



I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
197-34 (COR)	Dennis G. Rodriguez, Jr. Joe S. San Agustin	AN ACT TO ADD A NEW ARTICLE 1A TO CHAPTER 12 OF DIVISION 1, TITLE 10; TO RENUMBER §12229 OF CHAPTER 12, TITLE 10 GUAM CODE ANNOTATED TO BE § 12A106 OF THE NEW ARTICLE 1A OF PART 1 OF CHAPTER 12 OF THE GUAM CODE ANNOTATED AND AMEND THAT SECTION; TO ADD A NEW § 5121 TO SUBARTICLE B OF ARTICLE 2, CHAPTER 5 OF DIVISION 10 TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE DIVISION OF HEALTH PROFESSIONAL LICENSING OFFICE (HPLO) WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, AUTHORIZING OPERATIONAL FUNDING FOR THE HPLO FROM THE HEALTH PROFESSIONAL LICENSING OFFICE REVOLVING FUND, AND PROVIDING PROCUREMENT AUTHORIZATION TO THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES ON BEHALF OF THE NEW DIVISION OF HEALTH PROFESSIONAL LICENSING OFFICE.	10/6/17 4:26 p.m.						

**MINA' TRENTAI KUÁTTRO NA LIHESLATURAN GUAHAN
2017 (FIRST) Regular Session**

Bill No. 197-34 (COR)

Introduced by:

Dennis G. Rodriguez, Jr. 
Joe S. San Agustin 

AN ACT TO *ADD* A NEW ARTICLE 1A TO CHAPTER 12 OF DIVISION 1, TITLE 10; TO *RENUMBER* §12229 OF CHAPTER 12, TITLE 10 GUAM CODE ANNOTATED TO BE § 12A106 OF THE NEW ARTICLE 1A OF PART 1 OF CHAPTER 12 OF THE GUAM CODE ANNOTATED AND *AMEND* THAT SECTION; TO *ADD* A NEW § 5121 TO SUBARTICLE B OF ARTICLE 2, CHAPTER 5 OF DIVISION 10 TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE DIVISION OF HEALTH PROFESSIONAL LICENSING OFFICE (HPLO) WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, AUTHORIZING OPERATIONAL FUNDING FOR THE HPLO FROM THE HEALTH PROFESSIONAL LICENSING OFFICE REVOLVING FUND, AND PROVIDING PROCUREMENT AUTHORIZATION TO THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES ON BEHALF OF THE NEW DIVISION OF HEALTH PROFESSIONAL LICENSING OFFICE.

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

2 **Section 1. Legislative Finding and Intent.**

3 *I Liheslaturan Guåhan* finds that, notwithstanding the critically important
4 and involved functions of the office, the Health Professional Licensing Office has
5 remained a vaguely established, quasi-instrumentality within the healthcare
6 regulatory structure of the Department of Public Health and Social Services (the
7 ‘Department’). Historically lacking a well-established staffing pattern pursuant to
8 law with experienced personnel occupying full time equivalent positions, it is

1 instead funded and staffed on an annual and greatly varying basis pursuant to,
2 more often than not, the fluctuating annual budget. Personnel within a loosely
3 defined staffing pattern have historically been provided pursuant to temporarily
4 assigned personnel from other programs of the Department. This has left the HPLO
5 program without the solid and clear statutory foundation and personnel support
6 required to fully facilitate the functions required for the licensure requirements of
7 virtually all of the health care professions, as overseen by their respective boards of
8 examiners, but all through the coordination of the HPLO.

9 *I Liheslaturan Guåhan* further finds that the Health Professional Licensing
10 Office Revolving Fund expenditure authorization constrains the utilization of
11 monies in the fund strictly to operational expenses necessary for testing and
12 monitoring examinations. The office is in need of an expanded authorization to
13 cover general operational expenses.

14 It is the intent of *I Liheslaturan Guåhan* to: 1) expand and clarify the
15 mandate and functions of the HPLO; and 2) increase the expenditure authorization
16 with direct access to the fees and funds received by the HPLO.

17
18 **Section 2.** A new Article 1A is hereby added to Chapter 12, Part 1, Title
19 10, Guam Code Annotated, to read:

20 **“ARTICLE 1A”**

21 **DIVISION OF HEALTH PROFESSIONAL LICENSING OFFICE**

22 **§ 12A100. Division of Health Professional Licensing Office; Establishment.**

23 There is established the Division of Health Professional Licensing Office
24 (HPLO) within the Department of Public Health and Social Services, as a specific

1 division, to conduct licensure and related activities for healthcare practitioners of
2 the respective healing art boards of examiners, to support the conduct of business
3 by the respective healing arts boards of examiners and the Commission on the
4 Healing Arts, and the various healing arts practices, generally.

5 (a) The purpose of this Article is to facilitate the stability and timely
6 function and accomplishment of the mission mandates of the Health Professional
7 Licensing Office by establishing the Division as a clearly defined ministerial entity
8 within the Department of Public Health and Social Services.

9 (b) The HPLO *shall* facilitate the accomplishment of the mission
10 mandates and provide office support for the Commission of the Healing Arts of
11 Guam, and the respective healing arts boards of examiners, as provided pursuant to
12 Article 1 of this Chapter, and to conduct licensure and related activities for the
13 respective healing arts boards of examiners for healthcare practitioners and various
14 healing arts practices, generally.

15 (c) The Department of Public Health and Social Services *shall* be the
16 Department responsible for the implementation of this Article. The Director shall
17 facilitate the activities of the HPLO Division, and for that purpose *shall* provide
18 such office space, staff, supplies, equipment, vehicle and assistants as may be
19 necessary for the work of the Commission and for each of the healing arts
20 examining boards, including statutorily created boards, and for the conduct of
21 mission mandates and regulatory enforcement of this Chapter.

22 (d) The Attorney General *shall* provide legal services to the HPLO
23 Division, the Commission, and the respective Boards of Examiners without a fee.

1 **§ 12A101. Definitions.** For the purposes of this Article, the following words and
2 phrases shall have the meanings assigned to them, respectively, except where the
3 context otherwise requires:

4 (a) ‘Administrator’ shall mean the administrator of the Division of Health
5 Professional Licensing Office;

6 (b) ‘Boards of Examiners’ shall mean the respective Healing Arts Boards of
7 Examiners established or authorized pursuant to Title 10, Guam Code
8 Annotated.

9 (c) ‘Commission’ shall mean the Commission on the Healing Arts of Guam,
10 pursuant to Article 1 of Chapter 12, Part 1, Title 10, Guam Code
11 Annotated.

12 (d) ‘Department’ shall mean the Department of Public Health and Social
13 Services;

14 (e) ‘Director’ shall mean the director of the Department of Public Health and
15 Social Services;

16 (f) ‘Health Professional Licensing Office’ and ‘HPLO’ shall be
17 synonymous, and may be cited interchangeably;

18 **§ 12A102. Health Professional Licensing Office; Administration,**
19 **Functioning, and Appointment of Administrator.**

20 (a) The Division of the Health Professional Licensing Office (HPLO)
21 shall have a division Administrator. The HPLO shall function *solely* for the
22 purpose of facilitating the activities and work of the Commission on the Healing
23 Arts, the respective healing arts Boards of Examiners and healing arts practices,

1 generally. This *shall* include, but is *not limited to*, the processing of applications
2 for licensure, certification or renewal, background and other required
3 investigations, facilitating the proctoring of examinations for national
4 certifications, and the conduct of the Commission and Boards of Examiners
5 meetings, hearings and concomitant functions.

6 (1) The Director *shall* have the authority to designate the HPLO
7 Administrator or the HPLO Administrative Services Officer to be the
8 Procurement Officer for the HPLO Division, as provided pursuant to § 5121
9 of Subarticle B of Article 2, Chapter 5 of Division 1, Title 5, Guam Code
10 Annotated.

11 (2) The HPLO *shall* employ an Administrative Services Officer (ASO),
12 and to that end, the authorization and establishment of the full time
13 equivalent position is hereby approved and mandated.

14 (b) As provided pursuant to Articles 1 through 10, Part I of Chapter 12,
15 Guam Code Annotated; Articles 11 through 24, Part 2 of Chapter 12, Guam Code
16 Annotated; and Chapter 18 of Title 10 Guam Code Annotated, the HPLO *shall*
17 conduct its licensing functions pursuant to the applicable laws, and duly adopted
18 rules, regulations and policies of the respective healing arts Boards of Examiners,
19 and the Board of Cosmetology, and shall facilitate the respective boards' functions.

20 (c) Pursuant to Title 10 GCA § 12101(c), the healing arts *shall* include,
21 but are *not limited to*, physicians, optometry, nursing, chiropractic, dentistry,
22 medicine and surgery, physician assistants, podiatry, psychology, osteopathic,
23 pharmacy, physical therapy, acupuncture, speech language pathology, audiology,
24 respiratory therapy, nutritionist/clinical dietician, veterinary medicine, and
25 additionally includes barbering and cosmetology, and other healing arts

1 professions as it becomes recognized pursuant the criteria set out pursuant to Parts
2 I and 2 of Chapter 12 of Title 10, Guam Code Annotated.

3 (d) The Department of Public Health and Social Services *shall* be the
4 Department responsible for the implementation of this Article and *shall* establish
5 the Division of the Health Professional Licensing Office for the purpose of this
6 Article.

7 (e) The Director of the Department *shall* provide such office space, staff,
8 supplies, equipment, vehicle and assistants as may be necessary for the work of the
9 HPLO for each of the examining boards, including statutorily created boards, the
10 Commission, and the execution and enforcement of this Article. The Attorney
11 General shall provide legal services to the HPLO, the Commission, and the Boards
12 of Examiners without a fee.

13
14 **§ 12A103. Rules and Regulations.**

15 (a) The HPLO Administrator *shall*, in coordination with the respective
16 Healing Arts Boards of Examiners and the Commission, promulgate rules,
17 regulations and policies relative to the functions of the HPLO with regard to the
18 provision of services for the respective Boards of Examiners and the Commission,
19 to include the direct receipt and management of fees and payments received from
20 license and certificate applicants. The rules, regulations and policies *shall* be
21 promulgated pursuant to Article 3 (Rule Making Procedures) of Chapter 9, Title 5,
22 Guam Code Annotated.

23 (b) The promulgated rules, regulations and policies *shall* provide for the
24 direct management and use of the fees and payments received in the processing of

1 licenses or certificates or other sources as provided pursuant to the applicable laws,
2 rules, regulations, policies and fee schedules of the respective healing arts Boards
3 of Examiners in accordance with the rules, regulations, policies and procedures
4 prescribed, as duly promulgated, adopted and revised or amended pursuant to the
5 Administrative Adjudication Law. These rules, regulations, policies and
6 procedures *shall* provide for, at a minimum:

7 (1) the establishment and management of accounts for fees and payments
8 which shall be directly received, controlled and expended by the HPLO for
9 purposes of license or certification application processing and related
10 activities;

11 (2) accounting for fees and payments made by the respective healing arts
12 profession applicants; and

13 (3) the direct expenditure of funds received from an applicant for
14 licensure or certificate processing, to include the costs of services of
15 recognized national organizations for exams and certifications.

16 (c) The HPLO *shall*, in conjunction with the Commission and the
17 respective healing arts Boards of Examiners, review the fee schedules and amend
18 the fee schedules as is deemed necessary, so as to be reflective of the actual costs
19 of licensure processing and related activities, pursuant to the Administrative
20 Adjudication Law.

21 **§ 12A104. Budget, Appropriation and Personnel.**

22 (a) The HPLO Administrator *shall* annually prepare a budget request for
23 inclusion by the Director in the annual fiscal year executive branch budget request
24 for the Department. The budget appropriation request *shall* include funding

1 required for the operations, personnel and functions of the Health Professional
2 Licensing Office from the General Fund or other special fund of the government of
3 Guam, and for which the appropriation or funding required *shall* not be funded
4 from the Revolving Fund.

5
6 (b) The HPLO Administrator shall determine and budget for the essential
7 personnel and operational expenses required to carry out the purposes of this
8 Article, and further provided:

9 (1) to facilitate the timely and efficient startup and the provision of
10 services relative to performance of mandates and responsibilities of the
11 Division of Health Professional Licensing Office (HPLO) of the Department
12 of Public Health and Social Services, the following *shall* be immediately and
13 permanently transferred to the jurisdiction of the HPLO:

14 (A) All personnel assigned in the Department staffing patterned
15 within the HPLO;

16 (B) All personnel currently detailed from other programs or
17 divisions, to include all personnel required relative to the provision of
18 examinations and services for all healing arts licensure and related
19 functions;

20 (C) Current budget allocation pursuant to current fiscal year
21 appropriation; and

22 (D) Any special funds, to include the Revolving Fund (§ 12A106
23 within this Article, which was formerly § 12229 of Title 10 of the
24 Guam Code Annotated) within the HPLO, and any other special fund
25 of the respective boards of examiners of professions listed pursuant to
26 Articles 1 through 10, Part I of Chapter 12, Guam Code Annotated;
27 Articles 11 through 24, Part 2 of Chapter 12, Guam Code Annotated;

1 and Chapter 18 of Title 10 Guam Code Annotated. All special funds
2 identified shall be designated solely for HPLO expenditure for the
3 purposes authorized or mandated pursuant to this Article and
4 applicable law, rule or regulation.
5

6 (c) The HPLO Administrator shall annually prepare, in coordination with
7 the Director, a properly audited financial statement for transmittal to *I Maga'låhen*
8 *Guåhan* and the Speaker of *I Liheslaturan Guåhan*.

9 **§ 12A105. HPLO Fiscal Authority.**

10 (a) There is hereby established a special fund to be known as the “Health
11 Professional Licensing Office Operations Fund” (HPLO Fund) which shall be
12 maintained separate and apart from other funds of the Department and the
13 government of Guam, and independent records and accounts shall be maintained in
14 connection therewith. The HPLO Fund shall not be commingled with the Guam
15 Bureau of Health Planning and Development Revolving Fund. The HPLO Fund
16 shall not be subject to the transfer authority of *I Maga'låhi* (the Governor).
17

18 (b) All moneys received by the HPLO from whatever source derived from
19 fees and payments for license and certification application processing *shall* be
20 deposited in the HPLO Fund in eligible banks as defined in Title 5 GCA, and shall
21 be expended for the purposes provided pursuant to Article.
22

23 (c) The HPLO shall ensure that the fees and payments received for
24 purposes of licensure or certification application processing for applicants to the
25 respective healing arts Boards of Examiners are accounted for and allocated solely

1 for the needs and functions of the specific board for the profession for which the
2 fee or payment was received for licensure or certification processing.

3
4 **§ 12A106. [Reserved, Insert Revolving Fund as renumbered and amended in
5 Section 3 of this Legislation.]**

6
7 **§ 12A107. Severability.** If any provision of this Article or its application to any
8 person or circumstance is found to be invalid or contrary to law by a court of
9 competent jurisdiction, the invalidity shall not affect other provisions or
10 applications of this Legislation which can be given effect without the invalid
11 provisions or application, and to this end, the provisions of this Legislation are
12 severable.”

13
14 **Section 3.** § 12229 of Article 2 of Chapter 12, Division 1 of Title 10, Guam
15 Code Annotated, is hereby *renumbered to be* §12A106 of Article 1A of Chapter 12
16 of Division 1, Title 10, Guam Code Annotated, *and is amended* to read:

17
18 **“§ 12A106 ~~§ 12229~~. **Revolving Fund.****

19 (a) There is created a Revolving Fund (the Fund) within the Health
20 Professional Licensing Office, into which all money payable under the provisions
21 of ~~these Articles 2, 5, 6, Chapter 12, Part 1, Chapter 12, Part 2, and Chapter 18~~ [all]
22 of Title 10, ~~of the Guam Code Annotated Government Code of Guam,~~ *shall* be
23 deposited. ~~The revolving fund shall be used to defray the cost of obtaining~~
24 ~~standardized examination materials and services for the healing arts and~~
25 ~~cosmetology licensure and the cost of proctoring examination at the testing site;~~
26 ~~and for operational expenses necessary for testing and monitoring of examination.~~

1 ~~Tests for licensure of all the healing arts and cosmetology shall be given at least~~
2 ~~every six (6) months.~~

3 The Fund shall be established and maintained in a bank account separate and
4 apart from the General Fund or any other bank account(s) of the government of
5 Guam, and shall not be co-mingled with, or a part of, the General Fund. All funds
6 due or accruing to the account from whatever source(s), as provided or authorized
7 pursuant to applicable law, inclusive of any interest, shall be deposited in the Fund
8 in its entirety immediately upon receipt by the government of Guam. The Fund
9 shall not be subject to the transfer authority of *I Maga'lahañ Guåhan*. It is further
10 provided that:

11 (1) The HPLO, of the Department of Public Health & Social Services
12 shall report monthly and maintain full compliance with all financial
13 reporting requirements of the government of Guam pursuant to applicable
14 law which shall be reported to *I Maga'lahañ Guåhan* and the Speaker of *I*
15 *Liheslaturan Guåhan*; and

16 (A) to include a summary of any and all collections deposited into
17 and/or expenditures from the Fund.

18 (b) Independent Records and Accounts. The Fund shall be maintained
19 separate and apart from all other government funds; have an independent records
20 and accounts concerning the Fund; and audited by the Public Internal Auditor or
21 the Department of Interior for each fiscal year and shall provide *I Maga'lahañ*
22 *Guåhan* and the Speaker of *I Liheslaturan Guåhan* with a copy of the audited
23 report.

24 (c) Deposits / Continuing Appropriation. All monies collected for
25 products and services rendered by the HPLO shall be accounted for and deposited
26 into the Fund and shall be available to pay for the expenses of the Division of the
27 Health Professional Licensing Office. All monies in the Fund are hereby deemed

1 appropriated on a continuing basis and shall not lapse, and shall not be subject to
2 appropriation constraints in order to be expended.

3 (d) Application. All monies deposited in the Fund shall be available to be
4 expended and shall be used solely in support of the functions of and to pay the
5 expenses of the HPLO. The Fund may also be used for, but is not limited to, the
6 following expenses which shall be directly and solely applicable to the functions
7 and operations of the HPLO:

8 (1) payment(s) for procurement and maintenance of contractual
9 services for equipment and/or technology support, for the direct use and
10 exclusive benefit of the HPLO;

11 (2) payment(s) for supplies;

12 (3) payment(s) for any other expenses, which if remains unpaid may
13 result in an emergency situation within the HPLO, as approved by the
14 Administrator;

15 (4) additional personnel, as may be necessary to supplement and
16 address the staffing requirements of the HPLO; provided, however, that all
17 authorized personnel positions, regardless of whether the position(s) is
18 currently filled or vacant, which are budgeted or in the FY 2016 Budget
19 Appropriation for the Executive Branch with monies from the General Fund,
20 any Special Fund and/or Federal funds, shall continue to be paid from these
21 funding sources, and not from the Fund; and

22 (5) procurement, upgrade and/or maintenance of computer system(s);
23 and

24 (e) The Administrator, via the Director, shall submit an annual spending
25 plan for the Fund in accordance with and at the same time as the Bureau of Budget
26 and Management Research budget call.

1 (f) The Administrator, via the Director, shall, by no later than the 20th
2 day of each month, submit a financial report relative to the status and activities of
3 the Fund. The monthly report shall be submitted, via the Office of *I Maga'laha*
4 *Guåhan*, to the Speaker of I Liheslaturan Guåhan, and the Chairpersons of the
5 Committee on Finance, and the Committee on Health of *I Liheslaturan Guåhan*.

6 The report shall, at a minimum, contain:

7 (1) all expenditures and encumbrances (monthly and year to date);

8 (2) funds received and source(s);

9 (3) status of accounts receivable for outstanding debts and/or
10 delinquent payment obligations owed to the Office of Vital Statistics;

11 and

12 (4) any and all other pertinent information relative to the Fund.

13 (g) The HPLO shall be included in the government of Guam annual audit
14 review and report.

15 (h) The revolving fund shall be used to defray the cost of obtaining
16 standardized examination materials and services for the healing arts and
17 cosmetology licensure and the cost of proctoring examination at the testing site;
18 and for operational expenses necessary for testing and monitoring of examination.
19 Tests for licensure of all the healing arts and cosmetology shall be given at least
20 every six (6) months.

21 (1) The Fund may additionally be utilized for the following:

22 (A) Training;

23 (B) National associations' conferences;

24 (C) On-island training utilizing visiting / invited off-island instructors;

25 (D) Associated travel and per diem;

26 (E) Boards' of Examiners meetings;

27 (F) Notices, advertising and publications; and

1 (G) Other expenses for concomitant activities and responsibilities of
2 the HPLO, the Commission, and the respective Boards of Examiners.”
3

4 **Section 4.** A new § 5121 is hereby *added* to Subarticle B of Article 2,
5 Chapter 5 of Division 1, Title 5, Guam Code Annotated, to read:

6 “**§ 5121. Procurement for the Division of Health Professional Licensing**
7 **Office Shall Be Delegated to the Department of Public Health and Social**
8 **Services.**”

9 Notwithstanding any other provision of Guam Procurement Law, or any
10 other law, rule or regulation to the contrary, the authority to procure supplies and
11 services for the Health Professional Licensing Office (HPLO) shall be delegated by
12 the Chief Procurement Officer to the Director of the Department of Public Health
13 and Social Services.

14 (b) The Director of the Department of Public Health and Social Services
15 *shall* have the authority to designate the HPLO Administrator or the HPLO
16 Administrative Services Officer to be the Procurement Officer for the Division of
17 Health Professional Licensing Office.”
18

19 **Section 5. Severability.** If any provision of this Act or its application to
20 any person or circumstance is found to be invalid or contrary to law, such
21 invalidity shall not affect other provisions or applications of this Act which can be
22 given effect without the invalid provisions or application, and to this end the
23 provisions of this Act are severable.