MINA' TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
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Bill No. 126 **-34 (**COR**)**

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AN ACT TO ADD A NEW § 12208 (h) TO CHAPTER 12, PART 1, ARTICLE 2 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE ESTABLISHMENT OF AN "ASSISTANT PHYSICIAN" LICENSE FOR MEDICAL SCHOOL GRADUATES THAT HAVE SUCCESSFULLY COMPLETED THE UNITED STATES MEDICAL LICENSING EXAMINATION (USMLE) STEP 1 OR THE COMPREHENSIVE OSTEOPATHIC MEDICAL LICENSING EXAMINIATION (COMLEX) LEVEL 1, THE USMLE STEP2 OR COMLEX LEVEL 2 EXAMS, HAVE NOT COMPLETED AN APPROVED POSTGRADUATE RESIDENCY AND ARE PROFICIENT IN THE ENGLISH LANGUAGE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* acknowledges that the Health Resources and Services Administration (HRSA) deem Guam as a Health Professional Shortage Area (HPSA). In a March 24, 2017 memorandum, the Director of the Department of Public Health and Social Services shares that in 2017 the Community Health Centers (CHC's) experience delays in the recruitment of providers due to

the shortage of health professionals; the difficulty in recruiting providers given Guam's remote island setting, small scale, and territorial status (i.e.. not linked to any larger state entity); the physician salary not comparable to U.S. rate; and the high cost of malpractice insurance on Guam. Additionally, the CHCs have been aggressively recruiting physicians and mid-level providers, but delays in the Department of Administration's processing of contracts after they have been signed by the Governor has hampered the CHCs' operation in that these providers cannot promptly begin employment at the CHCs.

I Liheslaturan Guåhan recognizes that the shortage of primary care providers causes chronic delays in patients seeking medical care. Often times, this delay causes minor concerns to become greater concerns due to the lack of timely attention and thus results in greater anguish and cost for the patient. The early identification of medical issues is proven time and again to effect the greatest possible outcome.

I Liheslaturan Guåhan recognizes that Missouri, Kansas, Arkansas and Oklahoma have passed laws to allow graduates to work in medically underserved areas without doing a residency and that other states are likely to follow.

I Liheslaturan Guåhan further recognizes the challenges graduate medical students, especially Foreign Medical Graduates, have in "matching" a residency program and the study and investment in their medical education is often wasted due to shortages of residency programs.

I Liheslaturan Guåhan understand that some western medical professional organizations have come out against such programs but fail to provide solutions to an ever increasing shortage of professionals to recognized shortage areas.

It is therefore the intent of *I Liheslaturan Guåhan,* in recognizing the valuable contributions that these medical graduates can provide to alleviating the shortage of primary care providers, to establish an "Assistant Physician" medical license within the Guam Board of Medical Examiners.

Section 2. A new § 12208 (h), is added to Chapter 12, Part 1, Article 2, of Title 10, Guam Code Annotated, to read:

§ 12208. Limited Licensure for Physicians in Postgraduate Training.

(a) To be eligible for limited licensure, the applicant should have completed all the requirements for full and unrestricted medical licensure, except postgraduate training or specific examination requirements.

(b) The application for limited licensure shall be made directly to the Board in the jurisdiction where the applicant's postgraduate training is to take place. The institution supervising the applicant's postgraduate training program director shall have established procedures whereby the status of an applicant's limited license is verified prior to acceptance into a postgraduate training program, and such acceptance shall be made only after an applicant demonstrates that he or she holds a limited license issued by the Board specifically for the purpose of postgraduate training.

(c) The Board shall be directed to establish by regulation restrictions for the limited license to assure that the holder will practice only under appropriate supervision and at locations acceptable to the Board.

(d) The limited license shall be renewable annually with the approval of the Board and upon the written recommendation of the supervising institution, including a written evaluation of performance, until such time as Board regulations require the achievement of full and unrestricted medical licensure.

(e) The program directors responsible for postgraduate training shall report to the Board, in writing, any disciplinary actions taken against an individual with a limited license. They shall also report to the Board, in writing, any individual who has not been advanced in the program or who has been dropped from the program for performance or ethical reasons. Directors of postgraduate training programs should also be required to submit an annual written report to the Board on all individuals enrolled in their programs. This annual report shall include any disciplinary actions taken against, or restrictions placed upon, any individual in the program. The report shall also include the reason(s) for any individual's failure to advance in the program, as well as a full explanation of any individual's absence from the program of fourteen (14) days or more. Failure to submit such a report to the Board shall be considered a violation of the mandatory reporting provisions of the Medical Practice Act, and shall be grounds to initiate such disciplinary action as the Board deems appropriate, including fines levied against the supervising institution and suspension of the program director's medical license.

(f) The disciplinary provisions of the Physicians Practice Act shall apply to the holders of the limited license as if they held full and unrestricted medical licensure.

(g) The issuance of a limited license shall not be construed to imply that a full and unrestricted medical license will be issued at any future date.

(h) The Board may issue an "assistant physician license" to any person under the jurisdiction of the Board based on the requirements of this section.

(1) An "Assistant physician" is any medical school graduate (a person who has graduated from a medical college or an

osteopathic medical college)who is a resident and citizen of the United States (or is a legal resident alien), has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent of such steps of any other board-approved medical licensing examination within the two-year period immediately preceding application for licensure as an assistant physician, but in no event more than three years after graduation from a medical college or an osteopathic medical college. If more than three years from graduation, applicant must submit proof of continuing clinical experience (or timeline of activities) for at least two years within the last five years. The applicant shall not have completed an approved postgraduate residency and shall have proficiency in the English language. If the language of instruction of the foreign medical school is other than English, The applicant shall have demonstrated competency in English through presentation of the Educational Commission for Foreign Medical Graduates certificate. A graduate of a foreign medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if the graduate:

(aa) Has received a bachelor's degree from an accredited United States college or university.

(bb) has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed Step 3 of the

National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(cc) Has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(2) For purposes of this section, the licensure of assistant physicians shall take place within processes established by rules of the Guam Board of Medical Examiners (GBME). The GBME is authorized to establish rules establishing licensure and renewal procedures, supervision, collaborative practice arrangements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensure may be denied or the licensure of an assistant physician maybe suspended or revoked by the board in the same manner and for violation of the standards as set forth by § 12209, or such other standards of conduct set by the board by rule.

(3) The assistant physician shall work under a collaborative practice arrangement that meets the requirements of this section.

(4) An assistant physician collaborative practice arrangement shall limit the assistant physician to providing only primary care services and only in clinics, hospitals or outreach events primarily focused on the medically underserved population or in any pilot project areas established in which assistant physicians may practice.

(5) The collaborating physician is responsible at all times for the oversight of the activities of and accepts responsibility for primary care services rendered by the assistant physician.

(6) Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of healthcare services. Collaborative practice arrangements, which shall be in writing, may delegate to an assistant physician the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the assistant physician and is consistent with that assistant physician's skill, training, and competence and the skill and training of the collaborating physician.

(7) The written collaborative practice arrangement shall contain at least the following provisions:

(aa) complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the assistant physician;

(bb) a list of all other offices or locations where the collaborating physician has authorized the assistant physician to prescribe;

(cc) A requirement that there shall be posted at every office where the assistant physician is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure statement informing patients that they may be seen by an assistant physician and have the right to see the collaborating physician;

(dd) All specialty or board certifications of the collaborating physician and all certifications of the assistant physician;

(ee)The manner of collaboration between the collaborating physician and the assistant physician, including how the collaborating physician and the assistant physician shall engage in collaborative practice consistent with each professional's skill, training, education, and competence; how coverage will be provided during absence, incapacity, infirmity, or emergency by the collaborating physician; a description of the assistant physician's controlled substance prescriptive authority in collaboration with the physician, including a list of the controlled substances the physician authorizes the assistant physician to prescribe and documentation that it is consistent with each professional's education, knowledge, skill, and competence; a list of all other written practice agreements of the collaborating physician and the assistant physician; the duration of the written practice agreement between the collaborating physician and the

assistant physician; a description of the time and manner of the collaborating physician's review of the assistant physician's delivery of health care services.

(8) The collaborative practice agreement shall include provisions that the assistant physician shall submit a minimum of ten percent of the charts documenting the assistant physician's delivery of health care services to the collaborating physician for review by the collaborating physician, or any other physician designated in the collaborative practice arrangement monthly.

(9) The collaborative practice agreement shall include that the collaborating physician, or any other physician designated in the collaborative practice arrangement, shall review every fourteen days a minimum of twenty percent of the charts in which the assistant physician prescribes controlled substances. The charts reviewed under this subdivision may be counted in the number of charts required to be reviewed under subdivision eight (8) of this subsection.

(10) The collaborating physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the assistant physician during which the assistant physician shall practice with the collaborating physician on-site prior to prescribing controlled substances when the collaborating physician is not on-site.

(11) The GBME shall not deny, revoke, suspend, or otherwise take disciplinary action against a collaborating physician for health care services delegated to an assistant physician provided

the provisions of this section and the rules promulgated are satisfied.

(12) Within thirty days of any change and on each renewal, the GBME shall require every physician to identify whether the physician is engaged in any collaborative practice arrangement, including collaborative practice arrangements delegating the authority to prescribe controlled substances, and also report to the board the name of each assistant physician with whom the physician has entered into such arrangement. The board may make such information available to the public. The board shall track the reported information and may routinely conduct random reviews of such arrangements to ensure that arrangements are carried out for compliance under this chapter.

(13) A collaborating physician shall not enter into a collaborative practice arrangement with more than three full-time equivalent assistant physicians.

(14) The collaborating physician shall determine and document the completion of at least a one-month period of time during which the assistant physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present.

(15) No agreement made under this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital if such protocols or standing orders have been

approved by the hospital's medical staff and pharmaceutical therapeutics committee.

(16) No contract or other agreement shall require a physician to act as a collaborating physician for an assistant physician against the physician's will. A physician shall have the right to refuse to act as a collaborating physician, without penalty, for a particular assistant physician. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any assistant physician, but such requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by a hospital's medical staff.

(17) No contract or other agreement shall require any assistant physician to serve as a collaborating assistant physician for any collaborating physician against the assistant physician's will. An assistant physician shall have the right to refuse to collaborate, without penalty, with a particular physician.

(18) All collaborating physicians and assistant physicians in collaborative practice arrangements shall wear identification badges while acting within the scope of their collaborative practice arrangement. The identification badges shall prominently display the licensure status of such collaborating physicians and assistant physicians.

(19) An assistant physician with a certificate of controlled substance prescriptive authority as provided in statute may

prescribe any controlled substance listed in schedule III, IV, or V when delegated the authority to prescribe controlled substances in a collaborative practice arrangement. Such authority shall be filed with the GBME. The collaborating physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the assistant physician is permitted to prescribe. Any limitations shall be listed in the collaborative practice arrangement. Assistant physicians shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a five-day supply without refill. Assistant physicians who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the Department of Public Health and Social Services per Ch. 67 9 GCA and shall include the Drug Enforcement Administration registration number on prescriptions for controlled substances.

(20) An assistant physician shall be considered a physician assistant for purposes of regulations of the Centers for Medicare and Medicaid Services (CMS); and no supervision requirements in addition to the minimum federal law shall be required.

(21) An assistant physician shall clearly identify himself or herself as an assistant physician and shall be permitted to use the terms "doctor", "Dr.", or "doc". No assistant physician shall practice or attempt to practice without an assistant physician collaborative practice arrangement, except as otherwise provided in this section and in an emergency situation.

Section 3. The GBME shall promulgate rules to implement the provisions of this act within 90 days of enactment.

Section 4. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 5. Effective Date. This Act shall become immediately effective upon enactment.