



Territory of Guam

Territorial Guam

OFFICE OF THE GOVERNOR
UFSINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

June 9, 1989

The Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill 213 which I have signed into law as Public Law 20-17.

The inclusion of riders in this vitally needed measure will create significant problems for the Guam Memorial Hospital Authority. Sections 8 and 9 were designed to address the concern about some of the hospital's efforts to collect fees for its services. However, in the overly broad sweep of these sections they will deny the hospital approximately \$30,000 per month in income, cost the hospital thousands of dollars to reinstitute pending lawsuits and make collection of some fees impossible.

I urge the Legislature to enact corrective legislation as soon as possible. Section 8 contains confusing provisions interspersing "claims" with "lawsuits". It becomes almost impossible to figure out what steps the Authority must take to collect its fees. As examples, I direct your attention to the following provisions:

(a) section 8 (page 4, line 1) requires the Authority to file suit against the insurance company before the Authority files against the patient but there is no "direct action" statute to allow the Authority to do so. If the Legislature desires this course of action I request enactment of a law similar to Section 43354 of the Government Code which allows direct action by an injured person against a liability carrier.

(b) in Section 8, page 4, line 6: what is meant by "if the Authority receives a judgment against the Authority for the claim"? I cannot conceive of a situation where the Authority will get a judgement against itself and I expect that there is a typographical error in this paragraph.

(c) in Section 8, page 4, line 7: what is meant by "if the claim of the Authority is totally denied"? If this means

The Honorable Joe T. San Agustin
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that a court decides there is no liability then please be specific. The vagueness of this provision could lead to lengthy, unnecessary litigation.

(d) the applicability of the last paragraph of Section 8 is confusing, does it apply after judgement is entered against an insurer or before a suit is filed by the hospital?

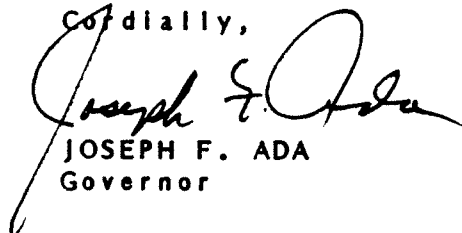
Section 9 stays all of the collection cases now pending in Court ... even those cases where the Defendants have agreed to make payments. The Authority will lose approximately \$30,000 per month while the attorneys meet the requirements of Paragraphs (1) and (2). In addition litigation expense to the hospital will increase while each case is noticed for further proceedings. If the Legislature does not desire the Authority to collect fees, I ask reconciliation of this provision with Public Law 20-3 which mandates collection of prior year patient accounts receivable.

Section 3 is not reflective of the Guam Board of Nurse Examiners recommendation. Graduates of foreign nursing schools are required to take two examinations, the Commission on Graduates of Foreign Nursing Schools qualifying examination and the Guam licensing examination. I request an amendment to this provision to allow foreign graduates to be temporarily licensed after passing the qualifying examination through receipt of the scores from the Guam licensing examination.

Section 6 will not be effective to fulfill the purposes indicated. The "Sports Travel Fund" does not exist. The organizations will have to apply for travel assistance to the Department of Parks & Recreation following existing rules.

In conclusion I request that the Legislature act expeditiously on remedial legislation to correct the problems created in enactment of Sections 3, 8 and 9 into law.

Cordially,



JOSEPH F. ADA
Governor

Enclosure

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

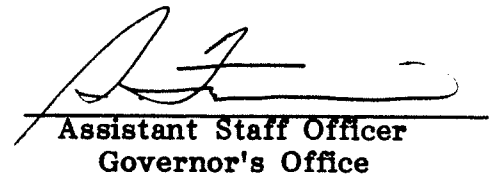
This is to certify that Substitute Bill No. 213 (COR), "AN ACT MAKING AN APPROPRIATION TO THE GUAM MEMORIAL HOSPITAL AUTHORITY TO PROVIDE ASSISTANCE TO HEMODIALYSIS PATIENTS, AND TO APPROPRIATE FUNDS FOR THE CHAMORRO CULTURAL FAIR, AND TO AMEND SUBPARAGRAPH (a) OF SECTION 12322, TITLE 10, GUAM CODE ANNOTATED, ON PERMITS FOR GRADUATE NURSES, AND FOR OTHER PURPOSES," was on the 25th day of May, 1989, duly and regularly passed.


JOE F. SAN AGUSTIN
Speaker

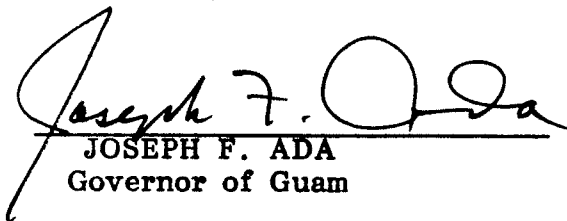
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 31st day of May, 1989,
at 12:20 o'clock p.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: June 9, 1989.

Public Law No. 20-17

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 213 (COR)
As amended by the Committee
on Health, Welfare and Ecology
and further substituted by the
Committee on Rules

Introduced by:

F. R. Santos
J. P. Aguon
T. S. Nelson

C. T. C. Gutierrez
M. Z. Bordallo
E. P. Arriola
F. J. A. Quitugua
J. G. Bamba
D. F. Brooks
H. D. Dierking
E. R. Duenas
E. M. Espaldon
P. C. Lujan
G. Mailloux
M. D. A. Manibusan
D. Parkinson
E. D. Reyes
M. C. Ruth
J. T. San Agustin
T. V. C. Tanaka
A. R. Unpingco

AN ACT MAKING AN APPROPRIATION TO
THE GUAM MEMORIAL HOSPITAL AUTHORITY
TO PROVIDE ASSISTANCE TO HEMODIALYSIS
PATIENTS, AND TO APPROPRIATE FUNDS
FOR THE CHAMORRO CULTURAL FAIR, AND
TO AMEND SUBPARAGRAPH (a) OF SECTION
12322, TITLE 10, GUAM CODE ANNOTATED,
ON PERMITS FOR GRADUATE NURSES, AND
FOR OTHER PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
2 Section 1. Three Hundred Fifty One Thousand Eight Hundred Seventy
3 Dollars (\$351,870) are appropriated from the General Fund to the Guam
4 Memorial Hospital Authority to provide assistance to hemodialysis patients.
5 Section 2. Twenty Thousand Dollars (\$20,000) are appropriated from
6 the General Fund to the Guam Council on the Arts and Humanities Agency

1 ("CAHA") to fund the participation of Guam in the Chamorro Cultural Fair
2 to be held in Vallejo, California (the "Fair"), sponsored by the Chamorro
3 Cultural Association of Northern California ("CCANC"). Of such sum Five
4 Thousand Dollars (\$5,000) shall be distributed to CCANC by CAHA to help
5 CCANC promote the Fair. Within sixty (60) days of the closing of the
6 Fair, the Director of CAHA and the President of CCANC shall each submit
7 to the Legislature a report of all of such respective organization's
8 expenditures under this section, including but not limited to a balance
9 sheet, a statement of receipts and a general description of expenses arising
10 out of the participation of CAHA and CCANC in the Fair.

11 Section 3. Legislative intent. Since 1983, the government of Guam
12 has issued temporary licenses to graduate of Guam and other American
13 nursing schools but only after applicants have taken a licensing
14 examination. Because of a dire need of nurses the Legislature therefore
15 endorses the request of the Guam Board of Nurse Examiners that temporary
16 work permits be issued to graduates of accredited nursing schools upon
17 application for examination. Accordingly, subparagraph (a) of §12322 of
18 Title 10, Guam Code Annotated, is hereby amended to read:

19 "(a) Upon application, payment of the required fee, and after
20 verifying the applicant's official transcript and certificate of education
21 the Board may issue a temporary permit to a graduate of an accredited
22 U. S., foreign or Guam professional nursing education program;
23 provided, however, that such applicant has received the Board's
24 authorization to sit for the first licensing examination immediately
25 following such applicant's graduation. Such a permittee shall be
26 identified as a 'graduate nurse' ('G.N.') and may practice nursing only
27 under the direct supervision of a registered nurse. Only such a
28 permittee shall be authorized to use the title 'graduate nurse.' All
29 temporary permits issued pursuant to this subparagraph shall terminate
30 when the Board has received the permittee's scores from the licensing
31 examination immediately succeeding such permittee's graduation from
32 nursing school."

1 Section 4. Subitem 1 of paragraph E of Part XI of Chapter II of
2 Public Law 20-3 is amended to read:

3 "E. Guam Liaison Office

4 1. Personnel Services \$49,210 \$49,210
5 (4.0 FTE) (4.0 FTE)"

6 Section 5. Fifty Thousand Dollars (\$50,000) are appropriated from the
7 General Fund to the Legislative Capital Improvement Fund of the
8 Legislature.

9 Section 6. Notwithstanding any other provision of law, the Department
10 of Parks and Recreation is hereby directed to expend Forty Thousand
11 Dollars (\$40,000) from the Sports Travel Fund to pay for certain
12 tournament travel and related expenses as follows:

13 (a) For the Guam Little League: \$15,000,

14 (b) For the Guam Bambino League: \$15,000,

15 (c) For Oceanview High School

16 Boys and Girls Soccer Team: \$10,000.

17 Section 7. Section 5 of Public Law 19-49 is hereby repealed and
18 reenacted to read:

19 "Section 5. Sixty Thousand Dollars (\$60,000) are hereby
20 appropriated from the Tourist Attraction Fund to the Department of
21 Parks and Recreation to upgrade the Agana Heights baseball and
22 basketball fields by providing lights, fencing and other related
23 facilities."

24 Section 8. A new §80116 is hereby added to Title 10, Guam Code
25 Annotated, to read:

26 "§80116. In any case where (i) the Authority reasonably believes
27 that an insurance company or health maintenance organization
28 (hereinafter called 'insurance company') is obligated to pay charges for
29 medical supplies, medicine, medical procedures, treatment, hospital
30 services or hospitalization, or (ii) a patient has indicated by showing
31 the Authority a card or other document indicating such coverage by an
32 insurance company, the Authority must file a claim against the
33 insurance company to collect such unpaid charges. If the insurance
34 company refuses to pay the charges for any reason except lack of

1 coverage or exhaustion of benefits, then the Authority must file suit
2 against the insurance company for the amounts claimed and final
3 judgement entered before any collection attempt whatsoever may be
4 made against the patient. No claim may be made against the patient if
5 the matter is settled with the insurance company by the Authority or
6 if the Authority receives a judgement against the Authority for the
7 claim or if the claim of the Authority is totally denied, unless the claim
8 of the Authority is reduced or denied because of lack of coverage or
9 exhaustion of benefits. To the extent the claim is reduced or denied
10 because of lack of coverage or exhaustion of benefits, the patient shall
11 be liable, but not otherwise. The Authority shall give actual or mailed
12 notice of any litigation with an insurance company along with the copy
13 of the complaint to the patient and to any other person whom the
14 Authority may later desire to hold liable on the claim within fifteen
15 (15) days of filing the litigation. Failure to do so shall release the
16 persons not so served from any further liability. Nothing herein shall
17 require the Authority to appeal any decision of the trial court.

18 In the event the insurance company refuses to pay the claim
19 because of lack of coverage or because of exhaustion of benefits, then
20 the Authority must give the patient written notice of such refusal to
21 honor claims and all correspondence relating thereto forty-five (45)
22 days before collection procedures are initiated. The term 'patient' as
23 used in this section includes the patient and any person other than an
24 insurance company who may be liable to the Authority for the
25 treatment received by the patient."

26 Section 9. All actions by the Guam Memorial Hospital Authority (the
27 "Authority") now pending in Superior Court, including cases where default
28 has been taken, shall be held in abeyance and no further collections action
29 may proceed until the Authority establishes by evidence deemed satisfactory
30 to the Court that either:

31 (1) The defendant is not covered by health insurance or such
32 insurance benefits have been exhausted; or

33 (2) The Authority has brought a claim in court against the
34 defendant's insurance company for payment of such charges pursuant

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1 to §80116 of Title 10, Guam Code Annotated, and such claim was
2 rejected because there was no coverage or benefits had been
3 exhausted. Nothing herein shall prevent discovery by any defendant
4 nor shall it prevent any defendant from moving to dismiss or moving
5 for summary judgement in any action brought by the Authority.

6 Section 10. The Guam Memorial Hospital Authority shall not refuse to
7 supply medication or medical treatment appropriate to a patient's illness or
8 medical condition solely on the grounds that charges for such medication or
9 treatment have not been approved pursuant to the Administrative
10 Adjudication Law.

11 Section 11. Twenty Thousand Dollars (\$20,000) are hereby
12 appropriated from the General Fund to the Department of Parks and
13 Recreation to remove and clean-up the asbestos in the Agana Heights
14 incinerator building.

15 Any available balance of the appropriation set out in this section shall
16 revert to the General Fund.

17 The Governor of Guam shall seek reimbursement from the federal
18 government for the costs of this operation.

19 Section 12. A new Section (b) is added to Section 25200 of the
20 Government Code to read:

21 "Section 25200. License. Restrictions.

22 (b) No manufacturer within or outside the territory of Guam or
23 any officer, subsidiary, affiliate or other entity in which a
24 manufacturer holds any ownership or interest, directly or indirectly by
25 stock ownership, interlocking directors, trusteeship, loan, mortgage or
26 lien on any real or personal property, shall hold any alcoholic
27 beverage license other than a manufacturer's license in the territory of
28 Guam."