

**I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**

**COMMITTEE ON RULES, GENERAL GOVERNMENTAL  
OPERATIONS, REORGANIZATION AND REFORM, AND  
FEDERAL, FOREIGN AND GENERAL AFFAIRS**

**SENATOR MARK FORBES, CHAIRMAN**

**COMMITTEE REPORT  
ON  
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 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.”**

## I. OVERVIEW

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs held a public hearing at 10:00 a.m. on August 12, 2002 in the Public Hearing Room, Temporary Legislative Building, Hagatna, Guam. Public Notice was provided to the media on August 09, 2002. The hearing was called to order by Senator Mark Forbes.

Senators present at the public hearing were:

Senator Mark Forbes, Chairman  
Senator Eddie B. Calvo, Member  
Senator Larry Kasperbauer, Member  
Senator Tom Ada, Member  
Senator Lou Leon Guerrero, Member  
Senator Ben Pangelinan, Member

## II. SUMMARY OF TESTIMONY

Bill Number 360 (COR) was introduced on July 30, 2002 and remained within the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs. The Committee has yet to receive a response for a fiscal note from the Bureau of Budget and Management Research. The testimonies (oral or written) presented to the committee for Bill No. 360 are as follows:

<u>Present to Testify</u>	<u>Testimony Presented</u>	<u>Herein Attached As</u>
Dennis G. Rodriguez, Director, Department of Public Health and Social Services	Oral/Written	Exhibit "A"
Dr. Robert Haddock, Guam Epidemiologist, Department Of Public Health and Social Services	Oral/Written	Exhibit "B"
Peter John Camacho, Chief Public Health Officer, Department of Public Health and Social Services	Oral	
Josie T. O'Mallan, Communicable Disease Administrator, Department of Public Health and Social Services	Oral	
Dennis G. Rodriguez, Director, Department of Public Health and Social Services	Submitted Comments	Exhibit "C"

## III. FINDINGS AND RECOMMENDATION

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 360 (COR) that there is a health, moral, social and ethical obligation for the government of Guam to responsibly abate and mitigate the spread of catastrophic communicable diseases within the island. A state of a public health emergency was declared in May of 2002 by *I Maga'lahaen Guåhan* relating to a measles outbreak. This

outbreak has catastrophic implications to the health and well being of the people. In 1994, a similar outbreak manifested where 280 people were suspected, probable, or confirmed to have contracted measles. This outbreak required the hospitalization of 23 individuals with three related deaths. The ominous aftermath of that outbreak could have been abated upon the swift action of the government.

The control of communicable diseases is a priority of Guam. However, potential outbreaks occur in circumstances where the island is not readily prepared to contain a disease or an act of bioterrorism. As a result, an emergency situation arises requiring *I Maga'låhen Guåhan* to mobilize required resources to head off a catastrophic situation.

The spread of communicable diseases not only occurs in circumstances by natural human contact. As a result of the 911 incident, Guam, an instrumentality of the United States of America, is prone to terroristic attacks on mankind. In the wake of the tragic events of September 11, 2001, our nation realizes that the government's foremost responsibility is to protect the health, safety, and well being of its citizens. New and emerging dangers including emergent and resurgent infectious diseases and incidents of civilian mass casualties pose serious and immediate threats to the population. A renewed focus on the prevention, detection, management, and containment of public health emergencies is thus called for. Emergency health threats, including those caused by bioterrorism and epidemics, require the exercise of essential government functions. The government of Guam is responsible for safeguarding the health, security, and well being of its people, the local government must be able to respond, rapidly and effectively, to public health emergencies. It took a real emergency – September 11 and its aftermath to understand that almost anything could be used to kill large numbers of people. Weapons of mass destruction is an ominous chapter of the 20<sup>th</sup> century's ugliest legacy. It is very difficult to control the spread of weapons and biological agents. It is also difficult to determine which weapon of mass destruction is most formidable. By weight, biological agents have a deadlier reach than chemical weapons and can be easier obtained. When these weapons are deployed through opportunistic terrorist actions, the swift and deadly wrath requires immediate response and mobilization. The *Islan Guahån Emergency Health Powers Act* (the "Act") therefore grants specific emergency powers to *I Maga'låhen Guahån* and public health authorities. The Act requires the development of a comprehensive plan to provide a coordinated, appropriate response in the event of a public health emergency. It facilitates the early detection of a health emergency by authorizing the reporting and collection of data and records, and allows for immediate investigation by granting access to individuals' health information under specified circumstances. During a public health emergency, the government of Guam and local officials are authorized to use and appropriate property as necessary for the care, treatment, and housing of patients, and to destroy contaminated facilities or materials. They are also empowered to provide care, testing and treatment, and vaccination to persons who are ill or who have been exposed to a contagious disease, and to separate affected individuals from the population at large to interrupt disease transmission. At the same time, the Act recognizes that Guam's ability to respond to a public health emergency must respect the dignity and rights of persons. The exercise of emergency health powers is designed to promote the common good. Emergency powers must be grounded in a thorough scientific understanding of public health threats and disease transmission. Guided by principles of justice, the government of Guam has a duty to act with fairness and tolerance towards individuals and groups.

The Act thus provides that, in the event of the exercise of emergency powers, the civil rights, liberties, and needs of infected or exposed persons will be protected to the fullest extent possible consistent with the primary goal of controlling serious health threats. Public health laws and our courts have traditionally balanced the common good with individual civil liberties. The Act strikes such a balance. It provides the government of Guam and other local officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties. The Act seeks to ensure a strong, effective, and timely response to public health emergencies, while fostering respect for individuals from all groups and backgrounds. Although modernizing public health law is an important part of protecting the population during public health emergencies, the public health system itself needs improvement. Preparing for a public health emergency requires a well trained public health workforce, efficient data systems, and sufficient laboratory capacity.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No 360 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **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”.

GOVERNMENT OF GUAM



Carl T.C. Gutierrez  
GOVERNOR

Madeleine Z. Bordallo  
LIEUTENANT GOVERNOR

DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES  
(DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT)

Post Office Box 2816 Hagåtña, Guam 96932  
123 Chalan Kareta, Route 10  
Mangilao, Guam 96923



Dennis G. Rodriguez  
DIRECTOR

Joe R. San Agustin  
DEPUTY DIRECTOR

**TESTIMONY ON BILL 360 (COR): 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.**

Good morning Mr. Chair and members of the Committee:

Buenas yan Saluda! My name is Dennis G. Rodriguez, Director of the Department of Public Health and Social Services. I am here to present testimony on Bill 360 (COR), also known as the "Islan Guahan Emergency Health Powers Act". Since the proposed scope of Bill 360 is quite far-reaching, I am hopeful that the session from this past Monday and today will be the start of further discussions to ensure that the final product is what is truly needed and beneficial for the people of our island home.

In the "Legislative Intent" section, it states that, "the control of communicable diseases is a priority of Guam ... and that potential outbreaks occur in circumstances where the island is not readily prepared to contain the disease". This statement is very significant because it acknowledges that control of communicable diseases is a priority for our island. I am indeed pleased that this august body is together with the Department relative to that issue.

Exhibit "A"



It is true that potential outbreaks do occur in communities where the immunity levels are not high enough because of the lack of or a limited capacity to immunize the population, especially those at risk for contracting the disease. I have said in the past that “an ounce of prevention goes further than the pound of cure”. What we need senators is to ensure that age-appropriate immunizations are implemented and enforced in our community in order to build up the necessary levels of immunity against communicable diseases, thus minimizing the need to implement a very labor-intensive campaign to control any outbreaks that may occur.

Ideally, since our Department is part of the community coalition in the “drive to immunize”, adequate staffing levels of the healthcare professionals who can immunize infants, children and other individuals who are at risk would be one avenue to ensure we achieve that goal. Recognizing the worldwide shortage of nurses, we at the department are working with our partners in efforts to accomplish this important task. Personally and professionally, I would prefer that if we look at immunizations as an investment in our future, I believe that coming in at the start relative to the prevention aspects will save us more than when we spend money to try to cure or contain an outbreak or epidemic of a vaccine preventable disease!

Many of the concepts in this bill are found in already existing statutes. For example, the bill calls for the creation of a Public Health Emergency Planning Commission. I would like to point out that the Office of Civil Defense was created to address issues raised in Bill 360. One very important project this agency has been working on is the revision of the Territorial Emergency Plan. This document, while a work in progress, is now known as the Guam Emergency Response Plan and has hazard specific annexes that outline responsibilities of agencies and instrumentalities of the

Government of Guam in responding to different incidents. I am sure that given the fiscal and resource constraints we are facing, we would not embark on something that duplicates existing or ongoing efforts. In this vein, the Civil Defense Advisory Council has been reactivated and other community sectors added to enhance the workings of that group. Additionally, some of the proposed provisions of Bill 360 relative to the appropriation of property and the like are addressed in the Civil Defense statutes.

Similarly, proposed provisions relative to “communicable diseases and quarantine actions” also exist in statute. I do agree that there should be an effort to revisit existing laws in order to bring us forth into these difficult times, especially since September 11<sup>th</sup>. I am sure that my staff would want to be involved in such an effort. I would like to offer for future consideration, the possibility of developing sanctions to go along with the current laws.

We all know that implementing penalties is a difficult task. However, when the penalties involve a financial component with the appropriate legal backing, our chances of success, I believe, will improve. What I am referring to is the “reporting requirement” that already exists in the law. With no “real” penalty to go along with it, many times that duty to report is ignored because of competing responsibilities. If we truly believe that all efforts to prevent or contain communicable diseases is a priority for Guam, then we should implement measures to make sure that responsible entities take notice and live up to those duties!

These are some general comments that I bring to today’s hearing in the earnest hope that an effective dialogue will take place between the appropriate government and community partners and the legislature in

Comments suggested by Dr. H.

CPHO

COMMENTS ON BILL 360 (COR):

At present Guam physicians may have to wait for 2 weeks or longer for laboratory confirmation of a suspected Class I disease. Therefore I recommend that Section 19301 paragraph (c) be changed as follows:

"(c) **Manner of reporting.** Suspicion of a Class I disease as specified by the Director of Public Health and Social Services shall be reported within *diagnosis* ~~twenty-four~~ (24) hours to the public health authority. The report shall include . . . current home and work addresses (including village) and phone numbers . . ."

To our knowledge there do not exist anywhere in current Guam laws or regulations any guidelines for the enforcement of the requirement that a health care provider promptly report "illnesses or health conditions" that have been identified by the public health authority as dangerous to the public health. We believe that, in most cases, there would be reluctance on the part of the public health authority to enforce the provisions of this Section as a criminal matter. Therefore I suggest that a new paragraph (f) be substituted for the current paragraph (f) of Section 19301 as follows:

"(f) **Enforcement.** Failure of a health care provider to report any illness or health condition identified by the Director of Public Health and Social Services as a Class I disease in the manner and within the time period specified in this Section shall be reported to the authority or agency responsible for licensing that health care provider. The licensing authority shall, at its next regular meeting, hold a hearing to determine what action, if any, should be taken with regard to this report. The penalty for failure to comply with the provisions of this article may include suspension of license to practice a healing art for up to thirty (30) days for a first offense and suspension or revocation of license for a second or subsequent offense. The action taken by the licensing authority in any such case shall be reported to the Director of Public Health and Social Services, published in a paper of public record and posted in a appropriate location at the Guam Memorial Hospital."

Exhibit "B"



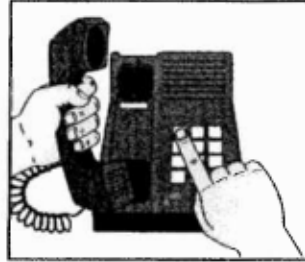
# OFFICIAL GUAM REPORTABLE DISEASE LIST

Authority: Chapter 4, Title X, Guam Code Annotated

## CLASS I DISEASES

Class I diseases include those with potential for rapid spread or requiring prompt action for effective control and must be reported immediately by phone in addition to usual morbidity card report - do not wait for laboratory confirmation.

Acute flaccid paralysis  
Anthrax  
Botulism  
Cholera  
Dengue  
Diphtheria  
Encephalitis, viral  
Food or fish poisoning (2 or more related cases)  
Hemorrhagic fevers (all forms)



Measles (Rubeola)  
Meningococcal disease  
Pertussis  
Plague  
Poliomyelitis (acute)  
Rabies (in man or animal)  
Rubella (including congenital)  
Typhus  
Typhoid fever  
Yellow fever

## CLASS II DISEASES

Individual cases of Class II may be reported by morbidity report card. Please report unusual outbreaks or apparent epidemics by phone.

AIDS / HIV  
Amebiasis  
Brucellosis  
Campylobacteriosis  
Chancroid  
Chickenpox  
*Chlamydia Trachomatis*  
Coccidioidomycosis  
Conjunctivitis, viral or bacterial  
Cryptosporidiosis  
Cyclosporiasis  
Eosinophilic meningoencephalitis  
Enterococcus sp., vancomycin resistant (VRE)  
***Escherichia coli 0157:H7***  
Food or Fish poisoning (isolated cases)  
Giardiasis  
Gonococcal infection  
Granuloma inguinale  
*Haemophilus influenzae*, invasive disease  
Hansen's disease (Leprosy)  
Hemolytic-uremic syndrome  
Hepatitis A, B, C,  $\Delta$  or unspecified viral  
Herpes simplex Type 2  
Human papillomavirus (HPV)  
Kawasaki syndrome  
Legionellosis



Leptospirosis  
Lyme disease  
Lymphogranuloma venereum  
Malaria  
Meningitis, aseptic  
Meningitis, bacterial  
Mumps  
Myocarditis  
Parvovirus B19 (Fifth disease)  
Rheumatic fever (active) and poststreptococcal glomerulonephritis  
Salmonellosis (non-typhoid)  
Scabies  
Scarlet fever  
Shigellosis  
*Staphylococcus aureus* (MRSA or VRSA)  
Streptococcal disease (Group A)  
*Streptococcus pneumoniae*, penicillin resistant (PRSP)  
Streptococcal sore throat  
Syphilis (including congenital)  
Tetanus  
Toxic-shock syndrome  
Trichinosis  
Tuberculosis  
Vibriosis

Telephone reports: Weekdays 8:00 a.m. to 5:00 p.m. • 735-7299 or 735-7143

After hours / Weekends: Emergency beeper • 635-5494

Fax reports (24 hours) : 734-1475

Recognizing that no list can include every disease that could possibly pose a threat to the residents of Guam, the Guam Department of Public Health and Social Services encourages the reporting of any additional disease cases with potential for serious public health impact or which may merit epidemiologic investigation.

GOVERNMENT OF GUAM



Carl T.C. Gutierrez  
GOVERNOR

Madeleine Z. Bordallo  
LIBUTBNANY GOVERNOR

DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES  
(DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT)

Post Office Box 2816 Hagåtña, Guam 96932  
123 Chalan Kareta, Route 10  
Mangilao, Guam 96923

*San Carlos*  
*Ballito*



Dennis G. Rodriguez  
DIRECTOR

Joe R. San Agustin  
DEPUTY DIRECTOR

11/6/2002

The Honorable Antonio R. Unpingco  
Speaker, Twenty-Sixth Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

OFFICE OF SENATOR	
EDDIE PIZA CALVO	
Date: 11/25/02	9:40am
Received By: [Signature]	

Dear Speaker Unpingco:

*Buenas yan Saluda!* In response to your recent request to Dr. Robert Haddock of my staff for a suggested addition to the draft Emergency Health Powers Act that would reassure health professionals that they would not be sued for violating existing patient confidentiality laws when complying with disease reporting provisions of the Act, I recommend inclusion of the following paragraph, possibly under Article 3 (Measures to detect and track public health emergencies):

"Freedom from liability.

No person furnishing any information, data, or report in fulfillment of the provisions of this Article shall, by reason of such furnishing, be deemed to have violated any confidential relationship, or be held liable in damages, or be held to answer for willful betrayal of a professional confidence within the meaning and intent of relevant sections of the Government Code of Guam or the laws of the United States."

If I may be of additional assistance, please let me know.

*Senseramente,*

*[Signature]*  
DENNIS G. RODRIGUEZ  
Director

Office of the Speaker  
ANTONIO R. UNPINGCO

Date: 11-18-02  
Time: \_\_\_\_\_  
Rec'd by: [Signature]  
Print Name: \_\_\_\_\_



Exhibit "C"





MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
TWENTY-SIXTH GUAM LEGISLATURE

SENATOR EDDIE BAZA CALVO

Chairman  
COMMITTEE ON PUBLIC WORKS, HEALTH AND HUMAN SERVICES

E-Mail address: [sencalvo@ite.net](mailto:sencalvo@ite.net)  
120 Father Dueñas Avenue, Capitol Plaza, Suite 109  
Hagåtña, Guam 96910

Telephone: (671) 472-4040/4518  
Facsimile: (671) 472-4100

August 7, 2002

**Dennis Rodriguez, Director**

Department of Public Health and Social Services  
123 Chalan Kareta  
Route 10  
Mangilao, Guam 96931

**Reference: Introduction of Bill No. 360 (COR), "Islan Guahån Emergency Health Powers Act."**

Hafa Adai, Mr. Rodriquez:

Please review the attached legislation introduced as Bill Number 360 (COR):

**AN ACT TO ADD A NEW CHAPTER 19 TO DIVISION 1, OF TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE TO "ISLAN GUAHÅN 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.**

This measure was inspired by our last public health emergency relative to the measles epidemic. Such outbreaks have occurred in circumstances where the island was not readily prepared to contain such diseases. The early containment of communicable diseases will abate catastrophic consequences. The government's ability to respond expeditiously and mobilize its resources is a primary means of assuring early containment that will mitigate further spread. The seriousness of our last epidemic could be overshadowed in situations of bioterroristic events that may rapidly inundate and incapacitate our population where there is no mechanism to orderly deploy resources to contain and abate further harm. The present process is unresponsive where a swift catastrophic event may only be addressed through the declaration of martial law. The Act grants specific emergency powers to public health authorities and requires the development of a comprehensive plan to provide a coordinated and appropriate response in the event of a public health emergency. It facilitates the early detection of a health threat

by authorizing the reporting and collection of data and records for an immediate investigation. The Act strikes a balance insuring a strong, effective, and timely response to public health emergencies, while fostering respect and dignity of those affected.

On June 27, 2002, we requested from you a copy of an exit report prepared by Dr. Perry of the United States Centers for Communicable Disease. This report is required for my office to analyze the existing procedures for a comparative to what is proposed in the Act relative to future public health emergencies.

I will be awaiting your comments to this proposed measure and a copy of Dr. Perry's exit report.

Senseramente,



**SENATOR EDDIE BAZA CALVO**

Attachment - Bill Number 360(COR)

cc: Members, Committee on Public Works, Health and Human Services  
Media

3rd  
12/27/02

20-173

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

**Bill No. 360 (COR)**  
As Substituted by the Author

Introduced by:

E. B. Calvo  
A.R. Unpingco  
L.F. Kasperbauer

**AN ACT TO ADD A NEW CHAPTER 19 TO DIVISION 1, OF  
TITLE 10 OF THE GUAM CODE ANNOTATED RELATIVE  
TO "ISLAN GUAHÅN 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.**

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

**Section 1.** Legislative Intent

**Section 2.** A new Chapter 19 is added to Division 1 of Title 10 of the Guam Code Annotated.

**ARTICLE I**

**TITLE, FINDINGS, PURPOSES, AND DEFINITIONS**

Section 19101. Short title  
Section 19102. Legislative findings  
Section 19103. Purposes  
Section 19104. Definitions

- ARTICLE II**
- PLANNING FOR A PUBLIC HEALTH EMERGENCY**
- Section 19201. Public Health Emergency Planning Commission
- Section 19202. Public Health Emergency Plan
- (a) Content
  - (b) Distribution
  - (c) Review

**ARTICLE III**

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

- Section 19301. Reporting
- (a) Illness or health condition
  - (b) Pharmacists
  - (c) Manner of reporting
  - (d) Animal diseases
  - (e) Laboratories
  - (f) Enforcement
  - (g) Freedom from liability
- Section 19302. Tracking
- (a) Identification of individuals
  - (b) Interviewing of individuals
  - (c) Examination of facilities or materials
  - (d) Enforcement
- Section 19303. Information sharing

**ARTICLE IV**

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

- Section 19401. Declaration
- Section 19402. Content of declaration
- Section 19403. Effect of declaration
- (a) Emergency powers
  - (b) Coordination
  - (c) Identification
- Section 19404. Enforcement
- Section 19405. Termination of declaration

- (a) Executive order
- (b) Automatic termination
- (c) *I Liheslaturan Guahån*
- (d) Content of termination order

**ARTICLE V**  
**SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH**  
**EMERGENCY: MANAGEMENT OF PROPERTY**

Section 19501. Emergency measures concerning facilities and materials

- (a) Facilities
- (b) Materials

Section 19502. Access to and control of facilities and property - generally

- (a) Use of materials and facilities
- (b) Use of health care facilities
- (c) Control of materials
- (d) Control of roads and public areas

Section 19503. Safe disposal of infectious waste

- (a) Adopt measures
- (b) Control of facilities
- (c) Use of facilities
- (d) Identification

Section 19504. Safe disposal of human remains

- (a) Adopt measures
- (b) Possession
- (c) Disposal
- (d) Control of facilities
- (e) Use of facilities
- (f) Labeling
- (g) Identification

Section 19505. Control of health care supplies.

- (a) Procurement
- (b) Rationing
- (c) Priority
- (d) Distribution



- Section 19506. Compensation
- Section 19507. Destruction of property

**ARTICLE VI**  
**SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH**  
**EMERGENCY: PROTECTION OF PERSONS**

- Section 19601. Protection of persons
- Section 19602. Medical examination and testing
- Section 19603. Vaccination and treatment
  - (a) Vaccination
  - (b) Treatment
- Section 19604. Isolation and quarantine
  - (a) Authorization
  - (b) Conditions and principles
  - (c) Cooperation
  - (d) Entry into isolation or quarantine premises
- Section 19605. Procedures for isolation and quarantine
  - (a) Temporary isolation and quarantine without notice
  - (b) Isolation or quarantine with notice
  - (c) Relief from isolation or quarantine
  - (d) Proceedings
  - (e) Court to appoint counsel and consolidate claims
- Section 19606. Collection of laboratory specimens; performance of tests
  - (a) Marking
  - (b) Contamination
  - (c) Chain of custody
  - (d) Criminal investigation
- Section 19607. Access to and disclosure of protected health information
  - (a) Access
  - (b) Disclosure
- Section 19608. Licensing and appointment of health personnel
  - (a) Health care providers
  - (b) Health care providers from other jurisdictions
  - (c) Personnel to perform duties of medical examiner or coroner.

**ARTICLE VII**  
**PUBLIC INFORMATION REGARDING PUBLIC HEALTH EMERGENCY**

- Section 19701. Dissemination of information
- (a) Means of dissemination
  - (b) Languages
  - (c) Accessibility
- Section 19702. Access to mental health support personnel

**ARTICLE VIII**  
**MISCELLANEOUS**

- Section 19801. Titles
- Section 19802. Rules and regulations
- Section 19803. Financing and expenses
- (a) Transfer of funds
  - (b) Conditions
  - (c) Expenses
- Section 19804. Liability
- (a) Immunity
  - (b) Private liability
- Section 19805. Compensation
- (a) Taking
  - (b) Actions
  - (c) Amount
- Section 19806. Severability
- Section 19807. Saving clause
- Section 19808. Conflicting laws
- (a) Federal supremacy
  - (b) Prior conflicting acts
- Section 19809. Effective date.
- Section 3. Severability**

**Section 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that there is a health, moral, social and ethical obligation for the government to responsibly abate and mitigate the spread of catastrophic communicable diseases within the island. A

state of a public health emergency has been recently declared by *I Maga'lahen Guåhan* relating to a measles outbreak. This outbreak has catastrophic implications to the health and well being of the people. In 1994, a similar outbreak manifested where 280 people were suspected, probable, or confirmed to have contracted measles. This outbreak required the hospitalization of 23 individuals with three related deaths. The control of communicable diseases is a priority of Guam. However, potential outbreaks occur in circumstances where the island is not readily prepared to contain the disease. As a result, an emergency situation arises requiring *I Maga'lahen Guåhan* to mobilize required resources to head off a catastrophic situation.

The spread of communicable diseases not only occurs in circumstances by natural human contact. As a result of the 911 incident, Guam as an instrumentality of the free world and of the United States of America is prone to terroristic attacks to mankind. In the wake of the tragic events of September 11, 2001, our nation realizes that the government's foremost responsibility is to protect the health, safety, and well being of its citizens. New and emerging dangers including emergent and resurgent infectious diseases and incidents of civilian mass casualties pose serious and immediate threats to the population. A renewed focus on the prevention, detection, management, and containment of public health emergencies is thus called for. Emergency health threats, including those caused by bioterrorism and epidemics, require the exercise of essential government functions. The government of Guam is responsible for safeguarding the health, security, and well being of its people, the local government must be able to respond, rapidly and effectively, to public health emergencies. The *Islan Guahån Emergency Health Powers Act* (the "Act") therefore grants specific emergency powers to *I Maga'låhen Guahån* and public health authorities.

The Act requires the development of a comprehensive plan to provide a

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

The Act thus provides that, in the event of the exercise of emergency powers, the civil rights, liberties, and needs of infected or exposed persons will be protected to the fullest extent possible consistent with the primary goal of controlling serious health threats. Public health laws and our courts have traditionally balanced the common good with individual civil liberties. The Act strikes such a balance. It provides the government of Guam and other local officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties. The Act seeks to ensure a strong, effective, and timely response to public health emergencies, while fostering respect for individuals from all groups and

backgrounds. Although modernizing public health law is an important part of protecting the population during public health emergencies, the public health system itself needs improvement. Preparing for a public health emergency requires a well trained public health workforce, efficient data systems, and sufficient laboratory capacity.

**Section 2.** A new Chapter 19 is added to Division 1 of Title 10 of the Guam Code Annotated.

**“CHAPTER 19  
ARTICLE I  
TITLE, FINDINGS, PURPOSES, AND DEFINITIONS**

**Section 19101. Short title.** This Act may be cited as the “*Islan Guahån Emergency Health Powers Act.*”

**Section 19102. Legislative findings.** *I Liheslaturan Guahån* finds that:

- (a) The government must do more to protect the health, safety, and general well being of its citizens.
- (b) New and emerging dangers including emergent and resurgent infectious diseases and incidents of civilian mass casualties pose serious and immediate threats.
- (c) A renewed focus on the prevention, detection, management, and containment of public health emergencies is needed.
- (d) Emergency health threats, including those caused by bioterrorism may require the exercise of extraordinary government powers and functions.
- (e) The government of Guam must have the ability to respond, rapidly and effectively, to potential or actual public health emergencies.
- (f) The exercise of emergency health powers must promote the

common good.

(g) Emergency health powers must be grounded in a thorough scientific understanding of public health threats and disease transmission.

(h) Guided by principles of justice and antidiscrimination, it is the duty of the government of Guam to act with fairness and tolerance towards individuals and groups.

(i) The rights of people to liberty, bodily integrity, and privacy must be respected to the fullest extent possible consistent with maintaining and preserving the public's health and security.

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

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

(a) To require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency.

(b) To authorize the reporting and collection of data and records, the management of property, the protection of persons, and access to communications.

(c) To facilitate the early detection of a health emergency, and allow for immediate investigation of such an emergency by granting access to individuals' health information under specified circumstances.

(d) To grant The government of Guam and local officials the authority to use and appropriate property as necessary for the care, treatment, vaccination, and housing of patients, and to destroy contaminated facilities or materials.

(e) To grant The government of Guam and local officials the authority to provide care, treatment, and vaccination to persons who are ill or who have

been exposed to contagious diseases, and to separate affected individuals from the population at large to interrupt disease transmission.

(f) To ensure that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats.

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

#### **Section 19104. Definitions.**

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

(b) **“Chain of custody”** is the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens and reporting test results.

(c) **“Contagious disease”** is an infectious disease that can be transmitted from person to person.

(d) **“Health care facility”** means any non-federal institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities, and adult day-care centers. This also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services.

(e) **“Health care provider”** is any person or entity who provides health care services including, but not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers.

(f) **“Infectious disease”** is a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

(g) **“Infectious waste”** is:



(i) **“biological waste,”** which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids;

(ii) **“cultures and stocks,”** which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures, wastes from production of biologicals and serums, and discarded live and attenuated vaccines;

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

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

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

(i) **“Mental health support personnel”** includes, but is not limited to, psychiatrists, psychologists, social workers, and volunteer crisis counseling groups.

(j) **"Organized militia"** includes the Department of Military Affairs and the Guam National Guard or any other military force organized under the laws of Guam or through empowerment of the Organic Act of Guam.

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

(l) **"Public health authority"** is the Department of Public Health and Social Services; or any local government agency that acts principally to protect or preserve the public's health; or any person directly authorized to act on behalf of the Department of Public Health and Social Services or local public health agency. The determination of the "Public health authority" shall be determined by *I Maga'låhen Guahån*, based on the circumstances of the public health emergency. The "public health authority" shall be appointed by *I Maga'låhen Guahån* within the Executive Order declaring a public health emergency.

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

- (1) Is believed to be caused by any of the following:
  - (i) bioterrorism;
  - (ii) the appearance of a novel or previously controlled or

eradicated infectious agent or biological toxin;

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

(iv) a chemical attack or accidental release; or

(v) a nuclear attack or accident; and

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

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

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

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

(n) **"Public safety authority"** means the Guam Police Department; or any local government agency that acts principally to protect or preserve the public safety; or any person directly authorized to act on behalf of the Guam Police Department or local agency.

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

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

(q) **"Tests"** include, but are not limited to, any diagnostic or

investigative analyses necessary to prevent the spread of disease or protect the public's health, safety, and welfare.

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

## **ARTICLE II PLANNING FOR A PUBLIC HEALTH EMERGENCY**

**Section 19201. Public Health Emergency Planning Commission.** *I Maga'låhen Guahån* shall appoint a Public Health Emergency Planning Commission ("the Commission"), consisting of the government of Guam directors, or their designees, of agencies *I Maga'låhen Guahån* deems relevant to public health emergency preparedness, a representative group of Senators from *I Liheslaturan Guahån*, members of the judiciary, and any other persons chosen by *I Maga'låhen Guahån*. *I Maga'låhen Guahån* shall also designate the chair of the Commission.

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

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

- (1) Notifying and communicating with the population during a state of public health emergency in compliance with this Act;
- (2) Central coordination of resources, manpower, and services, including coordination of responses by the government of Guam, military, and federal agencies;
- (3) The location, procurement, storage, transportation,

maintenance, and distribution of essential materials, including but not limited to medical supplies, drugs, vaccines, food, shelter, clothing and beds;

(4) Compliance with the reporting requirements in Section 19301;

(5) The continued, effective operation of the judicial system including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine as described in this Act;

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

(7) The identification and training of health care providers to diagnose and treat persons with infectious diseases;

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

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

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

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

(12) Tracking the source and outcomes of infected persons;

(13) Ensuring that each municipality within Guam identifies the

following:

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

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

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

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

(14) Cultural norms, values, religious principles, and traditions that may be relevant; and

(15) Other measures necessary to carry out the purposes of this Act.

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

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

### **ARTICLE III MEASURES TO DETECT AND TRACK PUBLIC HEALTH EMERGENCIES**

#### **Section 19301. Reporting.**

(a) **Illness or health condition.** A health care provider, coroner, or

medical examiner shall report all cases of persons who harbor any illness or health condition that may be potential causes of a public health emergency. Reportable illnesses and health conditions include, but are not limited to, the diseases caused by the biological agents listed in 42 C.F.R. § 72, app. A (2000) and any illnesses or health conditions identified by the public health authority.

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

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

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

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

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

different; and any other information needed to locate the patient for follow-up. For cases related to animal or insect bites, the suspected locating information of the biting animal or insect, and the name and address of any known owner, shall be reported.

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

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

(f) **Enforcement.** Failure of a health care provider or veterinarian to report any illness or health condition identified by the Director Public Health and Social Services as a Class 1 disease in the manner and within the time period specified in this Section shall be reported to the authority or agency responsible



for licensing that health care provider. The licensing authority shall, at its next regular meeting, hold a hearing to determine what action, if any, should be taken with regard to this report. The penalty for failure to comply with the provisions of this article may include suspension of license to practice a healing art for up to thirty (30) days for a first offense and suspension or revocation of license for a second or subsequent offense. The action taken by the licensing authority in any such case shall be reported to the Director of public health and Social Services, published in a paper of public record and posted in an appropriate location at the Guam Memorial Hospital and at a conspicuous location at the site of practice of the health care provider. The public health authority may also enforce the provisions of this Section in accordance with any other laws of Guam, federal laws applicable to Guam and any other rules and regulations.

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

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

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

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

(c) **Examination of facilities or materials.** The public health authority shall, for examination purposes, close, evacuate, or decontaminate any facility or decontaminate or destroy any material when the authority reasonably suspects that such facility or material may endanger the public health.

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

### **Section 19303. Information sharing.**

(a) Whenever the public safety authority or other government of Guam agency learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that may be the cause of a public health emergency,

it shall immediately notify the public health authority.

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

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

#### **ARTICLE IV DECLARING A STATE OF PUBLIC HEALTH EMERGENCY**

**Section 19401. Declaration.** A state of public health emergency may be declared by *I Maga'låhen Guahån* upon the occurrence of a "public health emergency" as defined in Section 19103(m). Prior to such a declaration, *I Maga'låhen Guahån* shall consult with the public health authority and may consult with any additional public health or other experts as needed. *I Maga'låhen Guahån* may act to declare a public health emergency without consulting with the public health authority or other experts when the situation calls for prompt and timely action.

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

- (a) the nature of the public health emergency,
- (b) the geographic area(s) applicable to the declaration,

- (c) the conditions that have brought about the public health emergency,
- (d) the duration of the state of the public health emergency, if less than thirty (30) days, and
- (e) the primary public health authority responding to the emergency.

**Section 19403. Effect of declaration.** The declaration of a state of public health emergency shall activate the disaster response and recovery aspects of the government of Guam. Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available pursuant to this Act.

(a) **Emergency powers.** During a state of public health emergency, *I Maga'låhen Guahån* may:

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

(2) Utilize all available resources of the government of Guam, as reasonably necessary to respond to the public health emergency.

(3) Transfer the direction, personnel, or functions of the government of Guam departments and agencies in order to perform or facilitate response and recovery programs regarding the public health emergency.

(4) Mobilize all or any part of the organized militia into service.

An executive order directing the organized militia to report for active duty shall state the purpose for which it is mobilized and the objectives to be accomplished.

(5) Provide aid to and seek aid from the federal government in accordance with any emergency compact made with the government of Guam.

(6) Seek aid from the federal government in accordance with federal programs or requirements.

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

(1) Planning and executing public health emergency assessment, mitigation, preparedness response, and recovery for Guam;

(2) Coordinating public health emergency response between Federal and local authorities;

(3) Collaborating with relevant federal government authorities, elected officials of other states, private organizations or companies;

(4) Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies; and

(5) Organizing public information activities regarding public health emergency response operations.

(c) **Identification.** After the declaration of a state of public health emergency, special identification for all public health personnel working during the emergency shall be issued as soon as possible. The identification shall indicate the authority of the bearer to exercise public health functions and

emergency powers during the state of public health emergency. Public health personnel shall wear the identification in plain view.

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

**Section 19405. Termination of declaration.**

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

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

(c) **I Liheslaturan Guahån.** By a majority vote, *I Liheslaturan Guahån* may terminate the declaration of a state of public health emergency at any time from the date of original declaration upon finding that the occurrence of an illness or health condition that caused the emergency does not or no longer

poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population. Such a termination by *I Liheslaturan Guahån* shall override any renewal by the *I Maga'låhen Guahån*.

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

## **ARTICLE V SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH EMERGENCY: MANAGEMENT OF PROPERTY**

**Section 19501. Emergency measures concerning facilities and materials.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers over facilities or materials

(a) **Facilities.** To close, direct and compel the evacuation of, or to decontaminate or cause to be decontaminated any facility of which there is reasonable cause to believe that it may endanger the public health.

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

**Section 19502. Access to and control of facilities and property - generally.** The public health authority may exercise, for such period as the state of public health

emergency exists, the following powers concerning facilities, materials, roads, or public areas

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

(b) **Use of health care facilities.** To require a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization or the ability to continue doing business in Guam as a health care facility. The use of the health care facility may include transferring the management and supervision of the health care facility to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.

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

(d) **Control of roads and public areas.**

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



services.

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

**Section 19503. Safe disposal of infectious waste.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers regarding the safe disposal of infectious waste.

(a) **Adopt measures.** To adopt and enforce measures to provide for the safe disposal of infectious waste as may be reasonable and necessary to respond to the public health emergency. Such measures may include, but are not limited to, the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste.

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

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

(d) **Identification.** All bags, boxes, or other containers for infectious waste shall be clearly identified as containing infectious waste, and if known, the type of infectious waste.

**Section 19504. Safe disposal of human remains.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers regarding the safe disposal of human remains.

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

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

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

(d) **Control of facilities.** To require any business or facility authorized

to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of Guam to accept any human remains or provide the use of its business or facility if such actions are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization, or the ability to continue doing business in Guam as such a business or facility. The use of the business or facility may include transferring the management and supervision of such business or facility to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.

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

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

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

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

**Section 19505. Control of health care supplies.**

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

(b) **Rationing.** If a state of public health emergency results in an island wide or threatened shortage of any product under (a), whether or not such product has been purchased by the public health authority, the public health authority may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of Guam.

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

(d) **Distribution.** During a state of public health emergency, the public health authority may procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within Guam as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate

possession thereof.

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

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

**ARTICLE VI  
SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH  
EMERGENCY: PROTECTION OF PERSONS**

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

**Section 19602. Medical examination and testing.** During a state of public

health emergency the public health authority may perform physical examinations and/or tests as necessary for the diagnosis or treatment of individuals.

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

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

(c) The public health authority may isolate or quarantine, pursuant to Section 19604, any person whose refusal of medical examination or testing results in uncertainty regarding whether he or she has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.

**Section 19603. Vaccination and treatment.** During a state of public health emergency the public health authority may exercise the following emergency powers over persons as necessary to address the public health emergency—

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

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

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

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

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

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

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

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

**Section 19604. Isolation and quarantine.**

(a) **Authorization.** During the public health emergency, the public health authority may isolate (consistent with the definition of "isolation" in Section 19103(h)) or quarantine (consistent with the definition of quarantine in Section 19103(o)) an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 19602 and 19603. The public health authority may also establish and maintain places of isolation and quarantine, and set rules and make orders. Failure to obey these rules, orders, or provisions shall constitute a misdemeanor.

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

(1) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly

contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises.

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

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

(4) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease he or she must promptly be removed to isolation.

(5) Isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting a contagious or possibly contagious disease to others.

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

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

(8) To the extent possible, cultural and religious beliefs should



be considered in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises.

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

(d) **Entry into isolation or quarantine premises.**

(1) **Authorized entry.** The public health authority may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

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

(3) **Potential isolation or quarantine .** Any person entering an isolation or quarantine premises with or without authorization of the public health authority may be isolated or quarantined pursuant to Section 19604(a).

**Section 19605. Procedures for isolation and quarantine.** During a public health emergency, the isolation and quarantine of an individual or groups of individuals shall be undertaken in accordance with the following procedures.

(a) **Temporary isolation and quarantine without notice.**

(1) **Authorization.** The public health authority may temporarily

isolate or quarantine an individual or groups of individuals through a written directive if delay in imposing the isolation or quarantine would significantly jeopardize the public health authority's ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.

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

- (i) the identity of the individual(s) or groups of individuals subject to isolation or quarantine;
- (ii) the premises subject to isolation or quarantine;
- (iii) the date and time at which isolation or quarantine commences;
- (iv) the suspected contagious disease if known.; and
- (v) a copy of Article 6 and relevant definitions of this Act.

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

(4) **Petition for continued isolation or quarantine .** Within ten (10) days after issuing the written directive, the public health authority shall file a petition pursuant to Section 19605(b) for a court order authorizing the continued isolation or quarantine of the isolated or quarantined individual or groups of individuals.

(b) **Isolation or quarantine with notice.**

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

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

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

(ii) the premises subject to isolation or quarantine;

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

(iv) the suspected contagious disease if known;

(v) a statement of compliance with the conditions and principles for isolation and quarantine of Section 19604(b); and

(vi) a statement of the basis upon which isolation or quarantine is justified in compliance with this Article. The petition shall be accompanied by the sworn affidavit of the public health authority attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

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

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

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

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

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

(ii) The order shall:

(a) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances;

(b) specify factual findings warranting isolation or quarantine pursuant to this Act;

(c) include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this Act; and

(d) served on affected individuals or groups of individuals in accordance with the rules of civil procedure.

(6) **Continuances.** Prior to the expiration of an order issued

pursuant to Section 19605(b)(5), the public health authority may move to continue isolation or quarantine for additional periods not to exceed thirty (30) days each. The court shall consider the motion in accordance with standards set forth in Section 19605(b)(5).

**(c) Relief from isolation and quarantine.**

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

(2) **Remedies for breach of conditions .** An individual or groups of individuals isolated or quarantined pursuant to this Act may request a hearing in the Superior Court of Guam for remedies regarding breaches to the conditions of isolation or quarantine. A request for a hearing shall not stay or enjoin an isolation or quarantine order.

(i) Upon receipt of a request under this subsection alleging extraordinary circumstances justifying the immediate granting of relief, the court shall fix a date for hearing on the matters alleged not more than twenty-four (24) hours from receipt of the request.

(ii) Otherwise, upon receipt of a request under this subsection the court shall fix a date for hearing on the matters alleged within five (5) days from receipt of the request.

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

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

(e) **Court to appoint counsel and consolidate claims.**

(1) **Appointment**. The court shall appoint counsel at the expense of the government of Guam to represent individuals or groups of individuals who are or who are about to be isolated or quarantined pursuant to the provisions of this Act and who are not otherwise represented by counsel. Appointments shall be made in accordance with the procedures to be specified in the Public Health Emergency Plan and shall last throughout the duration of the isolation or quarantine of the individual or groups of individuals. The public health authority must

provide adequate means of communication between such individuals or groups and their counsel.

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

- (i) the number of individuals involved or to be affected is so large as to render individual participation impractical;
- (ii) there are questions of law or fact common to the individual claims or rights to be determined;
- (iii) the group claims or rights to be determined are typical of the affected individuals' claims or rights; and
- (iv) the entire group will be adequately represented in the consolidation.

**Section 19606. Collection of laboratory specimens; performance of tests.** The public health authority may, for such period as the state of public health emergency exists, collect specimens and perform tests on living persons as provided in Section 19602 and also upon deceased persons and any animal (living or deceased), and acquire any previously collected specimens or test results that are reasonable and necessary to respond to the public health emergency.

- (a) **Marking.** All specimens shall be clearly marked.
- (b) **Contamination.** Specimen collection, handling, storage, and

transport to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration and provide for the safe collection, storage, handling, and transport of such specimen.

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

(d) **Criminal investigation.** Recognizing that, during a state of public health emergency, any specimen collected or test performed may be evidence in a criminal investigation, any business, facility, or agency authorized to collect specimens or perform tests shall provide such support as is reasonable and necessary to aid in a relevant criminal investigation.

**Section 19607. Access to and disclosure of protected health information.**

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

- (1) provide treatment to the individual who is the subject of the health information,
- (2) conduct epidemiologic research, or
- (3) investigate the causes of transmission.

(b) **Disclosure.** Protected health information held by the public health



authority shall not be disclosed to others without individual written, specific informed consent, except for disclosures made:

- (1) directly to the individual;
- (2) to the individual's immediate family members or personal representative;
- (3) to appropriate federal agencies or authorities pursuant to federal law;
- (4) pursuant to a court order to avert a clear danger to an individual or the public health; or
- (5) to identify a deceased individual or determine the manner or cause of death.

**Section 19608. Licensing and appointment of health personnel.** The public health authority may exercise, for such period as the state of public health emergency exists, the following emergency powers regarding licensing and appointment of health personnel

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

(b) **Health care providers from other jurisdictions.** To appoint and prescribe the duties of such out-of-off-island emergency health care providers as may be reasonable and necessary to respond to the public health emergency.

- (1) The appointment of off-island emergency health care providers may be for a limited or unlimited time, but shall not exceed the