



Office of the Governor of Guam

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Office of the People's Speaker
LEGISLATIVE SECRETARIAT

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

DEC 03 2004

TIME: 5:47 JAN 17 11PM
RECEIVED BY: [Signature]

DEC 03 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 344 (LS), "AN ACT TO ADD A NEW CHAPTER 5 TO DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED, TO CREATE A MEDICINE BANK WITHIN THE GUAM DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES," which I signed into law on December 2, 2004 as Public Law No. 27-122.

Sins eru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

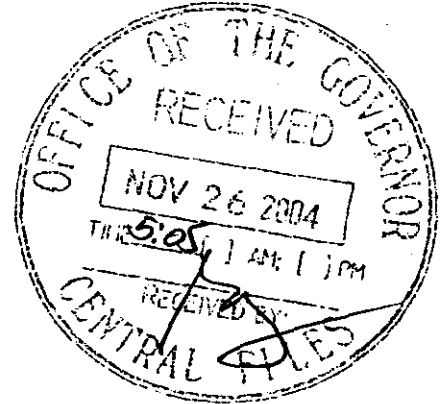
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

November 26, 2004

The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 126(COR), 251(COR), 257(LS), 259(LS), 283(COR), 293(COR), 307(COR), 335(COR), 344(LS), 345(LS), 347(LS), 351(COR), 380(COR), 385(COR) & 387(COR), and Substitute Bill Nos. 282(COR), 290(COR), 324(COR) & 353(COR) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on November 24, 2004.

Sincerely,

TINA ROSE MUNA BARNES
Senator and Legislative Secretary

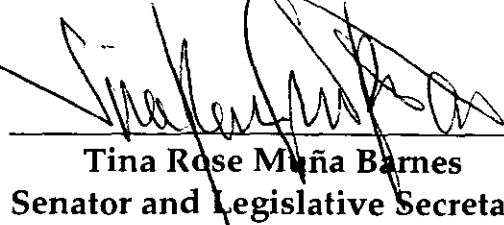
Enclosures (19)

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

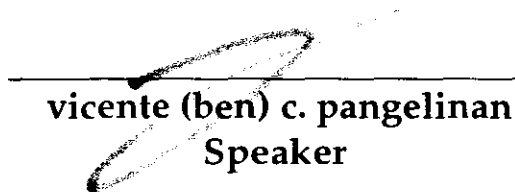
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 344 (LS), "AN ACT TO ADD A NEW CHAPTER 5 TO DIVISION 1 OF TITLE 10 OF THE GUAM CODE ANNOTATED, TO CREATE A MEDICINE BANK WITHIN THE GUAM DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES," was on the 24th day of November, 2004, duly and regularly passed.

Attested:

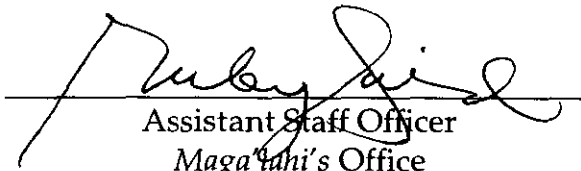


Tina Rose Muña Barnes
Senator and Legislative Secretary



vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahen Guåhan* this 26th day of November, 2004,
at 5:05 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: December 2, 2004

Public Law No. 27-122

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 344 (LS)

As amended by the Subcommittee on Health
and further amended on the Floor.

Introduced by:

L. A. Leon Guerrero
J. M. S. Brown
T. R. Muña Barnes
F. B. Aguon, Jr.
F. R. Cunliffe
Carmen Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
v. c. pangelinan
J. M. Quinata
R. J. Respicio
Toni Sanford
Ray Tenorio

**AN ACT TO ADD A NEW CHAPTER 5 TO DIVISION 1 OF
TITLE 10 OF THE GUAM CODE ANNOTATED, TO
CREATE A MEDICINE BANK WITHIN THE GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL
SERVICES.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that of the medical advances attained over the past three (3) decades,
3 few have been more happily welcomed than the new generation of
4 pharmaceutical medicines, supplies and equipment that have provided an
5 alternative to painful surgeries and uncomfortable hospital stays. These

1 advances have also enabled many individuals with chronic medical
2 conditions to control their symptoms and lead productive lives.
3 Unfortunately, as the demand for medicine and other pharmaceutical supplies
4 continues to increase, so do the prices - - often beyond the reach of individuals
5 who are most in need but do not have the financial resources for access. The
6 pharmaceutical industry has thus grown to be one of the nation's most
7 profitable businesses. However, public demand for accessibility to medicine,
8 especially for senior citizens, the medically indigent, and individuals with
9 disabilities, has applied pressure on many stakeholders and bolstered
10 publicity and support for proposals to make pharmaceuticals affordable and
11 accessible.

12 In addition, as prescription drugs and other pharmaceutical supplies
13 and equipment become more central to health care and more in demand, a
14 growing number of members in our community are coming to expect that
15 drug coverage will be included as an insurance benefit. However, as drug
16 prices continue to soar, insurance companies are reducing drug coverage
17 and/or increasing premiums and co-pays to offset costs. The end result -
18 those without insurance cannot afford prescribed medicines and the insured
19 are paying higher premiums or co-pays so their insurance provider will
20 continue to offer coverage as drug prices escalate. The burden of inflated
21 drug costs rests heavily on the elderly and people with disabilities whose
22 monthly drug costs may exceed several hundred dollars.

23 *I Liheslaturan Guåhan* further finds that pharmaceutical distributors,
24 wholesalers, retailers and manufacturers often donate their excess
25 pharmaceutical medicines, supplies and equipment to religious, nonprofit or

1 charitable organizations. While these excess pharmaceutical medicines,
2 supplies and equipment are still in good condition and fit for human
3 consumption, the receiving organizations cannot distribute these items
4 quickly enough to those in need. Ironically, and due in part to circumstances
5 beyond their control, these organizations must dispose of these much needed
6 items after the prescribed period of time, thereby creating waste and
7 minimizing accessibility for eligible individuals.

8 It is the intent of *I Liheslaturan Guåhan* to create a "Medicine Bank"
9 within the Department of Public Health and Social Services, for the purposes
10 of accepting pharmaceutical medicines, supplies and equipment from
11 charitable, religious or nonprofit organizations, and pharmaceutical
12 distributors, wholesalers, manufacturers and retailers; and, for distributing
13 these donated items through the Community Health Centers and other
14 institutional facilities that are government owned and operated as defined in
15 this Act, for the lawful dispensing or distribution by these institutional
16 facilities to eligible persons as defined by this Act. Because the intended
17 donations of pharmaceutical medicines, supplies and equipment are often
18 written off as tax losses for these companies and organizations, there will be
19 no charge or cost to eligible individuals.

20 The "Medicine Bank" will increase accessibility of these supplies
21 through distribution at the Community Health Centers located in the
22 northern, central and southern areas of Guam, and to various institutional
23 facilities that are government owned and operated as defined in Section 5102
24 of this Act for the lawful dispensing or distribution by these institutional
25 facilities to eligible individuals. This partnership between the "Medicine

1 Bank” and the non-profit organizations, wholesalers, distributors,
2 manufacturers and retailers is a step toward addressing the issue of affordable
3 and accessible pharmaceutical medicines, supplies and equipment for our
4 elderly, medically indigent, and individuals with disabilities. It is thus the
5 ultimate intent of *I Liheslaturan Guåhan* to ensure that the neediest of our
6 community receive the pharmaceutical medicines, supplies and equipment
7 they need to either maintain wellness or achieve a better quality of life, while
8 protecting the health, safety, and welfare of the community with integrity and
9 honesty; and, advocating the highest quality of affordable pharmaceutical
10 care.

11 **Section 2.** A new Chapter 5, Division 1 of Title 10 of the Guam Code
12 Annotated, is hereby *added* to read as follows:

13 **“Chapter 5**

14 **The Medicine Bank Act of 2004**

- 15 **§5101. Title.**
16 **§5102. Definitions.**
17 **§5103. Creation of a Medicine Bank.**
18 **§5104. Exceptions to Liability.**
19 **§5105. Sale of Donated Pharmaceuticals or Health Care Supplies,**
20 **Prohibited; Fines and Punishment.**
21 **§5106. Labeling of Donated Pharmaceuticals or Health Care**
22 **Supplies.**
23 **§5107. Government of Guam's Authority to Regulate, Inspect, or**
24 **Ban the Use of Donated Pharmaceuticals or Health Care**
25 **Supplies.**

1 **§5101. Title.** Chapter 5, Division 1 of Title 10, GCA is herein
2 referred to as the 'Medicine Bank Act of 2004.'

3 **§5102. Definitions.** Whenever used in this Chapter or unless the
4 context otherwise requires, the following definitions shall apply.

5 (a) '*Charitable, religious, or nonprofit organization*' means
6 any organization which was organized and is operating on Guam
7 for charitable or religious purposes or to promote social welfare,
8 which is exempt from income taxation under 501(c) 3 of the United
9 States Internal Revenue Code and which distributes
10 pharmaceuticals and health care supplies at no cost to needy
11 persons.

12 (b) '*Director*' shall mean the Director of the Department of
13 Public Health and Social Services. The Director shall also serve as
14 the Medicine Bank Director or if he is unable to do so, he shall
15 authorize a licensed pharmacist or another individual with the
16 qualifications and knowledge of receiving, distributing, or storing
17 pharmaceuticals, to administer the Medicine Bank.

18 (c) '*Institutional facility*' means a government owned and
19 operated:

- 20 (1) Hospital;
- 21 (2) Convalescent home;
- 22 (3) Nursing home;
- 23 (4) Extended care facility;
- 24 (5) Mental institution;
- 25 (6) Rehabilitation center;

- 1 (7) Health maintenance organization;
2 (8) Psychiatric center;
3 (9) Mental retardation center;
4 (10) Penal institution; or
5 (11) Any other government-owned organization or
6 facility whose primary purpose is to provide a
7 physical environment for patients to obtain health care
8 services or at-home care services, except those places
9 where physicians, dentists, veterinarians, osteopaths,
10 podiatrists, or other prescribers are duly licensed to
11 engage in exclusively private practice.

12 (d) *'Eligible Person'* means any person as defined by the
13 Medically Indigent Program ("MIP") for Guam and the Medicaid
14 Poverty Guidelines.

15 (e) *'Pharmaceuticals and health care supplies'* means any
16 medicine prescription or nonprescription, excluding all controlled
17 substances listed in Title 9, GCA Chapter 67, the Uniform
18 Controlled Substance Act; or health care supplies such as soap,
19 personal sanitary products, baby formula, dietary supplement,
20 health care aids such as thermometers, surgical gloves, or
21 bandages, or any other item which is fit for human consumption
22 or external use, before the expiration date stamped on the product.

23 (f) *'Pharmaceutical company'* means any company that
24 manufactures pharmaceuticals and health care supplies or
25 distributes such items.

1 (g) 'Pharmacy' means any place on Guam where drugs are
2 dispensed and pharmaceutical care is provided to residents of
3 Guam, or as further defined in the Guam Code Annotated Title 10,
4 *The Guam Pharmacy Practice Act*.

5 (h) 'Pharmacist' means an individual licensed on Guam to
6 practice his/her profession and any other person (e.g., pharmacist
7 intern) authorized by Guam law to practice under the supervision
8 of a pharmacist licensed on Guam and in the practice of pharmacy
9 as defined in the Guam Code Annotated Title 10, *The Guam*
10 *Pharmacy Act*.

11 (i) 'Licensed Practitioner', for purposes of this Act, shall
12 mean a physician, nurse, dentist, pharmacist, pharmacy, hospital,
13 or other person licensed, registered, or otherwise permitted by
14 Guam law, to distribute, dispense, administer or prescribe drugs
15 in accordance with the Guam Code Annotated Title 10, *The Guam*
16 *Pharmacy Practice Act* and other applicable Guam law(s).

17 (j) 'Prescription', means an order for medication which is
18 dispensed to or for an ultimate user, but does not include an order
19 for medication which is dispensed for immediate administration
20 to the ultimate user (e.g. an order to dispense a drug to a bed
21 patient for immediate administration in a hospital is not a
22 prescription) and as defined by Guam Code Annotated Title 10,
23 *The Guam Pharmacy Act*.

1 **§5103. Creation of a Medicine Bank.** There is hereby created
2 within the Guam Department of Public Health and Social Services a
3 'Medicine Bank'.

4 (a) The purpose of the Medicine Bank is to collect donations of
5 pharmaceuticals and health care supplies and distribute them to
6 Community Health Centers and to various institutional facilities that are
7 government owned and operated as defined in Section 5102 of this
8 Chapter for distribution by the Community Health Centers and these
9 institutional facilities and for dispensing to eligible individuals in need
10 as defined by this Chapter, the Guam MIP law or the Medicaid Poverty
11 Guidelines.

12 (b) The Medicine Bank is an agent for collection and distribution
13 of such donations to Community Health Centers and other government
14 owned institutional facilities as defined in this Chapter, but not for
15 purposes of filling individual prescriptions for eligible persons. These
16 donations have no actual cash value and can not be considered a liquid
17 asset or inventory. Thus, circumstances affecting the Medicine Bank
18 may necessitate the charging of administrative fees for the distribution
19 of materials. In accordance with the Administrative Adjudication Act,
20 the Director shall determine the fee amount necessary to ensure the
21 continuance of the Medicine Bank and shall promulgate these rules and
22 regulations within ninety (90) days after the enactment of this Act. The
23 Director of the Department of Public Health and Social Services shall
24 assess these fees onto the receiving entities requesting for medicines and
25 supplies and *not* to eligible individuals. Government institutional

1 facilities, as defined in this Chapter, and any other entity receiving
2 medicines and supplies from the Medicine Bank shall not charge or pass
3 the cost of these medicines and supplies onto the eligible individual(s).

4 (c) The Medicine Bank shall ensure that all material, including
5 prescription drugs, non-prescription drugs, over the counter drugs,
6 medical supplies, and other items shall be identified, dated, and
7 transported to the Medicine Bank in accordance with accepted and
8 required standards established by Guam law, Federal law and/or
9 Federal guidelines to include the United States, Food and Drug
10 Administration. Upon receipt by the Medicine Bank, all medicines and
11 materials will be examined and inspected carefully by the Director of
12 the Department of Public Health and Social Services, or his lawful
13 designee, as the Medicine Bank Director, before further distribution to
14 the Community Health Centers or to the various institutional facilities
15 that are government owned and operated as defined in Section 5102 of
16 this Chapter for the lawful dispensing by these institutional facilities to
17 eligible individuals.

18 (d) The Medicine Bank shall ensure that each incoming delivery
19 of prescription drugs and other medicines and materials shall be
20 examined to ensure that factory seals are intact. Any products that are
21 found to be damaged, outdated, deteriorated, misbranded, or
22 adulterated, shall be isolated until they can be discarded in accordance
23 with Guam law, Federal law or Federal guidelines.

24 (e) The Medicine Bank shall ensure that all donated medications
25 will be labeled as required by Guam law, or in the absence of such law

1 then Federal law shall apply. No medication which has been previously
2 dispensed by a practitioner to a private citizen will be accepted.
3 Materials received which are not prescription medicines such as over-
4 the-counter medicines, home health equipment, medical supplies, and
5 any other items, shall also be carefully inspected upon receipt. They
6 must be judged fit for use before being distributed or will be properly
7 disposed of in accordance with Guam law. The Director of the
8 Department of Public Health and Social Services, or his lawful designee,
9 the Medicine Bank Director, in accordance with the Administrative
10 Adjudication Act, shall promulgate rules and regulations and guidelines
11 they deem necessary and appropriate to minimize government liability
12 for distribution of medical equipment. Such rules and regulations may
13 require that medical equipment and supplies are received with the
14 proper and correct operating manual, documentation of maintenance
15 history associated with the equipment, and in the instances in which the
16 equipment is new or never used, the Medicine Bank may require that
17 factory information be provided. Proper rules and regulations should
18 be established to ensure that the government and the Medicine Bank
19 shall not be held liable for problems that arise from the use or operation
20 of these items.

21 (f) The Medicine Bank Director shall ensure that the rooms
22 where the Medicine Bank storage is located shall be secure from
23 unauthorized entry. The Medicine Bank storage rooms are to be entered
24 through a locked door, and keys are to be held only by the Pharmacy
25 Staff and the Medicine Bank Director. The area must be well-lighted

1 and the building must be locked and guarded by security personnel at
2 all times. No controlled substances will be handled by the Medicine
3 Bank. No clients or patients or eligible individuals will come to, or
4 receive donated medicines or materials directly from the Medicine Bank.
5 Dispensing of medicines and supplies received from the Medicine Bank
6 will take place only at Community Health Centers or mobile health
7 units, or the various institutional facilities that are government owned
8 and operated as defined in Section 5102 of this Chapter for the lawful
9 dispensing by these institutional facilities to eligible individuals, and
10 where the pharmaceuticals will be dispensed by licensed practitioners.

11 (g) All drugs, including prescription drugs without special
12 storage requirements, shall be stored according to United States
13 Pharmacopoeia recommendations, as stated in Chapter 328, or in
14 accordance with accepted standards regarding conditions and
15 temperatures for the storage of drugs.

16 (h) Careful inventory of all donated pharmaceuticals and other
17 materials shall be maintained and updated, as necessary, upon receipt
18 and distribution. Medicines, and other pharmaceutical supplies and
19 equipment leaving the Medicine Bank will be double-checked for
20 damage and proper identity. Because medications are donated to the
21 Medicine Bank by many sources, including local doctors' offices,
22 pharmacies, religious and charitable organizations, the Medicine Bank
23 shall ensure that upon receipt, each medication will be added to the
24 inventory list with the name and address of the donor, date of donation,
25 name of medication, strength, lot number, quantity, and expiration date.

1 Full inventories of available medications will made available to the
2 Community Health Centers and the various institutional facilities that
3 are government owned and operated as defined in Section 5102 of this
4 Chapter, on a regular basis. Community Health Centers and the various
5 institutional facilities that are government owned and operated as
6 defined in Section 5102 of this Chapter, shall then place orders with the
7 Medicine Bank for the medicines available at that time. The Medicine
8 Bank will generate a dated record of each distribution to each health
9 center or institutional facility. Oldest stock will be distributed first.
10 Older drugs will be rotated to the front of the shelf as new drugs of the
11 same type are received.

12 As distributions of medicine are made to each participating site,
13 receiving staff will check the distribution against a packing list, sign and
14 fax the list back to the Medicine Bank Director. Medicines shall be
15 dispensed by licensed practitioners at the receiving sites.

16 Medications close to expiration will be distributed only if the
17 requesting health center or institutional facility assures the Medicine
18 Bank staff that the medications are for immediate dispensing and will be
19 consumed by the patient prior to the expiration date. All outdated
20 drugs will be isolated from other drugs and disposed of according to
21 applicable Guam or Federal laws. The inventory record for all outdated
22 drugs will note the disposal or return to manufacturer of each item, and
23 such records shall be maintained for five (5) years as required by Guam
24 and or Federal laws.

1 The Director of the Department of Public Health and Social
2 Services, or his designee, the Medicine Bank Director, and the
3 appropriate staff shall, conduct a physical inventory several times a year
4 and reconciled with computer inventory records. If a discrepancy is
5 found between the physical and computer inventories, the physical
6 count is definitive. At such times, the computer count may be adjusted
7 to reflect the true count. A list of changes to the computer inventory
8 will be kept and periodically reviewed. Special attention will be paid to
9 instances when the same item repeatedly appears to be short, when only
10 expensive items appear to be missing, where inventory consistently
11 indicates shortages more than overages, or when a pattern of
12 discrepancy emerges at particular times or when particular staff are on
13 duty. At these times, an investigation shall be conducted by the
14 Medicine Bank Director with the assistance of the Guam Police
15 Department.

16 (i) The Medicine Bank shall comply promptly with all recalls and
17 withdrawals of prescription drugs and over the counter drugs (OTC).
18 Notices of recall or withdrawal of prescription drugs and over the
19 counter drugs are periodically issued by the U. S. Department of Health,
20 the Food and Drug Administration, other Federal, state, or local
21 government agencies, and manufacturers. Additionally, notices of any
22 action undertaken to protect public health and safety, may also be
23 issued by responsible parties. When these notices are received by the
24 Community Health Centers, the various institutional facilities that are
25 government owned and operated as defined in Section 5102 of this

1 Chapter for purposes of receiving medicines and supplies from the
2 Medicine Bank, the Department of Public Health and Social Services or
3 the pharmacy, the Pharmacist shall immediately notify the Director of
4 the Medicine Bank, and any affected medicines or other items will be
5 immediately removed from the inventory and destroyed or returned to
6 the supplier. In addition, the Medicine Bank will notify the health
7 centers and the various institutional facilities as defined in Section 5102
8 that may have received such pharmaceutical or other items from the
9 Medicine Bank, that such pharmaceutical or item is the subject of a recall
10 or withdrawal.

11 (j) The Medicine Bank will follow disaster plans that are in place
12 for the Department of Public Health and Social Services or other
13 government of Guam agencies. These complete disaster plans will be
14 made available for review in the Medicine Bank Pharmacy and will be
15 carefully followed in the event of an emergency. In addition, the
16 Medicine Bank shall develop and implement special procedures which
17 will address the security of the drugs and pharmaceuticals stored in the
18 Medicine Bank.

19 Should a crisis occur when the Medicine Bank is closed and no
20 personnel are on duty, the Medicine Bank Pharmacist will be notified
21 immediately by the Medicine Bank staff or Public Health officials. The
22 Medicine Bank Director will also be notified immediately. Either or
23 both of these people will go to the Medicine Bank promptly to assess
24 damage.

1 If there is physical damage that compromises the integrity of the
2 room in which drugs are stored, all drugs will be immediately removed
3 and relocated to a secure place. If the room appears to continue to be
4 safe, secure and clean, the Medicine Bank will remain where it is.

5 If the crisis causes the temperature to exceed, or go below
6 permitted levels, all drugs will be discarded. Likewise, all medication
7 damaged by water or fire will be discarded. Any container, which
8 appears to be damaged in any way, will be discarded. All medications
9 discarded will be disposed of properly.

10 (k) The Medicine Bank office shall establish and maintain a
11 current list of all persons responsible for the distribution, storage and
12 handling of prescription drugs.

13 A current list of responsible persons, including the Medicine Bank
14 Pharmacist, the Medicine Bank Director, and any other necessary
15 persons will be maintained by the Medicine Bank, including a
16 description of each person's duties with regard to the Medicine Bank, as
17 well as a brief summary of each person's qualifications. This list will be
18 available for review at all times.

19 (l) The Director of the Department of Public Health and Social
20 Services shall serve as the Medicine Bank Director or if he is unable to
21 do so, he shall authorize a licensed pharmacist or another individual
22 with the qualifications and knowledge of receiving, distributing, or
23 storing pharmaceuticals, to administer the Medicine Bank.

24 The Director shall, as he deems necessary and fit to ensure the
25 continuity and meet the services of the Medicine Bank, establish

1 administrative fees, promulgate rules, policies, procedures or
2 regulations in accordance with this Chapter while adhering to the
3 procedures of the Guam Administrative Adjudication Act.

4 **§5104. Exceptions to Liability.**

5 (a) A charitable, religious, or nonprofit organization which in
6 good faith receives pharmaceuticals or health care supplies fit for
7 human consumption or external use, and donates them at no charge to
8 the Medicine Bank, shall *not* be liable for any civil damages or criminal
9 penalties resulting from the use of the pharmaceuticals or health care
10 supplies distributed or dispensed to eligible persons unless an injury or
11 illness results to those eligible persons as a result of that organization's
12 gross negligence or wanton acts or omissions. Wanton Acts or
13 omissions are as defined and determined by Guam law or in the absence
14 of such law, Federal law shall apply.

15 (b) Any pharmacy, wholesale prescription drug distributor,
16 pharmaceutical company, institutional facility, or practitioner that in
17 good faith provides pharmaceuticals and health care supplies to the
18 Medicine Bank without remuneration or expectation of remuneration,
19 shall be *exempt* from civil liability for injuries and damages resulting
20 from their acts or omissions in providing pharmaceuticals and health
21 care supplies, except for gross negligence, or wanton acts or omissions
22 on the part of the pharmacy, wholesale prescription drug distributor,
23 pharmaceutical company, institutional facility, or practitioner.

24 (c) Any donated or previously dispensed prescription drug:

- 1 (1) Shall be in its dispensed, unopened, tamper-evident
2 single user unit;
- 3 (2) Shall have remained at all times in the control of a
4 person trained and certified by Guam law or Federal
5 law in the storage and administration of drugs in
6 institutional facilities;
- 7 (3) Shall *not* have been adulterated, misbranded, or stored
8 under conditions contrary to standards established by
9 the United States Pharmacopoeia or the product
10 manufacturer; and
- 11 (4) Shall be used before the expiration date on the unit.

12 (d) This Section shall not relieve any organization from any other
13 duty imposed upon it by Guam or Federal law for the inspection of
14 donated pharmaceuticals or health care supplies, or for any provisions
15 regarding the handling of those products, or relieve any health care
16 provider from liability arising out of the prescription of such
17 pharmaceuticals or health care supplies.

18 **§5105. Sale of Donated Pharmaceuticals or Health Care**
19 **Supplies, Prohibited; Fines and Punishment.**

20 (a) Other than the Medicine Bank, no person or organization shall
21 sell, or offer for sale, any pharmaceutical or health care supply donated
22 or distributed by the Medicine Bank under this Chapter. The Director of
23 the Department of Public Health and Social Services is authorized to
24 establish administrative fees to ensure the continuance of the Medicine
25 Bank. These fees will be charge to the receiving entities and not the

1 eligible individuals. The receiving entities shall not pass on the cost, nor
2 charge or assess fees to the eligible individuals to which they dispensed
3 or issued medicines and/or supplies which the entities received from
4 the Medicine Bank.

5 (b) Any violation of this Section or the entire Medicine Bank Act
6 by any person is punishable as a felony.

7 **§5106. Labeling of Donated Pharmaceuticals or Health Care**
8 **Supplies.** Any charitable, religious, or nonprofit organization which
9 receives and distributes donated pharmaceuticals or health care supplies
10 pursuant to this Chapter shall affix a label upon those items stating that
11 the items are donated and are not for resale and stating that they are fit
12 for human consumption or use on the date that they left control of the
13 charitable, religious, or nonprofit organization.

14 **§5107. Government of Guam's Authority to Regulate, Inspect,**
15 **or Ban the Use of Donated Pharmaceuticals or Health Care Supplies.**
16 Nothing in this Chapter is intended to restrict the authority of any
17 Government of Guam department to regulate, inspect, or ban the use of
18 donated pharmaceuticals or health care supplies for human
19 consumption or use. Any provisions to the contrary notwithstanding,
20 all activities conducted by an organization under this Chapter involving
21 the distribution of prescription drugs to persons other than a consumer
22 or patient shall be included within the definition of wholesale
23 distribution as defined in the Guam Code Annotated Title 10, *The*
24 *Pharmacy Practice Act.*

1 In addition, the distribution of pharmaceuticals and health care
2 supplies directly to eligible person(s) (consumers or patients) by a
3 charitable, religious, or nonprofit organization pursuant to the Chapter,
4 and the activities associated with that distribution, shall comply with
5 the applicable provisions of the Guam Code Annotated Title 10, the
6 *Pharmacy Practice Act*, and all other Guam laws which relate to
7 prescription drug wholesalers.”

8 **Section 3. Severability.** The provisions of this Chapter are severable
9 and *if* any provision or part thereof shall be held invalid or unconstitutional or
10 inapplicable to any person or circumstances, such invalidity,
11 unconstitutionality or inapplicability shall *not* affect or impair the remaining
12 provisions of this Chapter.

IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN
(Included in File w/ All Bills Transmitted)
BILL NO. 344 (LS)

- EXHIBITS ATTACHED *None*
- CONFIRM NUMBER OF PAGES *19*
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN""*"" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any *No*

Confirmed By: *DP/g*

Dated: 11-26-04

FINAL REVIEW:

Dated: _____

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (DANNY, _____ OR OTHERS _____)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to _____)

- FILED by: _____



Senator Lou Leon Guerrero RN, MPH

Democrat Majority Leader

Committee on Rules & Health
Chairwoman

Committee on Utilities & Land
Member

Committee on Appropriation
& Budgeting, General
Government Operations
Reorganization & Reform
Member

Committee on Community,
Culture, Recreation &
Public Broadcasting
Member

Committee on Economic
Development, Retirement,
Investments, Public Works,
& Regulatory Functions
Member

Committee on Education
& Housing
Member

Committee on Judiciary
& Transportation
Member

Committee on Youth &
Senior Citizens,
Federal & Foreign Affairs
Member

November 10, 2004

The Honorable Speaker Vicente C. Pangelinan
Chairman, Committee on Utilities & Land
I Mina' Benter Siete Na Liheslaturan Guahan
155 Hesler Street
Hagatna, GU 96910

Dear Mr. Speaker:

The Sub-Committee on Health to which was referred Bill No. 344 (LS), AN ACT TO ADD A NEW CHAPTER 5, TO DIVISION 1, OF TITLE 10 OF THE GUAM CODE ANNOTATED, TO CREATE A MEDICINE BANK WITHIN THE GUAM DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, has had the same under consideration, and now wishes to report back the same with the recommendation to do PASS.

The Sub-Committee record is as follows:

To pass	4
Not to pass	0
Abstain due to potential conflict	0
To place in inactive file	0

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.

Senseramente,

Lou Leon Guerrero
Chairwoman
Sub-Committee on Health

Attachment(s)

Committee Report
Sub-Committee on Health

Public Hearing on Bill No. 344 (LS),

An Act to add a new chapter 5, to Division 1, of Title 10 of the Guam Code Annotated, to create
a Medicine Bank within the Guam Department of Public Health and Social Services.

Tuesday, October 26, 2004, 9:00AM

I. Overview

A public hearing was held on Tuesday, October 26, 2004, 9:00AM at the Guam Legislature Public Hearing Room for the purpose of receiving testimony on Bill No. 344 (LS)-. An Act to add a new chapter 5, to Division 1, of Title 10 of the Guam Code Annotated, to create a Medicine Bank within the Guam Department of Public Health and Social Services.

Details of the proceedings are as follows:

Senators Present

Senator Lou Leon Guerrero
Speaker Vicente (Ben) Pangelinan
Senator Rory Respicio
Senator Robert Klitzkie

Testimony

Mr. Peter John Camacho, Director, Department of Public Health and Social Services submitted written testimony.

Mrs. Diana Calvo, Administrator of the Division of Public Welfare Programs, gave verbal testimony on behalf of the Director.

Mr. Tom Nadeau, Administrator of the Division of Environmental Health gave a brief statement of support of the intent of the bill as he had not reviewed the bill.

Former Senator Carlotta Leon Guerrero provided verbal testimony in support of Bill No. 344.

II. Testimony

Mrs. Diana Calvo provided a verbal synopsis on behalf of Mr. Peter John Camacho, Director, DPHSS. The Department is in support of the bill with few concerns regarding fees to be assessed, staffing, and a holding facility for the Medicine Bank.

Former Senator Carlotta Leon Guerrero provided verbal testimony in full support of the Medicine Bank bill and encouraged the passage of the Bill. She shared her experience and current networking with companies that donate pharmaceuticals to third world countries and indicated that Guam could take advantage of non-profit organizations willingness to get medicine to the island. She also indicated that this bill will open doors to accessible medicines and supplies for the medically indigent, the elderly and individuals with disabilities.

III. Findings and Recommendation

The Subcommittee on Health finds that the Department of Public Health is in support of the bill and its intent, and the few concerns that were raised could be addressed administratively and through the promulgation of DPHSS rules and regulations.



GOVERNMENT OF GUAM



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

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Mangilao, Guam 96923

Felix P. Camacho
GOVERNOR

PeterJohn D. Camacho, MPH
DIRECTOR

Kaleo S. Moylan
LIEUTENANT GOVERNOR

**TESTIMONY ON BILL 344: AN ACT TO ADD A NEW
CHAPTER 5, TO DIVISION 1, OF TITLE 10 OF THE
GUAM CODE ANNOTATED, TO CREATE A MEDICINE
BANK WITHIN THE GUAM DEPARTMENT
OF PUBLIC HEALTH AND SOCIAL SERVICES**

Good Morning Madame Chair and Members of the Committee on Rules and Health:

Buenas yan Saludu! My name is PeterJohn D. Camacho, Director of the Department of Public Health and Social Services. Again, please accept my apologies for not being present this morning to discuss this bill with you. My presence is required at another meeting but my very capable staff is here to respond to any questions you may have regarding our testimony.

We are presenting testimony this morning, generally supporting this very important bill that has the tremendous potential to positively impact and improve the quality of the lives of the people of our island home, especially those in greatest need.

There are however, some concerns as raised by staff from several different areas of the Department. I am respectfully requesting that these concerns should be considered in order to ensure we provide these critically needed services as best we can, and minimize any problems or challenges that could arise.

We all agree that the price of medicine and pharmaceutical supplies increase yearly. These increases contribute to the yearly increases in insurance medical premiums that we all experience. National reports clearly and unequivocally state that the increasing cost of medical care is due in great part to the cost of medications and other supplies.

An intent of Bill 344 is to allow the Medicine Bank to be able to accept pharmaceuticals and health care supplies from donating organizations. If the donation includes medical equipment for patient use, there needs to be a mechanism in place for these durable goods to be examined and tested prior to any distribution to patients. This

action must be completed by a trained biomedical technician. Additionally, we should consider requiring that the medical equipment be come with the correct operating manual as well as any documentation of maintenance history associated with the equipment. If never used, factory information should be provided. If the government is now to issue such equipment, we must consider the liability question should a problem arise from the use or operation of these items.

There appears to be language in the bill that seems to be at odd with each other. Page 2, lines 23 – 26 refers to “the cost to eligible individuals will be affordable when purchased or received from the Medicine Bank”. On page 5, line 25 – 26, an administrative charge is allowed. On page 11, lines 6 – 9 prohibit the sale of any pharmaceutical or health care supply. The language must be clear so that if an administrative charge is allowed, this “price” will be appropriately determined and enacted and cannot be construed as a sale of an item and nothing more than this cost will be allowed.

On page 3, examples of what an institutional facility is appear to allow that items from the Medicine Bank can be provided through these outlets. Yet, the Medicine Bank will distribute donated items to the Community Health Centers for dispensing to eligible individuals as defined by this chapter, the Guam MIP law or the Medicaid Poverty Guidelines. Please consider the issue of convenience, especially in the case of patients in a setting such as a hospital who are ready for discharge. If there is a something that can be obtained from the Bank and issued through this institution, this should be allowed rather than requiring the patient to go to the Community Health Center to get what he or she needs.

One very important consideration is that the Medicine Bank with the appropriate requirements in Bill 344 such as inventory management, storage, distribution activities means that there are “start-up’ and maintenance costs that have to be considered. Presently, the Department is faced with a big challenge in recruiting a qualified pharmacist for our Community Health Center. It would be a daunting task for the same

pharmacist who is needed to dispense medications to patients would then be required to maintain the Bank.

Our key issue is the salary for recruitment and retention for our present staff pharmacists, not even considering trying to get additional staff. This is even more challenging when you consider that the private sector pays much more than what the government can. There is a request at the Civil Service Commission to address this question but as the appropriating branch of our government, we need to let you know of the difficulties we face presently. We would need funds for modest staff and equipment needs appropriate for the requirements of the Medicine Bank.

We would also need to have funding for a facility that would house these donated items. I raise this issue because we have in the past, been asked if we can accept dialysis machines or other durable goods. It would not be wise to commingle such donations with items procured by the Department or Community Health Centers. The other practical matter is that we face a serious challenge in finding space within our current facilities.

These are just a few of the issues that should be considered prior to passage of Bill 344. The intent is good and we commend the authors and sponsors of this important piece of legislation. We respectfully recommend further opportunities to discuss and clarify these and other concerns. My staff and I will be available to assist in making this a reality.

Dangkulo Na Agradesimiento para y supoten-miyu para y taotaota-siha. Put respetu!


PETER JOHN D. CAMACHO, MPH
Direktot