



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

MAY 23 2014

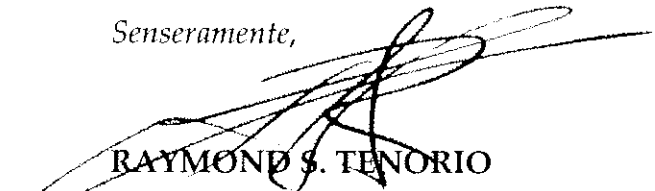
Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

32-14-1678
5.23.14
4:49pm
2014 MAY 27 AM 8:56
JTB

Dear Madame Speaker:

Transmitted herewith is Bill No. 275-32 (COR) "AN ACT TO AMEND SUBSECTION (n) OF § 80109 OF CHAPTER 80 OF DIVISION 4; AND TO ADD A NEW ITEM (15) TO § 12203(c) OF ARTICLE 2 OF CHAPTER 12, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ENSURING THE SANCTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY" which I signed into law on May 21, 2014 as Public Law 32-158.

Senseramente,


RAYMOND S. TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

1678

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

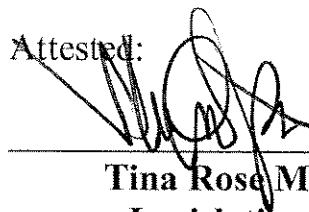
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 275-32 (COR), "AN ACT TO AMEND SUBSECTION (n) OF §80109 OF CHAPTER 80 OF DIVISION 4; AND TO ADD A NEW ITEM (15) TO §12203(c) OF ARTICLE 2 OF CHAPTER 12, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ENSURING THE SANCTITY OF THE MEDICAL PEER REVIEW PROCESS AT THE GUAM MEMORIAL HOSPITAL AUTHORITY," was on the 9th day of May, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



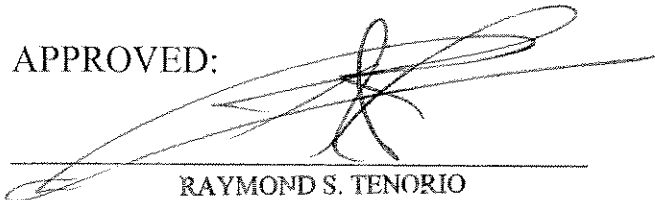
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 12th day of May, 2014, at 2:43 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



RAYMOND S. TENORIO
Acting Governor of Guam

Date: MAY 21 2014

Public Law No. 32-158

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

Bill No. 275-32 (COR)

As substituted by Committee on Health & Human Services,
Health Insurance Reform, Economic Development,
and Senior Citizens; and amended on the Floor.

Introduced by:

Dennis G. Rodriguez, Jr.

T. C. Ada

V. Anthony Ada

FRANK B. AGUON, JR.

B. J.F. Cruz

Chris M. Dueñas

Michael T. Limtiaco

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

Vicente (ben) C. Pangelinan

R. J. Respicio

Michael F. Q. San Nicolas

Aline A. Yamashita, Ph.D.

Judith T. Won Pat, Ed.D.

**AN ACT TO *AMEND* SUBSECTION (n) OF §80109 OF
CHAPTER 80 OF DIVISION 4; AND TO *ADD* A NEW
ITEM (15) TO §12203(c) OF ARTICLE 2 OF CHAPTER
12, ALL OF TITLE 10, GUAM CODE ANNOTATED,
RELATIVE TO ENSURING THE SANCTITY OF THE
MEDICAL PEER REVIEW PROCESS AT THE GUAM
MEMORIAL HOSPITAL AUTHORITY.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that all necessary efforts must be taken to further ensure the quality, safety and
4 provision of health care at the Guam Memorial Hospital\ Authority by holding it to
5 the highest professional standards. This is, in a significant part, assured and

1 accomplished through strict adherence to national health care standards, and
2 related applicable laws, rules and regulations intended to provide for this.

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

9 *I Liheslaturan Guåhan* takes due note of the mandate and example provided
10 in federal law, rules and regulations, as stated in the NPDB Guidebook, Publication
11 No. HRSA-95-255, at Chapter E5, wherein it provides an example of a valid action
12 to ‘void’ (reverse, rescind): “Example: A State Medical Board submits an AAR
13 when it revokes a physician’s license. Six months later, the revocation is
14 overturned by a State court. The State Medical Board should submit a Void of
15 Initial Report.” There is a clear process, and any effort to ‘void’, reverse, rescind
16 and/or amend/correct a report to the NPDB must follow specific and stringent
17 criteria and guidelines pursuant to federal law, rules and regulations.

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

1 It is the intent of *I Liheslaturan Guåhan* to ensure that the sanctity and
2 integrity of the GMHA medical peer process *shall* be reestablished, reaffirmed and
3 strictly adhered to, as provided pursuant to applicable federal law, rules and
4 regulations, and as further provided pursuant to the standards and processes, duly
5 adopted by GMHA, of the American Medical Association relative to procedures
6 and practices for the conduct of medical peer reviews.

7 **Section 2.** Subsection (n) of § 80109, Chapter 80 of Division 4, Title 10,
8 Guam Code Annotated, is *amended* to read as follows:

9 “(n) Adopt rules and regulations governing selection, compensation,
10 promotion, performance evaluation, disciplinary action and other terms and
11 conditions of employment affecting personnel, subject to the provisions of
12 the Administrative Adjudication Law. Such rules and regulations *shall*
13 provide for the employment and retention of persons on the basis of merit,
14 and *shall* include an orderly and systematic method of recruitment and the
15 establishment of a list of qualified applicants for employment purposes,
16 *except* that compensation for non-medical personnel *shall* remain consistent
17 with compensation plans and pay scales as determined by the Civil Service
18 Commission or its successor. Non-medical personnel are defined as
19 personnel employed by the Authority who are *not* physicians, nurses,
20 medical technicians or technologists, licensed or certificated therapists of
21 any sort, laboratory technicians, personnel certificated in any medical or
22 nursing field, nurse practitioners, pharmacists or other medical personnel. It
23 is further provided:

24 (1) that the conduct of any GMHA Medical Peer Review
25 proceeding *shall* be conducted in strict compliance with the Health
26 Care Quality Improvement Act, as amended (HCQIA), of Title IV of
27 Public Law 99-660 (42 U.S.C. 11101 et seq.) authorizing the

1 Secretary of the U.S. Department of Health and Human Services to
2 establish a National Practitioner Data Bank (NPDB) to collect and
3 release certain information relating to the professional competence
4 and conduct of physicians, dentists and other health care practitioners;
5 and §1921 of the Social Security Act (42 U.S.C. 1396r-2) (§1921)
6 requiring each state to adopt a system of reporting to the Secretary of
7 adverse licensure actions taken against health care practitioners and
8 entities;

9 (A) The Board *shall* provide for third-party peer
10 review services for those peer review proceedings wherein the
11 physician who is the subject of a peer review asserts that an
12 impartial proceeding cannot otherwise be achieved.

13 (2) A medical peer review *shall not* be overturned by the
14 Board, *except* as strictly prescribed by the National Practitioner Data
15 Bank, as provided pursuant to Title 45 – Public Welfare, Part 60,
16 Code of Federal Regulations, and as the regulations and authorizing
17 statutes may be revised;

18 (3) No “Void” or Reversal of Professional Peer Review
19 Action by Board Without Successful Appeal; Mandatory. No GMHA
20 medical peer review action that adversely affects the clinical
21 privileges of physicians, dentists and other health care practitioners
22 shall be reversed by the Board, nor shall a “void” be sought with the
23 National Practitioners Data Bank: (A) without the appellant having
24 successfully appealed the initial action before a subsequent GMHA
25 peer review committee duly conducted by medical professionals
26 authorized to conduct the appeal proceeding; or (B) without the
27 finding(s) of the GMHA medical peer action having been reversed by

1 the Guam Board of Medical Examiners, wherein the appellant
2 successfully appealed the GMHA medical peer review action; or (C)
3 without the appellant having successfully appealed the GMHA
4 medical peer review action before the Judiciary of Guam; any one of
5 which may be deemed satisfactory to reverse the initial GMHA
6 medical peer review action and seek a “void” with the NPDB;
7 *provided*, that the conduct of the appeal and action taken in granting
8 the appeal is legally acceptable to the National Practitioner Data Bank
9 pursuant to applicable federal law, rules and regulations.

10 (4) Personal Liability - No Waiver of Immunity. The
11 members of the Board of Trustees, and the GMHA Legal Counsel,
12 *shall not* be personally immune from legal and civil liability for a
13 knowing violation of Items (1), (2) and (3) of this Subsection (n).”

14 **Section 3.** A new Item (15) is hereby *added* to § 12203(c) of Article 2 of
15 Part 1, Chapter 12 of Title 10, Guam Code Annotated, to read:

16 “(15) receive, review and investigate a peer review finding and
17 action received from a health care organization pertinent to the professional
18 performance of a licensee. Upon the receipt of an appeal of a peer review
19 finding and action, the Board *shall* have:

20 (A) the responsibility to review the peer review
21 findings and action by a health care organization, and *shall*
22 have the authority to either,

23 (i) uphold the peer review action and finding;

24 (ii) refer the peer review action back to the
25 initiating health care organization for further
26 consideration or reconsideration; or

1 (iii) reverse, vacate, or otherwise “void” the
2 peer review action and findings. ”

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

8 **Section 5. Effective Date.** This Act *shall* become immediately effective
9 upon enactment.