or dry cleaning apparels, household linens, and other
4 fabric articles, including any establishment providing laundering equipment for use
5 by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
6 operated Laundromat.

7 (o) **'Massage Parlor'** shall mean premises occupied and used for the
8 purpose of practicing massage, provided that when any massage establishment is
9 situated in any building used for residential or sleeping purposes, the massage
10 establishment premises shall be set apart and shall not be used for any other
11 purpose.

12 ~~(e) **'Massage Therapy'** shall mean the manipulation of the superficial~~
13 ~~tissues of the human body with the hand, foot, arm, or elbow by a massage~~
14 ~~therapist licensed by the applicable professional licensing board of Guam whether~~
15 ~~or not such manipulation is aided by hydrotherapy, including colonic irrigation, or~~
16 ~~thermal therapy; any electrical or mechanical device; or the application to the~~
17 ~~human body of a chemical or herbal preparation.~~

1 (p) 'Person Employed' shall mean the following:

2 (1) In an "Eating and Drinking Establishment," any person
3 employed for compensation or otherwise who transports food or food
4 containers, engages in food preparation or service, or comes in contact with
5 any food and food utensils or equipment;

6 (2) In a "Food Establishment," any person employed for
7 compensation or otherwise who transports, stocks, stores, packs, packages,
8 processes, manufactures, cans, bottles, or otherwise handles raw or
9 processed foods;

10 (3) In an "Institutional Facility," any person employed for
11 compensation or otherwise at that facility; and

12 (4) In a "Cosmetic Establishment," any person employed for
13 compensation or otherwise who singes, shampoos, arranges, adorns, dresses,
14 curls, waves, permanent waves, tints, applies tonics, dyes, shaves, clips,
15 trims or cuts human hair, gives facial, scalp, neck or body massages or
16 treatments with oils, creams, lotions, or other preparations to the hands,
17 scalp, face, or neck by hand or mechanical appliance, and manicures and
18 pedicures;

19 (5) In a "Hotel," any person employed for compensation or
20 otherwise who cleans and handles pre-packaged food (i.e., bottled water,
21 coffee, tea), food contact equipment (i.e., coffee makers, ice buckets, and
22 refrigerator/freezers), soiled or cleaned linens or other laundry items, and
23 who maintains sanitary condition and operation of the facility during the
24 course of their duties and responsibilities;

1 ~~(6)(5)~~ In a "Laundry or Dry Cleaning Establishment," any person
2 employed for compensation or otherwise who handles soiled or cleaned
3 linens or other laundry items; and

4 ~~(7)(6)~~ In a "Swimming Pool," any person employed for compensation
5 or otherwise at the facility who is in charge of its operation and/or
6 maintenance.

7 ~~(8)(7)~~ In a "Tattoo Shop," any person employed for compensation or
8 otherwise at that facility who performs or assist in performing tattooing.

9 ~~(q)(p)~~ **'Swimming Pool'** shall mean any artificial structure, basin, chamber
10 or tank constructed or impervious material used or intended to be used for
11 swimming, diving, wading or recreation al bathing. It does not include
12 conventional bathtubs where the primary purpose is the cleaning of the body or
13 individual therapeutic tubs. A "public swimming pool" shall mean any swimming
14 or wading pool that is available for public use, whether for a fee or free of charge;
15 or any swimming or wading pool owned or used by any business, partnership,
16 corporation, or person for the use of their customers, clients, guest or employees
17 including but not limited to a commercial pool, a community pool or a pool at a
18 hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental
19 unit, private club, public club, public or private school, gymnasium or health
20 establishment.

21 ~~(r)(q)~~ **'Tattooing'** shall mean to mark or color the skin by pricking and
22 introducing subcutaneously, non-toxic dyes, pigments, or by the production of
23 scars to form indelible marks and figures.

1 ~~(s)(r)~~ **'Tattoo Shop'** shall mean any premises where a tattoo artist does
2 tattooing for a fee or other consideration.

3 ~~(t)(r)~~ **'Temporary Food Service Establishment'** shall mean any Eating and
4 Drinking Establishment which operates at a fixed location for a period of time not
5 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or
6 other transitory gathering not of a permanent nature, and shall include catering.

7 ~~(u)~~ **'Temporary Health Certificate'** shall mean a certificate issued to a
8 person employed within any temporary food service establishment under the
9 provisions of these rules and regulations.

10 ~~(v)(t)~~ **'Therapeutic Massage Establishment'** shall mean a business which
11 performs the manipulation of the superficial tissues of the human body with the
12 hand, foot, arm, or elbow by a massage therapist licensed by the applicable
13 professional licensing board of Guam whether or not such manipulation is aided by
14 hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
15 mechanical device; or the application to the human body of a chemical or herbal
16 preparation.

17 **§4405. Health Certificate Required.** Unless otherwise stated within these
18 rules and regulations, or any other rules and regulations promulgated by the
19 Department relating to environmental health, every person employed within an
20 Eating and Drinking Establishment, Food Establishment, Institutional Facility,
21 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment,
22 Hotel, Swimming Pool, or any other establishments under the provisions of any
23 other rules and regulations promulgated by the Director to properly carry out Title

1 10 G.C.A. relating to environmental health, shall be required to obtain a Health
2 Certificate.

3 **§4406. Exemption of Health Certificate.** The selling of the following
4 articles shall not require the obtaining of a Health Certificate:

5 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live
6 pigs; or

7 (b) Canned or bottled drinks, including alcoholic beverages, in the
8 original container of their manufacturer; or

9 (c) Candies or other confections in the original container of their
10 manufacturer.

11 **§4407. Application for Health Certificate and Temporary Health**
12 **Certificate.** (a) Any person desiring to engage in employment requiring a Health
13 Certificate ~~or Temporary Health Certificate~~ under these rules and regulations shall
14 submit ~~make~~ an application for a Health Certificate or Temporary Health
15 Certificate to the Department. The applicant shall be required to show a current
16 and valid photo identification or other evidence attesting to the applicant's true
17 identity. The applicant shall also be required to show ~~a valid Social Security Card~~
18 ~~and documentation that attests approved by the Director attesting~~ to the applicant's
19 United States citizenship, permanent resident alien, or non-immigrant status, that
20 authorizes the applicant to work in the United States by the U.S. federal
21 government. The following are acceptable forms of photo identification:

22 (1) Government of Guam Identification Card;

23 (2) Guam Driver's License;

1 (3) United States Military Identification Card;

2 (4) Passport; ~~and~~

3 (5) Credit card with photo; and

4 (6) Any other photo identification acceptable by the
5 Department.

6 (b) The following are acceptable forms of identification for permanent
7 resident aliens or non-immigrant applicants who are authorized to work in the
8 United States:

9 (1) Passport; and

10 (2) Alien Registration Receipt Card (Green Card).

11 ~~(c)(b)~~ Whenever an applicant is unable to apply to renew for a Health
12 Certificate ~~or Temporary Health Certificate~~ in person, the applicant may designate
13 an authorized representative to make an application for the applicant, provided the
14 representative has the following information available:

15 (1) Signed and dated authorization letter from applicant, along with
16 an explanation of the applicant's relation to the representative;

17 (2) Completed, original application; and

18 (3) Copy of the representative's and the applicant's acceptable
19 photo identification cards.

20 ~~(d)(e)~~ An applicant, ~~or duly authorized representative of the applicant,~~
21 applying for a Health Certificate shall complete all application requirements and

1 submit all necessary information at any time but not more than one month before
2 commencement of employment. An applicant, ~~or duly authorized representative of~~
3 ~~the applicant~~, applying for a Temporary Health Certificate shall complete all
4 application requirements and submit all necessary information, not more than
5 twenty (20) and not less than five (5) working days, before commencement of
6 employment, unless approved by the Director.

7 ~~(e)(4)~~ A person applying for an additional Health Certificate for another
8 category, or under the conditions stated in Subsections (a) and (b) of §4411 of
9 these rules and regulations, shall submit a separate application and pay the
10 appropriate fee for each additional Health Certificate.

11 **§4408. General Requirements for Health Certificate.** (a) Unless stated
12 otherwise in these rules and regulations, all new Health Certificate applicants,
13 including Temporary Health Certificate applicants, shall submit an application
14 approved by the Department, pay all applicable fees, and shall:

15 (1) Be tested, or screened, and be free of infectious Tuberculosis
16 within six (6) months prior to its submission, and any other communicable
17 diseases, as determined by the Director, except applicants of Temporary
18 Health Certificate; and

19 (2) Take and pass a training course provided by the Department, or
20 an authorized entity approved by the Department, specific to the category of
21 the Health Certificate the applicant is seeking under the provisions of this
22 and any other rules and regulations promulgated by the Director to properly
23 carry out Title 10 G.C.A. relating to environmental health.

(b) Renewing applicants, when applicable or as determined by the Director, shall be required to be tested or screened for infectious Tuberculosis and other communicable diseases, and pass a written examination.

§4409. Training Course and Examination Requirements for Health Certificate.

(a) Unless otherwise stated in these rules or regulations or any other separate rules and regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to environmental health, the following are further and specific requirements for any person desiring to engage in employment requiring a Health Certificate under these and other rules and regulations of the Department, and must be complied with to qualify for, and hold, a Health Certificate:

(1) Any applicant who has not previously been issued a Health Certificate by the Department or whose previous Health Certificate has expired for more than thirty (30) calendar days shall attend and pass a training course conducted by the Department, or any other entity approved by the Department, before a Health Certificate is issued.

(2) Any applicant who fails to pass the training course shall be scheduled to attend another training course at a later date, pay the re-testing fee and the Health Certificate fee, and have the Interim Health Certificate's issued with a new expiration date. ~~extended to the date of the re-testing.~~

(3) Any applicant, who fails to pass his second consecutive training course for any category ~~the category of Eating and Drinking Establishment or Food Establishment~~, after failing the first training course, may be provided a Health Certificate at the discretion of the Director. However,

1 prior to the issuance of the Health Certificate by the Director, the applicant's
2 supervisor, who must be certified in accordance with ~~§4415~~§4414 ~~if for~~
3 Eating and Drinking Establishment and Food Establishment categories, shall
4 be required to enter into a written agreement with the Department (Annex I)
5 if the supervisor agrees to do so. The same shall apply for Health Certificate
6 applicants for non-food facilities governed by these rules and regulations
7 (Annex II). ~~For other food facilities not providing food directly to~~
8 ~~consumer, such as wholesalers, distributors, and any other food~~
9 ~~establishments specifically exempted through separate rules and regulations~~
10 ~~promulgated by the Director, the applicant's supervisor need not be certified~~
11 ~~in accordance with §4415, but shall be the applicant's immediate supervisor~~
12 ~~and shall be required to enter into a written agreement with the Department~~
13 ~~(Appendix II).~~ A Health Certificate issued under such condition shall have a
14 distinguishing mark or symbol printed on the certificate.

15 (4) There shall be no limit to the number times an applicant may
16 take the training course.

17 (5) At the discretion of the Director, the requirement for taking the
18 training course may be waived if the applicant shows proof of disability, but
19 shall be required to enter into the written agreement in ~~Appendix~~ Annex I or
20 ~~Appendix~~ Annex II.

21 (b) The Director shall identify Health Certificate categories which will
22 require the renewing applicant to attend and pass a refresher training course. A
23 ~~renewing applicant may be required to attend and pass a training course, however,~~
24 ~~the applicant shall take and pass a written examination before the Department~~
25 ~~issues a renewal Health Certificate to the applicant.~~

1 (1) Any renewing applicant who attends the training course and
2 does not pass the examination shall be scheduled to attend a training course
3 at a later date, pay the retesting fee and the Health Certificate fee, and be
4 issued an Interim Health Certificate with a new expiration date. ~~with a new~~
5 ~~expiration date extended to the date of the re-testing.~~

6 (2) Any renewing applicant, who fails to pass his/her second
7 consecutive training course, after failing the first training course, may be
8 provided a Health Certificate at the discretion of the Director in the same
9 manner and condition as §4409(a)(3). ~~However, prior to the issuance of the~~
10 ~~Health Certificate by the Director, the applicant's supervisor, who must be~~
11 ~~certified in accordance with §4415, shall be required to enter into a written~~
12 ~~agreement with the Department (Appendix I).~~

13 (3) As determined by the Director, a renewing applicant may forgo
14 the training course and take the examination only; however, if such applicant
15 fails the examination, he/she shall be required to take the training course.

16 (c) [Reserved.]

17 (d) The Director may revoke any Health Certificate issued in §4409(a)(3)
18 or §4409(b)(2), upon reasonable belief that the written agreement has been
19 breached.

20 (e) Any person in possession of a valid and current Certificate of
21 Management Certification shall be exempt from its respective training course;
22 however, he/she shall still be required to obtain a Health Certificate.

1 (f) The Department, if it wishes, may authorize another Government of
2 Guam entity to provide or supplement the training courses required pursuant to
3 these rules and regulations, provided a written memorandum of agreement between
4 the Department and the other entity is formally established.

5 (g) In the event an entity authorized by the Department to provide a
6 training course is unable to provide the minimum standard of training that is
7 acceptable to the Department in the issuance of Health Certificates, or fails to
8 timely provide the required training course, the Department may seek the
9 assistance of another approved entity in carrying out the provision of this section.

10 **§4410. Specific Requirements by Category.** Any person required to
11 attend and pass a training course as indicated in this section may be waived from
12 such course if he or she possesses an applicable current and valid certification that
13 is recognized by the Department that attests to the individual's adequate
14 knowledge of disease prevention in the respective establishment category.
15 However, the individual must still submit the application and all supporting
16 documents and obtain a Health Certificate.

17 (a) **Eating and Drinking Establishment and Food Establishment.** The
18 following individuals shall obtain a Health Certificate:

19 (1) An employee of the establishment who regularly enters the food
20 preparation area, regardless of his/her position and duty, whose presence
21 may likely contaminate food directly or indirectly without the training; and

22 (2) Any employee of the establishment who may come in contact
23 with food during the course of that individual's work, including, but not
24 limited to, a cashier.

1 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or
2 renewed unless the applicant has undergone a physical examination performed by a
3 healthcare professional using report forms provided by the Department. ~~updated~~
4 ~~immunization for mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
5 ~~other vaccinations and exams at the discretion of the Director. Records of all such~~
6 ~~examinations shall be kept in a file in the institution where the applicant is~~
7 ~~employed.~~

8 (c) **Institutional Facility.** No Health Certificate shall be issued or
9 renewed unless the applicant has undergone a physical examination performed by a
10 healthcare professional using report forms provided by the Department. ~~The~~
11 ~~applicant shall have updated immunization for mumps, measles, rubella, tetanus,~~
12 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the~~
13 ~~Director. Records of all such examinations shall be kept in a file in the institution~~
14 ~~where the applicant is employed.~~

15 (d) **Hotel Sanitation.** ~~All persons conducting housekeeping duties, such~~
16 ~~as changing of linens and towels, employed at a Hotel, as defined in these rules and~~
17 ~~regulations, who are tasked to clean food-contact surfaces, and maintain sanitary~~
18 ~~condition and operation of such facility, shall be required to obtain a Health~~
19 ~~Certificate and attend and pass the training course provided by the Department.~~
20 ~~However, that person shall not be required to be tested or screened for infectious~~
21 ~~Tuberculosis or other communicable diseases.~~

22 (e) **Swimming Pool.** Every person responsible for the operation of a
23 regulated swimming pool shall be required to obtain a Health Certificate and attend
24 and pass the training course provided by the Department. However, that person
25 shall not be required to be tested or screened for infectious Tuberculosis or other

1 communicable diseases. A responsible operator of a regulated swimming pool will
2 not be required to attend and pass the training course provided by the Department
3 if such operator possesses and shows proof of a valid Certified Pool/Spa Operator
4 certification with the National Swimming Pool Foundation, or its successor, or any
5 other nationally recognized certification approved by the Department; however, the
6 responsible operator shall still be required to obtain the required Health Certificate.

7 (f) **Tattoo Shop.**

8 (1) All persons employed at the tattoo facility that clean, handle,
9 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the
10 preparation of the client; shall be required to possess a Health Certificate and
11 pass the training course provided by the Department.

12 (2) In addition to the test or screening for active Tuberculosis,
13 individual required to obtain a Health Certificate shall also undergo a
14 physical examination performed by a healthcare professional using report
15 forms provided by the Department. ~~and shall have an updated immunization~~
16 ~~for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
17 ~~other vaccinations and exams at the discretion of the Director, and records of~~
18 ~~all such examinations shall be kept in a file in the institution where the~~
19 ~~applicant is employed.~~

20 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall
21 not be issued or renewed unless the applicant has undergone a physical
22 examination performed by a healthcare professional using report forms provided
23 by the Department and passes a training course provided by the Department.

1 ~~Records of all such examinations shall be kept in a file in the institution where the~~
2 ~~applicant is employed.~~

3 **§4411. Requirements for Temporary Health Certificate.** (a) All persons
4 applying for a Temporary Health Certificate to work in a carnival, fair, or other
5 temporary food service establishment shall be required to submit to the Department
6 a signed and completed written contract (Annex III) between the Department and
7 the applicant's supervisor who possesses the required Certificate of Management
8 Certification. ~~will be required to attend and pass a training course provided by the~~
9 ~~Department; however, test or screening for Tuberculosis may not be required.~~
10 Prior to the issuance of a Temporary Health Certificate, the employee shall, as
11 determined by the Director, attend and participate in a short briefing provided by
12 the Department, before the start of the event, which discusses the food safety
13 responsibilities and expectations for possessing a Temporary Health Certificate.

14 (b) A recipient of a Temporary Health Certificate who fails to attend the
15 short briefing provided by the Department in §4411(a) shall cause that certificate
16 to become invalid.

17 (c) Temporary Health Certificates shall not be issued for any event where
18 many of the consumers are members of a highly susceptible population.

19 **§4412§4411. Single Health Certificate for Multiple Locations per**
20 **Category.** (a) Each person may possess only one Health Certificate per category,
21 regardless of the number of different employed locations or businesses within that
22 same category. The Health Certificate shall state the category the holder is
23 authorized to work and shall be valid at all locations within that category.

(b) The Department may issue a single Health Certificate for categories of both Eating and Drinking Establishment and Food Establishment if the Department determines that the application, training, fee, and other applicable requirements are the same and issuing a single certificate will not compromise the spirit and intent of these rules and regulations.

§4413§4412. Additional Health Certificate. (a) Any person employed within an Eating and Drinking Establishment, Food Establishment, Hotel, Institutional Facility, Cosmetic Establishment, Swimming Pool, Laundry and Dry Cleaning Establishment, or Tattoo Shop, or any other health-regulated establishments, who holds a Health Certificate within such category shall not be issued, upon submission of a separate application with appropriate fee, a Health Certificate for other categories without meeting the qualifications enumerated under each category. An exception to this requirement could occur for Eating and Drinking Establishment and Food Establishment, which may be a single Health Certificate in accordance to §4412(b)§4411(b).

§4414§4413. Interim Health Certificate. (a) After submitting the application, payment, and meeting all other requirements, an applicant who is required to attend and pass a training course shall be issued an Interim Health Certificate for employment until the applicant's completion and passage of the training course, whereupon he or she shall receive a Health Certificate.

(b) An Interim Health Certificate shall indicate the name of the applicant; category of the Health-Regulated Establishment the certificate is for; ~~the name and location of employment~~; date, time, and location of the training course; expiration date; and any other information as determined by the Director. Expiration date

1 shall not exceed more than three (3) working days after the date of the training
2 course.

3 (c) An applicant in possession of an Interim Health Certificate who fails
4 to attend the training course shall be scheduled for another training course and
5 granted an extension of the expiration date, provided that no more than ten (10)
6 working days have elapsed from the date of the original training course. The
7 extension of the new expiration date shall not exceed beyond more than 3 working
8 days after the date of the rescheduled training course date.

9 (d) An applicant who fails to attend the rescheduled training course or
10 whose Interim Health Certificate has expired more than 14 working days from the
11 date of the original training course shall be considered a new applicant and shall be
12 required to apply as a new applicant. Such applicant may submit his/her initial
13 physical test and/or tuberculosis test results with the application, provided the
14 testing or screening was within the six (6) months of submission of the new
15 application.

16 (e) An Interim Health Certificate does not exempt the applicant from all
17 other requirements of these rules and regulations or any other rules and regulations
18 promulgated by the Director relevant to Health Certificates.

19 **§4415§4414.** **Certificate of Management Certification and Health**
20 **Certificate.** (a) Unless otherwise stated within these rules and regulations, or any
21 other rules and regulations promulgated by the Department relating to
22 environmental health, every Eating and Drinking Establishment and Food
23 Establishment, excluding those facilities that do not provide food directly to
24 consumers, such as manufacturers, wholesalers, and distributors, and any other

1 food facilities specifically exempted through separate rules and regulations
2 promulgated by the Director, shall have a designated manager or supervisor who
3 shall be certified under the provisions of these rules and regulations.

4 (b) Any person employed or designated as a manager or supervisor within
5 an Eating and Drinking Establishment and Food Establishment, excluding
6 manufacturers, wholesalers, and distributors, and any other food facilities
7 specifically exempted, shall be required to take and pass a prescribed course
8 provided by the Department, or any other course approved by the Department,
9 before a Certificate of Management Certification, or an equivalent certification as
10 approved by the Director, is issued by the institution administering the course. The
11 course shall require the candidate for managerial certification to show evidence by
12 examination of satisfactory knowledge [scoring seventy Percent (70%) or higher]
13 of rules and regulations governing food facilities including, but not limited to,
14 microbiology, food-borne diseases, food storage, food preparation and service,
15 equipment design and construction, employee hygiene, cleaning and sanitary
16 procedures, and rodent and insect control. Those candidates who fail to show
17 evidence by examination of satisfactory knowledge [scoring sixty-nine Percent
18 (69%) or lower] shall repeat the course until the required minimum passing score
19 of seventy percent (70%) or higher is met. No restrictions are placed on the
20 number of times a designated manager or supervisor may take the course to obtain
21 a passing score.

22 (c) The acquisition of the Certificate of Management Certification, or its
23 equivalent as approved by the Director, by a designated manager or supervisor is a
24 requirement in addition to, and not in lieu of, a Health Certificate.

(d) The Certificate of Management Certification shall be renewed every five(5) ~~three (3)~~ years.

(e) Any person renewing the Certificate of Management Certification may waive the prescribed course in (b) of this section, and promptly take the examination to obtain the certification. However, any person who waives the course and fails to show evidence by examination of satisfactory knowledge [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course, and not permitted to waive the course again, and shall meet the required minimum passing score of seventy percent (70%) or higher, before certification is granted.

(f) Any person waiting to take the course in ~~§4415(e)~~§4414(b) to renew his or her Certificate of Management Certification shall not be penalized if his or her Certificate of Management Certification expires prior to the date of the scheduled course, provided:

(1) That the course the person is waiting to attend is the most immediate course available after the expiration of his Certificate of Management Certification, and

(2) He or she has taken the necessary steps to properly register for the course.

Any person with an expired Certificate of Management Certification in a situation described in this section shall be considered to have a current and valid certification up until the date of the scheduled course.

(g) The Department, if it wishes, may authorize another Government of Guam entity to provide or supplement the Certificate of Management Certification

1 course, provided a written memorandum of agreement between the Department
2 and the other entity is formally established.

3 (h) At the discretion of the Department, and in the manner determined by
4 the Director, a nationally recognized food safety certification may be recognized
5 and accepted in lieu of the Certificate of Management Certification, provided its
6 curriculum meets or exceeds the Department's requirements.

7 **§4416§4415. Fees.** A non-refundable fee shall be required of applicants at
8 the time of application for Health Certificates. In the event of failure to qualify for
9 a Health Certificate, non-fulfillment, or termination of employment, the fee shall
10 not be refunded to the applicant.

11 (a) The annual fee for a Health Certificate for a person employed within
12 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
13 Cosmetic Establishment, Hotel, Swimming Pool, Tattoo Shop, Laundry and Dry
14 Cleaning, or any other establishment where an employee is required to obtain a
15 Health Certificate ~~through rules and regulations promulgated by the Director~~, shall
16 be Ten Dollars (\$10.00).

17 (b) The fee for training workshop for a person employed within an Eating
18 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
19 Establishment, Hotel, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or
20 any other establishment where an employee is required to obtain a Health
21 Certificate, shall be Fifteen Dollars (\$15.00).

22 (c) The fee for the re-issuance of a Health Certificate for any amendments
23 made to the Health Certificate shall be Five Dollars (\$5.00).

~~(d) The fee for a Temporary Health Certificate for a person employed with a temporary food service establishment shall be Five Dollars (\$5.00).~~

(d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate and Temporary Health Certificate due to loss or damage shall be Two Dollars (\$2.00).

~~(e) The fee for an applicant who has failed to pass the training course and is required to attend another training course for re-testing shall be Ten Dollars (\$10.00).~~ An applicant who has failed to pass the training course and is required to attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00) for such re-testing, and a fee of Five dollars (\$5.00) for a new Interim Health Certificate, provided he/she returns within ten (10) working days of the expiration date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten Dollars (\$10.00).

(f) An establishment desiring and requesting for a training course and testing for its employees at its own facility or another location during regular government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director, comply with the criteria established by the Department, and pay the onsite training workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

(g) An establishment desiring and requesting for a training course and testing for its employees at its own facility or another location outside regular government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the approval of the Director, comply with the criteria established by the Department, and pay the special onsite training workshop fee of Five Hundred Dollars

1 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
2 employee attending the special onsite workshop.

3 (h) The fee for a Temporary Health Certificate for a person employed
4 within a Temporary Food Service Establishment shall be Fifteen Dollars (\$15.00).
5 An expedited processing fee of Ten Dollars (\$10.00) shall be assessed for every
6 applicant of a Temporary Health Certificate when such application is received less
7 than 3 days before the start of the event.

8 **§4417§4416.** **Effective Date of Health Certificate.** Unless indicated
9 elsewhere in these rules and regulations, or any other rules and regulations
10 promulgated by the Director under Guam law relevant to environmental health, all
11 Health Certificates shall expire one (1) year after the date of application issuance
12 and for the category indicated on the certificate. Applications for renewal of a
13 Health Certificate shall not be accepted more than thirty (30) ~~fifteen (15)~~ days prior
14 to its expiration, unless authorized by the Director.

15 (b) All Temporary Health Certificates shall be valid for only the period of
16 the temporary event for which the certificate was issued ~~six (6) months from the~~
17 ~~date of application issuance and for the location indicated on the certificate~~ and its
18 expiration date cannot exceed sixty (60) days, and the Temporary Health
19 Certificate cannot be renewed. A person may not possess two consecutive
20 Temporary Health Certificates within any six month period.

21 **§4418§4417.** **Presentation of Health Certificate, Interim Health**
22 **Certificate, Temporary Health Certificate, and Certificate of Management**
23 **Certification.** (a) Every person required to have a Health Certificate under

§22101 of Title 10 GCA, shall have the Health Certificate in that person's personal possession at all times during his or her working hours.

(b) Unless exempted elsewhere in these rules and regulations or any other rules and regulations promulgated by the Department, Except for Cosmetic Establishments, all valid copies of Health Certificates, Interim Health Certificates, and Certificates of Management Certification shall be conspicuously posted at facility where the employee is working. The location within the establishment where the Health Certificates are to be posted is at the discretion of the establishment; however, it shall be readily available when requested by the Director during inspection of the establishment. "Readily available" shall mean that the documents are separated from all other records and made available for inspection in reasonable amount of time.

~~(c) — All Health Certificates for Cosmetic Establishments shall be placed in a conspicuous place designated by the Director.~~

§4419§4418. Suspension or Revocation of Health Certificate and Certificate of Management Certification. (a) The Director may suspend or revoke any Health Certificate, Temporary Health Certificate, or Interim Health Certificate issued under these rules and regulations, or any other rules and regulations promulgated by the Director requiring a Health Certificate, for providing false information in his or her application, violation of the provisions of these or any other related rules and regulations, or in the event the holder of any ~~the~~ Health Certificate has been determined to be harboring a communicable disease. The holder of the suspended or revoked Health Certificate shall return the said certificate to the Department.

(b) The Director may suspend or revoke any Certificate of Management Certification issued under these rules and regulations when the holder or the persons under his/her supervision repeatedly fails to comply with rules and regulations for eating and drinking establishments and food establishment.

(c) Before any Health Certificate, Interim Health Certificate, Temporary Health Certificate, or Certificate of Management Certification is suspended or revoked, the person shall have the right to written notice of the action to be taken and other administrative remedies in accordance with §4421§4420 of these Rules and Regulations ~~a hearing in accordance with Administrative Adjudication Law~~.

(d) Before imposing an administrative penalty against a person or a health-regulated establishment, the Director shall issue a notice of intent to impose the penalty and provide the person or health-regulated establishment an opportunity to request a hearing on the proposed penalty. The request for a hearing must be made within ten (10) days of the date that the notice is served upon the person or health-regulated establishment. The hearing shall be conducted in accordance with §4420 of these Rules and Regulations.

§4420§4419. Administrative Penalties. (a) In accordance with Title 10 GCA, Chapter 22, §22106, the Director may impose a fine for any health-regulated establishment that permits a person to perform services without having in their possession a valid Health Certificate at the time the services are performed. The monetary fine for the administrative violation is not to exceed Three Hundred Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand Dollars (\$1,000.00) for a second offense involving the same person occurring within one (1) year of the first offense.

1 (b) Any person who is required to obtain a Health Certificate under §4405
2 of these rules and regulations shall be cited for administrative violation if they are
3 found working at a health-regulated establishment without a valid Health
4 Certificate or not having the valid Health Certificate in the person's personal
5 possession during working hours. The Director shall assess the monetary fine in
6 accordance to law.

7 (c) When more than one person is cited within the same health-regulated
8 establishment, at the same time, for not possessing valid Health Certificates, each
9 citation shall be considered a separate administrative violation and the Director
10 shall assess the required monetary fines to the establishment.

11 (d) Before imposing an administrative penalty against a person or a
12 health-regulated establishment, the Director shall issue a notice of intent to impose
13 the penalty and provide the person or health-regulated establishment an
14 opportunity to request a hearing on the proposed penalty. The request must be
15 made within ten (10) days of the date that the notice is served upon the person or
16 health-regulated establishment.

17 (e) Any person or health-regulated establishment may seek review of any
18 administrative penalty imposed before the Superior Court of Guam. Such review
19 shall be upon the record established before the Director and not *de novo*. The
20 Superior Court may sustain, modify or vacate any administrative penalty it
21 reviews.

22 (f) If any person, or a health-regulated establishment, fails to comply
23 with an administrative penalty order after it has become final, the Attorney General
24 shall bring a civil action to enforce the order and to recover the amount ordered or

1 assessed, plus current interest from the date of the final order or decision. To
2 prevail in such an action, the Director need establish only that:

3 (1) notice was given as required;

4 (2) a hearing was granted to the defendant or that the defendant
5 requested no hearing; and

6 (3) the penalty was imposed and has become final either because
7 the administrative order was not appealed to the Superior Court, or that after
8 judicial review the administrative order remains an unsatisfied obligation.

9 **§4421§4420. Right to Notice, Hearing, and Administrative Process.** (a)

10 Any person who has been denied a Health Certificate, Interim Health Certificate,
11 Temporary Health Certificate, or Certificate of Management Certification under
12 these Rules and Regulations, or whose Health Certificate, Interim Health
13 Certificate, Temporary Health Certificate, or Certificate of Management
14 Certification is to be suspended or revoked under these Rules and Regulations, or
15 any person or health-regulated establishment that is subject to an Administrative
16 Penalty under these Rules and Regulations has the right to a notice in writing from
17 the Director stating the action to be taken by the Department, has the right to
18 request in writing for an administrative hearing, has the right to an administrative
19 hearing, and has the right to an appeal of an administrative hearing decision. Any
20 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and
21 Regulations shall advise that the right to notice, hearing, and appeal is available as
22 provided in these Rules and Regulations, and to the extent consistent herewith,
23 pursuant to the Administrative Adjudication Law, Title 5, Guam Code Annotated,
24 Sections 9200 through 9242, as amended.

1 (b) The procedures and requirements set out in these Rules and
2 Regulations, and to the extent consistent herewith, in the Administrative
3 Adjudication Law at Title 5, Guam Code Annotated, Sections 9200 through 9242,
4 as amended, shall be followed by the Director, and by any person or health-
5 regulated establishment adversely affected by decisions of the Department
6 pursuant to these Rules and Regulations.

7 (c) Upon an administrative adjudication the Director shall make the final
8 determination whether to issue a Health Certificate, Interim Health Certificate, or
9 Certificate of Management Certification, to suspend or revoke a Health Certificate,
10 Interim Health Certificate, or Certificate of Management Certification, or to uphold
11 an Administrative Penalty.

12 **§4422§4421. Variances.** (a) The Director of the Department may grant a
13 variance to a requirement only if doing so will not endanger the health and welfare
14 of the public and does not contradict the spirit and intent of these rules and
15 regulations.

16 (b) Any variance issued by the Director of the Department shall be put
17 forth in writing providing explanation for the variance and its approval with the
18 signature of the Director and date and filed accordingly for records.

19 **§4423§4422. Effective Date.** These rules and regulations shall be
20 immediately effective upon enactment. At that time, all other rules and regulations
21 or parts of other rules and regulations that conflict with these rules and regulations
22 are repealed. The adoption of these rules and regulations shall not prohibit the
23 Department from delaying the implementation of all or certain sections of these

1 rules and regulations if the Department believes doing so would better effectuate
2 its purpose; provided, such delay shall not exceed 365 days of its effective date.

3 **§4424§4423. Severability.** If any provision or application of any provision
4 of these regulations is held invalid, that invalidity shall not affect the other
5 provisions or applications of these rules and regulations.

I, _____, a holder of "Certificate of Management Certification" and the supervisor of _____ at _____ enter into this voluntary agreement with the Department of Public Health and Social Services, in accordance with ~~§4409(a)(3)(1)(B)~~ of the Health Certificate Regulations, to provide the basic knowledge and skill in the proper sanitary handling, preparing, and/or cooking of foods at the establishment to the above employee. In a cooperative effort with the Department of Public Health and Social Services, along with my responsibility and obligation to practice and promote food safety at the work-place, I will ensure that the employee is taught the following so that the food commodity made available by this establishment for human consumption may not endanger the health and welfare of the public:

(To be determined by DPHSS.)

I understand that any failing on my part to fulfill the agreement in properly training the above employee may lead to the revocation of the employee's Health Certificate in accordance to ~~§4419~~ §4418 of the Health Certificate Regulations.

EMPLOYEE-Print

SIGNATURE

DATE

SUPERVISOR-Print

SIGNATURE

DATE

1

2

3

DPHSS REPRESENTATIVE-Print	SIGNATURE	DATE
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4

5

~~APPENDIX I~~ ANNEX I

6

1 I, _____, the immediate supervisor of
2 _____ at _____
3 enter into this voluntary agreement with the Department of Public Health and
4 Social Services, in accordance with §4409(a) of the Health Certificate Regulations,
5 to provide basic sanitation knowledge and skill in the operation of my business. ~~in~~
6 ~~the proper sanitary handling, preparing, and/or cooking of foods at the~~
7 ~~establishment to the above employee.~~

8 In a cooperative effort with the Department of Public Health and Social
9 Services, along with my responsibility and obligation to practice and promote
10 proper sanitation and safety at the work place, ~~food safety at the~~ I will ensure that
11 the employee is taught the following so that the ~~food commodity made available by~~
12 ~~this establishment for human consumption~~ activities of my employee identified in
13 this agreement may not endanger the health and welfare of the public:

14
15 (To be determined by DPHSS.)

16 I understand that any failing on my part to fulfill the agreement in properly
17 training the above employee may lead to the revocation of the employee's Health
18 Certificate in accordance to §4418 of the Health Certificate Regulations.

19
20 _____
21 EMPLOYEE-Print

SIGNATURE

DATE

1

2

SUPERVISOR-Print

SIGNATURE

DATE

3

4

5

DPHSS REPRESENTATIVE-Print

SIGNATURE

DATE

6

~~APPENDIX II~~ ANNEX II

7

TEMPORARY HEALTH CERTIFICATE CONTRACT

I, _____, a holder of "Certificate of Management Certification" and the operator of the food establishment, _____, during the temporary event, _____, enter into this written contract with the Department of Public Health and Social Services, in accordance with §4411(a) of the Health Certificate Regulations, to ensure that my employee, _____, who was issued a Temporary Health Certificate to work in my food establishment, will be supervised by me to ensure the employee abides by the requirements of the Guam Food Code. Such supervision will include the following:

- Prohibit the employee from working if he/she is infected with Norovirus, Shigella spp., Shiga toxin-producing E. coli; symptomatic with vomiting, jaundice, and/or diarrhea; and possesses health conditions that would cause the employee to be excluded from a food establishment pursuant to 2-201.12 of the Guam Food Code;
- Effective washing of hands when required pursuant to 2-301.12(b) and 2-301.14 of the Guam Food Code; and
- Proper use of barriers when handling ready-to-eat meals pursuant to 3-301.11 and 3-304.15 of the Guam Food;

I understand that failure on my part to fulfill this contract will cause the employee's Temporary Health Certificate to become invalid, thereby prohibiting the said employee from working at my food establishment.

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_____ EMPLOYEE-Print	_____ SIGNATURE	_____ DATE
_____ SUPERVISOR-Print	_____ SIGNATURE	_____ DATE
_____ DPHSS REPRESENTATIVE-Print	_____ SIGNATURE	_____ DATE

ANNEX III



- **Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.**

Bill 45-33 (COR) Page 1 of 2.



An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

[illegible]



EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



JAMES W. GILLAN
DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

APR 08 2015

Second Testimony on Bill 45-33

"An Act to Adopt the Rules and Regulations Governing the Issuance of Health Certificates, By Amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations."

Hafa Adai Mr. Chairman and members of the Committee on Health, Economic Development, Homeland Security and Senior Citizens. I am James W. Gillan, Director of the Department of Public Health and Social Services (DPHSS). The staff of the Division Environmental Health and I have re-reviewed Bill 45-33, the proposed rules and regulations governing the issuance of Health Certificate. Specifically, we re-evaluated the possibility of retaining the "Temporary Health Certificate" provision of the bill that was discussed at length during the March 18 public hearing. In addition, Division of Environmental Health personnel met with the representatives of the Guam Hotel and Restaurant Association on March 25 and April 7 to hear their comments and concerns on the proposed regulations. As a result, we have further recommendations in revising Bill 45-33.

So that our numerous recommendations can hopefully be easily followed, we took the liberty in presenting our amendments to the bill in the document that you have in front of you, which is attached to my written testimony. This attachment is essentially a duplicate copy of Exhibit A of Bill 45-33, but because it has been revised for the purpose of showing our many recommended changes, the page and line numberings will not be the same as the original Exhibit A. The gray highlights reflect those items which we had sought corrections during the previous public hearing, while the yellow highlights are the new suggested changes, which are:

1. As the Senators had encouraged us at the March 18 hearing, DPHSS is agreeable in retaining the "Temporary Health Certificate" provision in the regulations; however, in keeping with our desire to minimize the risk such allowance may pose to the community, we seek to impose some restrictions and additional requirements.
 - a. All references to "Temporary Health Certificate" that were previously identified for deletion are to be re-inserted, which are highlighted in yellow and not underlined, but with the exception of the following:
 - Page 13, Line 9 [§4407(c)] - DPHSS seeks to disallow the renewing of Temporary Health Certificates and restrict how often such certificate can be possessed by the same person within a six month period, which we have addressed through the revision of §4417(b) on Page 25, Lines 16-20; and
 - Page 24, Lines 7 to 8 (§4416) - The revised cost for the issuance of the Temporary Health Certificate is noted in a new, proposed subsection, §4416(h), on Page 25, Lines 5 through 9.

- b. Consequent to the re-insertion of the “Temporary Health Certificate” provision and its definition, the following formatting changes need to be made on the proposed regulations:
- In the Table of Contents on Page 1, the list of sections must be re-numbered, starting on Line 17;
 - On Page 11, Line 19 of §4404, “Therapeutic Massage Establishment” must be re-lettered from “(t)” to “(u);”
 - On Page 15, Line 10 of §4409(a)(3), “§4414” must be reverted back to §4415;”
 - Starting on Page 20, Line 3, all sections must be re-numbered accordingly.
 - On Page 20, Line 19 of §4413, “§4411(b)” must be reverted back to “§4412(b);”
 - On Page 23, Line 1 of §4415(f), “§4414(b)” must be replaced with “§4415;”
 - On Page 26, Line 25 of §4419(c), “§4420” must be reverted back to “§4421;”
 - Annex I, Page 31, Line 4, the referenced section must be changed to “§4409(a)(3);”
 - Annex I, Page 31, Lines 15-16, “§4418” must be reverted back to “§4419;”
 - Annex II, Page 32, Line 4, the referenced section must be changed to “§4409(a)(3);” and
 - Annex II, Page 32, Lines 16-17, “§4418” must be reverted back to “§4419.”
- c. Page 13, Line 22 [§4407(d)]: DPHSS is granting additional time in the submission of applications for Temporary Health Certificate; thus, we propose that such submission occur 3 working days, instead of the current 5 working days, before the commencement of the temporary event.
- d. Page 19, Lines 14-25; and Page 20, Lines 1-2 (§4411): With the retention of the “Temporary Health Certificate” provision, DPHSS seeks to expand the requirements for such certificate by compelling the operator of the establishment to have immediate supervision of the employee possessing the Temporary Health Certificate, as noted in the new Annex III, which is to be added to the regulations. Also, as requested during the last public hearing, we have added language where DPHSS will be providing a short food safety briefing to these individuals prior to the start of the event, which they must attend. Finally, the Department wants to restrict the issuance of Temporary Health Certificates for those temporary events where many of the consumers are from a highly susceptible population.
- e. Page 2, Line 10 (Table of Contents): With the retention and expansion of Temporary Health Certificate requirements in §4411 (Page 19), the word, “ANNEX III” will need to be added.
- f. Page 25, Lines 5-9 [§4416(h)]: As noted earlier, we are seeking to revise the cost of issuing a Temporary Health Certificate so to reflect the added time and responsibility of DPHSS in ensuring that necessary safeguards are being implemented for the issuance of such certificates.

- g. Page 25, Line 22 (§4418): “Temporary Health Certificate” was missing from the list and is now added. The holder of this certificate is also expected to possess the document with him/her at all times when working.
 - h. Page 26, Line 12 and Line 15 [§4419(a)]: Similar to other types of Health Certificate, DPHSS should have the authority to take administrative action on a Temporary Health Certificate as well, if and when necessary. Therefore, instead of “the” Health Certificate in Line 15 of the same page, we request that it be replaced with “any” Health Certificate to reflect the inclusion of the Temporary Health Certificate.
 - i. Page 28, Lines 20-22 [§4411(a)]: “Temporary Health Certificate” must also be included in this section in Lines 20 and 22 since the holders of this type of certificate should also be afforded the right to an administrative process. Also, for the purpose of clarity, the word “or” needs to be inserted in Line 21, between “...Regulations,...” and “...whose...”
 - j. Page 33 (ANNEX III): Because DPHSS wishes to require the operator of a temporary event that hires an employee with Temporary Health Certificates to enter into a written contract with the Department, it seeks for the inclusion of Annex III.
- 2. Page 1, Line 14 (Table of Contents): The word, “General,” is missing from the section title.
 - 3. Page 1, Line 21 (Table of Contents): The word, “Certification,” needs to be replaced with “Certificate.”
 - 4. Since the defined words in §4404 are all listed in alphabetical order, we recommend that “Hotel” and its definition, on Page 6 (Lines 10-16), be moved after “Health-Regulated Establishment” and re-lettered accordingly, as presented in Line 22 of the same page.
 - 5. There is a typographical error on Page 10, Line 5 [§4404(p)(3)]: The word “and” is not necessary and should be deleted.
 - 6. Also on Page 10, Lines 11-15, DPHSS had failed to include the applicable employees of Hotels who would be required a Health Certificate. This was brought to our attention by the GHRA during our March 25 meeting with them. As a result of the added language, the subsections must be re-numbered accordingly.
 - 7. Page 12, Line 15 [§4407(a)]: We suggest that the word “make” be replaced with “submit” to improve the language and intent.
 - 8. Page 13, Lines 24-25 [§4407(e)]: All the words between the commas may be deleted since it would be unnecessary and possibly confusing with a reference to another section.
 - 9. Page 15, Line 25 [§4409(a)(5)]: “Appendix” will need to be changed to “Annex.”
 - 10. Page 18, Lines 8-10 [§4410(d)]: As a result of our meeting with the GHRA, we wish to eliminate the specific job title noted in this section, and instead provide a general

description of the responsibilities in identifying the employees who will be required a Health Certificate in Hotel establishments. This will be consistent with recommendations we had made earlier for Page 10, Lines 11-15.

11. Page 18, Lines 17-22 [§4410(e)]: The Department wishes to further expand the swimming pool provision of the proposed regulations to recognize those individuals who possess a nationally recognized certification in the operation of pools and spa.
12. Page 20, Line 13 (§4413): The word, "Hotel," was inadvertently omitted, and should be inserted.
13. Page 21, Line 7 [§4414(c)]: There is a typographical error which we missed. The last two words in that line, "...the no...", should be deleted.
14. Page 23, Lines 13-16 [§4415(h)]: DPHSS recognizes that there is one or more nationally recognized food safety certification course that may meet the standards that the Department will be expecting from managers of food establishments. As a result, DPHSS wishes to recognize and accept such certification in lieu of the course that will be offered by the Department. However, the actual Health Certificate will still be required.
15. Page 23, Line 22; and Page 24, Line 2 [§4414(a) and (b)]: "Hotel" is not mentioned and needs to be added in the list of health-regulated establishments.
16. Page 26, Line 20-21 [§4419(b)]: DPHSS requests for the inclusion of "...and food establishment" at the end of the sentence since many establishments in this particular category requires its managers to also possess the Certificate of Management Certification.

In addition to the above suggested changes, we are proposing further amendments to Bill 45-33 as a result of a follow-up meeting we had with GHRA yesterday, which are not included in the attached document of revisions:

17. To define "highly susceptible population" that is mentioned in §4411(c), we are requesting for the inclusion of its definition in §4404:

"Highly susceptible population" shall mean individuals who are more likely than other people in the general population to experience foodborne disease because they are immunocompromised, children age 9 and below, or older adults.

18. On Page 22, Line 19 [§4415(d)]: Extend the time period for Certificate Management Certification from three years to five years, which will be consist with the nationally recognized certification that many managers possess.

We believe the revised regulations, particularly on the matter of Temporary Health Certificate, address the primary concerns of all parties. The comments received from the Guam Hotel and Restaurant Association in the two meetings has also been helpful to the Department. Much of their suggestions have been incorporated into our revised proposal.

Overall, the proposed regulations will improve the Department's ability in protecting public's health at the 3,000 establishments that the Division of Environmental Health regulates, including the health of the very employees who work at these facilities. Providing education to the all the applicable employees of the regulated facilities, through training workshops that the Department will provide or recognize, is just as important, if not more, than the compliance inspections the Division performs. Providing knowledge, even the basics of personal hygiene and facility sanitation, can empower the workers in preventing illnesses to themselves and their customers at their workplace, and even in their homes. An educated workforce is a strong workforce and the proposed regulations should help develop a more competent employee in respect to sanitation and provide consumer confidence in these workers.

Once again, the curriculum that will be developed and presented by the Department to the applicants of the Health Certificates will be from a regulatory perspective, so that the industry will be receiving both the education component and the compliance element in the training. Because the training will be given by our Department personnel, the attendees will be better able to understand the inspection methodology and our expectations for proper compliance.

The Department of Public Health and Social Services and I thank you and the Committee for giving the opportunity to further comment on Bill 45-33. Thank you and *Si Yu'us Ma'ase*.



JAMES W. GILLAN
Director

Attachment

Title 26, Guam Administrative Rules and Regulations

Article 4 of Chapter 4

[Rule-making authority cited for formulation of Health Certificate Regulations by the Director of Public Health and Social Services, 10 GCA §29195 and §22104.]

RULES AND REGULATIONS GOVERNING

THE ISSUANCE OF HEALTH CERTIFICATES

§4401. Short Title.

§4402. Authority.

§4403. Purpose.

§4404. Definitions.

§4405. Health Certificate Required.

§4406. Exemption of Health Certificate.

§4407. Application for Health Certificate and Temporary Health Certificate.

§4408. General Requirements for Health Certificate.

§4409. Training Course and Examination Requirements for Health Certificate.

§4410. Specific Requirements by Category.

§4411. Requirements for Temporary Health Certificate.

§4411§4412. Single Health Certificate for Multiple Locations per Category.

§4412§4413. Additional Health Certificates.

§4413§4414. Interim Health Certificate.

§4414§4415. Certificate of Management Certification and Health Certification Certificate.

§4415§4416. Fees.

§4416§4417. Effective Date of Health Certificate.

§4417§4418. Presentation of Health Certificate, Interim Health Certificate, Temporary

Health Certificate, and Certificate of Management Certification.

§4417§4419. Suspension or Revocation of Health Certificate and Certificate of Management Certification.

§4419§4420. Administrative Penalties

§4420§4421. Right to Notice, Hearing, and Administrative Process.

~~§4421~~§4422. Variances.

~~§4422~~§4423. Effective Date.

~~§4423~~§4424. Severability.

~~APPENDIX I~~ ANNEX I

~~APPENDIX II~~ ANNEX II

ANNEX III

General Provisions and Definitions

§4401. Short Title. These rules and regulations may also be cited as the 'Health Certificate Regulations.'

§4402. Authority. §22104, Chapter 22 of Title 10 Guam Code Annotated, authorizes the Director of the Department of Public Health and Social Services to establish, by rules and regulations, the requirements and fees for the issuance of a Health Certificate.

§4403. Purpose. These rules and regulations are established to ensure that the holder of a Health Certificate is free of communicable diseases that could potentially spread to fellow employees or their clients as a result of the holder's work activities and/or possesses the minimum knowledge in preventing the spread of communicable diseases at the Health-Regulated Establishment where the holder is employed. Upon adoption, these rules and regulations will repeal and replace the previously adopted regulations entitled, Rules and Regulations Governing the Issuance of Health Certificates.

§4404. Definitions. Wherever in these rules and regulations the following words appear, they shall have the following definition:

(a) **'Category'** shall mean the following types of establishments and their activities that are regulated by the Department by these rules and regulations, and other rules and regulations of the Department, which require a Health Certificate:

- (1) Eating and Drinking Establishment
- (2) Food Establishment;
- (3) Cosmetic Establishment;
- (4) Institutional Facility;
- (5) Laundry and Dry Cleaning Establishments;
- (6) Swimming Pool
- (7) Hotel; and

1 (8) Tattoo Shop.

2 (b) **'Certificate of Management Certification'** shall mean a certification issued by the
3 Department or any authorized institution, as determined by the Director, to a person employed, or
4 designated, as a manager or supervisor within any Health-Regulated Establishment who has
5 demonstrated his or her knowledge of applicable governing rules and regulations, including but not
6 limited to, sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and insect
7 control, as determined by the Director.

8 (c) **'Cosmetic Establishment'**. (1) Cosmetic establishment shall mean any premises or
9 portions thereof, wherein any of the following is practiced for compensation:

10 (A) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
11 permanent waving, tinting, applying tonic to, or dyeing human hair;

12 (B) Shaving, clipping, trimming or cutting human hair;

13 (C) Giving facial, scalp, neck or body massages or treatments with oils,
14 creams, lotions, or other preparations to the hands, scalp, face, or neck by hand or
15 mechanical appliance; and

16 (D) Manicuring or pedicuring.

17 (2) As used in these rules and regulations, cosmetic establishment shall include:

18 (A) "Shop," which shall mean any establishment or facility where
19 cosmetology is practiced for fee or charge for hire. The term includes, but is not
20 limited to barber shops, beauty shops, beauty salons, beauty parlors, hair styling
21 salons, nail salons, or other establishments where cosmetology is practiced for
22 reimbursement;

23 (B) "School of Cosmetology," which shall mean any establishment or
24 facility where the practice of cosmetology is taught for a fee. The term includes, but
25 is not limited, to barber colleges or other closely related institutions or

1 establishments teaching cosmetology for reimbursement;

2 (C) "Massage Parlor," which shall mean any establishment or facility
3 occupied and used for the purpose of practicing massage for compensation,
4 provided that when any massage parlor is situated in any building for residential or
5 sleeping purposes, the massage parlor shall be set apart and shall not be used for any
6 other purpose; and

7 (D) "Therapeutic Massage Establishment," which shall mean any premise
8 intended, occupied and used for the purpose of practicing massage therapy for
9 compensation.

10 (d) '**Department**' shall mean the Department of Public Health and Social Services.

11 (e) '**Director**' shall mean the Director of the Department of Public Health and Social
12 Services or his designated and authorized representative.

13 (f) '**Eating and Drinking Establishment**' shall mean any mobile food service
14 establishment; vending machine; restaurant; coffee shop; public or private school cafeteria;
15 lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or employee eating establishment;
16 soda fountain; bar; cafe; tavern; short order cafe; sandwich stand; drink stand; cafeteria or similar
17 facility connected with an institution; any other eating establishment within an organization, club,
18 veteran's club, boarding house, guest house, political subdivision, stall, stand, and booth; and a
19 concession within any public market which gives, sells, or offers for sale, or promotes food to the
20 public, guests, patrons, or employees; and as well as kitchens in which food is prepared on the
21 premises for serving elsewhere, including catering functions.

22 (g) '**Food Establishment**' shall mean every establishment or place which is used or
23 occupied as a bakery; confectionery; cannery; dairy; creamery; packing house; grocery;
24 supermarket; meat or poultry market; fruit or vegetable market; delicatessen; beverage plant;
25 slaughter house; poultry processing plant; fish processing plant; frozen food processing plant;

bottling plant; food refrigeration locker plant; ice plant; ice cream or frozen dessert plant; public market; food warehouse; or any structure used for the production, processing, manufacture, preparation for sale, canning, bottling, packing, packaging, storage, sale or distribution, of any food.

(h) **'Health Certificate'** shall mean a certificate issued by the Department to a person employed within any Eating and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other establishment under the provisions of any other rules and regulations promulgated by the Director to properly carry out the laws of Guam relating to environmental health.

~~(i) **'Hotel'** shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in money, goods, labor, or otherwise, and whether with or without meals. It does not include any penal institution, hospital, clinic, nursing home, school, laboratory, or child care facility.~~

(i) **'Health-Regulated Establishment'** shall mean any of the following: Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment, Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool, Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop, Temporary Food Service Establishment, and any other facilities governed by the Department pursuant to law.

~~(j) **'Hotel'** shall mean any structure or any portion of any structure, including any lodging house, rooming house, dormitory (including a dormitory housing for contract employees), health spa, bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent~~

1 is paid in money, goods, labor, or otherwise, and whether with or without meals. It does not include
2 any penal institution, hospital, clinic, nursing home, school, laboratory, or child care facility.

3 (k) **'Institutional Facility,'** as used in these rules and regulations, shall include:

4 (1) "Adult Group Day Care Center," which shall mean a place maintained and
5 operated by an individual, organization, or agency whether for profit or not for the purpose
6 of providing protective and supportive care for two or more elderly and/or disabled adults,
7 not related to the facility's owner/operator by blood or marriage within the third degree of
8 consanguinity, for a specified time period of ten (10) hours or less in each twenty-four (24)
9 hour day. At the end of the specified time period, the participant is discharged to the
10 custody of his/her family, guardian, or sponsor;

11 (2) "Child Care Facility," which shall mean any person or place which receives or
12 arranges placement of one or more children who are not related to such person, whether for
13 gain or otherwise, apart from the parents or guardian, with or without the transfer of the
14 right of custody for the purpose of providing regular care or training for such child or
15 children during either the day or night, or both. Except as otherwise provided, the term
16 "Child Care Facility" includes, but is not limited to, all facilities defined by the Department
17 as "family day care homes," "foster family homes," "group day care homes," "residential
18 treatment facilities," "day care center," "day nurseries," "nursery school," "kindergarten
19 school," "day care homes," or similar institutions or units regardless of name;

20 (3) "Penal Institution," which shall mean any jail, detention center, prison camp,
21 home, juvenile detention home or cottages, or other facility used as a holding facility, jail, or
22 residential custodial facility. This definition does not include hospitals or childcare
23 facilities or adult group day care center;

24 (4) "School," which shall mean any establishment that provides care and
25 education to students from pre-kindergarten through Grade 12 and any college, trade school,

1 university, or any other educational institutional of higher learning;

2 (5) "Hospital," which shall mean any building, structure, institution or place
3 whether organized for profit or not, devoted primarily to the maintenance and operation of
4 facilities for the diagnosis, evaluation, treatment, and provision of medical or surgical care
5 for three (3) or more non-related individuals admitted for overnight stay or longer in order
6 to obtain medical services; including obstetric, psychiatric, and nursing care of illness,
7 disease, injury, or deformity, whether physical or mental; and regularly making available at
8 least clinical laboratory service, diagnostic radiology services, and treatment facilities, or
9 surgery, obstetrical care or other definitive medical treatment;

10 (6) "Clinic," which shall mean any building; structure; institution or place; public
11 or private; whether organized for profit or not, devoted primarily to the maintenance and
12 operation of facilities for the medical or dental evaluation, diagnosis, or treatment of human
13 illness, injury or deformity; or the veterinary medical or veterinary dental evaluation,
14 diagnosis, or treatment of animal illness, injury or deformity;

15 (7) "Nursing Home," which shall mean any facility established, for profit or non-
16 profit, which provides nursing care and related medical services twenty-four (24) hours per
17 day for two or more individuals because of illness, disease, or mental or physical infirmity.
18 It provides care for these persons not in need of hospital care but requiring nursing care or
19 related medical services, which medical services shall be administered by a professional
20 nurse, a physical therapist, or an occupational therapist; or other licensed medical
21 practitioners, depending upon the service required; and

22 (8) "Laboratory," which shall mean any building, structure, institution or place,
23 whether organized for profit or not, devoted primarily to the maintenance and operation of
24 facilities for the examination or testing of humans or animals, living or dead, or any parts or
25 physiologic products thereof, for the purpose of detecting or confirming the presence of

1 illness or infirmity.

2 (l) **'Interim Health Certificate'** shall mean a provisional certificate issued by the
3 Director to a person employed within any ~~Eating and Drinking Establishment or Food~~
4 ~~Establishment~~ Health-Regulated Establishment or any other establishment under the provisions of
5 any other rules and regulations promulgated by the Director to properly carry out Title 10 G.C.A.
6 relating to environmental health, who is waiting to attend a training course offered by the
7 Department or another entity authorized by the Department.

8 (m) **'Laundry or Dry Cleaning Establishment'** shall mean any place, building, structure,
9 room, or partition thereof, used in the business of dyeing; washing; starching; ironing; or dry
10 cleaning apparels, household linens, and other fabric articles, including any establishment providing
11 laundering equipment for use by customers for a fee such as a Laundromat, wash-o-mat,
12 laundrette, or coin operated Laundromat.

13 (n) **'Massage Parlor'** shall mean premises occupied and used for the purpose of practicing
14 massage, provided that when any massage establishment is situated in any building used for
15 residential or sleeping purposes, the massage establishment premises shall be set apart and shall not
16 be used for any other purpose.

17 ~~(o) **'Massage Therapy'** shall mean the manipulation of the superficial tissues of the~~
18 ~~human body with the hand, foot, arm, or elbow by a massage therapist licensed by the applicable~~
19 ~~professional licensing board of Guam whether or not such manipulation is aided by hydrotherapy,~~
20 ~~including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the~~
21 ~~application to the human body of a chemical or herbal preparation.~~

22 ~~(p)~~(o) **'Person Employed'** shall mean the following:

23 (1) In an "Eating and Drinking Establishment," any person employed for
24 compensation or otherwise who transports food or food containers, engages in food
25 preparation or service, or comes in contact with any food and food utensils or equipment;

1 (2) In a "Food Establishment," any person employed for compensation or otherwise
2 who transports, stocks, stores, packs, packages, processes, manufactures, cans, bottles, or
3 otherwise handles raw or processed foods;

4 (3) In an "Institutional Facility," any person employed for compensation or
5 otherwise at that facility; and

6 (4) In a "Cosmetic Establishment," any person employed for compensation or
7 otherwise who singes, shampoos, arranges, adorns, dresses, curls, waves, permanent waves,
8 tints, applies tonics, dyes, shaves, clips, trims or cuts human hair, gives facial, scalp, neck or
9 body massages or treatments with oils, creams, lotions, or other preparations to the hands,
10 scalp, face, or neck by hand or mechanical appliance, and manicures and pedicures;

11 (5) In a "Hotel," any person employed for compensation or otherwise who cleans
12 and handles pre-packaged food (i.e., bottled water, coffee, tea), food contact equipment (i.e.,
13 coffee makers, ice buckets, and refrigerator/freezers), soiled or cleaned linens or other
14 laundry items, and who maintains sanitary condition and operation of the facility during the
15 course of their duties and responsibilities;

16 (5)(6) In a "Laundry or Dry Cleaning Establishment," any person employed for
17 compensation or otherwise who handles soiled or cleaned linens or other laundry items;

18 (6)(7) In a "Swimming Pool," any person employed for compensation or otherwise at
19 the facility who is in charge of its operation and/or maintenance; and

20 (7)(8) In a "Tattoo Shop," any person employed for compensation or otherwise at that
21 facility who performs or assist in performing tattooing.

22 (q)(p) **'Swimming Pool'** shall mean any artificial structure, basin, chamber or tank
23 constructed or impervious material used or intended to be used for swimming, diving, wading or
24 recreation al bathing. It does not include conventional bathtubs where the primary purpose is the
25 cleaning of the body or individual therapeutic tubs. A "public swimming pool" shall mean any

1 swimming or wading pool that is available for public use, whether for a fee or free of charge; or any
2 swimming or wading pool owned or used by any business, partnership, corporation, or person for
3 the use of their customers, clients, guest or employees including but not limited to a commercial
4 pool, a community pool or a pool at a hotel, motel, resort, auto park, trailer park, apartment house
5 or other multiple rental unit, private club, public club, public or private school, gymnasium or
6 health establishment

7 (†)(q) **'Tattooing'** shall mean to mark or color the skin by pricking and introducing
8 subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks
9 and figures.

10 (s)(r) **'Tattoo Shop'** shall mean any premises where a tattoo artist does tattooing for a fee or
11 other consideration.

12 (s) **'Temporary Food Service Establishment'** shall mean any Eating and Drinking
13 Establishment which operates at a fixed location for a period of time not exceeding six (6) months
14 in conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a
15 permanent nature, and shall include catering.

16 (t) **'Temporary Health Certificate'** shall mean a certificate issued to a person employed
17 within any temporary food service establishment under the provisions of these rules and
18 regulations.

19 (†)(u) **'Therapeutic Massage Establishment'** shall mean a business which performs the
20 manipulation of the superficial tissues of the human body with the hand, foot, arm, or elbow by a
21 massage therapist licensed by the applicable professional licensing board of Guam whether or not
22 such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any
23 electrical or mechanical device; or the application to the human body of a chemical or herbal
24 preparation.

25 **§4405. Health Certificate Required.** Unless otherwise stated within these rules and

1 regulations, or any other rules and regulations promulgated by the Department relating to
2 environmental health, every person employed within an Eating and Drinking Establishment, Food
3 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop, Laundry or Dry
4 Cleaning Establishment, Hotel, Swimming Pool, or any other establishments under the provisions
5 of any other rules and regulations promulgated by the Director to properly carry out Title 10 G.C.A.
6 relating to environmental health, shall be required to obtain a Health Certificate.

7 **§4406. Exemption of Health Certificate.** The selling of the following articles shall not
8 require the obtaining of a Health Certificate:

- 9 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live pigs; or
10 (b) Canned or bottled drinks, including alcoholic beverages, in the original container of
11 their manufacturer; or
12 (c) Candies or other confections in the original container of their manufacturer.

13 **§4407. Application for Health Certificate and Temporary Health Certificate.** (a) Any
14 person desiring to engage in employment requiring a Health Certificate or Temporary Health
15 Certificate under these rules and regulations shall make submit an application for a Health
16 Certificate or Temporary Health Certificate to the Department. The applicant shall be required to
17 show a current and valid photo identification or other evidence attesting to the applicant's true
18 identity. The applicant shall also be required to show ~~a valid Social Security Card and~~
19 ~~documentation that attests approved by the Director attesting~~ to the applicant's United States
20 citizenship, permanent resident alien, or non-immigrant status, that authorizes the applicant to work
21 in the United States by the U.S. federal government. The following are acceptable forms of photo
22 identification:

- 23 (1) Government of Guam Identification Card;
24 (2) Guam Driver's License;
25 (3) United States Military Identification Card;

1 (4) Passport; ~~and~~

2 (5) Credit card with photo; and

3 (6) Any other photo identification acceptable by the Department.

4 (b) The following are acceptable forms of identification for permanent resident aliens or
5 non-immigrant applicants who are authorized to work in the United States:

6 (1) Passport; and

7 (2) Alien Registration Receipt Card (Green Card).

8 ~~(b)(c)~~ Whenever an applicant is unable to apply to renew for a Health Certificate ~~or~~
9 ~~Temporary Health Certificate~~ in person, the applicant may designate an authorized representative to
10 make an application for the applicant, provided the representative has the following information
11 available:

12 (1) Signed and dated authorization letter from applicant, along with an
13 explanation of the applicant's relation to the representative;

14 (2) Completed, original application; and

15 (3) Copy of the representative's and the applicant's acceptable photo identification
16 cards.

17 ~~(e)(d)~~ An applicant, ~~or duly authorized representative of the applicant,~~ applying for a Health
18 Certificate shall complete all application requirements and submit all necessary information at any
19 time but not more than one month before commencement of employment. An applicant, or duly
20 authorized representative of the applicant, applying for a Temporary Health Certificate shall
21 complete all application requirements and submit all necessary information, not more than twenty
22 (20) and not less than five (5) three (3) working days, before commencement of employment,
23 unless approved by the Director.

24 ~~(d)(e)~~ A person applying for an additional Health Certificate for another category, ~~or under~~
25 the conditions stated in Subsections (a) and (b) of §4412§4411 of these rules and regulations, shall

1 submit a separate application and pay the appropriate fee for each additional Health Certificate.

2 **§4408. General Requirements for Health Certificate.** (a) Unless stated otherwise in
3 these rules and regulations, all new Health Certificate applicants, including Temporary Health
4 Certificate applicants, shall submit an application approved by the Department, pay all applicable
5 fees, and shall:

6 (1) Be tested, or screened, and be free of infectious Tuberculosis within six (6)
7 months prior to its submission, and any other communicable diseases, as determined by the
8 Director, except applicants of Temporary Health Certificate, and

9 (2) Take and pass a training course provided by the Department, or an authorized
10 entity approved by the Department, specific to the category of the Health Certificate the
11 applicant is seeking under the provisions of this and any other rules and regulations
12 promulgated by the Director to properly carry out Title 10 G.C.A. relating to environmental
13 health.

14 (b) Renewing applicants, when applicable or as determined by the Director, shall be
15 required to be tested or screened for infectious Tuberculosis and other communicable diseases, and
16 pass a written examination.

17 **§4409. Training Course and Examination Requirements for Health Certificate.**

18 (a) Unless otherwise stated in these rules or regulations or any other separate rules and
19 regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to
20 environmental health, the following are further and specific requirements for any person desiring to
21 engage in employment requiring a Health Certificate under these and other rules and regulations of
22 the Department, and must be complied with to qualify for, and hold, a Health Certificate:

23 (1) Any applicant who has not previously been issued a Health Certificate by the
24 Department or whose previous Health Certificate has expired for more than thirty (30)
25 calendar days shall attend and pass a training course conducted by the Department, or any

1 other entity approved by the Department, before a Health Certificate is issued.

2 (2) Any applicant who fails to pass the training course shall be scheduled to attend
3 another training course at a later date, pay the re-testing fee and the Health Certificate fee,
4 and have the Interim Health Certificate's issued with a new expiration date. ~~expiration date~~
5 ~~extended to the date of the re-testing.~~

6 (3) Any applicant, who fails to pass his second consecutive training course for any
7 category ~~the category of Eating and Drinking Establishment or Food Establishment,~~ after
8 failing the first training course, may be provided a Health Certificate at the discretion of
9 the Director. However, prior to the issuance of the Health Certificate by the Director, the
10 applicant's supervisor, who must be certified in accordance with §4415§4414 if for Eating
11 and Drinking Establishment and Food Establishment categories, shall be required to enter
12 into a written agreement with the Department (Annex I) if the supervisor agrees to do so.
13 The same shall apply for Health Certificate applicants for non-food facilities governed by
14 these rules and regulations (Annex II). ~~For other food facilities not providing food~~
15 ~~directly to consumer, such as wholesalers, distributors, and any other food establishments~~
16 ~~specifically exempted through separate rules and regulations promulgated by the Director,~~
17 ~~the applicant's supervisor need not be certified in accordance with §4415, but shall be the~~
18 ~~applicant's immediate supervisor and shall be required to enter into a written agreement~~
19 ~~with the Department (Appendix II).~~ A Health Certificate issued under such condition
20 shall have a distinguishing mark or symbol printed on the certificate.

21 (4) There shall be no limit to the number times an applicant may take the training
22 course.

23 (5) At the discretion of the Director, the requirement for taking the training course
24 may be waived if the applicant shows proof of disability, but shall be required to enter
25 into the written agreement in Appendix Annex I or Appendix Annex II.

1 (b) The Director shall identify Health Certificate categories which will require the
2 renewing applicant to attend and pass a refresher training course. ~~A renewing applicant may be~~
3 ~~required to attend and pass a training course, however, the applicant shall take and pass a written~~
4 ~~examination before the Department issues a renewal Health Certificate to the applicant.~~

5 (1) Any renewing applicant who attends the training course and does not pass the
6 examination shall be scheduled to attend a training course at a later date, pay the retesting
7 fee and the Health Certificate fee, and be issued an Interim Health Certificate with a new
8 expiration date. ~~with an expiration date extended to the date of the re-testing.~~

9 (2) Any renewing applicant, who fails to pass his/her second consecutive training
10 course, after failing the first training course, may be provided a Health Certificate at the
11 discretion of the Director in the same manner and condition as §4409(a)(3). ~~However,~~
12 ~~prior to the issuance of the Health Certificate by the Director, the applicant's supervisor,~~
13 ~~who must be certified in accordance with §4415, shall be required to enter into a written~~
14 ~~agreement with the Department (Appendix I).~~

15 (3) As determined by the Director, a renewing applicant may forgo the training
16 course and take the examination only; however, if such applicant fails the examination,
17 he/she shall be required to take the training course.

18 (c) [Reserved.]

19 (d) The Director may revoke any Health Certificate issued in §4409(a)(3) or §4409(b)(2),
20 upon reasonable belief that the written agreement has been breached.

21 (e) Any person in possession of a valid and current Certificate of Management
22 Certification shall be exempt from its respective training course; however, he/she shall still be
23 required to obtain a Health Certificate.

24 (f) The Department, if it wishes, may authorize another Government of Guam entity to
25 provide or supplement the training courses required pursuant to these rules and regulations,

1 provided a written memorandum of agreement between the Department and the other entity is
2 formally established.

3 (g) In the event an entity authorized by the Department to provide a training course is
4 unable to provide the minimum standard of training that is acceptable to the Department in the
5 issuance of Health Certificates, or fails to timely provide the required training course, the
6 Department may seek the assistance of another approved entity in carrying out the provision of this
7 section.

8 **§4410. Specific Requirements by Category.** Any person required to attend and pass a
9 training course as indicated in this section may be waived from such course if he or she possesses
10 an applicable current and valid certification that is recognized by the Department that attests to the
11 individual's adequate knowledge of disease prevention in the respective establishment category.
12 However, the individual must still submit the application and all supporting documents and obtain a
13 Health Certificate.

14 (a) **Eating and Drinking Establishment and Food Establishment.** The following
15 individuals shall obtain a Health Certificate:

16 (1) An employee of the establishment who regularly enters the food preparation
17 area, regardless of his/her position and duty, whose presence may likely contaminate food
18 directly or indirectly without the training; and

19 (2) Any employee of the establishment who may come in contact with food during
20 the course of that individual's work, including, but not limited to, a cashier.

21 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or renewed unless
22 the applicant has undergone a physical examination performed by a healthcare professional using
23 report forms provided by the Department. ~~updated immunization for mumps, measles, rubella,~~
24 ~~tetanus, diphtheria, polio, and any other vaccinations and exams at the discretion of the Director.~~
25 ~~Records of all such examinations shall be kept in a file in the institution where the applicant is~~

1 employed.

2 (c) **Institutional Facility.** No Health Certificate shall be issued or renewed unless the
3 applicant has undergone a physical examination performed by a healthcare professional using report
4 forms provided by the Department. ~~The applicant shall have updated immunization for mumps,~~
5 ~~measles, rubella, tetanus, diphtheria, polio, and any other vaccinations and exams at the discretion~~
6 ~~of the Director. Records of all such examinations shall be kept in a file in the institution where the~~
7 ~~applicant is employed.~~

8 (d) **Hotel Sanitation.** All persons conducting housekeeping duties, such as changing of
9 linens and towels, employed at a Hotel, as defined in these rules and regulations, who are tasked to
10 clean food-contact surfaces, and maintain sanitary condition and operation of such facility, shall be
11 required to obtain a Health Certificate and attend and pass the training course provided by the
12 Department. However, that person shall not be required to be tested or screened for infectious
13 Tuberculosis or other communicable diseases.

14 (e) **Swimming Pool.** Every person responsible for the operation of a regulated
15 swimming pool shall be required to obtain a Health Certificate and attend and pass the training
16 course provided by the Department. However, that person shall not be required to be tested or
17 screened for infectious Tuberculosis or other communicable diseases. A responsible operator of a
18 regulated swimming pool will not be required to attend and pass the training course provided by the
19 Department if such operator possesses and shows proof of a valid Certified Pool/Spa Operator
20 certification with the National Swimming Pool Foundation, or its successor, or any other nationally
21 recognized certification approved by the Department; however, the responsible operator shall still
22 be required to obtain the required Health Certificate.

23 (f) **Tattoo Shop.**

24 (1) All persons employed at the tattoo facility that clean, handle, operate, or
25 otherwise touch any tattoo equipment; or prepare, or assist in the preparation of the client;

1 shall be required to possess a Health Certificate and pass the training course provided by the
2 Department.

3 (2) In addition to the test or screening for active Tuberculosis, individual required to
4 obtain a Health Certificate shall also undergo a physical examination performed by a
5 healthcare professional using report forms provided by the Department. ~~and shall have an~~
6 ~~updated immunization for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio,~~
7 ~~and any other vaccinations and exams at the discretion of the Director, and records of all~~
8 ~~such examinations shall be kept in a file in the institution where the applicant is employed.~~

9 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall not be issued or
10 renewed unless the applicant has undergone a physical examination performed by a healthcare
11 professional using report forms provided by the Department and passes a training course provided
12 by the Department. Records of all such examinations shall be kept in a file in the institution where
13 the applicant is employed.

14 **§4411. Requirements for Temporary Health Certificate.** (a) All persons applying for a
15 Temporary Health Certificate to work in a carnival, fair, or other temporary food service
16 establishment shall be required to submit to the Department a signed and completed written
17 contract (Annex III) between the Department and the applicant's supervisor who possesses the
18 required Certificate of Management Certification. ~~will be required to attend and pass a training~~
19 ~~course provided by the Department; however, test or screening for Tuberculosis may not be~~
20 ~~required.~~ Prior to the issuance of a Temporary Health Certificate, the employee shall, as
21 determined by the Director, attend and participate in a short briefing provided by the Department,
22 before the start of the event, which discusses the food safety responsibilities and expectations for
23 possessing a Temporary Health Certificate.

24 (b) A recipient of a Temporary Health Certificate who fails to attend the short briefing
25 provided by the Department in §4411(a) shall cause that certificate to become invalid.

1 (c) Temporary Health Certificates shall not be issued for any event where many of the
2 consumers are members of a highly susceptible population.

3 **§4411§4412. Single Health Certificate for Multiple Locations per Category.** (a)
4 Each person may possess only one Health Certificate per category, regardless of the number of
5 different employed locations or businesses within that same category. The Health Certificate
6 shall state the category the holder is authorized to work and shall be valid at all locations
7 within that category.

8 (b) The Department may issue a single Health Certificate for categories of both Eating
9 and Drinking Establishment and Food Establishment if the Department determines that the
10 application, training, fee, and other applicable requirements are the same and issuing a single
11 certificate will not compromise the spirit and intent of these rules and regulations.

12 **§4412§4413. Additional Health Certificates.** (a) Any person employed within an Eating
13 and Drinking Establishment, Food Establishment, **Hotel**, Institutional Facility, Cosmetic
14 Establishment, Swimming Pool, Laundry and Dry Cleaning Establishment, or Tattoo Shop, or any
15 other health-regulated establishments, who holds a Health Certificate within such category shall not
16 be issued, upon submission of a separate application with appropriate fee, a Health Certificate for
17 other categories without meeting the qualifications enumerated under each category. An exception
18 to this requirement could occur for Eating and Drinking Establishment and Food Establishment,
19 which may be a single Health Certificate in accordance to **§4412(b)§4411(b).**

20 **§4413§4414. Interim Health Certificate.** (a) After submitting the application, payment,
21 and meeting all other requirements, an applicant who is required to attend and pass a training course
22 shall be issued an Interim Health Certificate for employment until the applicant's completion and
23 passage of the training course, whereupon he or she shall receive a Health Certificate.

24 (b) An Interim Health Certificate shall indicate the name of the applicant; category of
25 the Health-Regulated Establishment the certificate is for; ~~the name and location of employment;~~

1 date, time, and location of the training course; expiration date; and any other information as
2 determined by the Director. Expiration date shall not exceed more than three (3) working days after
3 the date of the training course.

4 (c) An applicant in possession of an Interim Health Certificate who fails to attend the
5 training course shall be scheduled for another training course and granted an extension of the
6 expiration date, provided that no more than ten (10) working days have elapsed from the date of the
7 original training course. The extension of the new expiration date shall not exceed beyond the ne
8 more than 3 working days after the date of the rescheduled training course date.

9 (d) An applicant who fails to attend the rescheduled training course or whose Interim
10 Health Certificate has expired more than 14 working days from the date of the original training
11 course shall be considered a new applicant and shall be required to apply as a new applicant. Such
12 applicant may submit his/her initial physical test and/or tuberculosis test results with the
13 application, provided the testing or screening was within the six (6) months of submission of the
14 new application.

15 (e) An Interim Health Certificate does not exempt the applicant from all other
16 requirements of these rules and regulations or any other rules and regulations promulgated by the
17 Director relevant to Health Certificates.

18 **§4414§4415. Certificate of Management Certification and Health Certificate.** (a)
19 Unless otherwise stated within these rules and regulations, or any other rules and regulations
20 promulgated by the Department relating to environmental health, every Eating and Drinking
21 Establishment and Food Establishment, excluding those facilities that do not provide food directly
22 to consumers, such as manufacturers, wholesalers, and distributors, and any other food facilities
23 specifically exempted through separate rules and regulations promulgated by the Director, shall
24 have a designated manager or supervisor who shall be certified under the provisions of these rules
25 and regulations.

1 (b) Any person employed or designated as a manager or supervisor within an Eating
2 and Drinking Establishment and Food Establishment, excluding manufacturers, wholesalers, and
3 distributors, and any other food facilities specifically exempted, shall be required to take and pass a
4 prescribed course provided by the Department, or any other course approved by the Department,
5 before a Certificate of Management Certification, or an equivalent certification as approved by the
6 Director, is issued by the institution administering the course. The course shall require the
7 candidate for managerial certification to show evidence by examination of satisfactory knowledge
8 [scoring seventy Percent (70%) or higher] of rules and regulations governing food facilities
9 including, but not limited to, microbiology, food-borne diseases, food storage, food preparation and
10 service, equipment design and construction, employee hygiene, cleaning and sanitary procedures,
11 and rodent and insect control. Those candidates who fail to show evidence by examination of
12 satisfactory knowledge [scoring sixty-nine Percent (69%) or lower] shall repeat the course until the
13 required minimum passing score of seventy percent (70%) or higher is met. No restrictions are
14 placed on the number of times a designated manager or supervisor may take the course to obtain a
15 passing score.

16 (c) The acquisition of the Certificate of Management Certification, or its equivalent as
17 approved by the Director, by a designated manager or supervisor is a requirement in addition to,
18 and not in lieu of, a Health Certificate.

19 (d) The Certificate of Management Certification shall be renewed every three (3) years.

20 (e) Any person renewing the Certificate of Management Certification may waive the
21 prescribed course in (b) of this section, and promptly take the examination to obtain the
22 certification. However, any person who waives the course and fails to show evidence by
23 examination of satisfactory knowledge [scoring sixty-nine Percent (69%) or lower] shall be
24 required to attend the course, and not permitted to waive the course again, and shall meet the
25 required minimum passing score of seventy percent (70%) or higher, before certification is granted.

(f) Any person waiting to take the course in ~~§4415(c)~~§4414(b) to renew his or her Certificate of Management Certification shall not be penalized if his or her Certificate of Management Certification expires prior to the date of the scheduled course, provided:

(1) That the course the person is waiting to attend is the most immediate course available after the expiration of his Certificate of Management Certification, and

(2) He or she has taken the necessary steps to properly register for the course.

Any person with an expired Certificate of Management Certification in a situation described in this section shall be considered to have a current and valid certification up until the date of the scheduled course.

(g) The Department, if it wishes, may authorize another Government of Guam entity to provide or supplement the Certificate of Management Certification course, provided a written memorandum of agreement between the Department and the other entity is formally established.

(h) At the discretion of the Department, and in the manner determined by the Director, a nationally recognized food safety certification may be recognized and accepted in lieu of the Certificate of Management Certification, provided its curriculum meets or exceeds the Department's requirements.

~~§4415~~§4416. **Fees.** A non-refundable fee shall be required of applicants at the time of application for Health Certificates. In the event of failure to qualify for a Health Certificate, non-fulfillment, or termination of employment, the fee shall not be refunded to the applicant.

(a) The annual fee for a Health Certificate for a person employed within an Eating and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic Establishment, Hotel, Swimming Pool, Tattoo Shop, Laundry and Dry Cleaning, or any other establishment where an employee is required to obtain a Health Certificate ~~through rules and regulations promulgated by the Director~~, shall be Ten Dollars (\$10.00).

(b) The fee for training workshop for a person employed within an Eating and

1 Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
2 Establishment, Hotel, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or any
3 other establishment where an employee is required to obtain a Health Certificate, shall be
4 Fifteen Dollars (\$15.00).

5 (c) The fee for the re-issuance of a Health Certificate for any amendments made
6 to the Health Certificate shall be Five Dollars (\$5.00)

7 ~~(d) The fee for a Temporary Health Certificate for a person employed with a~~
8 ~~temporary food service establishment shall be Five Dollars (\$5.00).~~

9 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate and
10 Temporary Health Certificate due to loss or damage shall be Two Dollars (\$2.00).

11 ~~(e) The fee for an applicant who has failed to pass the training course and is~~
12 ~~required to attend another training course for re-testing shall be Ten Dollars (\$10.00). An~~
13 ~~applicant who has failed to pass the training course and is required to attend another training~~
14 ~~course for re-testing shall pay a fee of Ten Dollars (\$10.00) for such re-testing, and a fee of~~
15 ~~Five dollars (\$5.00) for a new Interim Health Certificate, provided he/she returns within ten~~
16 ~~(10) working days of the expiration date; otherwise, the fee for a new Interim Health~~
17 ~~Certificate reverts back to Ten Dollars (\$10.00).~~

18 (f) An establishment desiring and requesting for a training course and testing
19 for its employees at its own facility or another location during regular government hours
20 (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director, comply with the criteria
21 established by the Department, and pay the onsite training workshop fee of Three Hundred
22 Dollars (\$300.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
23 employee attending the onsite workshop.

24 (g) An establishment desiring and requesting for a training course and testing
25 for its employees at its own facility or another location outside regular government hours

(8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the approval of the Director, comply with the criteria established by the Department, and pay the special onsite training workshop fee of Five Hundred Dollars (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per employee attending the special onsite workshop.

(h) The fee for a Temporary Health Certificate for a person employed within a Temporary Food Service Establishment shall be Fifteen Dollars (\$15.00). An expedited processing fee of Ten Dollars (\$10.00) shall be assessed for every applicant of a Temporary Health Certificate when such application is received less than 3 days before the start of the event.

§4416§4417. Effective Date of Health Certificate. Unless indicated elsewhere in these rules and regulations, or any other rules and regulations promulgated by the Director under Guam law relevant to environmental health, all Health Certificates shall expire one (1) year after the date of application issuance and for the category indicated on the certificate. Applications for renewal of a Health Certificate shall not be accepted more than thirty (30) fifteen (15) days prior to its expiration, unless authorized by the Director.

(b) All Temporary Health Certificates shall be valid for only the period of the temporary event for which the certificate was issued six (6) months from the date of application issuance and for the location indicated on the certificate and its expiration date cannot exceed sixty (60) days, and the Temporary Health Certificate cannot be renewed. A person may not possess two consecutive Temporary Health Certificates within any six month period.

§4417§4418. Presentation of Health Certificate, Interim Health Certificate, Temporary Health Certificate, and Certificate of Management Certification. (a) Every person required to have a Health Certificate under §22101 of Title 10 GCA, shall have the Health Certificate in that person's personal possession at all times during his or her working hours.

(b) Unless exempted elsewhere in these rules and regulations or any other rules and

1 regulations promulgated by the Department, ~~Except for Cosmetic Establishments,~~ all valid copies
2 of Health Certificates, Interim Health Certificates, and Certificates of Management Certification
3 shall be conspicuously posted at facility where the employee is working. The location within the
4 establishment where the Health Certificates are to be posted is at the discretion of the
5 establishment; however, it shall be readily available when requested by the Director during
6 inspection of the establishment. "Readily available" shall mean that the documents are separated
7 from all other records and made available for inspection in reasonable amount of time.

8 (e) ~~All Health Certificates for Cosmetic Establishments shall be placed in a~~
9 ~~conspicuous place designated by the Director.~~

10 **§4418§4419.** **Suspension or Revocation of Health Certificate and Certificate of**
11 **Management Certification.** (a) The Director may suspend or revoke any Health Certificate,
12 Temporary Health Certificate, or Interim Health Certificate issued under these rules and
13 regulations, or any other rules and regulations promulgated by the Director requiring a Health
14 Certificate, for providing false information in his or her application, violation of the provisions of
15 these or any other related rules and regulations, or in the event the holder of the any Health
16 Certificate has been determined to be harboring a communicable disease. The holder of the
17 suspended or revoked Health Certificate shall return the said certificate to the Department.

18 (b) The Director may suspend or revoke any Certificate of Management Certification
19 issued under these rules and regulations when the holder or the persons under his/her supervision
20 repeatedly fails to comply with rules and regulations for eating and drinking establishments and
21 food establishment.

22 (c) Before any Health Certificate, Interim Health Certificate, Temporary Health
23 Certificate, or Certificate of Management Certification is suspended or revoked, the person shall
24 have the right to written notice of the action to be taken and other administrative remedies in
25 accordance with §4420§4421 of these Rules and Regulations ~~a hearing in accordance with~~

Administrative Adjudication Law.

(d) Before imposing an administrative penalty against a person or a health-regulated establishment, the Director shall issue a notice of intent to impose the penalty and provide the person or health-regulated establishment an opportunity to request a hearing on the proposed penalty. The request for a hearing must be made within ten (10) days of the date that the notice is served upon the person or health-regulated establishment. The hearing shall be conducted in accordance with §4420 of these Rules and Regulations.

§4419§4420. Administrative Penalties. (a) In accordance with Title 10 GCA, Chapter 22, §22106, the Director may impose a fine for any health-regulated establishment that permits a person to perform services without having in their possession a valid Health Certificate at the time the services are performed. The monetary fine for the administrative violation is not to exceed Three Hundred Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand Dollars (\$1,000.00) for a second offense involving the same person occurring within one (1) year of the first offense.

(b) Any person who is required to obtain a Health Certificate under §4405 of these rules and regulations shall be cited for administrative violation if they are found working at a health-regulated establishment without a valid Health Certificate or not having the valid Health Certificate in the person's personal possession during working hours. The Director shall assess the monetary fine in accordance to law.

(c) When more than one person is cited within the same health-regulated establishment, at the same time, for not possessing valid Health Certificates, each citation shall be considered a separate administrative violation and the Director shall assess the required monetary fines to the establishment.

(d) Before imposing an administrative penalty against a person or a health-regulated establishment, the Director shall issue a notice of intent to impose the penalty and provide the

1 person or health-regulated establishment an opportunity to request a hearing on the proposed
2 penalty. The request must be made within ten (10) days of the date that the notice is served upon
3 the person or health-regulated establishment.

4 (e) Any person or health-regulated establishment may seek review of any administrative
5 penalty imposed before the Superior Court of Guam. Such review shall be upon the record
6 established before the Director and not *de novo*. The Superior Court may sustain, modify or vacate
7 any administrative penalty it reviews.

8 (f) If any person, or a health-regulated establishment, fails to comply with an
9 administrative penalty order after it has become final, the Attorney General shall bring a civil action
10 to enforce the order and to recover the amount ordered or assessed, plus current interest from the
11 date of the final order or decision. To prevail in such an action, the Director need establish only
12 that:

- 13 (1) notice was given as required;
- 14 (2) a hearing was granted to the defendant or that the defendant requested no hearing;
- 15 and
- 16 (3) the penalty was imposed and has become final either because the administrative
17 order was not appealed to the Superior Court, or that after judicial review the
18 administrative order remains an unsatisfied obligation.

19 **§4420§4421. Right to Notice, Hearing, and Administrative Process.** (a) Any person
20 who has been denied a Health Certificate, Interim Health Certificate, Temporary Health Certificate,
21 or Certificate of Management Certification under these Rules and Regulations, or whose Health
22 Certificate, Interim Health Certificate, Temporary Health Certificate, or Certificate of Management
23 Certification is to be suspended or revoked under these Rules and Regulations, or any person or
24 health-regulated establishment that is subject to an Administrative Penalty under these Rules and
25 Regulations has the right to a notice in writing from the Director stating the action to be taken by

1 the Department, has the right to request in writing for an administrative hearing, has the right to an
2 administrative hearing, and has the right to an appeal of an administrative hearing decision. Any
3 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and Regulations shall
4 advise that the right to notice, hearing, and appeal is available as provided in these Rules and
5 Regulations, and to the extent consistent herewith, pursuant to the Administrative Adjudication
6 Law, Title 5, Guam Code Annotated, Sections 9200 through 9242, as amended.

7 (b) The procedures and requirements set out in these Rules and Regulations, and to the
8 extent consistent herewith, in the Administrative Adjudication Law at Title 5, Guam Code
9 Annotated, Sections 9200 through 9242, as amended, shall be followed by the Director, and by any
10 person or health-regulated establishment adversely affected by decisions of the Department
11 pursuant to these Rules and Regulations.

12 (c) Upon an administrative adjudication the Director shall make the final determination
13 whether to issue a Health Certificate, Interim Health Certificate, or Certificate of Management
14 Certification, to suspend or revoke a Health Certificate, Interim Health Certificate, or Certificate of
15 Management Certification, or to uphold an Administrative Penalty.

16 **§4421§4422. Variances.** (a) The Director of the Department may grant a variance to a
17 requirement only if doing so will not endanger the health and welfare of the public and does not
18 contradict the spirit and intent of these rules and regulations.

19 (b) Any variance issued by the Director of the Department shall be put forth in writing
20 providing explanation for the variance and its approval with the signature of the Director and date
21 and filed accordingly for records.

22 **§4422§4423. Effective Date.** These rules and regulations shall be immediately effective
23 upon enactment. At that time, all other rules and regulations or parts of other rules and regulations
24 that conflict with these rules and regulations are repealed. The adoption of these rules and
25 regulations shall not prohibit the Department from delaying the implementation of all or certain

1 sections of these rules and regulations if the Department believes doing so would better effectuate
2 its purpose; provided, such delay shall not exceed 365 days of its effective date.

3 ~~§4423~~**§4424. Severability.** If any provision or application of any provision of these
4 regulations is held invalid, that invalidity shall not affect the other provisions or applications of
5 these rules and regulations.

PROPOSED AMENDMENTS

I, _____, a holder of "Certificate of Management Certification" and the supervisor of _____ at _____ enter into this voluntary agreement with the Department of Public Health and Social Services, in accordance with §4409(a)(3)(1)(B) of the Health Certificate Regulations, to provide the basic knowledge and skill in the proper sanitary handling, preparing, and/or cooking of foods at the establishment to the above employee. In a cooperative effort with the Department of Public Health and Social Services, along with my responsibility and obligation to practice and promote food safety at the work-place, I will ensure that the employee is taught the following so that the food commodity made available by this establishment for human consumption may not endanger the health and welfare of the public:

(To be determined by DPHSS.)

I understand that any failing on my part to fulfill the agreement in properly training the above employee may lead to the revocation of the employee's Health Certificate in accordance to §4419 §4418 of the Health Certificate Regulations.

_____ EMPLOYEE-Print	_____ SIGNATURE	_____ DATE
_____ SUPERVISOR-Print	_____ SIGNATURE	_____ DATE
_____ DPHSS REPRESENTATIVE-Print	_____ SIGNATURE	_____ DATE

APPENDIX-I ANNEX I

I, _____, the immediate supervisor of _____ at _____ enter into this voluntary agreement with the Department of Public Health and Social Services, in accordance with §4409(a)(3)(1)(B) of the Health Certificate Regulations, to provide basic sanitation knowledge and skill in the operation of my business. ~~in the proper sanitary handling, preparing, and/or cooking of foods at the establishment to the above employee.~~

In a cooperative effort with the Department of Public Health and Social Services, along with my responsibility and obligation to practice and promote proper sanitation and safety at the work place, ~~food safety at the~~ I will ensure that the employee is taught the following so that the ~~food~~ commodity made available by this establishment for human consumption activities of my employee identified in this agreement may not endanger the health and welfare of the public:

(To be determined by DPHSS.)

I understand that any failing on my part to fulfill the agreement in properly training the above employee may lead to the revocation of the employee's Health Certificate in accordance to §4419 §4418 of the Health Certificate Regulations.

EMPLOYEE-Print

SIGNATURE

DATE

SUPERVISOR-Print

SIGNATURE

DATE

APPENDIX H ANNEX II

TEMPORARY HEALTH CERTIFICATE CONTRACT

I, _____, a holder of "Certificate of Management Certification" and the operator of the food establishment, _____, during the temporary event, _____, enter into this written contract with the Department of Public Health and Social Services, in accordance with §4411(a) of the Health Certificate Regulations, to ensure that my employee, _____, who was issued a Temporary Health Certificate to work in my food establishment, will be supervised by me to ensure the employee abides by the requirements of the Guam Food Code. Such supervision will include the following:

- Prohibit the employee from working if he/she is infected with Norovirus, *Shigella* spp., Shiga toxin-producing *E. coli*; symptomatic with vomiting, jaundice, and/or diarrhea; and possesses health conditions that would cause the employee to be excluded from a food establishment pursuant to 2-201.12 of the Guam Food Code;
- Effective washing of hands when required pursuant to 2-301.12(b) and 2-301.14 of the Guam Food Code; and
- Proper use of barriers when handling ready-to-eat meals pursuant to 3-301.11 and 3-304.15 of the Guam Food;

I understand that failure on my part to fulfill this contract will cause the employee's Temporary Health Certificate to become invalid, thereby prohibiting the said employee from working at my food establishment.

EMPLOYEE-Print	SIGNATURE	DATE
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SUPERVISOR-Print	SIGNATURE	DATE
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DPHSS REPRESENTATIVE-Print	SIGNATURE	DATE
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ANNEX III



EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT



JAMES W. GILLAN
DIRECTOR

LEO G. CASIL
DEPUTY DIRECTOR

MAR 11 2015

Testimony on Bill 45-33

“An Act to Adopt the Rules and Regulations Governing the Issuance of Health Certificates, By Amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.”

Hafa Adai, Mr. Chairman, and members of the Committee on Health, Economic Development, Homeland Security and Senior Citizens. I am James W. Gillan, Director of the Department of Public Health and Social Services (DPHSS). I have reviewed Bill 45-33 in its entirety, and fully support the passage of this bill.

As it is noted in Section 1 of Bill 45-33, the Department did hold an administrative public hearing on February 7, 2014 pursuant to the Administrative Adjudication Act. The required review by the Office of the Attorney General was also performed and their recommendations were incorporated into the proposal, and the Department determined that an economic impact statement was not necessary since the implementation of the proposed regulations will have a financial impact of less than \$500,000 to the public. We thank the Committee for recognizing our efforts and retaining the original intent of the proposal, which we now see as Bill 45-33.

Title 10 GCA, Chapter 22, which is the Health Certificate law, mandates the Division of Environmental Health (DEH) of this Department to regulate the issuance of Health Certificates. To carry out the provision of this and other DPHSS mandates, Section 20105 of Title 10 GCA, Chapter 20, authorizes the DPHSS Director to promulgate rules and regulations as necessary. The existing regulations governing Health Certificates were adopted in 2006, and the proposed revisions found in Bill 45-33 will improve DEH's ability to protect the public from communicable diseases and other environmental hazards that could occur in the nearly 3,000 establishments regulated by the Division.

Currently, the Department issues nearly 30,000 Health Certificates every year to individuals employed at food establishments, institutional facilities, massage establishments, cosmetology establishments, tattoo shops, and laundry and dry cleaning establishments. A permanent Health Certificate is issued to a worker upon showing proof that he/she is free of diseases that can be potentially transmitted through that person's employment at the regulated establishment. For those working in retail food facilities and food manufacturing establishments, they must also pass the food safety workshop course provided by the Guam Community College. Currently, there are gaps and challenges in our management of issuing Health Certificates, which can be addressed through the adoption and implementation of the proposed revisions found in Bill 45-33.

2

In repeating my earlier statement, training is required for all individuals working at food facilities, and rightfully so, as food-associated businesses make up over 75% of all permits issued by the Division of Environmental Health, and over 90% of all the Health Certificates are issued to employees of such businesses. We believe food safety training of food-handlers is an integral factor in protecting our community from food-borne diseases. In the U.S. alone, there are approximately 48 million food-borne illnesses that occur yearly; many of the activities of DEH on Guam reflect the prioritization of its food programs since many of its resources are focused on food inspections and food safety education.

Unfortunately, the remaining ~2,400 holders of Health Certificates who are employed in non-food establishments, such as masseuses, cosmetologists, and tattooists, are not provided the same training on sanitation and hygiene specific to their profession so to ensure they possess basic knowledge in preventing disease transmission. In addition, operators and employees of public swimming pools are currently not required to possess any certification, and thus training, from DEH, even though these facilities are regulated by DEH and must possess a Sanitary Permit.

The adoption of the proposed, revised Health Certificate regulations in Bill 45-33 will address these gaps by requiring all persons seeking a Health Certificate, which will now include operators of public swimming pools, to obtain the basic training specific to their job to minimize, if not altogether prevent, injuries and diseases from occurring at their facilities. The importance of education, thus training, cannot be over-emphasized since many diseases and injuries that can occur at regulated establishments can be eliminated by managers and employees with proper knowledge and implementation of control measures, which can be provided in brief workshops by the Department.

It is no secret that the Division of Environmental Health does not possess the manpower to conduct the required 12,000 compliance inspections of all 3,000 regulated establishments every year. However, the Division does, or will soon, possess the capacity to train all the new, and even renewing, holders of Health Certificates. We have field and office personnel in DEH, and other divisions of the Department, to conduct these training, and will soon have the venue to hold these courses when the Guam Environmental Public Health Laboratory, with its 50-seat training room, is completed. If DPHSS is unable to fulfill its obligation in providing frequent and timely training, the proposed regulations will allow for the Guam Community College and other Government of Guam entities, such as the University of Guam, to assist the Department.

It is our position that education is just as relevant as enforcement in promoting compliance. The curriculum that will be developed and presented by DEH will be from a regulatory perspective, so that the industry will be receiving both the education component and the compliance element in the training. Because the training will be given by our Department personnel, the attendees will be better able to understand the inspection methodology and our expectations for proper compliance.

The revenues generated from these courses will assist DEH in sustaining its Guam Environmental Public Health Laboratory. Part of this lab's sustainability plan is to utilize the revenue from the training workshops that the Division will now be providing in its new facility. Furthermore, because DEH will now be managing the training courses and the venue site, these workshops can occur year-round, during evening hours, and on weekends, if necessary, which can better accommodate the attendees of the workshops.

In addition, the proposal improves the language of the regulations, and also:

- Allows for off-site training for requesting establishments, with applicable fee payment;
- Eliminates the issuance of temporary Health Certificates, thereby preventing non-trained individuals who did not obtain medical clearance to work at regulated establishments;
- Permits renewing applicants to “test-out” from the training course;
- Allows an employee to possess a single Health Certificate for all food-associated businesses;
- Requires the manager of every retail food establishment to possess a Manager’s Certificate;
- A variance provision has been added; and
- The due process provision has been expanded at the recommendation of the Office of the Attorney General.

Finally, we noticed that there were several typographical mistakes and other changes from the original, proposed draft which we suspect are copying errors that occurred when the document was changed into its current legislative bill format. The Department may have contributed to these errors since our initial electronic copy to the Chairman’s office differed from that of the true and official version that was transmitted by the Governor. Regardless, we seek the corrections for the following:

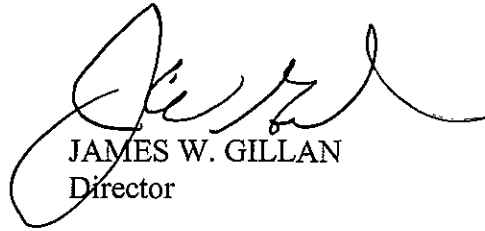
- #1: Page 13, Line 10: Because the existing definition for “Massage Therapy” in Lines 4-9 on Page 10 is to be deleted, “Person Employed” in Line 10 of the same page will take its subsection lettering. Thus, it should be changed to subsection “(o).”
- #2: Page 14, Line 13: As a result of the re-lettering of the subsection on Page 13, Line 10 noted above in #1, “Swimming Pool” should be re-lettered to subsection “(p)” in Line 13 of Page 14.
- #3: Page 15, Lines 1, 4, and 6: Consequent of the re-lettering of the subsections on Pages 13 and 14 noted above in #1 and #2, “Tattooing,” “Tattoo Shop,” and “Temporary Food Service Establishment” in Lines 1, 4, and 6, respectively, on Page 15 will also need to be re-lettered to the correct subsection order of “(q),” “(r),” and “(s).” In addition, “Tattoo Shop” and “Temporary Food Service Establishment” should be bold-typed for uniformity with other defined words.
- #4: Page 15, Line 13: The defined word, “Therapeutic Massage Establishment,” found on Page 15, Line 13, should be bold-typed for uniformity with other defined words.
- #5: Page 16, Line 16: The words, “...or Temporary Health Certificate...” found in Line 16 of Page 16 need a cross-line through it to indicate that it is to be deleted.
- #6: Page 17, Line 4: The word, “...and...” needs to be deleted on Page 17, Line 4.
- #7: Page 17, Lines 8 and 13: Lines 8-12 of Page 17 should be its own separate subsection; thus, Line 8 of the same page should begin as subsection “(b),” and as a result, the original subsection (b) starting on Line 13, also on the same page, needs to be changed to subsection “(c).”
- #8: Page 18, Lines 3 and 11: As a result of the re-lettering of the subsection noted above in #7, subsections (c) and (d) on Lines 3-14 of Page 18 needs to be re-lettered to “(d)” and “(e),” respectively.
- #9: Page 18, Line 12: The noted section, “§4412,” in Line 12 on Page 18 needs to be changed to “§4411” since that is the correct section to be referenced.
- #10: Page 18, Line 17: The words, “...including Temporary Health Certificate application...” need a cross-line through it to indicate that it is to be deleted in Line 17 of Page 18.

- #11: Page 19, Lines 22 and 23: In Line 22 of Page 19, the words, "...and the Health Certificate fee..." should be underlined to indicate that this is an addition. Also on the same page, Line 23, the two words, "...expiration date..." are repeated and should be deleted.
- #12: Page 20, Line 6: The noted section, "§4415," in Line 6 on Page 20 needs to be changed to "§4414" since that is the correct section to be referenced.
- #13: Page 23, Line 12-13: In Line 12 of Page 23, the words, "...undergone physical examination..." should not be underlined since these are not additions. The same is true of the words "...using report forms provided by the Department..." in Line 13 of the same page.
- #14: Page 25, Lines 14 and 23: Because §4412 of Page 25, Lines 14-23, does not have any subsections, there is no need for the subsection "(a)" designation in Line 14 of that page. Also, the noted section "§4412(b)" in Line 23, should actually read "§4411(b)" and thus requires a correction.
- #15: Page 28, Line 18: The noted section, "§4415(c)," in Line 18 on Page 28 needs to be changed to "§4414(b)" since that is the correct section to be referenced.
- #16: Page 34, Line 9: This is a minor matter; the Latin, law expression, "...de novo..." on Line 9 of Page 34 could be italicized, as indicated in the existing regulations.
- #17: Page 37, Lines 2 and 15: In Line 2 of Page 37, "§4409(a)(1)(B)," needs to be corrected to read, "§4409(a)." Line 15, also on Page 37, should read "§4418" and not "§4419."
- #18: Page 38, Line 9: "APPENDIX I" in Line 9 of Page 38 needs to have a cross-line through it to indicate that it is to be deleted.
- #19: Page 38, Line 14: In Line 14 of Page 38, "§4409(a)(1)(B)," needs to be corrected to read, "§4409(a)."
- #20: Page 38, Lines 15-16: The word, "...sanitation..." in Line 15 on Page 38 requires underlining since this a proposed insertion. Also on Line 15 and continuing to Line 16 of the same page, the words "...in the operation of my business..." are also insertions and thus requires underlining. In Lines 16 and 17, the words "...in the proper sanitary handling, preparing, and/or cooking of foods at the establishment to the above employee..." need to have a cross-line through it to indicate that it is to be deleted.
- #21: Page 38, Line 20: The following, "...proper sanitation and safety at the work place," in Line 20 of Page 38 is an addition and thus needing to be underlined, and the words immediately afterwards, "...food safety at the..." is a deletion requiring a cross-through.
- #22: Page 38, Line 21 and Lines 1-2, Page 39: In Line 21 of Page 38, starting with "...food commodity made available by..." and continuing to Line 1 of Page 39, "...this establishment for human consumption..." are to be deleted so these words require a cross-through. Then the words that follow afterwards, "...activities of my employee identified in this agreement..." in Line 1 to Line 2 of the same page is an addition; therefore, it needs to be underlined.
- #23: Page 38, Line 8: The noted section, "§4419" in Line 8 of Page 39 should be corrected to "§4418."

Enclosed with this written testimony, we have attached a copy of Bill 45-33 with our above-mentioned corrections.

The Department of Public Health and Social Services and I thank you and the Committee on Health, Economic Development, Homeland Security and Senior Citizens for providing us the

opportunity to give our comments on Bill 45-33 which we wholeheartedly support. Thank you and Si Yu'us Ma'ase.



JAMES W. GILLAN
Director

Attachment


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

Bill No. 45-33 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO ADOPT THE RULES AND REGULATIONS
GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES,
BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26,
GUAM ADMINISTRATIVE RULES AND REGULATIONS.**

2015 FEB 26 PM 4:33


BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that the proposed amending of the 'Rules And Regulations Governing The Issuance Of Health Certificates', as provided pursuant to Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations, has gone through the Administrative Adjudication Law process.

Subject to public hearing and legislative review, it is the intent of *I Liheslaturan Guåhan* to provide additional public scrutiny of the proposal governing the issuance of health certificates and for the eventual adoption of these rules and regulations.

Section 2. Adoption of Rules. Notwithstanding any other provision of law, rule, regulation and Executive Order, the RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, and attached hereto as Exhibit "A", are hereby adopted by *I Mina'Trentai Dos Na Liheslaturan Guåhan*, and shall be codified under Article 4 of Division 1, Title 26. Guam Administrative Rules and Regulations.

1 **Section 3. Amendment of Rules.** The Director, Department of Public
2 Health and Social Services, Division of Environmental Health *shall*, in keeping
3 with the provisions of Article 3 of Chapter 4, 4 GCA, and pursuant to Article 3-
4 rule making procedures, of Chapter 9, Title 5, Guam Code Annotated, review and
5 amend, as may be necessary, the Rules and Regulations adopted pursuant to
6 Section 2 of this Act.

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

12 **Section 4. Effective Date.** This Act shall become immediately effective
13 upon enactment.

Exhibit "A"

1 Title 26, Guam Administrative Rules and Regulations

2 Article 4 of Chapter 4

3 [Rule-making authority cited for formulation of Health Certificate Regulations by the
4 Director of Public Health and Social Services, 10 GCA §29195 and §22104]

5 RULES AND REGULATIONS GOVERNING

6 THE ISSUANCE OF HEALTH CERTIFICATES

7 §4401. Short Title.

8 §4402. Authority.

9 §4403. Purpose.

10 §4404. Definitions.

11 §4405. Health Certificate Required.

12 §4406. Exemption of Health Certificate.

13 §4407. Application for Health Certificate and Temporary
14 Health Certificate.

15 §4408. Requirements for Health Certificate.

16 §4409. Training Course and Examination Requirements
17 for Health Certificate.

18 §4410. Specific Requirements by Category.

- 1 §4411. ~~Requirements for Temporary Health Certificate.~~
2 Single Health Certificate for Multiple Locations per Category.
- 3 §4412. Additional Health Certificates.
- 4 §4413. Interim Health Certificate.
- 5 §4414. Certificate of Management Certification and
6 Health Certification.
- 7 §4415. Fees.
- 8 §4416. Effective Date of Health Certificate.
- 9 §4417. Presentation of Health Certificate, ~~Temporary Health~~
10 ~~Certificate~~, Interim Health Certificate, and Certificate of Management
11 Certification.
- 12 §4418. Suspension or Revocation of Health Certificate and
13 Certificate of Management Certification.
- 14 §4419. Administrative Penalties
- 15 §4420. Right to Notice, Hearing, and Administrative Process.
- 16 §4421. Variances.
- 17 §4422. Effective Date.
- 18 §4423. Severability.

19 ~~APPENDIX I~~ ANNEX I

1 **APPENDIX II ANNEX II**

2 **General Provisions and Definitions**

3 **§4401. Short Title.** These rules and regulations may also be cited as the
4 'Health Certificate Regulations.'

5 **§4402. Authority.** §22104, Chapter 22 of Title 10 Guam Code Annotated,
6 authorizes the Director of the Department of Public Health and Social Services to
7 establish, by rules and regulations, the requirements and fees for the issuance of a
8 Health Certificate.

9 **§4403. Purpose.** These rules and regulations are established to ensure that
10 the holder of a Health Certificate is free of communicable diseases that could
11 potentially spread to fellow employees or their clients as a result of the holder's
12 work activities and/or possesses the minimum knowledge in preventing the spread
13 of communicable diseases at the Health-Regulated Establishment where the holder
14 is employed. Upon adoption, these rules and regulations will repeal and replace
15 the previously adopted regulations entitled, Rules and Regulations Governing the
16 Issuance of Health Certificates.

17 **§4404. Definitions.** Wherever in these rules and regulations the following
18 words appear, they shall have the following definition:

19 (a) 'Category' shall mean the following types of establishments and their
20 activities that are regulated by the Department by these rules and regulations, and
21 other rules and regulations of the Department, which require a Health Certificate:

22 (1) Eating and Drinking Establishment

- 1 (2) Food Establishment;
- 2 (3) Cosmetic Establishment;
- 3 (4) Institutional Facility;
- 4 (5) Laundry and Dry Cleaning Establishments;
- 5 (6) Swimming Pool
- 6 (7) Hotel; and
- 7 (8) Tattoo Shop.

8 (b) 'Certificate of Management Certification' shall mean a certification
9 issued by the Department or any authorized institution, as determined by the
10 Director, to a person employed, or designated, as a manager or supervisor within
11 any Health-Regulated Establishment who has demonstrated his or her knowledge
12 of applicable governing rules and regulations, including but not limited to,
13 sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and
14 insect control, as determined by the Director.

15 (c) 'Cosmetic Establishment'. (1) Cosmetic establishment shall mean any
16 premises or portions thereof, wherein any of the following is practiced for
17 compensation:

18 (A) Singeing, shampooing, arranging, adorning, dressing, curling,
19 waving, permanent waving, tinting, applying tonic to, or dyeing human hair;

20 (B) Shaving, clipping, trimming or cutting human hair;

1 (C) Giving facial, scalp, neck or body massages or treatments with
2 oils, creams, lotions, or other preparations to the hands, scalp, face, or neck
3 by hand or mechanical appliance; and

4 (D) Manicuring or pedicuring.

5 (2) As used in these rules and regulations, cosmetic establishment shall
6 include:

7 (A) "Shop," which shall mean any establishment or facility where
8 cosmetology is practiced for fee or charge for hire. The term includes, but is
9 not limited to barber shops, beauty shops, beauty salons, beauty parlors, hair
10 styling salons, nail salons, or other establishments where cosmetology is
11 practiced for reimbursement;

12 (B) "School of Cosmetology," which shall mean any establishment
13 or facility where the practice of cosmetology is taught for a fee. The term
14 includes, but is not limited, to barber colleges or other closely related
15 institutions or establishments teaching cosmetology for reimbursement;

16 (C) "Massage Parlor," which shall mean any establishment or
17 facility occupied and used for the purpose of practicing massage for
18 compensation, provided that when any massage parlor is situated in any
19 building for residential or sleeping purposes, the massage parlor shall be set
20 apart and shall not be used for any other purpose; and

21 (D) "Therapeutic Massage Establishment," which shall mean any
22 premise intended, occupied and used for the purpose of practicing massage
23 therapy for compensation.

1 (d) 'Department' shall mean the Department of Public Health and Social
2 Services.

3 (e) 'Director' shall mean the Director of the Department of Public Health
4 and Social Services or his designated and authorized representative.

5 (f) 'Eating and Drinking Establishment' shall mean any mobile food
6 service establishment; vending machine; restaurant; coffee shop; public or private
7 school cafeteria; lunchroom; luncheonette; lunch-stand; lunch-counter; in-plant or
8 employee eating establishment; soda fountain; bar; cafe; tavern; short order cafe;
9 sandwich stand; drink stand; cafeteria or similar facility connected with an
10 institution; any other eating establishment within an organization, club, veteran's
11 club, boarding house, guest house, political subdivision, stall, stand, and booth; and
12 a concession within any public market which gives, sells, or offers for sale, or
13 promotes food to the public, guests, patrons, or employees; and as well as kitchens
14 in which food is prepared on the premises for serving elsewhere, including catering
15 functions.

16 (g) 'Food Establishment' shall mean every establishment or place which is
17 used or occupied as a bakery; confectionery; cannery; dairy; creamery; packing
18 house; grocery; supermarket; meat or poultry market; fruit or vegetable market;
19 delicatessen; beverage plant; slaughter house; poultry processing plant; fish
20 processing plant; frozen food processing plant; bottling plant; food refrigeration
21 locker plant; ice plant; ice cream or frozen dessert plant; public market; food
22 warehouse; or any structure used for the production, processing, manufacture,
23 preparation for sale, canning, bottling, packing, packaging, storage, sale or
24 distribution, of any food.

1 (h) 'Health Certificate' shall mean a certificate issued by the Department
2 to a person employed within any Eating and Drinking Establishment, Food
3 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop,
4 Laundry or Dry Cleaning Establishment, Hotel, Swimming Pool, or any other
5 establishment under the provisions of any other rules and regulations promulgated
6 by the Director to properly carry out the laws of Guam relating to environmental
7 health.

8 (i) 'Hotel' shall mean any structure or any portion of any structure,
9 including any lodging house, rooming house, dormitory (including a dormitory
10 housing for contract employees), health spa, bachelor hotel, studio hotel, motel,
11 private club, containing four (4) or more guest rooms and which is occupied or is
12 intended or designed for occupancy, by four (4) or more guests, whether rent is
13 paid in money, goods, labor, or otherwise, and whether with or without meals. It
14 does not include any penal institution, hospital, clinic, nursing home, school,
15 laboratory, or child care facility.

16 (j) 'Health-Regulated Establishment' shall mean any of the following:
17 Eating and Drinking Establishment, Cosmetic Establishment, Food Establishment,
18 Institutional Facility, Laundry and Dry Cleaning Establishment, Swimming Pool,
19 Hotel, Therapeutic Massage Establishment, Massage Parlor, Tattoo Shop,
20 Temporary Food Service Establishment, and any other facilities governed by the
21 Department pursuant to law.

22 (k) 'Institutional Facility,' as used in these rules and regulations, shall
23 include:

24 (1) "Adult Group Day Care Center," which shall mean a place
25 maintained and operated by an individual, organization, or agency whether

1 for profit or not for the purpose of providing protective and supportive care
2 for two or more elderly and/or disabled adults, not related to the facility's
3 owner/operator by blood or marriage within the third degree of
4 consanguinity, for a specified time period of ten (10) hours or less in each
5 twenty-four (24) hour day. At the end of the specified time period, the
6 participant is discharged to the custody of his/her family, guardian, or
7 sponsor;

8 (2) "Child Care Facility," which shall mean any person or place
9 which receives or arranges placement of one or more children who are not
10 related to such person, whether for gain or otherwise, apart from the parents
11 or guardian, with or without the transfer of the right of custody for the
12 purpose of providing regular care or training for such child or children
13 during either the day or night, or both. Except as otherwise provided, the
14 term "Child Care Facility" includes, but is not limited to, all facilities
15 defined by the Department as "family day care homes," "foster family
16 homes," "group day care homes," "residential treatment facilities," "day care
17 center," "day nurseries," "nursery school," "kindergarten school," "day care
18 homes," or similar institutions or units regardless of name;

19 (3) "Penal Institution," which shall mean any jail, detention center,
20 prison camp, home, juvenile detention home or cottages, or other facility
21 used as a holding facility, jail, or residential custodial facility. This
22 definition does not include hospitals or childcare facilities or adult group day
23 care center;

24 (4) "School," which shall mean any establishment that provides
25 care and education to students from pre-kindergarten through Grade 12 and

1 any college, trade school, university, or any other educational institutional of
2 higher learning;

3 (5) "Hospital," which shall mean any building, structure, institution
4 or place whether organized for profit or not, devoted primarily to the
5 maintenance and operation of facilities for the diagnosis, evaluation,
6 treatment, and provision of medical or surgical care for three (3) or more
7 non-related individuals admitted for overnight stay or longer in order to
8 obtain medical services; including obstetric, psychiatric, and nursing care of
9 illness, disease, injury, or deformity, whether physical or mental; and
10 regularly making available at least clinical laboratory service, diagnostic
11 radiology services, and treatment facilities, or surgery, obstetrical care or
12 other definitive medical treatment;

13 (6) "Clinic," which shall mean any building; structure; institution
14 or place; public or private; whether organized for profit or not, devoted
15 primarily to the maintenance and operation of facilities for the medical or
16 dental evaluation, diagnosis, or treatment of human illness, injury or
17 deformity; or the veterinary medical or veterinary dental evaluation,
18 diagnosis, or treatment of animal illness, injury or deformity;

19 (7) "Nursing Home," which shall mean any facility established, for
20 profit or non-profit, which provides nursing care and related medical
21 services twenty-four (24) hours per day for two or more individuals because
22 of illness, disease, or mental or physical infirmity. It provides care for these
23 persons not in need of hospital care but requiring nursing care or related
24 medical services, which medical services shall be administered by a

1 professional nurse, a physical therapist, or an occupational therapist; or other
2 licensed medical practitioners, depending upon the service required; and

3 (8) "Laboratory," which shall mean any building, structure,
4 institution or place, whether organized for profit or not, devoted primarily to
5 the maintenance and operation of facilities for the examination or testing of
6 humans or animals, living or dead, or any parts or physiologic products
7 thereof, for the purpose of detecting or confirming the presence of illness or
8 infirmity.

(l) **'Interim Health Certificate'** shall mean a provisional certificate
issued by the Director to a person employed within any ~~Eating and Drinking~~
~~Establishment or Food Establishment~~ Health-Regulated Establishment or any other
establishment under the provisions of any other rules and regulations promulgated
by the Director to properly carry out Title 10 G.C.A. relating to environmental
health, who is waiting to attend a training course offered by the Department or
another entity authorized by the Department.

9 (m) **'Laundry or Dry Cleaning Establishment'** shall mean any place,
10 building, structure, room, or partition thereof, used in the business of dyeing;
11 washing; starching; ironing; or dry cleaning apparels, household linens, and other
12 fabric articles, including any establishment providing laundering equipment for use
13 by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
14 operated Laundromat.

15 (n) **'Massage Parlor'** shall mean premises occupied and used for the
16 purpose of practicing massage, provided that when any massage establishment is

1 situated in any building used for residential or sleeping purposes, the massage
2 establishment premises shall be set apart and shall not be used for any other
3 purpose.

4 (o) ~~'Massage Therapy' shall mean the manipulation of the superficial~~
5 ~~tissues of the human body with the hand, foot, arm, or elbow by a massage~~
6 ~~therapist licensed by the applicable professional licensing board of Guam whether~~
7 ~~or not such manipulation is aided by hydrotherapy, including colonic irrigation, or~~
8 ~~thermal therapy; any electrical or mechanical device; or the application to the~~
9 ~~human body of a chemical or herbal preparation.~~

10 (d) (p) 'Person Employed' shall mean the following:

11 (1) In an "Eating and Drinking Establishment," any person
12 employed for compensation or otherwise who transports food or food
13 containers, engages in food preparation or service, or comes in contact with
14 any food and food utensils or equipment:

15 (2) In a "Food Establishment," any person employed for
16 compensation or otherwise who transports, stocks, stores, packs, packages,
17 processes, manufactures, cans, bottles, or otherwise handles raw or
18 processed foods;

19 (3) In an "Institutional Facility," any person employed for
20 compensation or otherwise at that facility; and

21 (4) In a "Cosmetic Establishment," any person employed for
22 compensation or otherwise who sings, shampoos, arranges, adorns, dresses,
23 curls, waves, permanent waves, tints, applies tonics, dyes, shaves, clips,

1 trims or cuts human hair, gives facial, scalp, neck or body massages or
2 treatments with oils, creams, lotions, or other preparations to the hands,
3 scalp, face, or neck by hand or mechanical appliance, and manicures and
4 pedicures;

5 (5) In a "Laundry or Dry Cleaning Establishment," any person
6 employed for compensation or otherwise who handles soiled or cleaned
7 linens or other laundry items; and

8 (6) In a "Swimming Pool," any person employed for compensation
9 or otherwise at the facility who is in charge of its operation and/or
10 maintenance.

11 (7) In a "Tattoo Shop," any person employed for compensation or
12 otherwise at that facility who performs or assist in performing tattooing.

13 (p) (q) 'Swimming Pool' shall mean any artificial structure, basin, chamber
14 or tank constructed or impervious material used or intended to be used for
15 swimming, diving, wading or recreation al bathing. It does not include
16 conventional bathtubs where the primary purpose is the cleaning of the body or
17 individual therapeutic tubs. A "public swimming pool" shall mean any swimming
18 or wading pool that is available for public use, whether for a fee or free of charge;
19 or any swimming or wading pool owned or used by any business, partnership,
20 corporation, or person for the use of their customers, clients, guest or employees
21 including but not limited to a commercial pool, a community pool or a pool at a
22 hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental
23 unit, private club, public club, public or private school, gymnasium or health
24 establishment.

1 (q) (r) 'Tattooing' shall mean to mark or color the skin by pricking and
2 introducing subcutaneously, non-toxic dyes, pigments, or by the production of
3 scars to form indelible marks and figures.

4 (r) (s) 'Tattoo Shop' shall mean any premises where a tattoo artist does
5 tattooing for a fee or other consideration.

6 (r) (r) 'Temporary Food Service Establishment' shall mean any Eating and
7 Drinking Establishment which operates at a fixed location for a period of time not
8 exceeding six (6) months in conjunction with a carnival, fair, circus, exhibition, or
9 other transitory gathering not of a permanent nature, and shall include catering.

10 (s) ~~'Temporary Health Certificate' shall mean a certificate issued to a person~~
11 ~~employed within any temporary food service establishment under the provisions of~~
12 ~~these rules and regulations.~~

13 (t) 'Therapeutic Massage Establishment' shall mean a business which
14 performs the manipulation of the superficial tissues of the human body with the
15 hand, foot, arm, or elbow by a massage therapist licensed by the applicable
16 professional licensing board of Guam whether or not such manipulation is aided by
17 hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
18 mechanical device; or the application to the human body of a chemical or herbal
19 preparation.

20 §4405. Health Certificate Required. Unless otherwise stated within these
21 rules and regulations, or any other rules and regulations promulgated by the
22 Department relating to environmental health, every person employed within an
23 Eating and Drinking Establishment, Food Establishment, Institutional Facility,
24 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment,

1 Hotel, Swimming Pool, or any other establishments under the provisions of any
2 other rules and regulations promulgated by the Director to properly carry out Title
3 10 G.C.A. relating to environmental health, shall be required to obtain a Health
4 Certificate.

5 **§4406. Exemption of Health Certificate.** The selling of the following
6 articles shall not require the obtaining of a Health Certificate:

7 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live
8 pigs; or

9 (b) Canned or bottled drinks, including alcoholic beverages, in the
10 original container of their manufacturer; or

11 (c) Candies or other confections in the original container of their
12 manufacturer.

13 **§4407. Application for Health Certificate and Temporary Health**
14 **Certificate.** (a) Any person desiring to engage in employment requiring a Health
15 Certificate ~~or Temporary Health Certificate~~ under these rules and regulations shall
16 make an application for a Health Certificate ~~or Temporary Health Certificate~~ to the
17 Department. The applicant shall be required to show a current and valid photo
18 identification or other evidence attesting to the applicant's true identity. The
19 applicant shall also be required to show a ~~valid Social Security Card and~~
20 documentation that attests ~~approved by the Director attesting~~ to the applicant's
21 United States citizenship, permanent resident alien, or non-immigrant status, that
22 authorizes the applicant to work in the United States by the U.S. federal
23 government. The following are acceptable forms of photo identification:

- 1 (1) Government of Guam Identification Card;
- 2 (2) Guam Driver's License;
- 3 (3) United States Military Identification Card;
- 4 (4) Passport; ~~and~~
- 5 (5) Credit card with photo; and
- 6 (6) Any other photo identification acceptable by the
- 7 Department.

8 (b) The following are acceptable forms of identification for permanent resident
9 aliens or non-immigrant applicants who are authorized to work in the United
10 States:

- 11 (1) Passport; and
- 12 (2) Alien Registration Receipt Card (Green Card).

13 (c) ~~(b)~~ Whenever an applicant is unable to apply to renew for a Health
14 Certificate ~~or Temporary Health Certificate~~ in person, the applicant may designate
15 an authorized representative to make an application for the applicant, provided the
16 representative has the following information available:

- 17 (1) Signed and dated authorization letter from applicant, along with
- 18 an explanation of the applicant's relation to the representative;
- 19 (2) Completed, original application; and

1 (3) Copy of the representative's and the applicant's acceptable
2 photo identification cards.

3 ~~(d)(e)~~ An applicant, ~~or duly authorized representative of the applicant,~~
4 applying for a Health Certificate shall complete all application requirements and
5 submit all necessary information at any time but not more than one month before
6 commencement of employment. ~~An applicant, or duly authorized representative of~~
7 ~~the applicant, applying for a Temporary Health Certificate shall complete all~~
8 ~~application requirements and submit all necessary information, not more than~~
9 ~~twenty (20) and not less than five (5) working days, before commencement of~~
10 ~~employment, unless approved by the Director.~~

11 ~~(e) (d)~~ A person applying for an additional Health Certificate for another
12 category, or under the conditions stated in Subsections (a) and (b) of ~~§4412~~ ^{§4411} of
13 these rules and regulations, shall submit a separate application and pay the
14 appropriate fee for each additional Health Certificate. *

15 **§4408. General Requirements for Health Certificate.** (a) Unless stated
16 otherwise in these rules and regulations, all new Health Certificate applicants,
17 ~~including Temporary Health Certificate applicants,~~ shall submit an application
18 approved by the Department, pay all applicable fees, and shall:

19 (1) Be tested, or screened, and be free of infectious Tuberculosis
20 within six (6) months prior to its submission, and any other communicable
21 diseases, as determined by the Director, ~~except applicants of Temporary~~
22 ~~Health Certificate;~~ and

23 (2) Take and pass a training course provided by the Department, or
24 an authorized entity approved by the Department, specific to the category of

1 the Health Certificate the applicant is seeking under the provisions of this
2 and any other rules and regulations promulgated by the Director to properly
3 carry out Title 10 G.C.A. relating to environmental health.

4 (b) Renewing applicants, when applicable or as determined by the
5 Director, shall be required to be tested or screened for infectious Tuberculosis and
6 other communicable diseases, and pass a written examination.

7 **§4409. Training Course and Examination Requirements for Health**
8 **Certificate.**

9 (a) Unless otherwise stated in these rules or regulations or any other
10 separate rules and regulations promulgated by the Director to properly carry out
11 Title 10 G.C.A. relating to environmental health, the following are further and
12 specific requirements for any person desiring to engage in employment requiring a
13 Health Certificate under these and other rules and regulations of the Department,
14 and must be complied with to qualify for, and hold, a Health Certificate:

15 (1) Any applicant who has not previously been issued a Health
16 Certificate by the Department or whose previous Health Certificate has
17 expired for more than thirty (30) calendar days shall attend and pass a
18 training course conducted by the Department, or any other entity approved
19 by the Department, before a Health Certificate is issued.

20 (2) Any applicant who fails to pass the training course shall be
21 scheduled to attend another training course at a later date, pay the re-testing
22 fee and the Health Certificate fee, and have the Interim Health Certificate's
23 issued with a new expiration date. ~~expiration date~~ extended to the date of the
24 re-testing.

1 (3) Any applicant, who fails to pass his second consecutive training
2 course for any category ~~the category of Eating and Drinking Establishment~~
3 ~~or Food Establishment~~, after failing the first training course, may be
4 provided a Health Certificate at the discretion of the Director. However,
5 prior to the issuance of the Health Certificate by the Director, the applicant's
6 supervisor, who must be certified in accordance with ~~§4415~~ ⁴⁴¹⁴ if for Eating and
7 Drinking Establishment and Food Establishment categories, shall be
8 required to enter into a written agreement with the Department (Annex I) if
9 the supervisor agrees to do so. The same shall apply for Health Certificate
10 applicants for non-food facilities governed by these rules and regulations
11 (Annex II). ~~For other food facilities not providing food directly to~~
12 ~~consumer, such as wholesalers, distributors, and any other food~~
13 ~~establishments specifically exempted through separate rules and regulations~~
14 ~~promulgated by the Director, the applicant's supervisor need not be certified~~
15 ~~in accordance with §4415, but shall be the applicant's immediate supervisor~~
16 ~~and shall be required to enter into a written agreement with the Department~~
17 ~~(Appendix II).~~ A Health Certificate issued under such condition shall have a
18 distinguishing mark or symbol printed on the certificate.

19 (4) There shall be no limit to the number times an applicant may
20 take the training course.

21 (5) At the discretion of the Director, the requirement for taking the
22 training course may be waived if the applicant shows proof of disability, but
23 shall be required to enter into the written agreement in Appendix I or
24 Appendix II.

1 (b) The Director shall identify Health Certificate categories which will
2 require the renewing applicant to attend and pass a refresher training course. A
3 ~~renewing applicant may be required to attend and pass a training course based on~~
4 ~~however, the applicant shall take and pass a written examination before the~~
5 ~~Department issues a renewal Health Certificate to the applicant.~~

6 (1) Any renewing applicant who attends the training course and
7 does not pass the examination shall be scheduled to attend a training course
8 at a later date, pay the retesting fee and the Health Certificate fee, and be
9 issued an Interim Health Certificate with a new expiration date. ~~with a new~~
10 ~~expiration date extended to the date of the re-testing.~~

11 (2) Any renewing applicant, who fails to pass his/her second
12 consecutive training course, after failing the first training course, may be
13 provided a Health Certificate at the discretion of the Director in the same
14 manner and condition as §4409(a)(3). ~~However, prior to the issuance of the~~
15 ~~Health Certificate by the Director, the applicant's supervisor, who must be~~
16 ~~certified in accordance with §4415, shall be required to enter into a written~~
17 ~~agreement with the Department (Appendix I).~~

18 (3) As determined by the Director, a renewing applicant may forgo
19 the training course and take the examination only; however, if such applicant
20 fails the examination, he/she shall be required to take the training course.

21 (c) [Reserved.]

22 (d) The Director may revoke any Health Certificate issued in §4409(a)(3)
23 or §4409(b)(2), upon reasonable belief that the written agreement has been
24 breached.

1 (e) Any person in possession of a valid and current Certificate of
2 Management Certification shall be exempt from its respective training course;
3 however, he/she shall still be required to obtain a Health Certificate.

4 (f) The Department, if it wishes, may authorize another Government of
5 Guam entity to provide or supplement the training courses required pursuant to
6 these rules and regulations, provided a written memorandum of agreement between
7 the Department and the other entity is formally established.

8 (g) In the event an entity authorized by the Department to provide a
9 training course is unable to provide the minimum standard of training that is
10 acceptable to the Department in the issuance of Health Certificates, or fails to
11 timely provide the required training course, the Department may seek the
12 assistance of another approved entity in carrying out the provision of this section.

13 **§4410. Specific Requirements by Category.** Any person required to
14 attend and pass a training course as indicated in this section may be waived from
15 such course if he or she possesses an applicable current and valid certification that
16 is recognized by the Department that attests to the individual's adequate
17 knowledge of disease prevention in the respective establishment category.
18 However, the individual must still submit the application and all supporting
19 documents and obtain a Health Certificate.

20 (a) **Eating and Drinking Establishment and Food Establishment.** The
21 following individuals shall obtain a Health Certificate:

22 (1) An employee of the establishment who regularly enters the food
23 preparation area, regardless of his/her position and duty, whose presence
24 may likely contaminate food directly or indirectly without the training; and

1 (2) Any employee of the establishment who may come in contact
2 with food during the course of that individual's work, including, but not
3 limited to, a cashier.

4 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or
5 renewed unless the applicant has undergone a physical examination performed by a
6 healthcare professional using report forms provided by the Department. ~~updated~~
7 ~~immunization for mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
8 ~~other vaccinations and exams at the discretion of the Director. Records of all such~~
9 ~~examinations shall be kept in a file in the institution where the applicant is~~
10 ~~employed.~~

11 (c) **Institutional Facility.** No Health Certificate shall be issued or
12 renewed unless the applicant has undergone a physical examination performed by a
13 healthcare professional using report forms provided by the Department. ~~The~~
14 ~~applicant shall have updated immunization for mumps, measles, rubella, tetanus,~~
15 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the~~
16 ~~Director. Records of all such examinations shall be kept in a file in the institution~~
17 ~~where the applicant is employed.~~

18 (d) **Hotel Sanitation.** All persons conducting housekeeping duties, such
19 as changing of linens and towels, shall be required to obtain a Health Certificate
20 and attend and pass the training course provided by the Department. However, that
21 person shall not be required to be tested or screened for infectious Tuberculosis or
22 other communicable diseases.

23 (e) **Swimming Pool.** Every person responsible for the operation of a
24 regulated swimming pool shall be required to obtain a Health Certificate and attend

1 and pass the training course provided by the Department. However, that person
2 shall not be required to be tested or screened for infectious Tuberculosis or other
3 communicable diseases.

4 (f) **Tattoo Shop.**

5 (1) All persons employed at the tattoo facility that clean, handle,
6 operate, or otherwise touch any tattoo equipment; or prepare, or assist in the
7 preparation of the client; shall be required to possess a Health Certificate and
8 pass the training course provided by the Department.

9 (2) In addition to the test or screening for active Tuberculosis,
10 individual required to obtain a Health Certificate shall also undergo a
11 physical examination performed by a healthcare professional using report
12 forms provided by the Department. ~~and shall have an updated immunization~~
13 ~~for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any~~
14 ~~other vaccinations and exams at the discretion of the Director, and records of~~
15 ~~all such examinations shall be kept in a file in the institution where the~~
16 ~~applicant is employed.~~

17 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall
18 not be issued or renewed unless the applicant has undergone a physical
19 examination performed by a healthcare professional using report forms provided
20 by the Department and passes a training course provided by the Department.
21 ~~Records of all such examinations shall be kept in a file in the institution where the~~
22 ~~applicant is employed.~~

23 ~~§4411. Requirements for Temporary Health Certificate. All persons~~
24 ~~applying for a Temporary Health Certificate to work in a carnival, fair, or other~~

1 ~~temporary food concession will be required to attend and pass a training course~~
2 ~~provided by the Department; however, test or screening for Tuberculosis may not~~
3 ~~be required.~~

4 **§4411. Single Health Certificate for Multiple Locations per Category.**

5 (a) Each person may possess only one Health Certificate per category, regardless
6 of the number of different employed locations or businesses within that same
7 category. The Health Certificate shall state the category the holder is authorized to
8 work and shall be valid at all locations within that category.

9 (b) The Department may issue a single Health Certificate for categories of
10 both Eating and Drinking Establishment and Food Establishment if the Department
11 determines that the application, training, fee, and other applicable requirements are
12 the same and issuing a single certificate will not compromise the spirit and intent
13 of these rules and regulations.

14 **§4412. Additional Health Certificate.** ~~Any~~ Any person employed within
15 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
16 Cosmetic Establishment, Swimming Pool, Laundry and Dry Cleaning
17 Establishment, or Tattoo Shop, or any other health-regulated establishments, who
18 holds a Health Certificate within such category shall not be issued, upon
19 submission of a separate application with appropriate fee, a Health Certificate for
20 other categories without meeting the qualifications enumerated under each
21 category. An exception to this requirement could occur for Eating and Drinking
22 Establishment and Food Establishment, which may be a single Health Certificate
23 in accordance to ^{4411(b)}~~§4412(b)~~.

1 **§4413. Interim Health Certificate.** (a) After submitting the application,
2 payment, and meeting all other requirements, an applicant who is required to
3 attend and pass a training course shall be issued an Interim Health Certificate for
4 employment until the applicant's completion and passage of the training course,
5 whereupon he or she shall receive a Health Certificate.

6 (b) An Interim Health Certificate shall indicate the name of the applicant;
7 category of the Health-Regulated Establishment the certificate is for; ~~the name and~~
8 ~~location of employment~~; date, time, and location of the training course; expiration
9 date; and any other information as determined by the Director. Expiration date
10 shall not exceed more than three (3) working days after the date of the training
11 course.

12 (c) An applicant in possession of an Interim Health Certificate who fails
13 to attend the training course shall be scheduled for another training course and
14 granted an extension of the expiration date, provided that no more than ten (10)
15 working days have elapsed from the date of the original training course. The
16 extension of the new expiration date shall not exceed beyond the no more than 3
17 working days after the date of the rescheduled training course date.

18 (d) An applicant who fails to attend the rescheduled training course or
19 whose Interim Health Certificate has expired more than 14 working days from the
20 date of the original training course shall be considered a new applicant and shall be
21 required to apply as a new applicant. Such applicant may submit his/her initial
22 physical test and/or tuberculosis test results with the application, provided the
23 testing or screening was within the six (6) months of submission of the new
24 application.

1 (e) An Interim Health Certificate does not exempt the applicant from all
2 other requirements of these rules and regulations or any other rules and regulations
3 promulgated by the Director relevant to Health Certificates.

4 **§4414. Certificate of Management Certification and Health Certificate.**

5 (a) Unless otherwise stated within these rules and regulations, or any other rules
6 and regulations promulgated by the Department relating to environmental health,
7 every Eating and Drinking Establishment and Food Establishment, excluding those
8 facilities that do not provide food directly to consumers, such as manufacturers,
9 wholesalers, and distributors, and any other food facilities specifically exempted
10 through separate rules and regulations promulgated by the Director, shall have a
11 designated manager or supervisor who shall be certified under the provisions of
12 these rules and regulations.

13 (b) Any person employed or designated as a manager or supervisor within
14 an Eating and Drinking Establishment and Food Establishment, excluding
15 manufacturers, wholesalers, and distributors, and any other food facilities
16 specifically exempted, shall be required to take and pass a prescribed course
17 provided by the Department, or any other course approved by the Department,
18 before a Certificate of Management Certification, or an equivalent certification as
19 approved by the Director, is issued by the institution administering the course. The
20 course shall require the candidate for managerial certification to show evidence by
21 examination of satisfactory knowledge [scoring seventy Percent (70%) or higher]
22 of rules and regulations governing food facilities including, but not limited to,
23 microbiology, food-borne diseases, food storage, food preparation and service,
24 equipment design and construction, employee hygiene, cleaning and sanitary
25 procedures, and rodent and insect control. Those candidates who fail to show

1 evidence by examination of satisfactory knowledge [scoring sixty-nine Percent
2 (69%) or lower] shall repeat the course until the required minimum passing score
3 of seventy percent (70%) or higher is met. No restrictions are placed on the
4 number of times a designated manager or supervisor may take the course to obtain
5 a passing score.

6 (c) The acquisition of the Certificate of Management Certification, or its
7 equivalent as approved by the Director, by a designated manager or supervisor is a
8 requirement in addition to, and not in lieu of, a Health Certificate.

9 (d) The Certificate of Management Certification shall be renewed every
10 three (3) years.

11 (e) Any person renewing the Certificate of Management Certification
12 may waive the prescribed course in (b) of this section, and promptly take the
13 examination to obtain the certification. However, any person who waives the
14 course and fails to show evidence by examination of satisfactory knowledge
15 [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course,
16 and not permitted to waive the course again, and shall meet the required minimum
17 passing score of seventy percent (70%) or higher, before certification is granted.

18 (f) Any person waiting to take the course in ^{4417(b)}~~§4415(e)~~ to renew his or her
19 Certificate of Management Certification shall not be penalized if his or her
20 Certificate of Management Certification expires prior to the date of the scheduled
21 course, provided:

22 (1) That the course the person is waiting to attend is the most
23 immediate course available after the expiration of his Certificate of
24 Management Certification, and

1 (2) He or she has taken the necessary steps to properly register for
2 the course.

3 Any person with an expired Certificate of Management Certification in a
4 situation described in this section shall be considered to have a current and valid
5 certification up until the date of the scheduled course.

6 (g) The Department, if it wishes, may authorize another Government of
7 Guam entity to provide or supplement the Certificate of Management Certification
8 course, provided a written memorandum of agreement between the Department
9 and the other entity is formally established.

10 **§4415. Fees.** A non-refundable fee shall be required of applicants at the
11 time of application for Health Certificates. In the event of failure to qualify for a
12 Health Certificate, non-fulfillment, or termination of employment, the fee shall not
13 be refunded to the applicant.

14 (a) The annual fee for a Health Certificate for a person employed within
15 an Eating and Drinking Establishment, Food Establishment, Institutional Facility,
16 Cosmetic Establishment, Swimming Pool, Tattoo Shop, Laundry and Dry
17 Cleaning, or any other establishment where an employee is required to obtain a
18 Health Certificate ~~through rules and regulations promulgated by the Director,~~ shall
19 be Ten Dollars (\$10.00).

20 (b) The fee for training workshop for a person employed within an Eating
21 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
22 Establishment, Laundry and Dry Cleaning, Swimming Pool, Tattoo Shop, or any
23 other establishment where an employee is required to obtain a Health Certificate,
24 shall be Fifteen Dollars (\$15.00).

1 (c) The fee for the re-issuance of a Health Certificate for any amendments
2 made to the Health Certificate shall be Five Dollars (\$5.00)

3 (d) The fee for any re-issuance (i.e., duplicate) of a Health Certificate and
4 ~~Temporary Health Certificate~~ due to loss or damage shall be Two Dollars (\$2.00).

5 ~~(e) The fee for an applicant who has failed to pass the training course and~~
6 ~~is required to attend another training course for re-testing shall be Ten Dollars~~
7 ~~(\$10.00).~~ An applicant who has failed to pass the training course and is required to
8 attend another training course for re-testing shall pay a fee of Ten Dollars (\$10.00)
9 for such re-testing, and a fee of Five dollars (\$5.00) for a new Interim Health
10 Certificate, provided he/she returns within ten (10) working days of the expiration
11 date; otherwise, the fee for a new Interim Health Certificate reverts back to Ten
12 Dollars (\$10.00).

13 (f) An establishment desiring and requesting for a training course and
14 testing for its employees at its own facility or another location during regular
15 government hours (8:00 a.m. – 5:00 p.m.) shall obtain the approval of the Director,
16 comply with the criteria established by the Department, and pay the onsite training
17 workshop fee of Three Hundred Dollars (\$300.00) in addition to the Ten Dollar
18 (\$10.00) fee for the Health Certificate per employee attending the onsite workshop.

19 (g) An establishment desiring and requesting for a training course and
20 testing for its employees at its own facility or another location outside regular
21 government hours (8:00 a.m. – 5:00 p.m.) during the weekend shall obtain the
22 approval of the Director, comply with the criteria established by the Department,
23 and pay the special onsite training workshop fee of Five Hundred Dollars

1 (\$500.00) in addition to the Ten Dollar (\$10.00) fee for the Health Certificate per
2 employee attending the special onsite workshop.

3 **§4416. Effective Date of Health Certificate.** Unless indicated elsewhere
4 in these rules and regulations, or any other rules and regulations promulgated by
5 the Director under Guam law relevant to environmental health, all Health
6 Certificates shall expire one (1) year after the date of application issuance and for
7 the category indicated on the certificate. Applications for renewal of a Health
8 Certificate shall not be accepted more than thirty (30) ~~fifteen (15)~~ days prior to its
9 expiration, unless authorized by the Director.

10 ~~(b) All Temporary Health Certificates shall be valid for only six (6)~~
11 ~~months from the date of application issuance and for the location indicated on the~~
12 ~~certificate, and can only be renewed upon the renewal of the temporary food~~
13 ~~service establishment's Sanitary Permit.~~

14 **§4417. Presentation of Health Certificate, Interim Health Certificate,**
15 **and Certificate of Management Certification.** (a) Every person required to have
16 a Health Certificate under §22101 of Title 10 GCA, shall have the Health
17 Certificate in that person's personal possession at all times during his or her
18 working hours.

19 (b) Unless exempted elsewhere in these rules and regulations or any
20 other rules and regulations promulgated by the Department. ~~Except for Cosmetic~~
21 ~~Establishments,~~ all valid copies of Health Certificates, Interim Health Certificates,
22 and Certificates of Management Certification shall be conspicuously posted at
23 facility where the employee is working. The location within the establishment
24 where the Health Certificates are to be posted is at the discretion of the

1 establishment; however, it shall be readily available when requested by the
2 Director during inspection of the establishment. "Readily available" shall mean
3 that the documents are separated from all other records and made available for
4 inspection in reasonable amount of time.

5 ~~(e) All Health Certificates for Cosmetic Establishments shall be placed in~~
6 ~~a conspicuous place designated by the Director.~~

7 **§4418. Suspension or Revocation of Health Certificate and Certificate**
8 **of Management Certification.** (a) The Director may suspend or revoke any
9 Health Certificate, or Interim Health Certificate issued under these rules and
10 regulations, or any other rules and regulations promulgated by the Director
11 requiring a Health Certificate, for providing false information in his or her
12 application, violation of the provisions of these or any other related rules and
13 regulations, or in the event the holder of the Health Certificate has been determined
14 to be harboring a communicable disease. The holder of the suspended or revoked
15 Health Certificate shall return the said certificate to the Department.

16 (b) The Director may suspend or revoke any Certificate of Management
17 Certification issued under these rules and regulations when the holder or the
18 persons under his/her supervision repeatedly fails to comply with rules and
19 regulations for eating and drinking establishments.

20 (c) Before any Health Certificate, Interim Health Certificate, or
21 Certificate of Management Certification is suspended or revoked, the person shall
22 have the right to written notice of the action to be taken and other administrative
23 remedies in accordance with §4420 of these Rules and Regulations ~~a hearing in~~
24 ~~accordance with Administrative Adjudication Law.~~

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request for a hearing
5 must be made within ten (10) days of the date that the notice is served upon the
6 person or health-regulated establishment. The hearing shall be conducted in
7 accordance with §4420 of these Rules and Regulations.

8 **§4419. Administrative Penalties.** (a) In accordance with Title 10 GCA,
9 Chapter 22, §22106, the Director may impose a fine for any health-regulated
10 establishment that permits a person to perform services without having in their
11 possession a valid Health Certificate at the time the services are performed. The
12 monetary fine for the administrative violation is not to exceed Three Hundred
13 Dollars (\$300.00) for the first offense, and shall impose a fine of One Thousand
14 Dollars (\$1,000.00) for a second offense involving the same person occurring
15 within one (1) year of the first offense.

16 (b) Any person who is required to obtain a Health Certificate under §4405
17 of these rules and regulations shall be cited for administrative violation if they are
18 found working at a health-regulated establishment without a valid Health
19 Certificate or not having the valid Health Certificate in the person's personal
20 possession during working hours. The Director shall assess the monetary fine in
21 accordance to law.

22 (c) When more than one person is cited within the same health-regulated
23 establishment, at the same time, for not possessing valid Health Certificates, each
24 citation shall be considered a separate administrative violation and the Director
25 shall assess the required monetary fines to the establishment.

1 (d) Before imposing an administrative penalty against a person or a
2 health-regulated establishment, the Director shall issue a notice of intent to impose
3 the penalty and provide the person or health-regulated establishment an
4 opportunity to request a hearing on the proposed penalty. The request must be
5 made within ten (10) days of the date that the notice is served upon the person or
6 health-regulated establishment.

7 (e) Any person or health-regulated establishment may seek review of any
8 administrative penalty imposed before the Superior Court of Guam. Such review
9 shall be upon the record established before the Director and not de novo. The *italica*
10 Superior Court may sustain, modify or vacate any administrative penalty it
11 reviews.

12 (f) If any person, or a health-regulated establishment, fails to comply
13 with an administrative penalty order after it has become final, the Attorney General
14 shall bring a civil action to enforce the order and to recover the amount ordered or
15 assessed, plus current interest from the date of the final order or decision. To
16 prevail in such an action, the Director need establish only that:

17 (1) notice was given as required;

18 (2) a hearing was granted to the defendant or that the defendant
19 requested no hearing; and

20 (3) the penalty was imposed and has become final either because
21 the administrative order was not appealed to the Superior Court, or that after
22 judicial review the administrative order remains an unsatisfied obligation.

1 §4420. Right to Notice, Hearing, and Administrative Process. (a) Any
2 person who has been denied a Health Certificate, Interim Health Certificate, or
3 Certificate of Management Certification under these Rules and Regulations, whose
4 Health Certificate, Interim Health Certificate, or Certificate of Management
5 Certification is to be suspended or revoked under these Rules and Regulations, or
6 any person or health-regulated establishment that is subject to an Administrative
7 Penalty under these Rules and Regulations has the right to a notice in writing from
8 the Director stating the action to be taken by the Department, has the right to
9 request in writing for an administrative hearing, has the right to an administrative
10 hearing, and has the right to an appeal of an administrative hearing decision. Any
11 written notice given pursuant to §§4418, 4419, and 4420 of these Rules and
12 Regulations shall advise that the right to notice, hearing, and appeal is available as
13 provided in these Rules and Regulations, and to the extent consistent herewith,
14 pursuant to the Administrative Adjudication Law, Title 5, Guam Code Annotated,
15 Sections 9200 through 9242, as amended.

16 (b) The procedures and requirements set out in these Rules and
17 Regulations, and to the extent consistent herewith, in the Administrative
18 Adjudication Law at Title 5, Guam Code Annotated, Sections 9200 through 9242,
19 as amended, shall be followed by the Director, and by any person or health-
20 regulated establishment adversely affected by decisions of the Department
21 pursuant to these Rules and Regulations.

22 (c) Upon an administrative adjudication the Director shall make the final
23 determination whether to issue a Health Certificate, Interim Health Certificate, or
24 Certificate of Management Certification, to suspend or revoke a Health Certificate,

1 Interim Health Certificate, or Certificate of Management Certification, or to uphold
2 an Administrative Penalty.

3 §4421. Variances. (a) The Director of the Department may grant a
4 variance to a requirement only if doing so will not endanger the health and welfare
5 of the public and does not contradict the spirit and intent of these rules and
6 regulations.

7 (b) Any variance issued by the Director of the Department shall be put
8 forth in writing providing explanation for the variance and its approval with the
9 signature of the Director and date and filed accordingly for records.

10 §4422. Effective Date. These rules and regulations shall be immediately
11 effective upon enactment. At that time, all other rules and regulations or parts of
12 other rules and regulations that conflict with these rules and regulations are
13 repealed. The adoption of these rules and regulations shall not prohibit the
14 Department from delaying the implementation of all or certain sections of these
15 rules and regulations if the Department believes doing so would better effectuate
16 its purpose; provided, such delay shall not exceed 365 days of its effective date.

17 §4423. Severability. If any provision or application of any provision of
18 these regulations is held invalid, that invalidity shall not affect the other provisions
19 or applications of these rules and regulations.

20

21 I, _____, a holder of "Certificate of
22 Management Certification" and the supervisor of
23 _____ at _____

1 enter into this voluntary agreement with the Department of Public Health and
2 Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate
3 Regulations, to provide the basic knowledge and skill in the proper sanitary
4 handling, preparing, and/or cooking of foods at the establishment to the above
5 employee. In a cooperative effort with the Department of Public Health and Social
6 Services, along with my responsibility and obligation to practice and promote food
7 safety at the work-place, I will ensure that the employee is taught the following so
8 that the food commodity made available by this establishment for human
9 consumption may not endanger the health and welfare of the public:

10

11

(To be determined by DPHSS.)

12

13 I understand that any failing on my part to fulfill the agreement in properly
14 training the above employee may lead to the revocation of the employee's Health
15 Certificate in accordance to §4419 of the Health Certificate Regulations.

16

17

18

19

20

EMPLOYEE-Print

SIGNATURE

DATE

21

1

2

3

SUPERVISOR-Print

SIGNATURE

DATE

4

5

6

7

DPHSS REPRESENTATIVE-Print

SIGNATURE

DATE

8

9

APPENDIX I- ANNEX I

10

11

I, _____, the immediate supervisor of

12

at _____

13

enter into this voluntary agreement with the Department of Public Health and

14

Social Services, in accordance with §4409(a)(1)(B) of the Health Certificate

15

Regulations, to provide basic sanitation knowledge and skill in the operation of my

16

business. ~~in the proper sanitary handling, preparing, and/or cooking of foods at~~

17

~~the establishment to the above employee.~~

18

In a cooperative effort with the Department of Public Health and Social

19

Services, along with my responsibility and obligation to practice and promote

20

proper sanitation and safety at the work place, ~~food safety at the~~ I will ensure that

21

the employee is taught the following so that the ~~food commodity made available by~~

1 this establishment for human consumption activities of my employee identified in
2 this agreement may not endanger the health and welfare of the public:

3

4 (To be determined by DPHSS.)

5

6 I understand that any failing on my part to fulfill the agreement in properly
7 training the above employee may lead to the revocation of the employee's Health
8 Certificate in accordance to ~~§4419~~ of the Health Certificate Regulations.

§4418

9

10

11

12

EMPLOYEE-Print

SIGNATURE

DATE

13

14

15

16

SUPERVISOR-Print

SIGNATURE

DATE

17

18

19

DPHSS REPRESENTATIVE-Print

SIGNATURE

DATE



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

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

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
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Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
Nerissa Bretania Underwood
Member

V. Anthony Ada
MINORITY LEADER

Mary C. Torres
MINORITY 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. 45-33 (COR) – D. G. Rodriguez, Jr., "AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS."**– on March 4, 2015. COR hereby certifies that BBMR confirmed receipt of this request March 4, 2015 at 2:45 P.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 45-33 (COR) to be included in the committee report on said bill, is hereby waived.**

Certified by:

Senator Rory J. Respicio
Chairperson, Committee on Rules

April 24, 2015

Date



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature

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Member

Senator
Nerissa Bretania Underwood
Member

V. Anthony Ada
MINORITY LEADER

Mary C. Torres
MINORITY MEMBER

March 4, 2015

VIA E-MAIL

joey.calvo@bbmr.guam.gov

Jose S. Calvo
Acting Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 45-33(COR) through 50-33(COR)

Hafa Adai Mr. Calvo:

Transmitted herewith is a listing of *I Mina'trentai Tres 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.	Sponsor	Title
45-33 (COR)	D. G. Rodriguez, Jr.	AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS.
46-33 (COR)	D. G. Rodriguez, Jr. R. J. Respicio	AN ACT TO ADD A NEW § 6235 TO ARTICLE 2 OF CHAPTER 6, 4 GCA, RELATIVE TO PROVIDING A PAY INCENTIVE TO GOVERNMENT OF GUAM LINE AGENCY'S, THE OFFICE OF PUBLIC ACCOUNTABILITY , AND THE GUAM DEPARTMENT OF EDUCATION EMPLOYEES WHO HAVE OBTAINED CERTIFIED PUBLIC ACCOUNTANT, CERTIFIED GOVERNMENT FINANCIAL MANAGEMENT, CERTIFIED FRAUD EXAMINER, AND CERTIFIED INTERNAL AUDITOR CERTIFICATIONS PURSUANT TO RECOGNIZED NATIONAL STANDARDS TO PRESERVE THE GOVERNMENT OF GUAM'S ABILITY TO RECRUIT AND RETAIN SUCH PROFESSIONALS.
47-33 (COR)	Michael F.Q. San Nicolas	AN ACT TO ESTABLISH FINANCIAL EDUCATION CURRICULUM WITHIN THE DEPARTMENT OF EDUCATION BY ADDING A NEW §4110 TO CHAPTER 4 OF DIVISION 2, TITLE 17, GUAM CODE ANNOTATED.
48-33 (COR)	D. G. Rodriguez, Jr Rory J. Respicio J. V. Espaldon	AN ACT TO EXPAND THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES DIVISION OF SENIOR CITIZENS PROVISION OF SENIOR CITIZEN CENTER SERVICES THROUGH THE OPERATION OF A NEW MACHECHE SENIOR CITIZEN CENTER BY REPROGRAMMING AND REALLOCATING THE SUM OFFIFTY THOUSAND NINE HUNDRED DOLLARS (\$50,900.00) FROM THE FY-2015 BUDGET ACT FOR EXECUTIVE BRANCH OPERATIONS (P.L. 32-181).
49-33 (COR)	FRANK B. AGUON, JR.	AN ACT TO APPROPRIATE THE SUM OF NINE THOUSAND NINE HUNDRED THIRTY DOLLARS AND SIXTY-SIX CENTS (\$9,930.66) FROM THE UNOBLIGATED BALANCE OF FUNDS PURSUANT TO PUBLIC LAW 32-225 TO THE GUAM POLICE DEPARTMENT TO PURCHASE HANDHELD PORTABLE RADIOS AND ACCESSORIES FOR LAW ENFORCEMENT OFFICERS.
50-33 (COR)	R. J. Respicio	AN ACT TO AMEND §8121 OF CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO THE ANNUITY PAYMENTS OF CERTIFIED, REGISTERED OR LICENSED HEALTHCARE PROFESSIONAL, OR ANCILLARY SERVICE PERSONNEL EMPLOYED BY THE JUDICIARY OF GUAM.



COMMITTEE ON RULES

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Member

Senator

Michael F.Q. San Nicolas

Member

Senator

Nerissa Bretania Underwood

Member

V. Anthony Ada

MINORITY LEADER

Mary C. Torres

MINORITY MEMBER

February 27, 2015

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill No. 45-33(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 45-33(COR).

Please ensure that the subject bill is 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 Tres 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 Tres 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
45-33 (COR)	D. G. Rodriguez, Jr.	AN ACT TO ADOPT THE RULES AND REGULATIONS GOVERNING THE ISSUANCE OF HEALTH CERTIFICATES, BY AMENDING ARTICLE 4 OF DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS.	02/26/15 4:33 p.m.	02/27/15	Committee on Health, Economic Development, Homeland Security, and Senior Citizens;			



Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com>

FIRST NOTICE OF PUBLIC HEARING on WED. MARCH 18, 2015 5:30pm1 message

Joe Mesngon <joe@toduguam.com>

Wed, Mar 11, 2015 at 1:02 PM

To: phnotice@guamlegislature.org

March 11, 2015

MEMORANDUM

To: All Senators, Media and Stakeholders

From: Sen. Dennis G. Rodriguez, Jr.

Subject: First Notice of Public Hearing on Wed. March 18, 2015

Hafa Adai!

The Committee on Health, Economic Development and Senior Citizens will be conducting a **Public and Confirmation Hearing on Wednesday, March 18, 2015 at 5:30pm** in the Legislature's Public Hearing Room.

The items for public discussion are:

- The Executive Appointment of Mr. George Chiu as a Member of the Guam Economic Development Authority Board of Trustees.
- Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.
- Bill No. 48-33 (COR) - D.G. Rodriguez, Jr. / R.J. Respicio / J.V. Espaldon- An act to expand the Department of Public Health and Social Services Division of Senior Citizens provision of Senior Citizen Center Services through the operation of a new Macheche Senior Citizen Center by reprogramming and reallocating the sum of Fifty Thousand Nine Hundred Dollars (\$50,900.00) from the FY-2015 Budget Act for Executive Branch Operations (P.L. 32-181).
- Bill No. 53-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.

Individuals who wish to submit written testimonies should address: Sen. Dennis G. Rodriguez, Jr., Chairman, Committee on Health, Economic Development, Homeland Security and Senior Citizens and may send via email to: senatordrodriguez@gmail.com or hand deliver to 176 Serenu Ave. Suite 107 Tamuning, Guam or 155 Hesler Place Hagatna, Guam.

Individuals who may require special assistance are asked to contact the office of Sen. Rodriguez no later than 48 hours prior to the scheduled hearing at 649-8638/0511.

Si Yu'os Ma'ase'!

Joseph A. Q. Mesngon

Office of Senator Dennis G. Rodriguez, Jr.
Committee on Health, Economic Development,
Homeland Security and Senior Citizens

I Mina'trentai Tres Na Libeslaturan Guahan

33rd Guam Legislature
176 Serenu Ave. Suite 107
Tamuning, Guam 96931
649-8638/0511
www.toduguam.com



Joe Mesngon <joe@toduguan.com>

CORRECTION to Amended FIRST NOTICE of PUBLIC & CONFIRMATION HEARING on Wed. April 8, 2015

1 message

Joe Mesngon <joe@toduguan.com>
To: phnotice@guamlegislature.org

Wed, Apr 1, 2015 at 5:07 PM

April 1, 2015

MEMORANDUM

To: All Senators, Media and Stakeholders

From: Senator Dennis G. Rodriguez, Jr.

Subject: First Notice of Public Hearing– Wednesday, April 8, 2015, 9:00 A.M. , 2:00 P.M. & 5:30 P.M.

Håfa Adai! Please be advised that the Committee on Health, Economic Development, Homeland Security and Senior Citizens will be conducting a Public and Confirmation Hearing on **Wednesday, April 8, 2015 beginning at 9:00 A.M. and 5:30 P.M.** in the Legislature's Public Hearing Room:

9:00 A.M. Public and Confirmation Hearing:

-The Executive Appointment of **Mr. David John** to serve as a Member of the Guam Economic Development Authority Board of Trustees.

-The Executive Appointment of **Mr. Edward J. Calvo** to serve as a Member of the Guam Economic Development Authority Board of Trustees.

-Bill No. 26-33 (COR) - T.R. Muña Barnes

An act to *add* a new § 10315 to Chapter 10, of Title 5 of the Guam Code Annotated; Relative to the online and public disclosure of medical licenses issued by the Guam Board of Medical Examiners.

-Bill No. 54-33 (COR) - J.V. Espaldon / D.G. Rodriguez, Jr. / B.J.F. Cruz

An act to amend § 4301(b) of 4 GCA, Relative to the Calculation of Government of Guam Group Health Insurance Plan Employee Contributions.

2:00 P.M. Status Hearing on the implementation of Public Law 31-73, the DPHSS Rules and Regulations relative to Child Care Facilities and Child Care Homes. The Guam Early Learning Council will be invited to participate.

5:30 P.M. Public Hearing

-Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.

An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

-Bill No. 53-33 (COR) - D.G. Rodriguez, Jr.

An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.

Written testimony should be addressed to Senator Dennis G. Rodriguez, Jr. and may be submitted via email to senatordrodriguez@gmail.com, faxed to 649-0520; or hand-delivery/mail to 155 Hesler Place, *Hagåtña*, Guam 96910.

The hearings will be broadcast live on Docomo channel 117 and GTA channel 21.

Individuals who may require special assistance or accommodations are asked to please contact my office at 649-8638/0511 no later than 48 hours prior to the scheduled hearing.

Si Yu'os ma'åse'!

Joseph A. Q. Mesngon

Office of Senator Dennis G. Rodriguez, Jr.
Committee on Health, Economic Development,
Homeland Security and Senior Citizens
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www.toduguam.com



Dennis Rodriguez, Jr. <senatordrodriguez@gmail.com>

SECOND NOTICE OF PUBLIC & CONFIRMATION HEARING on WED. MARCH 18, 2015 5:30pm1 message

Joe Mesngon <joe@toduguam.com>
To: phnotice@guamlegislature.org

Mon, Mar 16, 2015 at 12:06 PM

March 16, 2015

MEMORANDUM**To:** All Senators, Media and Stakeholders**From:** Sen. Dennis G. Rodriguez, Jr.**Subject:** Second Notice of Public Hearing on Wed. March 18, 2015

Hafa Adail

The Committee on Health, Economic Development and Senior Citizens will be conducting a **Public and Confirmation Hearing on Wednesday, March 18, 2015 at 5:30pm** in the Legislature's Public Hearing Room.

The items for public discussion are:

- The Executive Appointment of Mr. George Chiu as a Member of the Guam Economic Development Authority Board of Trustees.
- Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.
- Bill No. 48-33 (COR) - D.G. Rodriguez, Jr. / R.J. Respicio / J.V. Espaldon- An act to expand the Department of Public Health and Social Services Division of Senior Citizens provision of Senior Citizen Center Services through the operation of a new Macheche Senior Citizen Center by reprogramming and reallocating the sum of Fifty Thousand Nine Hundred Dollars (\$50,900.00) from the FY-2015 Budget Act for Executive Branch Operations (P.L. 32-181).
- Bill No. 53-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.

Individuals who wish to submit written testimonies should address: Sen. Dennis G. Rodriguez, Jr., Chairman, Committee on Health, Economic Development, Homeland Security and Senior Citizens and may send via email to: senatordrodriguez@gmail.com or hand deliver to 176 Serenu Ave. Suite 107 Tamuning, Guam or 155 Hesler Place Hagatna, Guam.

Individuals who may require special assistance are asked to contact the office of Sen. Rodriguez no later than 48 hours prior to the scheduled hearing at 649-8638/0511.

Si Yu'os Ma'ase'!

Joseph A. Q. Mesngon

Office of Senator Dennis G. Rodriguez, Jr.
Committee on Health, Economic Development,
Homeland Security and Senior Citizens

I Mina'trentai Tres Na Libeslaturan Guahan

33rd Guam Legislature

176 Serenu Ave. Suite 107

Tamuning, Guam 96931

649-8638/0511

www.toduguam.com



Joe Mesngon <joe@toduguam.com>

**SECOND NOTICE of PUBLIC, STATUS & CONFIRMATION HEARING on Wed.
April 8, 2015**

1 message

Joe Mesngon <joe@toduguam.com>
To: phnotice@guamlegislature.org

Mon, Apr 6, 2015 at 9:02 AM

April 6, 2015

MEMORANDUM**To: All Senators, Media and Stakeholders****From: Senator Dennis G. Rodriguez, Jr.****Subject: SECOND Notice of Public Hearing– Wednesday, April 8, 2015, 9:00 A.M. , 2:00 P.M. & 5:30 P.M.**

Håfa Adai! Please be advised that the Committee on Health, Economic Development, Homeland Security and Senior Citizens will be conducting a Public, Status and Confirmation Hearing on **Wednesday, April 8, 2015 beginning at 9:00 A.M. and 5:30 P.M.** in the Legislature's Public Hearing Room:

9:00 A.M. Public and Confirmation Hearing:

-The Executive Appointment of **Mr. David John to serve as a Member of the Guam Economic Development Authority Board of Trustees.**

-The Executive Appointment of **Mr. Edward J. Calvo to serve as a Member of the Guam Economic Development Authority Board of Trustees.**

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2:00 P.M. Status Hearing:

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5:30 P.M. Public Hearing:

-Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.

An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.

-Bill No. 53-33 (COR) - D.G. Rodriguez, Jr.

An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.

Written testimony should be addressed to Senator Dennis G. Rodriguez, Jr. and may be submitted via email to senatordrodriguez@gmail.com, faxed to 649-0520; or hand-delivery/mail to 155 Hesler Place, *Hagåtña*, Guam 96910.

The hearings will be broadcast live on Docomo channel 117 and GTA channel 21.

Individuals who may require special assistance or accommodations are asked to please contact my office at 649-8638/0511 no later than 48 hours prior to the scheduled hearing.

Si Yu'os ma'åse'!

Joseph A. Q. Mesngon

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SENATOR DENNIS G. RODRIGUEZ, JR.

PUBLIC HEARING AGENDA

Wednesday, March 18, 2015

5:30pm

Public Hearing Room, *I Liheslatura*

I. Call to order

II. Items for public consideration:

- **The Executive Appointment of Mr. George Chiu as a Member of the Guam Economic Development Authority Board of Trustees.**
- **Bill No. 45-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.**
- **Bill No. 48-33 (COR) - D.G. Rodriguez, Jr. / R.J. Respicio / J.V. Espaldon- An act to expand the Department of Public Health and Social Services Division of Senior Citizens provision of Senior Citizen Center Services through the operation of a new Macheche Senior Citizen Center by reprogramming and reallocating the sum of Fifty Thousand Nine Hundred Dollars (\$50,900.00) from the FY-2015 Budget Act for Executive Branch Operations (P.L. 32-181).**
- **Bill No. 53-33 (COR) - D.G. Rodriguez, Jr.- An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.**

III. Adjournment

Thank you for your participation in today's hearing.



SENATOR DENNIS G. RODRIGUEZ, JR.

PUBLIC HEARING AGENDA

Wednesday, April 8, 2015 9am, 2pm, 5:30pm Public Hearing Room, *I Liheslatura*

I. Call to order

II. Items for public consideration:

9:00 A.M.

- The Executive Appointment of **Mr. David John** to serve as a Member of the Guam Economic Development Authority Board of Trustees.
- The Executive Appointment of **Mr. Edward J. Calvo** to serve as a Member of the Guam Economic Development Authority Board of Trustees.
- **Bill No. 26-33 (COR)** – Introduced by T.R. Muña Barnes - An act to *add* a new § 10315 to Chapter 10, of Title 5 of the Guam Code Annotated; Relative to the online and public disclosure of medical licenses issued by the Guam Board of Medical Examiners.
- **Bill No. 54-33 (COR)** - Introduced by J.V. Espaldon / D.G. Rodriguez, Jr. / B.J.F. Cruz - An act to amend § 4301(b) of 4 GCA, Relative to the Calculation of Government of Guam Group Health Insurance Plan Employee Contributions.

2:00 P.M.

- **Status Hearing: On the implementation of Public Law 31-73, the DPHSS Rules and Regulations relative to Child Care Facilities and Child Care Homes.**
The Guam Early Learning Council will be invited to participate.

5:30 P.M.

- **Bill No. 45-33 (COR)** – Introduced by D.G. Rodriguez, Jr. - An act to adopt the Rules and Regulations governing the issuance of health certificates, by amending Article 4 of Division 1, Title 26, Guam Administrative Rules and Regulations.
- **Bill No. 53-33 (COR)** - Introduced by D.G. Rodriguez, Jr. - An act to adopt Rules and Regulations governing the sanitary operations and inspections of temporary workforce housing pursuant to §21102 of Chapter 21 and §26305 of Chapter 26A, Title 10 Guam Code Annotated.

III. Adjournment

Thank you for your participation in today's hearing.