



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

September 16, 2015

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

33-15-0873  
Office of the Speaker  
Judith T. Won Pat, Ed.D.  
Date: 9/18/2015  
Time: 2:43 PM  
Received By: [Signature]

2015 SEP 17 11:52 AM  
[Signature]

Dear Madame Speaker:

Transmitted herewith is Bill No. 115-33 (COR), "AN ACT TO ADD A NEW CHAPTER 82A, AND A NEW SUBSECTION (h) TO § 82201 OF ARTICLE 2 OF CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING ASSISTED OUTPATIENT TREATMENT SERVICES TO PERSONS WITH CERTAIN MENTAL ILLNESSES, WHICH SHALL BE KNOWN AS THE "BABY ALEXYA LAW," which was signed into law on SEPTEMBER 15, 2015 as **Public Law 33-71**.

RAY TENORIO  
I Maga'låhen Guåhan Para Pågo

0873

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN*  
2015 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 115-33 (COR), "AN ACT TO ADD A NEW CHAPTER 82A, AND A NEW SUBSECTION (h) TO § 82201 OF ARTICLE 2 OF CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING ASSISTED OUTPATIENT TREATMENT SERVICES TO PERSONS WITH CERTAIN MENTAL ILLNESSES, WHICH *SHALL* BE KNOWN AS THE "BABY ALEXYA LAW," was on the 3<sup>rd</sup> day of September 2015, duly and regularly passed.

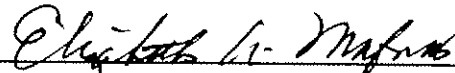


Judith T. Won Pat, Ed.D.  
Speaker

Attested:

  
Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 3<sup>rd</sup> day of Sept,  
2015, at 4:45 o'clock P.M.

  
Assistant Staff Officer  
Maga'lahi's Office

APPROVED:

  
RAYMOND S. TENORIO  
Acting Governor of Guam

Date:

SEP 15 2015

Public Law No. 33-71

***I MINA TRENTAI TRES NA LIHESLATURAN GUÁHAN***  
**2015 (FIRST) Regular Session**

**Bill No. 115-33 (COR)**

As substituted by the Committee on Health,  
Economic Development, Homeland Security,  
and Senior Citizens.

Introduced by:

Dennis G. Rodriguez, Jr.  
R. J. Respicio  
V. Anthony Ada  
Brant T. McCreddie  
N. B. Underwood, Ph.D.  
Tommy Morrison  
Frank F. Blas, Jr.  
FRANK B. AGUON, JR.  
Mary Camacho Torres  
T. R. Muña Barnes  
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Judith T. Won Pat, Ed.D.  
T. C. Ada  
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James V. Espaldon

**AN ACT TO *ADD* A NEW CHAPTER 82A, AND A NEW  
SUBSECTION (h) TO § 82201 OF ARTICLE 2 OF  
CHAPTER 82, ALL OF DIVISION 4, TITLE 10, GUAM  
CODE ANNOTATED, RELATIVE TO PROVIDING  
ASSISTED OUTPATIENT TREATMENT SERVICES TO  
PERSONS WITH CERTAIN MENTAL ILLNESSES,  
WHICH *SHALL* BE KNOWN AS THE “BABY ALEXYA  
LAW.”**

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

2 **Section 1.** A new Chapter 82A is *added* to Division 4 of Title 10, Guam

3 Code Annotated, to read:

1 "CHAPTER 82A

2 ASSISTED OUTPATIENT TREATMENT

- 3 Article 1. Legislative Findings and Intent.  
4 Article 2. Definitions.  
5 Article 3. Voluntary Treatment.  
6 Article 4. Petition for Assisted Treatment.  
7 Article 5. Assisted Treatment Hearing Procedures.  
8 Article 6. Assisted Treatment Hearing Disposition.  
9 Article 7. Appeals.  
10 Article 8. Safeguards.  
11 Article 9. Assisted Outpatient Treatment.  
12 Article 10. Review of Status.  
13 Article 11. Renewals.  
14 Article 12. Procedures for Discharge.  
15 Article 13. Emergency Treatment/Observation - Certification.  
16 Article 14. Accountability.  
17 Article 15. Patient Bill of Rights.

18 ARTICLE 1

19 § 82A101. Legislative Findings and Intent. *I Liheslaturan*  
20 *Guåhan* finds that Assisted Outpatient Treatment (AOT) is practiced in  
21 forty-five (45) states as an extension of inpatient treatment, while allowing  
22 the qualified patient with a treatable mental illness or condition to receive  
23 court ordered treatment on an outpatient basis. It is also known in some  
24 states as outpatient commitment. A detailed six (6)-month study of New  
25 York's Kendra's Law documented a striking decline in the rate of  
26 hospitalization among participants. AOT recipients were hospitalized at less  
27 than half the rate they were hospitalized in the six (6) months prior to

1 receiving AOT (i.e., the hospitalization rate dropped from seventy-four (74)  
2 percent to thirty-six (36) percent). Further, when they were hospitalized, the  
3 length of the stay was greatly reduced. Studies in other states have  
4 demonstrated similar benefits.

5 The continued treatment and management of the patient's condition  
6 on an outpatient basis has also been determined to greatly reduce incidents  
7 of violence and arrests. Without AOT, the patient's condition often  
8 deteriorates directly due to a lack of treatment compliance and the  
9 continuing exhibition of "good" adherence to their medication treatment  
10 plan.

11 Another tragic consequence for many individuals with untreated  
12 mental illnesses is homelessness. At any given time, there are more people  
13 with untreated severe psychiatric illnesses living on America's streets than  
14 are receiving care in hospitals. In New York, when compared to the three  
15 (3) years prior to their participation in the program, seventy-four (74)  
16 percent fewer AOT recipients experienced homelessness (New York State  
17 Office of Mental Health 2005). New York and other states have incurred  
18 enormous costs in the provision of public assistance for housing assistance  
19 and re-hospitalization.

20 *I Liheslaturan Guåhan* further finds that the consequences of  
21 untreated mental illness are as apparent as they are devastating:  
22 homelessness, criminalization, suicide, violence, victimization, lost  
23 productivity, permanently decreased medication responses, and the  
24 incalculable costs of unnecessary suffering. Due to advances in recent years,  
25 treatment is now available that can eliminate or substantially alleviate the  
26 symptoms of mental illness for most who suffer from it. People with treated  
27 mental illness can now reclaim their lives. But first, there must be treatment.

1 Treatment voluntarily embraced is always preferable. However,  
2 mental illness is a biologically based disease that attacks the brain. As a  
3 result, mental illness renders many people incapable of voluntarily entering  
4 treatment because they are unable to make rational decisions or unaware that  
5 they are ill. When this occurs, such people may require assisted treatment to  
6 protect their lives, as well as to avoid tragic personal and societal  
7 consequences.

8 This Act is designed to be the legal framework for the provision of  
9 care to individuals who, due to the symptoms of severe mental illness,  
10 become either dangerous or incapable of making informed medical decisions  
11 concerning their treatment.

12 The procedural components of this Act are intended to create a  
13 flexible mechanism that can be used to secure treatment for those who most  
14 need it while still distinguishing those for whom intervention is  
15 inappropriate. Paramount are the strict and plentiful safeguards which this  
16 Act establishes to protect both the rights and well-being of those subject to  
17 it.

18 It is the intent of *I Liheslaturan Guåhan* to provide for a missing but  
19 necessary treatment component in our mental healthcare system. As was the  
20 case in New York City in the establishment of Kendra's Law, it took the  
21 tragic death of Ms. Kendra Webdale, a young woman who died in January  
22 1999 after being pushed in front of a New York City subway train by a  
23 person who was living in the community at the time, but was not receiving  
24 treatment for his mental illness. On Guam, we had the recent case of ten  
25 (10) month old baby Alexya being punched in the face while in the arms of  
26 her mother under similar circumstances by a person not receiving treatment  
27 for her mental illness.

1           § 82A102. This Act *shall* be cited as the “Baby Alexya Law.”

2   **ARTICLE 2**

3           § 82A201. **Definitions.**

4           As used in this Chapter, unless the context requires otherwise:

5           (a) *Assisted treatment* means the provision of treatment, in  
6 accordance with this Act, to individuals who are either dangerous or  
7 incapable of making informed medical decisions because of the effects of  
8 severe mental illness.

9           (b) *Assisted outpatient treatment (AOT)* means assisted treatment  
10 on an outpatient basis.

11           (c) *Certificate* means a form filed with the court by a psychiatrist  
12 or other physician to request an assisted treatment hearing for an individual  
13 currently in emergency treatment/observation.

14           (d) *Chronically disabled* may be shown by establishing that the  
15 person is incapable of making an informed medical decision and, based on  
16 the person’s psychiatric history, the person is unlikely to comply with  
17 treatment and, as a consequence, the person’s current condition is likely to  
18 deteriorate until his or her psychiatric disorder significantly impairs the  
19 person’s judgment, reason, behavior or capacity to recognize reality and has  
20 a substantial probability of causing him or her to suffer or continue to suffer  
21 severe psychiatric, emotional or physical harm.

22           (e) *Court* means the Superior Court of Guam, which *shall* be the  
23 court of judicial review designated to accept petitions and certificates for  
24 assisted treatment and related filings, decide on preliminary and *ex parte*  
25 motions, and all other functions assigned to it pursuant to this Act.

26           (f) *Danger to himself or herself* may be shown by establishing that,  
27 by his or her behavior, a person is, in the reasonably foreseeable future,

1 likely to either attempt suicide, to inflict bodily harm on himself or herself  
2 or, because of his or her actions or inaction, to suffer serious physical harm  
3 in the near future. The person's past behavior may be considered.

4 (g) *Danger to others* may be shown by establishing that, by his or  
5 her behavior, a person is in the reasonably foreseeable future likely to cause  
6 or attempt to cause harm to another. Evidence that a person is a danger to  
7 others may include, but is *not* limited to:

8 (1) that he or she has inflicted, or attempted or threatened in  
9 an objectively serious manner to inflict, bodily harm on another;

10 (2) that by his or her actions or inactions, he or she has  
11 presented a danger to a person in his or her care; or

12 (3) that he or she has recently and intentionally caused  
13 significant damage to the substantial property of others.

14 (h) *Gravely disabled*, as defined in § 82101(c) of Chapter 82, may  
15 be shown by establishing that a person is incapable of making an informed  
16 medical decision and has behaved in such a manner as to indicate that he or  
17 she is unlikely, without supervision and the assistance of others, to satisfy  
18 his or her need for either nourishment, personal or medical care, shelter, or  
19 self-protection and safety so that it is probable that substantial bodily harm,  
20 significant psychiatric deterioration or debilitation, or serious illness will  
21 result unless adequate treatment is afforded.

22 (i) *Incapable of making an informed medical decision* means that a  
23 person is unaware of the effects of his or her psychiatric disorder or that the  
24 person lacks the capacity to make a well-reasoned, willful, and knowing  
25 decision concerning his or her medical or psychiatric treatment. Any history  
26 of the person's non-compliance with treatment or of criminal acts related to  
27 his or her mental illness *shall*, if available, be considered.



1           (j) *Petition* means a form filed with a court to request an assisted  
2 treatment hearing based on the good faith belief of the petitioner that the  
3 subject of the petition is eligible for assisted treatment pursuant to the  
4 provisions of this Act.

5           (k) *Petitioner shall only* mean the Director of the Guam Behavioral  
6 Health and Wellness Center or his or her designee, in conjunction with the  
7 treating psychiatrist or physician who has examined the respondent, and who  
8 *shall* file the petition.

9           (l) *Respondent* means the person who is the subject of a petition or  
10 certificate.

11           (m) *Severe psychiatric disorder* means a substantial impairment of a  
12 person's thought processes (e.g., delusions), sensory input (e.g.,  
13 hallucinations), mood balance (e.g., mania or severe depression), memory  
14 (e.g., dementia), or ability to reason that substantially interferes with a  
15 person's ability to meet the ordinary demands of living. Severe psychiatric  
16 disorders are distinguished from:

17           (1) conditions that are primarily due to drug abuse or  
18 alcoholism, although severe psychiatric disorders may co-exist with  
19 these disorders;

20           (2) other known neurological disorders such as epilepsy,  
21 multiple sclerosis, Parkinson's disease, or Alzheimer's disease,  
22 although such neurological disorders may also have psychotic features  
23 similar to those found in severe psychiatric disorders;

24           (3) normal age-related changes in the brain;

25           (4) brain changes related to terminal medical conditions;

1 (5) personality disorders as defined by the American  
2 Psychiatric Association's "Diagnostic and Statistical Manual of  
3 Mental Disorders" (APA-DSM);

4 (6) moderate, severe and profound mental retardation as  
5 defined by the APA-DSM; and

6 (7) pervasive developmental disorders, including autistic  
7 disorder, Rett's disorder and Asperger's disorder as defined by the  
8 APA-DSM.

9 (n) *Treating professional, professional staff, professional person or*  
10 *qualified mental health professional shall* mean a licensed professional  
11 qualified by training or experience in the diagnosis of mental or related  
12 illness. The following licensed professionals *shall* be so designated:

13 (1) a psychiatrist;

14 (2) a clinical psychologist;

15 (3) a certified psychiatric nurse at the Master's level; or

16 (4) a physician.

17 (o) Guam Behavioral Health and Wellness Center (GBHWC) is the  
18 public agency designated by the government of Guam to diagnose or treat  
19 persons with mental health disorders.

### 20 ARTICLE 3

#### 21 VOLUNTARY TREATMENT

22 § 82A301. **Admission to Voluntary Treatment.** A person in need  
23 of psychiatric care should be admitted into treatment voluntarily whenever  
24 possible.

25 § 82A302. **Discharge From Voluntary Treatment.** A voluntary  
26 patient may seek discharge at any time. Unless properly invoking the  
27 provisions of this Act allowing for their retention, the psychiatric treatment

1 facility must release voluntary patients who request to be discharged within  
2 forty-eight (48) hours, not including Saturdays, Sundays or holidays.

3 **ARTICLE 4**

4 **PETITION FOR ASSISTED TREATMENT**

5 **§ 82A401. Criteria.**

6 (a) A person may be ordered to receive assisted outpatient  
7 treatment (AOT) if the court finds that such person:

8 (1) is eighteen (18) years of age or older; and

9 (2) is suffering from mental illness; and

10 (3) is an inpatient client or a client transitioning out of  
11 Mental Health Court; or

12 (4) is an outpatient client or was a former client who is being  
13 treated or has been treated for mental illness at the GBHWC; and

14 (5) is unlikely to survive safely in the community without  
15 supervision, based on clinical determination; and

16 (6) has a history of poor treatment compliance for mental  
17 illness that has:

18 (A) been a significant factor in his or her being in a  
19 hospital, prison or jail at least twice within the last thirty-six  
20 (36) months for inflicting serious bodily injury upon others or  
21 upon himself; or

22 (B) resulted in one or more acts, attempts or threats of  
23 serious bodily injury toward self or others within the last forty-  
24 eight (48) months; and

25 (7) as a result of mental illness, is unlikely to voluntarily  
26 participate in outpatient treatment that would enable him or her to live  
27 safely in the community; and

1                   (8) be, in view of his or her treatment and current behavior,  
2 in need of assisted outpatient treatment in order to prevent relapse or  
3 deterioration which would likely result in:

4                   (A) a substantial risk of physical harm to the consumer  
5 as manifested by threats or attempts at suicide or serious bodily  
6 injury or conduct demonstrating that the consumer is dangerous  
7 to himself or herself, or

8                   (B) a substantial risk of physical harm to other persons  
9 as manifested by homicidal or other violent behavior by which  
10 others are placed in reasonable fear of serious bodily injury;  
11 and

12 (9) be likely to benefit from assisted outpatient treatment.

13 (b) A petition for an AOT order may be sought within the  
14 seventy-two (72) hour hold as provided when initiated pursuant to §  
15 82201(h) of Chapter 82.

## 16                   ARTICLE 5

### 17                   ASSISTED TREATMENT HEARING PROCEDURES

18                   § 82A501. **Continuance.** The court may, for good cause, order a  
19 continuance of up to forty-eight (48) hours or, if this period ends on a  
20 Saturday, Sunday or holiday, to the end of the next day on which the court is  
21 open. The continuance *shall* extend the emergency treatment/observation  
22 period or any temporary treatment order until the time of the hearing.

23                   § 82A502. **Location of Assisted Treatment Hearing.** For those  
24 currently admitted to an inpatient facility operated by the Guam Behavioral  
25 Health and Wellness Center, or its designee, assisted treatment hearings  
26 *shall* be held at the court.

1           **§ 82A503. Attendance at Hearing.** The hearing *shall* be open to  
2 anyone *unless* the respondent requests that it be closed, at which point only  
3 parties and their counsels, witnesses, members and staff of the GBHWC, and  
4 court personnel may be present. However, the court may approve a motion  
5 of an individual to attend the trial upon a showing that the person has a  
6 substantial interest in the proceeding.

7           **§ 82A504. Expert Testimony Required at Hearing.** For a hearing  
8 on a certificate, a treating professional who has examined the respondent  
9 since he or she was placed under emergency treatment/observation *shall*  
10 testify.

11           For a hearing on a petition, the testimony of a treating professional  
12 who has examined the respondent more recently than seven (7) calendar  
13 days before the petition was filed is required. Such testimony may be  
14 presented by affidavit, *unless* respondent's counsel requests of the petitioner  
15 or petitioner's counsel, in writing, the presence of such a treating  
16 professional at the assisted treatment hearing. A copy of this request must be  
17 filed with the court and made at least seventy-two (72) hours, excluding  
18 Saturdays, Sundays and holidays, prior to the hearing. If planning to present  
19 the examining treating professional's testimony by affidavit, counsel for the  
20 petitioner must present a copy of the affidavit either to respondent's counsel  
21 or at the office of respondent's counsel at least twenty-four (24) hours,  
22 excluding Saturdays, Sundays and holidays, prior to the hearing. The  
23 procedures applicable when the respondent has not been examined prior to  
24 the hearing are delineated in § 82A601.

25           **§ 82A505. Evidence Admissible at Hearing.** The court may  
26 review any information it finds relevant, material, and reliable, even if  
27 normally excluded under rules of evidence.

1           **§ 82A506. Record of Hearing.** No transcript is required to be kept  
2 of hearings before the court.

3           **§ 82A507. Rights of Family Members.** A family member may file  
4 a motion for participation in the hearing. The court may approve the  
5 preliminary motion of such an individual to participate in the hearing upon a  
6 showing that the person has a substantial interest in the proceeding. If the  
7 psychiatrist or physician so approves, the family member may have the right  
8 to representation by counsel at his or her own expense, present evidence,  
9 cross-examine witnesses, and appeal.

10   **ARTICLE 6**

11                                   **ASSISTED TREATMENT HEARING DISPOSITION**

12           **§ 82A601. Procedure After Failure to Comply With Ordered**  
13 **Evaluation.** If the respondent presents good and credible cause why he or  
14 she was not present for an ordered evaluation, the court *shall* continue the  
15 proceeding and issue another order for examination. A hearing concerning  
16 an individual who fails to comply, without good cause, with a court’s  
17 evaluation order *shall* still proceed. An individual’s refusal, without good  
18 cause, to comply with an evaluation order may be used as evidence of his or  
19 her need for treatment and incapability of making an informed medical  
20 decision. If a continuance is ordered, the respondent *shall* be placed in a  
21 designated psychiatric facility and evaluated by a treating professional. The  
22 continuance *shall* be for no more than seventy-two (72) hours or, if this  
23 period ends on a Saturday, Sunday or holiday, until the end of the next day  
24 on which the court is open.

25           **§ 82A602. Consent Order.** At the hearing, the petitioner and  
26 respondent may proffer a mutually agreed upon proposed assisted treatment  
27 order, known as a consent order. The terms of the order must be consistent

1 with those of an initial order for assisted treatment made pursuant to this  
2 Act. The consent order must be accompanied by the testimony, which may  
3 be by affidavit, of a treating professional qualifying under § 82A201 that the  
4 suggested order is clinically appropriate for the respondent. At its discretion,  
5 the court may enter the consent order without a full hearing. Once entered,  
6 the consent order has the same effect as an assisted treatment order issued  
7 pursuant to § 82A603.

8       **§ 82A603. Assisted Treatment Order.** An order for assisted  
9 treatment, for its duration, subordinates the individual's right to refuse the  
10 administration of medication or other minor medical treatment to the  
11 GBHWC, its designee, or any other medical provider obligated to care for  
12 the person by the court in its order. The treatment setting *shall* be the least  
13 restrictive possible and appropriate alternative. An initial order for assisted  
14 treatment on an outpatient basis may be for up to one hundred eighty (180)  
15 calendar days.

16       **§ 82A604. Services Included in Order for Assisted Outpatient**  
17 **Treatment.** An initial assisted treatment order directing care on an  
18 outpatient basis must include provisions for intensive case management. The  
19 order may also require the patient to make use of and care providers to  
20 supply any or all of the following categories of services to the individual:

- 21       (a) medication;
- 22       (b) periodic blood tests or urinalysis to determine compliance with  
23 treatment;
- 24       (c) individual or group therapy;
- 25       (d) day or partial day programming activities;
- 26       (e) educational and vocational training or activities;

1 (f) alcohol or substance abuse treatment and counseling, and  
2 periodic tests for the presence of alcohol or illegal drugs for persons with a  
3 history of alcohol or substance abuse;

4 (g) supervision of living arrangements; and

5 (h) any other services prescribed to treat the person's mental illness  
6 and to assist the person in living and functioning in the community, or to  
7 attempt to prevent a relapse or deterioration.

8 Any material modifications of the provisions of the assisted treatment  
9 order to which the patient does not agree must be approved by the court.

10 **§ 82A605. Effect of Assisted Treatment Determination on Other**  
11 **Rights.** The determination that a person is in need of assisted treatment as  
12 an outpatient is *not* a determination that the patient is legally incompetent or  
13 incapacitated for any purpose other than those set out in this Act.

## 14 **ARTICLE 7**

### 15 **APPEALS**

16 **§ 82A701. Appeal or Review of Assisted Treatment Decision or**  
17 **Status.** *Except* where specifically prohibited by this Act, a decision of the  
18 psychiatrist or physician may be appealed to an appropriate court of record  
19 within ten (10) calendar days of being entered. The hearing of an appeal is  
20 *de novo* and must be held within seven (7) calendar days of the filing of the  
21 appeal. The subject of the assisted treatment decision, the petitioner, and  
22 family members allowed as parties pursuant to § 82A507 have the right to  
23 appeal. The court of record may review any information it finds relevant,  
24 material, and reliable, even if normally excluded under rules of evidence.

## 25 **ARTICLE 8**

### 26 **SAFEGUARDS**



1           **§ 82A801. Thirty (30)-Day Review for Medication Side Effects.**

2           Each patient receiving medication pursuant to an assisted treatment order  
3           *shall* be examined every thirty (30) days for serious side effects by his or her  
4           treating professional.

5           **§ 82A802. Recommendation for Alternative Appropriate**  
6           **Treatment.** After an examination described in § 82A801 determines, in his  
7           or her clinical judgment, that the patient has serious side effects from his or  
8           her current medication, the treating professional *shall* suggest, if available,  
9           an alternative appropriate treatment that will have fewer side effects.

10          **§ 82A803. Grievance Procedure.** There *shall* be a one-step  
11          grievance procedure made available to patients on assisted outpatient  
12          treatment status. Grievances concerning treatment may be made to the  
13          medical director of each inpatient facility. Grievances about a patient's  
14          treatment regimen may be brought by the patient or on the patient's behalf  
15          by his or her legal guardian or conservator; his or her patient advocate; any  
16          party at a hearing for the institution of or renewal of assisted treatment; or  
17          his or her spouse, parent, adult child or, if there is no relative of such degree,  
18          his or her closest living relative. The grievance of a patient whose treating  
19          psychiatrist is the facility's medical director *shall* be ruled on by a medical  
20          professional generally appointed for this purpose by the GBHWC or its  
21          designee.

22          **§ 82A804. Appeal of Grievance.** Grievances that are disallowed  
23          may be appealed to the court, which *shall* hear the appeal within fourteen  
24          (14) calendar days. All rulings on appeals of grievances by the court are  
25          final. If the appeal of a grievance is denied, the patient it was brought either  
26          by or for is barred from appealing, and others from doing so on his or her  
27          behalf, any other grievances to the court for a period of ninety (90) days.

1 This limitation of appeal *does not* otherwise alter the patient's right to bring  
2 grievances in accordance with the provisions of § 82A803.

### 3 **ARTICLE 9**

#### 4 **ASSISTED OUTPATIENT TREATMENT**

5 **§ 82A901. Enforcement of Assisted Outpatient Treatment**  
6 **Order.** An assisted outpatient treatment order's requirement to maintain  
7 treatment can be enforced for non-compliance. On the signature of a  
8 supervising psychiatrist, the order may be enforced either at the patient's  
9 residence or at a treatment center designated by the GBHWC or its designee,  
10 whichever the patient chooses. Patients who physically resist or fail to select  
11 a treatment location *shall* be treated at a treatment center designated by  
12 GBHWC.

13 **§ 82A902. Transfer to Inpatient Care.** The procedures used to  
14 determine whether a patient under an assisted treatment order who is on  
15 outpatient status should be placed in inpatient care are the same as those for  
16 initial placement in assisted treatment. A patient who meets the criteria for  
17 emergency treatment *shall* immediately be given care in an inpatient facility,  
18 but a hearing is still necessary to confirm this transfer to inpatient status. At  
19 the hearing, the court *shall* order the patient's transfer to or continued  
20 placement in inpatient care, depending on his or her status pending the  
21 hearing, if such treatment setting is the least restrictive form that will meet  
22 the patient's clinical needs. A patient's failure to comply with an order for  
23 assisted treatment while in the community may be used as evidence that  
24 outpatient placement is *not* an appropriate treatment setting for that  
25 individual.

### 26 **ARTICLE 10**

#### 27 **REVIEW OF STATUS**



1 thereafter. A subsequent renewal for an assisted outpatient treatment period  
2 may last up to three hundred sixty (360) days.

## 3 ARTICLE 12

### 4 PROCEDURES FOR DISCHARGE

5 § 82A1201. **Discharge Prior to the Expiration of Assisted**  
6 **Treatment Period.** A patient in assisted outpatient treatment may be  
7 discharged on the signature of both the treating medical professional and the  
8 medical director of the facility. A patient under an assisted treatment order  
9 who is on outpatient status may be discharged on the signature of the  
10 treating medical professional and the director of the outpatient program.

11 § 82A1202. **Notice of Discharge.** Notice of discharge from an  
12 assisted treatment order *shall* be mailed at least seventy-two (72) hours  
13 before the planned discharge to the petitioner; the patient's legal guardian or  
14 conservator, if known; the patient's counsel, if known; an adult member of  
15 the patient's household, if known; and anyone recognized as a party at the  
16 initial assisted treatment hearing or any subsequent renewal hearings.

17 § 82A1203. **Discharge Plan Requirement.** Any patient placed on  
18 assisted outpatient treatment must be given a treatment plan at the time of  
19 discharge from inpatient care and placement on an assisted outpatient  
20 treatment program for a period anticipated being greater than seventy-two  
21 (72) hours. An outpatient treatment plan may include, but is *not* limited to,  
22 suggested medication; individual or group therapy; day or partial day  
23 programming activities; services and training, including educational and  
24 vocational activities; residential supervision; intensive case management  
25 services; and living arrangements.

26 § 82A1204. **Early Discharge Hearing.** A hearing before the court to  
27 determine the appropriateness of the discharge of a patient prior to the

1 expiration of his or her assisted treatment period may be demanded as a  
2 matter of right by the petitioner; the patient's legal guardian or conservator,  
3 if known; an adult member of the patient's household, if known; and anyone  
4 recognized as a party at the initial assisted treatment hearing or any  
5 subsequent renewal hearings.

## 6 **ARTICLE 13**

### 7 **EMERGENCY TREATMENT/OBSERVATION - CERTIFICATION**

8 **§ 82A1301. Emergency Treatment Initiated by Law Enforcement**  
9 **Officers.** At the request of the treating physician, or at the discretion of any  
10 law enforcement officer with the power of arrest, any person generally  
11 designated to do so by the government of Guam may bring to a designated  
12 facility for evaluation any person on assisted outpatient treatment that the  
13 officer has reasonable cause to believe has a severe psychiatric disorder and,  
14 because of the disorder, is a danger to himself, herself or to others or is  
15 gravely disabled. If a physician determines that someone under an AOT  
16 order is non-compliant with the court order and may need involuntary  
17 hospitalization, the physician may arrange for the individual to be  
18 transported to a hospital and retained for an evaluation not to exceed  
19 seventy-two (72) hours to determine if inpatient care and treatment are  
20 necessary.

21 **§ 82A1302. Emergency Treatment Initiated by Others.** Any  
22 psychiatrist, other physician, or qualified mental health professional as  
23 designated pursuant to § 82101(g) of Chapter 82, who has been generally  
24 designated to do so by the government of Guam or GBHWC may initiate  
25 emergency treatment/observation based on a good faith belief that because  
26 of a severe psychiatric disorder a person is either a danger to himself or  
27 herself, a danger to others, or gravely disabled. Any such person who

1 determines the need for emergency treatment/observation but who is *not*  
2 authorized to transport such individuals to a psychiatric facility may direct  
3 any person enumerated in § 82A1303 to do so.

4       **§ 82A1303. Transportation to Emergency Facility.** Protesting  
5 individuals may *only* be transported by law enforcement officers with the  
6 power of arrest, the Guam Fire Department, or others who have been  
7 designated to perform this function by the government of Guam.

8       **§ 82A1304. Evaluation.** A psychiatrist or other physician *shall*  
9 evaluate an individual in emergency treatment/observation within twenty-  
10 four (24) hours of the individual's placement in a designated psychiatric  
11 facility.

12       **§ 82A1305. Immediate Release.** An individual *shall* be released  
13 from emergency treatment/observation *unless* the psychiatrist or other  
14 physician who performs the evaluation determines that the individual is  
15 either a danger to himself, herself or others or is gravely disabled.

16       **§ 82A1306. Certification.** If the examining psychiatrist or other  
17 physician who performs the evaluation determines, in his or her clinical  
18 opinion, that the individual is a danger to himself, herself or to others or is  
19 gravely disabled, he or she must file, or cause to be filed by another  
20 psychiatrist or other physician who has also examined the individual, a  
21 certificate with the court. The certificate *shall* be filed with the court within  
22 twenty-four (24) hours of the initial examination, not including Saturdays,  
23 Sundays or holidays.

24       **§ 82A1307. Requirements of Certificate.** The certificate *shall* be in  
25 writing, executed under oath, and *shall* include the following information:

- 26       (a) the name and address, if known, of the respondent;

1 (b) the name and address, if known, of the respondent's spouse,  
2 legal counsel, conservator or guardian, and next-of-kin;

3 (c) the name and address, if known, of anyone currently providing  
4 psychiatric care to the respondent;

5 (d) the names and addresses, if known, of other persons with  
6 knowledge of the respondent's mental illness who may be called as  
7 witnesses at the assisted treatment hearing;

8 (e) the name and work address of the certifying psychiatrist or  
9 other physician;

10 (f) the name and address of the facility in which the respondent is  
11 undergoing emergency treatment/observation;

12 (g) the certifying psychiatrist or other physician's statement that he  
13 or she has examined the respondent since the respondent was placed in  
14 emergency treatment/observation; and

15 (h) the certifying psychiatrist or other physician's statement that, in  
16 his or her clinical opinion, the respondent is a danger to himself, herself or to  
17 others, or gravely disabled, and the clinical basis for this opinion.

18 **§ 82A1308. Criminal Penalty.** It *shall* be a crime to knowingly file,  
19 or cause to be filed, a certificate that contains a false material statement or  
20 information.

21 **§ 82A1309. Initial Responsibilities of Court After Certificate is**  
22 **Filed.** After the filing of the certificate, the court *shall*:

23 (a) schedule a hearing on the certificate that will occur no more  
24 than seventy-two (72) hours, not including Saturdays, Sundays and holidays,  
25 after the initial examination; and

26 (b) designate counsel for the respondent no less than twenty-four  
27 (24) hours prior to the hearing.

1           **§ 82A1310. Notice of Hearing on Certificate.** The court *shall* notify  
2 the certifying psychiatrist or other physician, respondent, and the  
3 respondent's legal guardian or conservator, if known, of the scheduled  
4 hearing on the certificate at least twenty-four (24) hours in advance. The  
5 court must also attempt to notify of the pending hearing, at least twenty-four  
6 (24) hours in advance, an adult member of respondent's household, *if*  
7 known, and up to five (5) individuals of the respondent's choice. Notice may  
8 be either by mail, personal delivery, telephone, or reliable electronic means.  
9 Timely actual notice *shall* fulfill the notice requirement for any given  
10 individual.

11           **§ 82A1311. Duration of Emergency Treatment/Observation.**  
12 Absent the exercise of other applicable provisions of this Act, the period of  
13 emergency treatment/observation may last no more than seventy-two (72)  
14 hours after the initial examination, not including Saturdays, Sundays or  
15 holidays. Anyone who is determined by the examining or a treating  
16 physician not to be a danger to himself, herself, or others, or gravely  
17 disabled, must be released from emergency treatment/observation. The  
18 initial assisted treatment hearing *shall* take place before the end of the  
19 treatment/observation period.

20           **§ 82A1312. Treatment During Emergency Treatment/  
21 Observation.** During the emergency treatment/observation period,  
22 treatment may be administered if the person is, in the clinical opinion of a  
23 treating professional, a danger to himself, herself or others, or is gravely  
24 disabled.

25   **ARTICLE 14**  
26   **ACCOUNTABILITY**





1           “(h) If, in the judgment of the qualified health professional  
2 providing the evaluation or treatment, the person can be properly treated  
3 without being detained, the person *shall* be provided an evaluation, crisis  
4 intervention, and referral for other services under an Assisted Outpatient  
5 Treatment Order when the person:

6           (1) is a current or former client of GBHWC suffering from a  
7 mental illness;

8           (2) as a result of mental illness, is unlikely to voluntarily  
9 participate in outpatient treatment that would enable him or her to live  
10 safely in the community;

11           (3) has a history of poor treatment compliance for mental  
12 illness; and

13           (4) in view of his or her treatment and current behavior, is in  
14 need of assisted outpatient treatment in order to prevent relapse or  
15 deterioration which would likely result in:

16           (A) a substantial risk of physical harm to the consumer  
17 as manifested by threats or attempts at suicide or serious bodily  
18 harm or conduct demonstrating that the consumer is dangerous  
19 to himself or herself, or

20           (B) a substantial risk of physical harm to other persons  
21 as manifested by homicidal or other violent behavior by which  
22 others are placed in reasonable fear of serious physical harm.”

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