



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JAN 05 2003

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 360 (COR), "AN ACT TO ADD A NEW CHAPTER 19 TO DIVISION 1, OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO 'ISLAN GUÅHAN EMERGENCY HEALTH POWERS ACT' FOR EMERGENCY HEALTH THREATS, INCLUDING THOSE CAUSED BY BIOTERRORISM REQUIRING THE EXERCISE OF GOVERNMENT POWERS AND FUNCTIONS TO RESPOND RAPIDLY AND EFFECTIVELY TO POTENTIAL OR ACTUAL PUBLIC HEALTH EMERGENCIES FOR THE COMMON GOOD", which was **signed** into law as **Public Law No. 26-173**.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

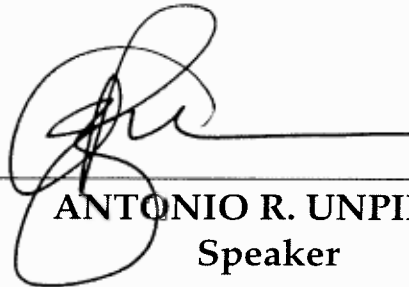
cc: The Honorable Antonio R. Unpingco
Speaker

014

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

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

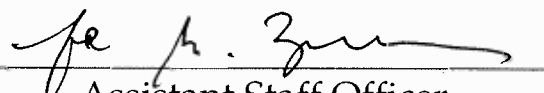
This is to certify that Substitute Bill No. 360 (COR), "AN ACT TO ADD A NEW CHAPTER 19 TO DIVISION 1, OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO 'ISLAN GUÅHAN EMERGENCY HEALTH POWERS ACT' FOR EMERGENCY HEALTH THREATS, INCLUDING THOSE CAUSED BY BIOTERRORISM REQUIRING THE EXERCISE OF GOVERNMENT POWERS AND FUNCTIONS TO RESPOND RAPIDLY AND EFFECTIVELY TO POTENTIAL OR ACTUAL PUBLIC HEALTH EMERGENCIES FOR THE COMMON GOOD," was on the 30th day of December, 2002, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by *I Maga'lahaen Guåhan* this 2nd day of January, 2003,
at 2:15 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 1-5-03

Public Law No. 26-173

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2002 (SECOND) Regular Session

Bill No. 360 (COR)

As substituted by the Author and amended.

Introduced by:

E. B. Calvo
A. R. Unpingco
L. F. Kasperbauer
J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
F. P. Camacho
M. C. Charfauros
Mark Forbes
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L. G. Santos
J. T. Won Pat

**AN ACT TO ADD A NEW CHAPTER 19 TO DIVISION
1, OF TITLE 10 OF THE GUAM CODE ANNOTATED,
RELATIVE TO "ISLAN GUÅHAN EMERGENCY
HEALTH POWERS ACT" FOR EMERGENCY HEALTH
THREATS, INCLUDING THOSE CAUSED BY
BIOTERRORISM REQUIRING THE EXERCISE OF
GOVERNMENT POWERS AND FUNCTIONS TO
RESPOND RAPIDLY AND EFFECTIVELY TO
POTENTIAL OR ACTUAL PUBLIC HEALTH
EMERGENCIES FOR THE COMMON GOOD.**

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

2 **Section 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that there is a
3 health, moral, social and ethical obligation for the government to responsibly

1 abate and mitigate the spread of catastrophic communicable diseases within
2 Guam. A state of a public health emergency has been recently declared by *I*
3 *Maga'lahañ Guåhañ* relating to a measles outbreak. This outbreak has catastrophic
4 implications to the health and well being of the People.

5 In 1994, a similar outbreak manifested where two hundred eighty (280)
6 people were suspected, probable or confirmed to have contracted measles. This
7 outbreak required the hospitalization of twenty-three (23) individuals with three
8 (3) related deaths. The control of communicable diseases is a priority in Guam.
9 *However*, potential outbreaks occur in circumstances where Guam is *not* readily
10 prepared to contain the disease. As a result, an emergency situation arises
11 requiring *I Maga'lahañ Guåhañ* to mobilize required resources to head off a
12 catastrophic situation.

13 The spread of communicable diseases *not* only occurs in circumstances by
14 natural human contact. As a result of the 911 incident, Guam, as an
15 instrumentality of the free world and of the United States of America, is prone to
16 terrorist attacks upon mankind. In the wake of the tragic events of September 11,
17 2001, our Nation realizes that the government's foremost responsibility is to
18 protect the health, safety and wellbeing of its citizens. New and emerging
19 dangers, including emergent and resurgent infectious diseases and incidents of
20 civilian mass casualties, pose serious and immediate threats to the population. A
21 renewed focus upon the prevention, detection, management and containment of
22 public health emergencies is thus called for. Emergency health threats, including
23 those caused by bioterrorism and epidemics, require the exercise of essential
24 government functions. The government of Guam is responsible for safeguarding
25 the health, security and wellbeing of its People. The local government must be

1 able to respond, rapidly and effectively, to public health emergencies. The *Islan*
2 *Guåhan Emergency Health Powers Act* ('Act') therefore grants specific emergency
3 powers to *I Maga'lahaen Guåhan* and public health authorities.

4 The Act requires the development of a comprehensive plan to provide a
5 coordinated, appropriate response in the event of a public health emergency. It
6 facilitates the early detection of a health emergency by authorizing the reporting
7 and collection of data and records, and allows for immediate investigation by
8 granting access to individuals' health information under specified circumstances.
9 During a public health emergency, the government of Guam and local officials
10 are authorized to use and appropriate property as necessary for the care,
11 treatment, and housing of patients, and to destroy contaminated facilities or
12 materials. They are also empowered to provide care, testing and treatment, and
13 vaccination to persons who are ill or who have been exposed to a contagious
14 disease, and to separate affected individuals from the population at large to
15 interrupt disease transmission. At the same time, the Act recognizes that Guam's
16 ability to respond to a public health emergency must respect the dignity and
17 rights of persons. The exercise of emergency health powers is designed to
18 promote the common good. Emergency powers must be grounded in a thorough
19 scientific understanding of public health threats and disease transmission.
20 Guided by principles of justice, the government of Guam has a duty to act with
21 fairness and tolerance towards individuals and groups.

22 The Act thus provides that, in the event of the exercise of emergency
23 powers, the civil rights, liberties and needs of infected or exposed persons will be
24 protected to the fullest extent possible, consistent with the primary goal of
25 controlling serious health threats. Public health laws and our courts have

1 traditionally balanced the common good with individual civil liberties. The Act
2 strikes such a balance. It provides the government of Guam and other local
3 officials with the ability to prevent, detect, manage and contain emergency health
4 threats without unduly interfering with civil rights and liberties. The Act seeks
5 to ensure a strong, effective and timely response to public health emergencies,
6 while fostering respect for individuals from all groups and backgrounds.
7 Although modernizing public health law is an important part of protecting the
8 population during public health emergencies, the public health system itself
9 needs improvement. Preparing for a public health emergency requires a well
10 trained public health workforce, efficient data systems and sufficient laboratory
11 capacity.

12 **Section 2.** Chapter 19 is hereby *added* to Division 1 of Title 10 of the Guam
13 Code Annotated.

14 **“CHAPTER 19.**

15 **ARTICLE I.**

16 **TITLE, FINDINGS, PURPOSES AND DEFINITIONS.**

17 **Section 19101. Short Title.** This Act may be cited as the
18 *‘Islan Guåhan Emergency Health Powers Act.’*

19 **Section 19102. Legislative Findings.** *I Liheslaturan Guåhan* finds
20 that:

21 (a) the government must do more to protect the health,
22 safety and general well being of its citizens;

23 (b) new and emerging dangers, including emergent and
24 resurgent infectious diseases and incidents of civilian mass
25 casualties, pose serious and immediate threats;

1 (c) a renewed focus on the prevention, detection,
2 management and containment of public health emergencies is
3 needed;

4 (d) emergency health threats, including those caused by
5 bioterrorism, may require the exercise of extraordinary government
6 powers and functions;

7 (e) the government of Guam must have the ability to
8 respond, rapidly and effectively, to potential or actual public health
9 emergencies;

10 (f) the exercise of emergency health powers must promote
11 the common good;

12 (g) emergency health powers must be grounded in a
13 thorough scientific understanding of public health threats and
14 disease transmission;

15 (h) guided by principles of justice and antidiscrimination, it
16 is the duty of the government of Guam to act with fairness and
17 tolerance towards individuals and groups;

18 (i) the rights of People to liberty, bodily integrity and
19 privacy must be respected to the fullest extent possible, consistent
20 with maintaining and preserving the public's health and security; *and*

21 (j) this Act is necessary to protect the health and safety of
22 the citizens of Guam.

23 **Section 19103. Purposes.** The purposes of this Act are:

24 (a) to require the development of a comprehensive plan to
25 provide for a coordinated, appropriate response in the event of a

1 public health emergency;

2 (b) to authorize the reporting and collection of data and
3 records, the management of property, the protection of persons, and
4 access to communications;

5 (c) to facilitate the early detection of a health emergency, and
6 allow for *immediate* investigation of such an emergency by granting
7 access to individuals' health information under specified
8 circumstances;

9 (d) to grant the government of Guam and local officials the
10 authority to use and appropriate property as necessary for the care,
11 treatment, vaccination and housing of patients, and to destroy
12 contaminated facilities or materials;

13 (e) to grant the government of Guam and local officials the
14 authority to provide care, treatment and vaccination to persons who
15 are ill, or who have been exposed to contagious diseases, and to
16 separate affected individuals from the population at large to
17 interrupt disease transmission;

18 (f) to ensure that the needs of infected or exposed persons
19 are properly addressed to the fullest extent possible, given the
20 primary goal of controlling serious health threats, *and*

21 (g) to provide the government of Guam and local officials
22 with the ability to prevent, detect, manage and contain emergency
23 health threats without unduly interfering with civil rights and
24 liberties.

25 **Section 19104. Definitions.**

1 (a) *'Bioterrorism'* is the intentional use of any micro-
2 organism, virus, infectious substance or biological product that may
3 be engineered as a result of biotechnology, or any naturally occurring
4 or bioengineered component of any such microorganism, virus,
5 infectious substance or biological product, to cause death, disease or
6 other biological malfunction in a human, an animal, a plant or
7 another living organism in order to influence the conduct of
8 government or to intimidate or coerce a civilian population.

9 (b) *'Chain of Custody'* is the methodology of tracking
10 specimens for the purpose of maintaining control and accountability
11 from initial collection to final disposition of the specimens, and
12 providing for accountability at each stage of collecting, handling,
13 testing, storing and transporting the specimens and reporting test
14 results.

15 (c) *'Contagious Disease'* is an infectious disease that can be
16 transmitted from person to person.

17 (d) *'Health Care Facility'* means any non-Federal institution,
18 building, or agency, or portion thereof, whether public or private
19 (for-profit or nonprofit) that is used, operated or designed to provide
20 health services, medical treatment or nursing, rehabilitative, or
21 preventive care to any person or persons. This includes, but is *not*
22 limited to: ambulatory surgical facilities, home health agencies,
23 hospices, hospitals, infirmaries, intermediate care facilities, kidney
24 treatment centers, long term care facilities, medical assistance
25 facilities, mental health centers, outpatient facilities, public health

1 centers, rehabilitation facilities, residential treatments facilities,
2 skilled nursing facilities, and adult day-care centers. This also
3 includes, but is *not* limited to, the following related property when
4 used for, or in connection with, the foregoing: laboratories; research
5 facilities; pharmacies; laundry facilities; health personnel training
6 and lodging facilities; patient, guest and health personnel food
7 service facilities; and offices and office buildings for persons engaged
8 in health care professions or services.

9 (e) *'Health Care Provider'* is any person or entity who
10 provides health care services, including, but *not* limited to, hospitals,
11 medical clinics and offices, special care facilities, medical
12 laboratories, physicians, pharmacists, dentists, physician assistants,
13 nurse practitioners, registered and other nurses, paramedics,
14 emergency medical or laboratory technicians, and ambulance and
15 emergency medical workers.

16 (f) *'Infectious Disease'* is a disease caused by a living
17 organism or other pathogen, including a fungus, bacteria, parasite,
18 protozoan or virus. An infectious disease may, or may *not*, be
19 transmissible from person to person, animal to person, or insect to
20 person.

21 (g) *'Infectious Waste'* is:

22 (i) *'biological waste,'* which includes blood and
23 blood products, excretions, exudates, secretions,
24 suctioning and other body fluids, and waste materials
25 saturated with blood or body fluids;

1 (ii) '*cultures and stocks,*' which includes
2 etiologic agents and associated biologicals, including
3 specimen cultures and dishes and devices used to
4 transfer, inoculate and mix cultures, wastes from
5 production of biologicals and serums, and discarded live
6 and attenuated vaccines;

7 (iii) '*pathological waste,*' which includes biopsy
8 materials and all human tissues, anatomical parts that
9 emanate from surgery, obstetrical procedures, necropsy
10 or autopsy and laboratory procedures, and animal
11 carcasses exposed to pathogens in research and the
12 bedding and other waste from such animals, but does *not*
13 include teeth or formaldehyde, or other preservative
14 agents; *and*

15 (iv) '*sharps,*' which includes needles, I.V. tubing
16 with needles attached, scalpel blades, lancets, breakable
17 glass tubes, and syringes that have been removed from
18 their original sterile containers.

19 (h) '*Isolation*' is the physical separation and confinement of
20 an individual or groups of individuals who are infected or
21 reasonably believed to be infected with a contagious or possibly
22 contagious disease from non-isolated individuals, to prevent or limit
23 the transmission of the disease to non-isolated individuals.

24 (i) '*Mental Health Support Personnel*' includes, but is *not*

1 limited to, psychiatrists, psychologists, social workers and volunteer
2 crisis counseling groups.

3 (j) *'Organized Militia'* includes the Department of Military
4 Affairs and the Guam National Guard or any other military force
5 organized under the laws of Guam or through empowerment of the
6 Organic Act of Guam.

7 (k) *'Protected health information'* is any information,
8 whether oral, written, electronic, visual or any other form, that
9 relates to an individual's past, present, or future physical or mental
10 health status, condition, treatment, service, products purchased, or
11 provision of care, and that reveals the identity of the individual
12 whose health care is the subject of the information, or where there is
13 a reasonable basis to believe such information could be utilized,
14 either alone or with other information that is, or should reasonably
15 be known to be, available to predictable recipients of such
16 information, to reveal the identity of that individual.

17 (l) *'Public health authority'* is the Department of Public
18 Health and Social Services; or any local government agency that acts
19 principally to protect or preserve the public's health; or any person
20 directly authorized to act on behalf of the Department of Public
21 Health and Social Services or local public health agency. The
22 determination of the 'Public health authority' shall be determined by
23 *I Maga'lâhen Guâhan*, based on the circumstances of the public health
24 emergency. The 'public health authority' shall be appointed by *I*
25 *Maga'lâhen Guâhan* by an Executive Order declaring a public health

1 emergency.

2 (m) A *'public health emergency'* is an occurrence or imminent
3 threat of an illness or health condition that:

4 (1) is believed to be caused by any of the following:

5 (i) bioterrorism;

6 (ii) the appearance of a novel or previously
7 controlled or eradicated infectious agent or biological
8 toxin;

9 (iii) a natural disaster relative to an act of God
10 caused by a typhoon, earthquake, tsunami, flood or
11 intra-terrestrial collision;

12 (iv) a chemical attack or accidental release; *or*

13 (v) a nuclear attack or accident; *and*

14 (2) poses a high probability of any of the following
15 harms:

16 (i) a large number of deaths in the affected
17 population;

18 (ii) a large number of serious or long-term
19 disabilities in the affected population; *or*

20 (iii) widespread exposure to an infectious or toxic
21 agent that poses a significant risk of substantial future
22 harm to a large number of people in the affected
23 population.

24 (n) *'Public safety authority'* means the Guam Police
25 Department; or any local government agency that acts principally to

1 protect or preserve the public safety, or any person directly
2 authorized to act on behalf of the Guam Police Department or local
3 agency.

4 (o) *'Quarantine'* is the physical separation and confinement
5 of an individual or groups of individuals who are, or may have been,
6 exposed to a contagious, or possibly contagious, disease, and who do
7 *not* show signs or symptoms of a contagious disease, from non-
8 quarantined individuals, to prevent or limit the transmission of the
9 disease to non-quarantined individuals.

10 (p) *'Specimens'* include, but are *not* limited to, blood,
11 sputum, urine, stool, other bodily fluids, wastes, tissues and cultures
12 necessary to perform required tests.

13 (q) *'Tests'* include, but are *not* limited to, any diagnostic or
14 investigative analyses necessary to prevent the spread of disease or
15 protect the public's health, safety and welfare.

16 (r) *'Superior Court of Guam'* is the court designated by the
17 Public Health Emergency Plan under Article II of this Act when a
18 public health emergency has been declared.

19
20 **ARTICLE II.**

21 **PLANNING FOR A PUBLIC HEALTH EMERGENCY.**

22 **Section 19201. Public Health Emergency Planning Commission.**

23 *I Maga'låhen Guåhan* shall appoint a Public Health Emergency Planning
24 Commission ('Commission'), consisting of the government of Guam

1 directors, or their designees, of agencies *I Maga'låhen Guåhan* deems
2 relevant to public health emergency preparedness, a representative group
3 of Senators from *I Liheslaturan Guahån*, members of the Judiciary, and any
4 other persons chosen by *I Maga'låhen Guahån*. *I Maga'låhen Guahån* shall
5 also designate the chair of the Commission.

6 **Section 19202. Public Health Emergency Plan.**

7 (a) **Content.** The Commission shall, within six (6) months
8 of its appointment, deliver to *I Maga'låhen Guåhan* a plan for
9 responding to a public health emergency, that includes provisions or
10 guidelines on the following:

11 (1) notifying and communicating with the population
12 during a state of public health emergency in compliance with
13 this Act;

14 (2) central coordination of resources, manpower and
15 services, including coordination of responses by the
16 government of Guam, military and Federal agencies;

17 (3) the location, procurement, storage, transportation,
18 maintenance, and distribution of essential materials, including
19 but *not* limited to medical supplies, drugs, vaccines, food,
20 shelter, clothing and beds;

21 (4) compliance with the reporting requirements in §
22 19301;

23 (5) the continued, effective operation of the Judicial
24 System including, *if* deemed necessary, the identification and
25 training of personnel to serve as emergency judges regarding

1 matters of isolation and quarantine as described in this Act;

2 (6) the method of evacuating populations, and housing
3 and feeding the evacuated populations;

4 (7) the identification and training of health care
5 providers to diagnose and treat persons with infectious
6 diseases;

7 (8) the vaccination of persons, in compliance with the
8 provisions of this Act;

9 (9) the treatment of persons who have been exposed to
10 or who are infected with diseases or health conditions that may
11 be the cause of a public health emergency;

12 (10) the safe disposal of infectious wastes and human
13 remains in compliance with the provisions of this Act;

14 (11) the safe and effective control of persons isolated,
15 quarantined, vaccinated, tested or treated during a state of
16 public health emergency;

17 (12) tracking the source and outcomes of infected
18 persons;

19 (13) ensuring that each municipality within Guam
20 identifies the following:

21 (i) sites where persons can be isolated or
22 quarantined in compliance with the conditions and
23 principles for isolation or quarantine of this Act;

24 (ii) sites where medical supplies, food, and other
25 essentials can be distributed to the population;

1 (iii) sites where public health and emergency
2 workers can be housed and fed; *and*

3 (iv) routes and means of transportation of people
4 and materials;

5 (14) cultural norms, values, religious principles and
6 traditions that may be relevant; *and*

7 (15) other measures necessary to carry out the purposes
8 of this Act.

9 (b) **Distribution.** The Commission shall distribute this
10 plan to those who will be responsible for its implementation, health
11 care providers, other interested persons, and the public, and seek
12 their review and comments.

13 (c) **Review.** The Commission shall annually review its
14 plan for responding to a public health emergency.

15
16 **ARTICLE III.**

17 **MEASURES TO DETECT AND TRACK PUBLIC HEALTH EMERGENCIES.**

18 **Section 19301. Reporting.**

19 (a) **Illness or Health Condition.** A health care provider,
20 coroner, or medical examiner shall report all cases of persons who
21 harbor any illness or health condition that may be potential causes of
22 a public health emergency. Reportable illnesses and health
23 conditions include, but are *not* limited to, the diseases caused by the
24 biological agents listed in 42 C.F.R. § 72, App. A (2000), and any

1 illnesses or health conditions identified by the public health
2 authority.

3 **(b) Pharmacists.** In addition to the foregoing
4 requirements for health care providers, a pharmacist shall report any
5 unusual or increased prescription rates, unusual types of
6 prescriptions, or unusual trends in pharmacy visits that may be
7 potential causes of a public health emergency. Prescription-related
8 events that require a report include, but are *not* limited to:

9 (1) an unusual increase in the number of prescriptions
10 or over-the-counter pharmaceuticals to treat conditions that the
11 public health authority identifies through regulations;

12 (2) an unusual increase in the number of prescriptions
13 for antibiotics; *and*

14 (3) any prescription that treats a disease that is
15 relatively uncommon or may be associated with bioterrorism.

16 **(c) Manner of Reporting.** Suspicion of a Class 1 disease as
17 specified by the Director of Public Health and Social Services shall be
18 reported within twenty-four (24) hours of diagnosis to the public
19 health authority. The report shall include as much of the following
20 information as is available: the specific illness or health condition
21 that is the subject of the report; the patient's name, date of birth, sex,
22 race, occupation, and current home and work addresses (including
23 village) and phone numbers; the name and address of the health care
24 provider, coroner, or medical examiner and of the reporting
25 individual, *if* different; and any other information needed to locate

1 the patient for follow-up. For cases related to animal or insect bites,
2 the suspected locating information of the biting animal or insect, and
3 the name and address of any known owner, shall be reported.

4 (d) **Animal Diseases.** Every veterinarian, livestock
5 owner, veterinary diagnostic laboratory director, kennels businesses
6 or other person having the care of animals shall report animals
7 having or suspected of having any diseases that may be potential
8 causes of a public health emergency. The report shall be reported
9 within twenty-four (24) hours of diagnosis to the public health
10 authority and shall include as much of the following information as
11 is available: the specific illness or health condition that is the subject
12 of the report; the suspected locating information of the animal; the
13 name and address of any known owner and phone numbers; and the
14 name, address and phone number of the reporting individual.

15 (e) **Laboratories.** For the purposes of this Section, the
16 definition of 'health care provider' shall include any on-Guam and
17 off-Guam military United States Department of Defense operated or
18 off-Guam medical laboratories; *provided*, that such laboratories have
19 agreed to the reporting requirements of Guam. Results must be
20 reported by the laboratory that performs the test, but an on-Guam
21 laboratory that sends specimens to an off-Guam laboratory is also
22 responsible for reporting results.

23 (f) **Enforcement.** Failure of a health care provider or
24 veterinarian to report any illness or health condition identified by the
25 Director of the Department of Public Health and Social Services as a

1 Class 1 disease in the manner and within the time period specified in
2 this Section shall be reported to the authority or agency responsible
3 for licensing that health care provider. The licensing authority shall,
4 at its next regular meeting, hold a hearing to determine what action,
5 if any, should be taken with regard to this report. The penalty for
6 failure to comply with the provisions of this Article may include
7 suspension of license to practice a healing art for *up to* thirty (30)
8 days for a first offense, and suspension or revocation of license for a
9 second or subsequent offense. The action taken by the licensing
10 authority in any such case shall be reported to the Director of the
11 Department of Public Health and Social Services, published in a
12 paper of public record and posted in an appropriate location at the
13 Guam Memorial Hospital and at a conspicuous location at the site of
14 practice of the health care provider. The public health authority may
15 also enforce the provisions of this Section in accordance with any
16 other laws of Guam, Federal laws applicable to Guam and any other
17 rules and regulations.

18 (g) **Freedom from Liability.** No person, health care
19 provider, or health care practice and establishment furnishing any
20 information, data or report in fulfillment of the provisions of this
21 Article shall, by reason of such furnishing, be deemed to have
22 violated any confidential relationship, or be held liable in damages,
23 or be held to answer for willful betrayal of a professional confidence
24 within the meaning and intent of relevant sections of the
25 Government Code of Guam or the laws of the United States.

1 **Section 19302. Tracking.** The public health authority shall
2 ascertain the existence of cases of an illness or health condition that may be
3 potential causes of a public health emergency; investigate all such cases for
4 sources of infection and to ensure that they are subject to proper control
5 measures; and define the distribution of the illness or health condition. To
6 fulfill these duties, the public health authority shall identify exposed
7 individuals as follows:

8 **(a) Identification of Individuals.** Acting on information
9 developed in accordance with § 19301 of this Act, or other reliable
10 information, the public health authority shall identify all individuals
11 thought to have been exposed to an illness or health condition that
12 may be a potential cause of a public health emergency.

13 **(b) Interviewing of Individuals.** The public health
14 authority shall counsel and interview such individuals where needed
15 to assist in the positive identification of exposed individuals and
16 develop information relating to the source and spread of the illness
17 or health condition. Such information includes the name and
18 address, including municipality, of any person from whom the
19 illness or health condition may have been contracted and to whom
20 the illness or health condition may have spread.

21 **(c) Examination of Facilities or Materials.** The public
22 health authority shall, for examination purposes, close, evacuate or
23 decontaminate any facility, or decontaminate or destroy any material
24 when the authority reasonably suspects that such facility or material
25 may endanger the public health.

1 **(d) Enforcement.** The public health authority may enforce
2 the provisions of this Section in accordance with existing
3 enforcement rules and regulations. An order of the public health
4 authority given to effectuate the purposes of this Section shall be
5 enforceable *immediately* by the public safety authority.

6 **Section 19303. Information Sharing.**

7 (a) Whenever the public safety authority or other
8 government of Guam agency learns of a case of a reportable illness or
9 health condition, an unusual cluster, or a suspicious event that may
10 be the cause of a public health emergency, it shall *immediately* notify
11 the public health authority.

12 (b) Whenever the public health authority learns of a case of a
13 reportable illness or health condition, an unusual cluster, or a
14 suspicious event that it reasonably believes has the potential to be
15 caused by bioterrorism, it shall *immediately* notify the public safety
16 authority, Civil Defense, the Guam Memorial Hospital Authority, the
17 Department of Customs and Quarantine and Federal health and
18 public safety authorities.

19 (c) Sharing of information on reportable illnesses, health
20 conditions, unusual clusters or suspicious events between public
21 health and safety authorities shall be restricted to the information
22 necessary for the treatment, control, investigation and prevention of
23 a public health emergency.

24
25 **ARTICLE IV.**

1 **DECLARING A STATE OF PUBLIC HEALTH EMERGENCY.**

2 **Section 19401. Declaration.** A state of public health emergency
3 may be declared by *I Maga'låhen Guåhan* upon the occurrence of a 'public
4 health emergency,' as defined in § 19104(m). *Prior* to such a declaration, *I*
5 *Maga'låhen Guåhan* shall consult with the public health authority and may
6 consult with any additional public health or other experts as needed. *I*
7 *Maga'låhen Guåhan* may act to declare a public health emergency without
8 consulting with the public health authority or other experts when the
9 situation calls for prompt and timely action.

10 **Section 19402. Content of Declaration.** A state of public
11 health emergency shall be declared by an executive order that specifies:

- 12 (a) the nature of the public health emergency;
13 (b) the geographic area(s) applicable to the declaration;
14 (c) the conditions that have brought about the public health
15 emergency;
16 (d) the duration of the state of the public health emergency, *if*
17 less than thirty (30) days; *and*
18 (e) the primary public health authority responding to the
19 emergency.

20 **Section 19403. Effect of Declaration.** The declaration of a state of
21 public health emergency shall activate the disaster response and recovery
22 aspects of the government of Guam. Such declaration authorizes the
23 deployment and use of any forces to which the plans apply and the use or
24 distribution of any supplies, equipment, and materials and facilities

1 assembled, stockpiled or available pursuant to this Act.

2 (a) **Emergency Powers.** During a state of public health
3 emergency, *I Maga'låhen Guåhan* may:

4 (1) through an executive order suspend, the provisions
5 of any regulatory statute prescribing procedures for
6 conducting local business, or the orders, rules and regulations
7 of any government of Guam agency, to the extent that strict
8 compliance with the same would prevent, hinder or delay
9 necessary action (including emergency purchases) by the
10 public health authority to respond to the public health
11 emergency, or increase the health threat to the population;

12 (2) utilize all available resources of the government of
13 Guam, as reasonably necessary to respond to the public health
14 emergency;

15 (3) transfer the direction, personnel or functions of the
16 government of Guam departments and agencies in order to
17 perform or facilitate response and recovery programs
18 regarding the public health emergency;

19 (4) mobilize all or any part of the organized militia
20 into service; an executive order directing the organized militia
21 to report for active duty shall state the purpose for which it is
22 mobilized and the objectives to be accomplished;

23 (5) provide aid to and seek aid from the Federal
24 Government in accordance with any emergency compact made
25 with the government of Guam; *and*

1 (6) seek aid from the Federal Government in
2 accordance with Federal programs or requirements.

3 **(b) Coordination.** The public health authority shall
4 coordinate all matters pertaining to the public health emergency
5 response of Guam. The public health authority shall have primary
6 jurisdiction, responsibility and authority for:

7 (1) planning and executing public health emergency
8 assessment, mitigation, preparedness response and recovery
9 for Guam;

10 (2) coordinating public health emergency response
11 between Federal and local authorities;

12 (3) collaborating with relevant Federal government
13 authorities, elected officials of other states, private
14 organizations or companies;

15 (4) coordinating recovery operations and mitigation
16 initiatives subsequent to public health emergencies; *and*

17 (5) organizing public information activities regarding
18 public health emergency response operations.

19 **(c) Identification.** After the declaration of a state of public
20 health emergency, special identification for all public health
21 personnel working during the emergency shall be issued as soon as
22 possible. The identification shall indicate the authority of the bearer
23 to exercise public health functions and emergency powers during the
24 state of public health emergency. Public health personnel shall wear
25 the identification in plain view.

1 **Section 19404. Enforcement.** During a state of public health
2 emergency, the public health authority may request assistance in enforcing
3 orders pursuant to this Act from the public safety authority. The public
4 safety authority may request assistance from the organized militia in
5 enforcing the orders of the public health authority.

6 **Section 19405. Termination of Declaration.**

7 **(a) Executive Order.** *I Maga'låhen Guåhan* shall
8 terminate the declaration of a state of public health emergency by
9 executive order upon finding that the occurrence of an illness or
10 health condition that caused the emergency no longer poses a high
11 probability of a large number of deaths in the affected population, a
12 large number of incidents of serious permanent or long-term
13 disability in the affected population, or a significant risk of
14 substantial future harm to a large number of people in the affected
15 population.

16 **(b) Automatic Termination.** Notwithstanding any other
17 provision of this Act, the declaration of a state of public health
18 emergency shall be terminated *automatically* after thirty (30) days,
19 *unless* renewed by *I Maga'låhen Guåhan* under the same standards
20 and procedures set forth in this Article. Any such renewal shall also
21 be terminated *automatically* after thirty (30) days, *unless* renewed by
22 the *I Maga'låhen Guåhan* under the same standards and procedures
23 set forth in this Article.

24 **(c) I Liheslaturan Guåhan.** By a majority vote, *I*

1 *Liheslaturan Guåhan* may terminate the declaration of a state of public
2 health emergency at any time from the date of original declaration
3 upon finding that the occurrence of an illness or health condition that
4 caused the emergency does *not* or no longer poses a high probability
5 of a large number of deaths in the affected population, a large
6 number of incidents of serious permanent or long-term disability in
7 the affected population or a significant risk of substantial future
8 harm to a large number of people in the affected population. Such a
9 termination by *I Liheslaturan Guåhan* shall override any renewal by *I*
10 *Maga'låhen Guåhan*.

11 (d) **Content of Termination Order.** All orders or
12 legislative actions terminating the declaration of a state of public
13 health emergency shall indicate the nature of the emergency, the
14 area(s) that was threatened and the conditions that make possible the
15 termination of the declaration.

17 ARTICLE V.

18 SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH

19 EMERGENCY: MANAGEMENT OF PROPERTY.

20 **Section 19501. Emergency Measures Concerning Facilities and**
21 **Materials.** The public health authority may exercise, for such period as the
22 state of public health emergency exists, the following powers over facilities
23 or materials:

24 (a) **Facilities.** To close, direct and compel the evacuation of,

1 or to decontaminate or cause to be decontaminated any facility of
2 which there is reasonable cause to believe that it may endanger the
3 public health.

4 (b) **Materials.** To decontaminate, or cause to be
5 decontaminated, or destroy any material of which there is reasonable
6 cause to believe that it may endanger the public health.

7 **Section 19502. Access to and Control of Facilities and Property -**
8 **Generally.** The public health authority may exercise, for such period as the
9 state of public health emergency exists, the following powers concerning
10 facilities, materials, roads or public areas:

11 (a) **Use of Materials and Facilities.** To procure, by
12 condemnation or otherwise, construct, lease, transport, store,
13 maintain, renovate, or distribute materials and facilities as may be
14 reasonable and necessary to respond to the public health emergency,
15 with the right to take *immediate* possession thereof. Such materials
16 and facilities include, but are *not* limited to, communication devices,
17 carriers, real estate, fuels, food and clothing.

18 (b) **Use of Health Care Facilities.** To require a health
19 care facility to provide services or the use of its facility *if* such
20 services or use are reasonable and necessary to respond to the public
21 health emergency as a condition of licensure, authorization or the
22 ability to continue doing business on Guam as a health care facility.
23 The use of the health care facility may include transferring the
24 management and supervision of the health care facility to the public

1 health authority for a limited or unlimited period of time, but shall
2 *not* exceed the termination of the declaration of a state of public
3 health emergency.

4 (c) **Control of Materials.** To inspect, control, restrict and
5 regulate by rationing and using quotas, prohibitions on shipments,
6 allocation, or other means, the use, sale, dispensing, distribution or
7 transportation of food, fuel, clothing and other commodities, as may
8 be reasonable and necessary to respond to the public health
9 emergency.

10 (d) **Control of Roads and Public Areas.**

11 (1) To prescribe routes, modes of transportation, and
12 destinations in connection with the evacuation of persons or
13 the provision of emergency services.

14 (2) To control or limit ingress and egress to and from
15 any stricken or threatened public area, the movement of
16 persons within the area and the occupancy of premises therein,
17 *if* such action is reasonable and necessary to respond to the
18 public health emergency.

19 **Section 19503. Safe Disposal of Infectious Waste.** The public
20 health authority may exercise, for such period as the state of public health
21 emergency exists, the following powers regarding the safe disposal of
22 infectious waste:

23 (a) **Adopt Measures.** To adopt and enforce measures to
24 provide for the safe disposal of infectious waste as may be
25 reasonable and necessary to respond to the public health emergency.

1 Such measures may include, but are *not* limited to, the collection,
2 storage, handling, destruction, treatment, transportation and
3 disposal of infectious waste.

4 **(b) Control of Facilities.** To require any business or facility
5 authorized to collect, store, handle, destroy, treat, transport and
6 dispose of infectious waste under the laws of Guam, and any landfill
7 business or other such property, to accept infectious waste, or
8 provide services or the use of the business, facility or property *if* such
9 action is reasonable and necessary to respond to the public health
10 emergency as a condition of licensure, authorization or the ability to
11 continue doing business on Guam as such a business or facility. The
12 use of the business, facility or property may include transferring the
13 management and supervision of such business, facility or property to
14 the public health authority for a limited or unlimited period of time,
15 but shall *not* exceed the termination of the declaration of a state of
16 public health emergency.

17 **(c) Use of Facilities.** To procure, by condemnation or
18 otherwise, any business or facility authorized to collect, store,
19 handle, destroy, treat, transport and dispose of infectious waste
20 under the laws of Guam, and any landfill business or other such
21 property as may be reasonable and necessary to respond to the
22 public health emergency, with the right to take *immediate* possession
23 thereof.

24 **(d) Identification.** All bags, boxes or other containers for
25 infectious waste shall be clearly identified as containing infectious

1 waste, and *if* known, the type of infectious waste.

2 **Section 19504. Safe Disposal of Human Remains.** The public
3 health authority may exercise, for such period as the state of public health
4 emergency exists, the following powers regarding the safe disposal of
5 human remains:

6 (a) **Adopt Measures.** To adopt and enforce measures to
7 provide for the safe disposal of human remains as may be reasonable
8 and necessary to respond to the public health emergency. Such
9 measures may include, but are *not* limited to, the embalming, burial,
10 cremation, interment, disinterment, transportation and disposal of
11 human remains.

12 (b) **Possession.** To take possession or control of any human
13 remains.

14 (c) **Disposal.** To order the disposal of any human remains
15 of a person who has died of a contagious disease through burial or
16 cremation within twenty-four (24) hours after death. To the extent
17 possible, religious, cultural, family and individual beliefs of the
18 deceased person or that person's family shall be considered when
19 disposing of any human remains.

20 (d) **Control of Facilities.** To require any business or facility
21 authorized to embalm, bury, cremate, inter, disinter, transport and
22 dispose of human remains under the laws of Guam to accept any
23 human remains or provide the use of its business or facility *if* such
24 actions are reasonable and necessary to respond to the public health

1 emergency as a condition of licensure, authorization or the ability to
2 continue doing business on Guam as such a business or facility. The
3 use of the business or facility may include transferring the
4 management and supervision of such business or facility to the
5 public health authority for a limited or unlimited period of time, but
6 shall *not* exceed the termination of the declaration of a state of public
7 health emergency.

8 (e) **Use of Facilities.** To procure, by condemnation or
9 otherwise, any business or facility authorized to embalm, bury,
10 cremate, inter, disinter, transport and dispose of human remains
11 under the laws of Guam as may be reasonable and necessary to
12 respond to the public health emergency, with the right to take
13 *immediate* possession thereof.

14 (f) **Labeling.** Every human remains *prior* to disposal shall
15 be clearly labeled with all available information to identify the
16 decedent and the circumstances of death. Any human remains of a
17 deceased person with a contagious disease shall have an external,
18 clearly visible tag indicating that the human remains is infected and,
19 *if* known, the contagious disease.

20 (g) **Identification.** Every person in charge of disposing of
21 any human remains shall maintain a written or electronic record of
22 each human remains and all available information to identify the
23 decedent and the circumstances of death and disposal. *If* human
24 remains cannot be identified *prior* to disposal, a qualified person
25 shall, to the extent possible, take fingerprints and photographs of the

1 human remains, obtain identifying dental information, and collect a
2 DNA specimen. All information gathered under this Paragraph shall
3 be promptly forwarded to the public health authority.

4 **Section 19505. Control of Health Care Supplies.**

5 (a) **Procurement.** The public health authority may
6 purchase and distribute anti-toxins, serums, vaccines, immunizing
7 agents, antibiotics and other pharmaceutical agents or medical
8 supplies that it deems advisable in the interest of preparing for, or
9 controlling, a public health emergency, without any additional
10 legislative authorization.

11 (b) **Rationing.** *If* a state of public health emergency results in
12 a Guam-wide or threatened shortage of any product, § 19505(a),
13 under (a), whether or not such product has been purchased by the
14 public health authority, the public health authority may control,
15 restrict and regulate by rationing and using quotas, prohibitions on
16 shipments, allocation, or other means, the use, sale, dispensing,
17 distribution or transportation of the relevant product necessary to
18 protect the public health, safety and welfare of the People of Guam.

19 (c) **Priority.** In making rationing or other supply and
20 distribution decisions, the public health authority may give
21 preference to health care providers, disaster response personnel and
22 mortuary staff.

23 (d) **Distribution.** During a state of public health
24 emergency, the public health authority may procure, store or
25 distribute any anti-toxins, serums, vaccines, immunizing agents,

1 antibiotics and other pharmaceutical agents or medical supplies
2 located within Guam as may be reasonable and necessary to respond
3 to the public health emergency, with the right to take *immediate*
4 possession thereof.

5 **Section 19506. Compensation.** The government of Guam shall
6 pay just compensation to the owner of any facilities or materials that are
7 lawfully taken or appropriated by a public health authority for its
8 temporary or permanent use under this Article according to the procedures
9 and standards set forth in § 19805 of this Act. Compensation shall *not* be
10 provided for facilities or materials that are closed, evacuated,
11 decontaminated or destroyed when there is reasonable cause to believe
12 that they may endanger the public health pursuant to § 19501.

13 **Section 19507. Destruction of Property.** To the extent practicable
14 consistent with the protection of public health, *prior* to the destruction of
15 any property under this Article, the public health authority shall institute
16 appropriate civil proceedings against the property to be destroyed in
17 accordance with the existing laws and rules of the courts of Guam, or any
18 such rules that may be developed by the courts for use during a state of
19 public health emergency. Any property acquired by the public health
20 authority through such proceedings shall, after entry of the decree, be
21 disposed of by destruction as the court may direct.

22 **ARTICLE VI.**

23 **SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH**

24 **EMERGENCY: PROTECTION OF PERSONS.**

1 **Section 19601. Protection of Persons.** During a state of public
2 health emergency, the public health authority shall use every available
3 means to prevent the transmission of infectious disease and to ensure that
4 all cases of contagious disease are subject to proper control and treatment.

5 **Section 19602. Medical Examination and Testing.** During a state
6 of public health emergency, the public health authority may perform
7 physical examinations and/or tests as necessary for the diagnosis or
8 treatment of individuals.

9 (a) Medical examinations or tests may be performed by any
10 qualified person authorized to do so by the public health authority.

11 (b) Medical examinations or tests must *not* be such as are
12 reasonably likely to lead to serious harm to the affected individual.

13 (c) The public health authority may isolate or quarantine,
14 pursuant to § 19604, any person whose refusal of medical
15 examination or testing results in uncertainty regarding whether that
16 person has been exposed to or is infected with a contagious or
17 possibly contagious disease, or otherwise poses a danger to public
18 health.

19 **Section 19603. Vaccination and Treatment.** During a state of
20 public health emergency, the public health authority may exercise the
21 following emergency powers over persons, as necessary, to address the
22 public health emergency:

23 (a) **Vaccination.** To vaccinate persons as protection
24 against infectious disease and to prevent the spread of contagious or
25 possibly contagious disease.

1 (1) Vaccination may be performed by any qualified
2 person authorized to do so by the public health authority.

3 (2) A vaccine to be administered must *not* be such as is
4 reasonably likely to lead to serious harm to the affected
5 individual.

6 (3) To prevent the spread of contagious or possibly
7 contagious disease, the public health authority may isolate or
8 quarantine, pursuant to § 19604, persons who are unable or
9 unwilling for reasons of health, religion or conscience to
10 undergo vaccination pursuant to this Section.

11 **(b) Treatment.** To treat persons exposed to or infected with
12 disease.

13 (1) Treatment may be administered by any qualified
14 person authorized to do so by the public health authority.

15 (2) Treatment must *not* be such as is reasonably likely
16 to lead to serious harm to the affected individual.

17 (3) To prevent the spread of contagious or possibly
18 contagious disease, the public health authority may isolate or
19 quarantine, pursuant to § 19604, persons who are unable or
20 unwilling for reasons of health, religion or conscience to
21 undergo treatment pursuant to this Section.

22 **Section 19604. Isolation and Quarantine.**

23 **(a) Authorization.** During the public health emergency,
24 the public health authority may isolate, consistent with the definition
25 of '*isolation*' in § 19103(h), or quarantine, consistent with the

1 definition of 'quarantine' in § 19103(o), an individual or groups of
2 individuals. This includes individuals or groups who have *not* been
3 vaccinated, treated, tested or examined pursuant to §§ 19602 and
4 19603. The public health authority may also establish and maintain
5 places of isolation and quarantine, and set rules and make orders.
6 Failure to obey these rules, orders or provisions shall constitute a
7 misdemeanor.

8 **(b) Conditions and Principles.** The public health authority
9 shall adhere to the following conditions and principles when
10 isolating or quarantining individuals or groups of individuals:

11 (1) Isolation and quarantine must be by the *least*
12 restrictive means necessary to prevent the spread of a
13 contagious or possibly contagious disease to others, and may
14 include, but are *not* limited to, confinement to private homes or
15 other private and public premises.

16 (2) Isolated individuals must be confined separately
17 from quarantined individuals.

18 (3) The health status of isolated and quarantined
19 individuals must be monitored regularly to determine *if* they
20 require isolation or quarantine.

21 (4) *If* a quarantined individual subsequently becomes
22 infected, or is reasonably believed to have become infected
23 with a contagious or possibly contagious disease, that person
24 must promptly be removed to isolation.

25 (5) Isolated and quarantined individuals must be

1 *immediately* released when they pose no substantial risk of
2 transmitting a contagious or possibly contagious disease to
3 others.

4 (6) The needs of persons isolated and quarantined
5 shall be addressed in a systematic and competent fashion,
6 including, but *not* limited to, providing adequate food,
7 clothing, shelter, means of communication with those in
8 isolation or quarantine and outside these settings, medication
9 and competent medical care.

10 (7) Premises used for isolation and quarantine shall be
11 maintained in a safe and hygienic manner, and be designed to
12 minimize the likelihood of further transmission of infection or
13 other harms to persons isolated and quarantined.

14 (8) To the extent possible, cultural and religious beliefs
15 should be considered in addressing the needs of individuals,
16 and establishing and maintaining the isolation and quarantine
17 premises.

18 **(c) Cooperation.** Persons subject to isolation or
19 quarantine shall obey the public health authority's rules and orders;
20 and shall *not* go beyond the isolation or quarantine premises. Failure
21 to obey these provisions shall constitute a misdemeanor.

22 **(d) Entry into Isolation or Quarantine Premises.**

23 **(1) Authorized Entry.** The public health authority
24 may authorize physicians, health care workers or others access
25 to individuals in isolation or quarantine as necessary to meet

1 the needs of isolated or quarantined individuals.

2 (2) **Unauthorized Entry.** No person, other than a
3 person authorized by the public health authority, shall enter
4 isolation or quarantine premises. Failure to obey this provision
5 shall constitute a misdemeanor.

6 (3) **Potential Isolation or Quarantine.** Any person
7 entering an isolation or quarantine premises with or without
8 authorization of the public health authority may be isolated or
9 quarantined pursuant to § 19604(a).

10 **Section 19605. Procedures for Isolation and Quarantine.**

11 During a public health emergency, the isolation and quarantine of an
12 individual or groups of individuals shall be undertaken in accordance with
13 the following procedures:

14 (a) **Temporary Isolation and Quarantine Without Notice.**

15 (1) **Authorization.** The public health authority may
16 *temporarily* isolate or quarantine an individual, or groups of
17 individuals, through a written directive *if* delay in imposing
18 the isolation or quarantine would significantly jeopardize the
19 public health authority's ability to prevent or limit the
20 transmission of a contagious or possibly contagious disease to
21 others.

22 (2) **Content of Directive.** The written directive shall
23 specify the following:

24 (i) the identity of the individual or groups of

1 individuals subject to isolation or quarantine;

2 (ii) the premises subject to isolation or
3 quarantine;

4 (iii) the date and time at which isolation or
5 quarantine commences;

6 (iv) the suspected contagious disease *if* known;
7 *and*

8 (v) a copy of Article 6 and relevant definitions of
9 this Act.

10 **(3) Copies.** A copy of the written directive shall be
11 given to the individual to be isolated or quarantined or, *if* the
12 order applies to a group of individuals and it is impractical to
13 provide individual copies, it may be posted in a conspicuous
14 place in the isolation or quarantine premises.

15 **(4) Petition for Continued Isolation or Quarantine.**
16 Within ten (10) days *after* issuing the written directive, the
17 public health authority shall file a petition pursuant to §
18 19605(b) for a court order authorizing the continued isolation
19 or quarantine of the isolated or quarantined individual or
20 groups of individuals.

21 **(b) Isolation or Quarantine With Notice.**

22 **(1) Authorization.** The public health authority may
23 make a written petition to the Superior Court of Guam for an
24 order authorizing the isolation or quarantine of an individual
25 or groups of individuals.

1 (2) **Content of Petition.** A petition under Subsection
2 (b)(1) shall specify the following:

3 (i) the identity of the individual or groups of
4 individuals subject to isolation or quarantine;

5 (ii) the premises subject to isolation or
6 quarantine;

7 (iii) the date and time at which isolation or
8 quarantine commences;

9 (iv) the suspected contagious disease *if* known;

10 (v) a statement of compliance with the
11 conditions and principles for isolation and quarantine of
12 § 19604(b); *and*

13 (vi) a statement of the basis upon which isolation
14 or quarantine is justified in compliance with this Article.

15 The petition shall be accompanied by the sworn
16 affidavit of the public health authority attesting to the
17 facts asserted in the petition, together with any further
18 information that may be relevant and material to the
19 court's consideration.

20 (3) **Notice.** Notice to the individual or groups of
21 individuals identified in the petition shall be accomplished
22 within twenty-four (24) hours in accordance with the rules of
23 civil procedure.

24 (4) **Hearing.** A hearing must be held on any petition
25 filed pursuant to this Subsection within five (5) days of filing of

1 the petition. In extraordinary circumstances and for good
2 cause shown, the public health authority may apply to
3 continue the hearing date on a petition filed pursuant to this
4 Section for *up to* ten (10) days, which continuance the court
5 may grant in its discretion giving due regard to the rights of
6 the affected individuals, the protection of the public's health,
7 the severity of the emergency and the availability of necessary
8 witnesses and evidence.

9 (5) **Order.** The court shall grant the petition *if*, by
10 a preponderance of the evidence, isolation or quarantine is
11 shown to be reasonably necessary to prevent or limit the
12 transmission of a contagious or possibly contagious disease to
13 others.

14 (i) An order authorizing isolation or quarantine
15 may do so for a period *not* to exceed thirty (30) days.

16 (ii) The order shall:

17 (aa) identify the isolated or quarantined
18 individual or groups of individuals, by name or
19 shared or similar characteristics or circumstances;

20 (bb) specify factual findings warranting
21 isolation or quarantine pursuant to this Act;

22 (cc) include any conditions necessary to
23 ensure that isolation or quarantine is carried out
24 within the stated purposes and restrictions of this
25 Act; *and*

1 (dd) served on affected individuals or
2 groups of individuals in accordance with the rules
3 of civil procedure.

4 (6) **Continuances.** *Prior* to the expiration of an order
5 issued pursuant to § 19605(b)(5), the public health authority
6 may move to continue isolation or quarantine for additional
7 periods *not* to exceed thirty (30) days each. The court shall
8 consider the motion in accordance with standards set forth in §
9 19605(b)(5).

10 (c) **Relief from Isolation and Quarantine.**

11 (1) **Releases.** An individual or groups of individuals
12 isolated or quarantined pursuant to this Act may apply to the
13 Superior Court of Guam for an order to show cause why the
14 individual or groups of individuals should be released. The
15 Court shall rule upon the application to show cause within
16 forty-eight (48) hours of its filing. *If* the Court grants the
17 application, the Court shall schedule a hearing on the order to
18 show cause within twenty-four (24) hours from issuance of the
19 order to show cause. The issuance of an order to show cause
20 shall *not* stay or enjoin an isolation or quarantine order.

21 (2) **Remedies for Breach of Conditions.** An
22 individual or groups of individuals isolated or quarantined
23 pursuant to this Act may request a hearing in the Superior
24 Court of Guam for remedies regarding breaches to the
25 conditions of isolation or quarantine. A request for a hearing

1 shall *not* stay or enjoin an isolation or quarantine order.

2 (i) Upon receipt of a request under this
3 Subsection alleging extraordinary circumstances
4 justifying the *immediate* granting of relief, the Court shall
5 fix a date for hearing on the matters alleged *not more than*
6 twenty-four (24) hours from receipt of the request.

7 (ii) Otherwise, upon receipt of a request under
8 this Subsection, the Court shall fix a date for hearing on
9 the matters alleged within five (5) days from receipt of
10 the request.

11 **(3) Extensions.** In any proceedings brought for
12 relief under this Subsection, in extraordinary circumstances
13 and for good cause shown, the public health authority may
14 move the Court to extend the time for a hearing, which
15 extension the Court in its discretion may grant giving due
16 regard to the rights of the affected individuals, the protection
17 of the public's health, the severity of the emergency and the
18 availability of necessary witnesses and evidence.

19 **(d) Proceedings.** A record of the proceedings pursuant to
20 this Section shall be made and retained. In the event that, given a
21 state of public health emergency, parties cannot personally appear
22 before the Court, proceedings may be conducted by their authorized
23 representatives and be held via any means that allows all parties to
24 fully participate.

25 **(e) Court to Appoint Counsel and Consolidate Claims.**

1 **(1) Appointment.** The Court shall appoint counsel
2 at the expense of the government of Guam to represent
3 individuals or groups of individuals who are, or who are about
4 to be, isolated or quarantined pursuant to the provisions of this
5 Act, and who are *not* otherwise represented by counsel.
6 Appointments shall be made in accordance with the
7 procedures to be specified in the Public Health Emergency
8 Plan and shall last throughout the duration of the isolation or
9 quarantine of the individual or groups of individuals. The
10 public health authority must provide adequate means of
11 communication between such individual or groups of
12 individuals and their counsel.

13 **(2) Consolidation.** In any proceedings brought
14 pursuant to this Section, to promote the fair and efficient
15 operation of justice and having given due regard to the rights
16 of the affected individuals, the protection of the public's health,
17 the severity of the emergency and the availability of necessary
18 witnesses and evidence, the Court may order the consolidation
19 of individual claims into group or claims where:

20 (i) the number of individuals involved or to be
21 affected is so large as to render individual participation
22 impractical;

23 (ii) there are questions of law or fact common to
24 the individual claims or rights to be determined;

25 (iii) the group claims or rights to be determined

1 are typical of the affected individuals' claims or rights;

2 *and*

3 (iv) the entire group will be adequately
4 represented in the consolidation.

5 **Section 19606. Collection of Laboratory Specimens; Performance**
6 **of Tests.** The public health authority may, for such period as the state of
7 public health emergency exists, collect specimens and perform tests on
8 living persons as provided in § 19602, and also upon deceased persons and
9 any animal (living or deceased), and acquire any previously collected
10 specimens or test results that are reasonable and necessary to respond to
11 the public health emergency.

12 (a) **Marking.** All specimens shall be clearly marked.

13 (b) **Contamination.** Specimen collection, handling, storage and
14 transport to the testing site shall be performed in a manner that will
15 reasonably preclude specimen contamination or adulteration, and provide
16 for the safe collection, storage, handling and transport of such specimen.

17 (c) **Chain of Custody.** Any person authorized to collect
18 specimens or perform tests shall use chain of custody procedures to ensure
19 proper record keeping, handling, labeling and identification of specimens
20 to be tested. This requirement applies to all specimens, including
21 specimens collected using on-site testing kits.

22 (d) **Criminal Investigation.** Recognizing that, during a state of
23 public health emergency, any specimen collected or test performed may be
24 evidence in a criminal investigation, any business, facility or agency

1 authorized to collect specimens or perform tests shall provide such support
2 as is reasonable and necessary to aid in a relevant criminal investigation.

3 **Section 19607. Access to and Disclosure of Protected Health**
4 **Information.**

5 (a) **Access.** Access to protected health information of
6 persons who have participated in medical testing, treatment,
7 vaccination, isolation, or quarantine programs or efforts by the
8 public health authority during a public health emergency shall be
9 limited to those persons having a legitimate need to acquire or use
10 the information to:

- 11 (1) provide treatment to the individual who is the
12 subject of the health information;
13 (2) conduct epidemiologic research; *or*
14 (3) investigate the causes of transmission.

15 (b) **Disclosure.** Protected health information held by
16 the public health authority shall *not* be disclosed to others without
17 individual written, specific informed consent, *except* for disclosures
18 made:

- 19 (1) directly to the individual;
20 (2) to the individual's immediate family members or
21 personal representative;
22 (3) to appropriate Federal agencies or authorities
23 pursuant to Federal law;
24 (4) pursuant to a court order to avert a clear danger to
25 an individual or to the public health; *or*

1 (5) to identify a deceased individual or determine the
2 manner or cause of death.

3 **Section 19608. Licensing and Appointment of Health Personnel.**

4 The public health authority may exercise, for such period as the state of
5 public health emergency exists, the following emergency powers regarding
6 licensing and appointment of health personnel.

7 (a) **Health Care Providers.** To require on-Guam health
8 care providers to assist in the performance of vaccination, treatment,
9 examination or testing of any individual as a condition of licensure,
10 authorization or the ability to continue to function as a health care
11 provider on Guam.

12 (b) **Health Care Providers from Other Jurisdictions.**
13 To appoint and prescribe the duties of such off-Guam emergency
14 health care providers as may be reasonable and necessary to respond
15 to the public health emergency.

16 (1) The appointment of off-Guam emergency health
17 care providers may be for a limited or unlimited time, but shall
18 *not* exceed the termination of the declaration of a state of public
19 health emergency. The public health authority may terminate
20 the off-Guam appointments at any time or for any reason;
21 *provided*, that any such termination will *not* jeopardize the
22 health, safety and welfare of the People of Guam.

23 (2) The public health authority may waive any or all
24 licensing requirements, permits or fees required by the
25 Government Code of Guam and applicable orders, rules or

1 regulations for health care providers from other jurisdictions to
2 practice on Guam.

3 (3) Any off-Guam emergency health care provider
4 appointed pursuant to this Section shall *not* be held liable for
5 any civil damages as a result of medical care or treatment
6 related to the response to the public health emergency, *unless*
7 such damages result from providing, or failing to provide,
8 medical care or treatment under circumstances demonstrating
9 a reckless disregard for the consequences so as to affect the life
10 or health of the patient.

11 (c) **Personnel to Perform Duties of Medical Examiner or**
12 **Coroner.** To authorize the medical examiner or coroner to appoint
13 and prescribe the duties of such emergency assistant medical
14 examiners or coroners as may be required for the proper
15 performance of the duties of the office.

16 (1) The appointment of emergency assistant medical
17 examiners or coroners may be for a limited or unlimited time,
18 but shall *not* exceed the termination of the declaration of a state
19 of public health emergency. The medical examiner or coroner
20 may terminate such emergency appointments at any time or
21 for any reason; *provided*, that any such termination will *not*
22 impede the performance of the duties of the office.

23 (2) The medical examiner or coroner may waive
24 licensing requirements, permits or fees required by Guam
25 Code and applicable orders, rules or regulations for the

1 performance of these duties.

2 (3) Any emergency assistant medical examiner or
3 coroner appointed pursuant to this Section and acting without
4 malice and within the scope of the prescribed duties shall be
5 immune from civil liability in the performance of such duties.

6 **ARTICLE VII.**

7 **PUBLIC INFORMATION REGARDING PUBLIC HEALTH EMERGENCY.**

8 **Section 19701. Dissemination of Information.** The public health
9 authority shall inform the People of Guam when a state of public health
10 emergency has been declared or terminated, how to protect themselves
11 during a state of public health emergency, and what actions are being
12 taken to control the emergency.

13 (a) **Means of Dissemination.** The public health authority
14 shall provide information by all available and reasonable means
15 calculated to bring the information promptly to the attention of the
16 general public.

17 (b) **Languages.** *If* the public health authority has reason
18 to believe there are large numbers of people on Guam who lack
19 sufficient skills in English to understand the information, the public
20 health authority shall make reasonable efforts to provide the
21 information in the primary languages of those people as well as in
22 English.

23 (c) **Accessibility.** The provision of information shall be
24 made in a manner accessible to individuals with disabilities.

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Section 19702. Access to Mental Health Support Personnel.

During and after the declaration of a state of public health emergency, the public health authority shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency.

ARTICLE VIII.

MISCELLANEOUS.

Section 19801. Titles.

For the purposes of this Act, titles and subtitles of Articles, Sections and Subsections are instructive, but *not* binding.

Section 19802. Rules and Regulations.

The public health authority and other affected agencies are authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of this Act. The public health authority and other affected agencies shall have the power to enforce the provisions of this Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law, but nothing in this Section shall be construed to limit specific enforcement powers enumerated in this Act.

Section 19803. Financing and Expenses.

(a) Transfer of Funds. *I Maga'låhen Guåhan* may transfer

from the General Fund up to One Hundred Thousand Dollars (\$100,000.00) monthly as an emergency appropriation upon the declaration of a public health emergency, and upon notification to

1 the United States Centers for Disease Control ("CDC"), to address,
2 mitigate or abate any catastrophic disease control situations relating
3 to the spread or outbreak of communicable diseases, or for any
4 biological threats to mankind. *I Maga'ahen Guåhan* is allowed to
5 utilize this emergency appropriation *up to* three (3) consecutive
6 months per emergency notification to the CDC, and at such time
7 shall be subject to *I Liheslaturan Guåhan's* appropriation. Notice of
8 any transfer shall be delivered to the Speaker and to the Committee
9 on Ways and Means of *I Liheslaturan Guåhan* by *I Maga'lalen Guåhan*
10 within ten (10) days after such transfer.

11 **(b) Conditions.** A transfer of funds by *I Maga'lalen*
12 *Guåhan* under the provisions of this Section may be made *only* when
13 one (1) or more of the following conditions exist:

14 (1) no appropriation or other authorization is available
15 to meet the public health emergency;

16 (2) an appropriation is insufficient to meet the public
17 health emergency; *or*

18 (3) Federal monies available for such a public health
19 emergency require the use of local or other public monies.

20 **(c) Expenses.** All expenses incurred by the government of
21 Guam during a state of public health emergency shall be subject to
22 the following limitations:

23 (1) no expense shall be incurred against the monies
24 authorized under this Section, without the general approval of
25 *I Maga'lalen Guåhan*; and

1 (2) the aggregate amount of all expenses incurred
2 pursuant to this Section shall *not* exceed Six Hundred
3 Thousand Dollars (\$600,000.00) for any fiscal year. Any
4 amounts in excess is subject to *I Liheslaturan Guåhan's*
5 appropriation.

6 **Section 19804. Liability.**

7 **(a) Immunity.** Neither the government of Guam, nor,
8 *except* in cases of gross negligence or willful misconduct, *I Maga'lahaen*
9 *Guåhan*, the public health authority or any other government or local
10 official referenced in this Act, is liable for the death of or any injury
11 to persons, or damage to property, as a result of complying with or
12 attempting to comply with this Act, or any rules or regulations
13 promulgated pursuant to this Act during a state of public health
14 emergency.

15 **(b) Private Liability.**

16 (1) During a state of public health emergency, any
17 person owning or controlling real estate or other premises who
18 voluntarily and without compensation grants a license or
19 privilege, or otherwise permits the designation or use of the
20 whole or any part or parts of such real estate or premises for
21 the purpose of sheltering persons, together with that person's
22 successors in interest, *if* any, shall *not* be civilly liable for
23 negligently causing the death of, or injury to, any person on or
24 about such real estate or premises under such license, privilege
25 or other permission, or for negligently causing loss of, or

1 damage to, the property of such person.

2 (2) During a state of public health emergency, any
3 private person, firm or corporation and employees and agents
4 of such person, firm or corporation in the performance of a
5 contract with, and under the direction of, the government of
6 Guam or its political subdivisions under the provisions of this
7 Act shall *not* be civilly liable for causing the death of, or injury
8 to, any person or damage to any property, *except* in the event of
9 gross negligence or willful misconduct.

10 (3) During a state of public health emergency, any
11 private person, firm or corporation, and employees and agents
12 of such person, firm or corporation, who renders assistance or
13 advice at the request of the government of Guam or its political
14 subdivisions under the provisions of this Act shall *not* be
15 civilly liable for causing the death of, or injury to, any person
16 or damage to any property, *except* in the event of gross
17 negligence or willful misconduct.

18 (4) The immunities provided in this Subsection shall
19 *not* apply to any private person, firm or corporation or
20 employees and agents of such person, firm or corporation
21 whose act or omission caused in whole or in part the public
22 health emergency, and who would otherwise be liable therefor.

23 **Section 19805. Compensation.**

24 (a) **Taking.** Compensation for property shall be made
25 only *if* private property is lawfully taken or appropriated by a public

1 health authority for its temporary or permanent use during a state of
2 public health emergency declared by *I Maga'lahaen Guåhan* pursuant
3 to this Act.

4 (b) **Actions.** Any action against the government of Guam
5 with regard to the payment of compensation shall be brought in the
6 courts of Guam in accordance with existing court laws and rules, or
7 any such rules that may be developed by the courts for use during a
8 state of public health emergency.

9 (c) **Amount.** The amount of compensation shall be
10 calculated in the same manner as compensation due for taking of
11 property pursuant to non-emergency eminent domain procedures, as
12 provided in Chapter 15 of Title 21 of the Guam Code Annotated,
13 *except* that the amount of compensation calculated for items obtained
14 under § 19505 shall be limited to the costs incurred to produce the
15 item.

16 **Section 19806. Severability.** The provisions of this Act are
17 severable. *If* any provision of this Act or its application to any person or
18 circumstances is held invalid in a Federal or local court having jurisdiction,
19 the invalidity will *not* affect other provisions or applications of this Act that
20 can be given effect without the invalid provision or application.

21 **Section 19807. Savings Clause.** This Act does *not* explicitly
22 preempt other laws or regulations that preserve to a greater degree the
23 powers of *I Maga'lahaen Guåhan* or public health authority; *provided*, such
24 laws or regulations are consistent, and do *not* otherwise restrict or interfere,

1 with the operation or enforcement of the provisions of this Act.

2 **Section 19808. Conflicting Laws.**

3 (a) **Federal Supremacy.** This Act does *not* restrict any
4 person from complying with Federal law or regulations.

5 (b) **Prior Conflicting Acts.** In the event of a conflict
6 between this Act and other local laws or regulations concerning
7 public health powers, the provisions of this Act apply.

8 **Section 19809. Effective Date.** The provisions of this Act shall
9 take effect upon signature of *I Maga'lahaen Guåhan.*"

10 **Section 3. Severability.** *If any provision of this Law or its application*
11 *to any person or circumstance is found to be invalid or contrary to law, such*
12 *invalidity shall not affect other provisions or application, and to this end the*
13 *provisions of this Law severable.*

26-173

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I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 12/30/02

VOTING SHEET

Bill No. 360 (con)

Resolution No. _____

Question: without engrossment

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.					✓
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.					✓
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.					✓
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

12 0 0 0 3

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA ' BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hiniråt, Rifotma yan Rinueba,
yan Asunton Fidiråt, Taotao Hiyong yan Hiniråt

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayuråt*

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report- BILL NO. 360: "An Act To Add A New Chapter 19 To Division 1, Of Title 10 Of The Guam Code Annotated Relative To "Islan Guahan Emergency Health Powers Act" For Emergency Health Threats, Including Those Caused By Bioterrorism Requiring The Exercise Of Government Powers And Functions To Respond Rapidly And Effectively To Potential Or Actual Public Health Emergencies For The Common Good."

Transmitted herewith for your information and action is the report on Bill No. 360, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No.360
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES

Attachments



MINA ' BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,
yan Asuntun Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu
Kabisiyon Mayurát*

Speaker Antonio R. Unpingco
I Mina' Bente Sais Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 360, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 360: "An Act To Add A New Chapter 19 To Division 1, Of Title 10 Of The Guam Code Annotated Relative To "Islan Guahan Emergency Health Powers Act" For Emergency Health Threats, Including Those Caused By Bioterrorism Requiring The Exercise Of Government Powers And Functions To Respond Rapidly And Effectively To Potential Or Actual Public Health Emergencies For The Common Good."**

The voting record is as follows:

TO PASS

7

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

TO REPORT OUT

1

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


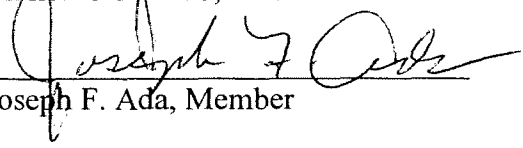
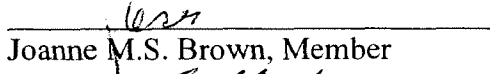

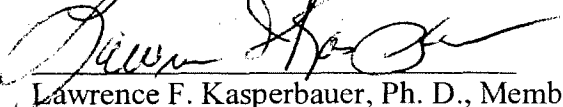
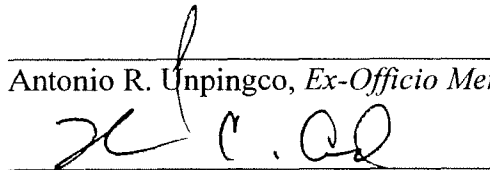
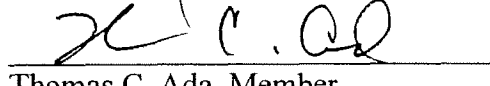

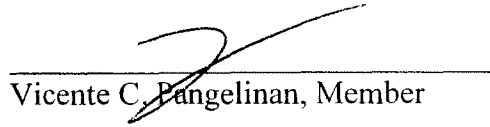

MARK FORBES

Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,
Foreign and General Affairs**
I Mina' Bente Sais Na Liheslaturan Guåhan

Voting Record

BILL NO. 360: "An Act To Add A New Chapter 19 To Division 1, Of Title 10 Of The Guam Code Annotated Relative To "Islan Guahan Emergency Health Powers Act" For Emergency Health Threats, Including Those Caused By Bioterrorism Requiring The Exercise Of Government Powers And Functions To Respond Rapidly And Effectively To Potential Or Actual Public Health Emergencies For The Common Good."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>REPORT OUT</u>
 MARK FORBES, Chairman	✓				
 Joseph F. Ada, Member	✓				
 Joanne M.S. Brown, Member					
 Eddie B. Calvo, Member	✓				
Felix B. Camacho, Member					
 Lawrence F. Kasperbauer, Ph. D., Member	X				
Kaleo S. Moylan, Member					
 Antonio R. Unpingco, <i>Ex-Officio Member</i>	✓				
 Thomas C. Ada, Member	✓				
 Lou A. Leon Guerrero, Member	✓				
 Vicente C. Pangelinan, Member					✓