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I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 464-31 (COR)

Introduced by:

DENNIS G. RODRIGUEZ, JR. *gr*

ACT TO ENSURE APPROPRIATE CARE AND TREATMENT BASED UPON THE RECOMMENDATIONS OF PROFESSIONALS FOR INDIVIDUALS WITH COGNITIVE DISABILITIES RESIDING OR HAVING RESIDED IN RESIDENTIAL CARE PROGRAMS AT RISK; BY AMENDING §86101 OF CHAPTER 86, 10 GCA, AND, BY ADDING A NEW SUBITEM (f) TO SUBSECTION A.(1) OF §86105, CHAPTER 86, 10 GCA.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the services the government of Guam provides to our most needy population in
4 that being persons with cognitive disabilities whom because of their disabling
5 condition are not able to fully enjoy the freedoms allowed by non-disabled persons
6 and require to be in the residential care of the government are not currently and
7 have not been provided appropriate ongoing care and treatment. Because of this
8 failure, in 2001 our government was subject to a lawsuit brought on behalf of
9 persons with cognitive disabilities whom were under the residential care of our
10 government. Our government has repeatedly been found in the Guam United
11 States District Court to have violated the constitutional rights of these persons and
12 in 2006, the federal court put forward a requirement for habilitation and treatment
13 requiring at least annual multi-disciplinary evaluations in order to develop
14 appropriate treatment and care for these members of our island community.
15 Unfortunately, this continues to be a consistent problem even with the appointment

1 of a Federal Management Team in the Guam United States District Court action.
2 Because of this ongoing and continual failure is not what our island represents and
3 is not in the best interest of the people of Guam.

4 *I Liheslaturan Guåhan* further finds that it has been since the 17th Guam
5 Legislature the public policy of the government of Guam to ensure the
6 development of privately funded community based programs for mental health,
7 drug and alcohol abuse, and particularly those programs that employ qualified
8 local residents and upon the development of such program, the government of
9 Guam was to phase out of such operations. See 10 G.C.A. §86101. Unfortunately,
10 that policy appears to be not followed at this time. A number of community based
11 programs providing services to persons with mental illness and employing local
12 residents are being discouraged due to the current practice within the government
13 of Guam. This is particularly disheartening when such community based programs
14 have excelled beyond the levels of care provided by governmentally operated
15 similar programs. In order to rectify and further encourage this development, it is
16 necessary to establish in statute that it is the public policy of the government of
17 Guam to encourage the development of privately-funded community based
18 programs for mental health, drug and alcohol abuse, in particular those programs
19 that employ qualified local residents.

20 **Section 2.** §86101 of Chapter 86, Division 4, Title 10, Guam Code
21 Annotated, is hereby amended, to read:

22 **“§86101.** It shall be public policy of the government of Guam to encourage
23 the development of privately-funded community based programs for mental health,
24 drug and alcohol abuse, in particular those programs that employ qualified local
25 residents. In order to encourage such development, contracts for community based
26 programs for persons with mental illness whom employ a majority of qualified
27 residents shall be paid properly and under no circumstance be on sixty (60) days
28 after the submission of the appropriate documentation for compensation and in the

1 development of the terms of such compensation, the Department shall consider the
2 level of involvement in providing required services to such operations and the
3 ability of the operation to phase out the use of such government services. All
4 services currently provided by the government of Guam that can be operated by a
5 community based program shall be. As those community based programs and/or
6 services become developed and/or available in the Territory, the government of
7 Guam may gradually phase out of such governmental operations.”

8 **Section 3.** Subsection A.(1) of §86105 – Powers and Duties, Chapter 86,
9 Division 4, Title 10, Guam Code Annotated, is hereby amended by adding a new
10 Subitem (f), to read:

11 “A.(1) The Department, adhering to Federal regulations, local physical
12 needs, feasibility and appropriateness, shall provide mental health, alcohol
13 and drug abuse treatment services. The Department shall establish and
14 adopt regulations concerning fees it may charge for such services, which
15 may be based on ability-to-pay standards as established by the Guam
16 Memorial Hospital Authority's 'Limit of Liability' Program. Such services
17 shall include:

18 (a) 24-hour crisis intervention services to include as needed a mobile
19 crisis team and a hot-line;

20 (b) partial hospitalization and aftercare services to include transitional
21 homes for the mentally ill;

22 (c) outpatient services to include as needed team services for
23 children, the elderly and adults;

24 (d) individual, group, and family counseling services;

1 (e) inpatient services to include but not be limited to acute psychiatric
2 and alcohol and drug detoxification services. The department may
3 contract in writing for the provision of inpatient services with any
4 qualified providers. The department shall be responsible for insuring
5 that the medical care standards and quality controls for inpatient
6 services provided above are met.

7 (f) the Department of Mental Health and Substance Abuse, whether
8 directly or through independent contractor, shall; on an annual basis
9 for all individuals with cognitive disabilities residing under the care of
10 the government of Guam for more than two (2) weeks whom is still a
11 consumer of the services of the government of Guam have conducted
12 upon them at least annually a Multi-Disciplinary Treatment Plan.

13 (1) Each consumer must receive a comprehensive evaluation
14 of his or her medical, behavioral, habilitation and
15 treatment needs, by competent professions who are
16 members of the MDTT. Collectively, these evaluations
17 will form the basis of consumer's individual support and
18 transition plans.

19 (2) The Department of Mental Health and Substance Abuse
20 shall conduct an interdisciplinary evaluation of each
21 consumer to determine the specific areas in which each
22 consumer's needs training.

23 (i) These multi-disciplinary evaluations shall be
24 repeated for all consumers on an annual interval,
25 unless required more frequently by each
26 consumer's needs.

27 (ii) Identify each Plaintiff who sustains or causes
28 frequent injuries or is at risk of serious harm due to

1 his or her behaviors. Prioritize these individuals
2 for intervention, where appropriate, through skills
3 training, positive behavioral supports, and other
4 treatment modalities.”

5 **Section 4. Reporting.** On a quarterly basis, the Director of the Department
6 of Mental Health and Substance Abuse *shall* report to I Maga’lahen [the Governor]
7 and *I Liheslaturan Guåhan* the number of individuals that meet the requirement for
8 evaluation pursuant to §86105(1)(f) of 10 GCA, and the number of evaluations
9 conducted during that quarter as well as should the Director based upon the current
10 quarterly report foresee any reason for noncompliance, to provide in that quarterly
11 report what corrective actions are intended during the next quarter to correct the
12 shortcomings.

13 **Section 5. Severability.** If any provision of this law or its application to
14 any person or circumstances is found to be invalid or contrary to law, such
15 invalidity shall not affect other provisions or applications of this law, which can be
16 given effect without the invalid provisions or applications, and to this end the
17 provisions of this law are severable.

18 **Section 6. Effective Date.** The Act shall become immediately effective
19 upon enactment.