

I MINA' TRENTA NA LIHESLATURAN GUAHAN
2010 (Second) REGULAR SESSION

Bill No. 386-30(COR)

Introduced by:

FRANK B. AGUON, JR. 

AN ACT RELATIVE TO ESTABLISHING THE
AUTONOMY OF THE GUAM MEMORIAL
HOSPITAL AUTHORITY BY REPEALING AND
RE-ENACTING CHAPTER 80 OF TITLE 10,
GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Chapter 80 of Division 4, Title 10, Guam Code

3 Annotated, is repealed and re-enacted to read:

4 "CHAPTER 80

5 GUAM MEMORIAL HOSPITAL AUTHORITY

6 § 80101. Short Title.

7 § 80102. Establishment.

8 § 80103. Definitions.

9 § 80104. Prohibition Against Discrimination.

10 § 80105. Board of Trustees.

11 § 80105.1 Duties of the Board of Trustees.

12 § 80105.2 Meetings.

13 § 80105.3 Term of Office.

14 § 80105.4 Qualifications of Members of the Board of Trustees.

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- 1 § 80105.5 Trustees Nominating Council; Establishment.
- 2 § 80105.6 Tenure of Members Currently Serving as Trustees.
- 3 § 80106. Board Members Not Deemed Officers or Employees of
4 the Government of Guam.
- 5 § 80107. Removal From Office.
- 6 § 80108. Officers.
- 7 § 80109. Powers.
- 8 § 80110. Administrator and Chief Executive Officer
- 9 § 80111. Chief Financial Officer.
- 10 § 80112. Construction With Other Laws.
- 11 § 80113. Employment Practices.
- 12 § 80114. Attorney.
- 13 § 80115. Exemption From Taxation.
- 14 § 80116. Fiscal Authority; Accounting and Expenditures.
- 15 § 80117. Irreversible Renal Failure.
- 16 § 80117.1 Cancer Data Collection.
- 17 § 80118. Patients' Records Confidential.
- 18 § 80119. Mandatory Annual Budget.
- 19 § 80120. Solicitation, Acceptance, Utilization and
20 Administration of Donations, Contributions, Gifts, and Bequests for
21 Specific Purposes.
- 22 § 80121. Receiving of Revenues from Vending Machine.

1 **§ 80101. Short Title.** This Division may be cited as the *Guam*
2 *Health Act of 2010.*

3 **§ 80102. Establishment.**

4 There is within, and a public corporation and autonomous
5 instrumentality of, the government of Guam called the Guam
6 Memorial Hospital Authority. It shall have title to all real and
7 personal property now or hereafter set aside for or conveyed to it. Its
8 property shall be administered and disposed of according to law. All
9 the rights, immunities, franchises and endowments heretofore
10 granted thereto by Guam are hereby perpetuated unto the said
11 Authority.

12 **§ 80103. Definitions .** As used in this Division, unless otherwise
13 indicated:

14 (a) *Board* means the Board of Trustees of the Guam Memorial
15 Hospital Authority.

16 (b) *Administrator* means the Administrator of the Guam
17 Memorial Hospital Authority.

18 (c) *Hospital* means Guam Memorial Hospital Authority.

19 (d) *Health Professionals* means those persons licensed or certified
20 to practice the healing art within the territory of Guam.

1 **§ 80104. Prohibition Against Discrimination.** It shall be the policy
2 of the Guam Memorial Hospital Authority that discrimination
3 against any individual or group for reasons of age, race, color, sex,
4 national origin, religious belief, marital status, physical/mental
5 disability, political affiliation and retaliation is specifically prohibited
6 under any program, employment or activity for which the Board of
7 Trustees is responsible.

8 **§ 80105. Board of Trustees.**

9 (a) The government and control of the Guam Memorial
10 Hospital Authority are vested in a Board of Trustees to be known as
11 'the Board of Trustees of the Guam Memorial Hospital' (hereinafter
12 referred to as 'the Board'). The Board shall be composed of nine (9)
13 members: four (4) members representing the general public, who
14 shall possess background and experience in healthcare, management,
15 finance or any other business-related field; one (1) member
16 representing the Allied Health Professions; two (2) members
17 representing the Guam Nursing Association; two (2) members
18 representing the Guam Medical Community, appointed by I
19 Maga'Lahan Guåhan as provided herein, with the advice and consent
20 of I Liheslaturan Guåhan.

21 (b) Each Trustee shall be entitled to receive the sum of Fifty
22 Dollars (\$50.00) for his/her attendance at any meeting of the Board,

1 but such compensation shall not apply to more than four (4) meetings
2 or exceed Two Hundred Dollars (\$200) in any one calendar month.
3 No Trustee shall receive any other compensation, but shall be
4 reimbursed for actual travel, subsistence and out-of-pocket expenses
5 incurred in the discharge of his or her responsibilities, including
6 authorized attendance at meetings held away from Guam.

7 **§ 80105.1 Duties of the Board of Trustees.**

8 (a) The Board shall be liable for the negligent act of any hospital
9 employees or officer if the Board knew or had notice that said
10 employee or officer was inefficient and incompetent to perform the
11 services for which he was hired, or said Board retained such
12 inefficient or incompetent person after knowledge or notice of such
13 inefficiency or incompetency.

14 (b) No Director shall be liable for any decision made in the
15 good faith non-malicious fulfillment of his duties.

16 (c) The Board shall be liable as fiduciaries in the execution of
17 their duties.

18 (d) No Trustee shall be actively engaged in the selling of
19 services or goods to the Hospital. This restriction shall not apply to
20 health care professionals who provide direct patient care services to
21 the Hospital.

1 (e) No Trustee shall act when a conflict of interest occurs. The
2 Trustee shall disclose the nature of the conflict of interest to the
3 members present and abstain from any discussion or voting on the
4 issue until it has been disposed of by action of the remaining
5 members present. If a Trustee knowingly fails to disclose a conflict of
6 interest in the manner listed herein and subsequently votes on an
7 action to be taken by the Board, then the vote of the conflicted
8 Trustee shall not be counted for purposes of constituting official
9 Board action. Any Trustee who knowingly fails to disclose a conflict
10 of interest in the manner listed herein shall be subject to removal
11 from the Board, pursuant to Section 80107 of this Chapter.

12 (f) The Board may, in accordance with all relevant procurement
13 laws, contract with a professional management firm, or individual or
14 group of individuals with at least five (5) years demonstrated
15 experience in hospital management in the United States, to manage
16 the hospital facility and all or any part of its functions. The
17 management firm shall exercise, on the Board's behalf, all of the
18 executive authority granted to the Board by the laws of Guam,
19 provided that the Board shall retain its rulemaking authority and
20 shall monitor the firm's performance of the contract. The contract
21 shall be for a term not to exceed five (5) years. *If* the contract is
22 terminated or becomes invalid for any reason, *all* authority shall
23 revert to the Board, which shall appoint an interim manager until a

1 new contractor is selected. The Board shall determine the firm's
2 compensation, which shall be paid from the Hospital Operations
3 Fund.

4 **§ 80105.2 Meetings.** Meetings of the Board shall be held at a regular
5 time and place as determined by the Board. Special meetings may be
6 called by the Chairman or by a majority of the members, as often as
7 may be necessary. Meetings of the Board, regular or special, shall be
8 subject to the Open Government Law of Guam. A majority of the
9 members shall constitute a quorum and an affirmative vote of five (5)
10 members is required for any action to be valid.

11 **§ 80105.3 Term of Office.** The members of the Board of Trustees
12 shall serve staggered terms of six (6) years. On the expiration of the
13 term of any member, or in the event of a vacancy on the Board due to
14 resignation, death or any other cause, the Governor shall in the
15 manner provided herein and with the advice and consent of the
16 Legislature appoint another member for a full term in the first
17 instance, or for the remainder of the unexpired term. When there is a
18 change of administration of the government of Guam after a
19 gubernatorial election, no courtesy resignation shall be requested by
20 the new administration nor offered by any member of the Board.

1 **§ 80105.4 Qualifications of Members of the Board of Trustees.** The
2 composition of the members of the Board shall be broadly based in
3 terms of its members' personal expertise and shall strive for a
4 balanced representation of the general population. Trustees, and
5 Trustees candidates, must be United States citizens or permanent
6 resident aliens domiciled in Guam for at least three (3) years prior to
7 appointment to the Board. No person shall sit on the Board as a
8 member who is an employee of the Guam Memorial Hospital
9 Authority.

10 **§ 80105.5 Trustees Nominating Council; Establishment.** There is
11 established the Trustees Nominating Council ('Council') with sole
12 responsibility to identify, recruit, evaluate and nominate all qualified
13 candidates for membership on the Board of Trustees of the Guam
14 Memorial Hospital Authority ('GMHA').

15 **(a) Membership.**

16 (1) The Council shall consist of eleven (11) members:

17 one (1) Mayor-member to be appointed by the Mayor's
18 Council;

19 one (1) member of the GMHA Board of Trustees to be
20 appointed by the GMHA Board of Trustees;

1 two (2) members of the GMHA Executive Management
2 Council to be appointed by the GMHA Executive Management
3 Council;

4 two (2) members of the GMHA Medical Executive
5 Committee to be appointed by the GMHA Medical Executive
6 Committee;

7 two (2) members of the Guam Nursing Association to be
8 appointed by the Guam Nursing Association;

9 one (1) member of the Allied Health Profession to be
10 appointed by the Allied Health Profession Association;

11 and two (2) members from the community at large to be
12 appointed by the Trustees Nominating Council.

13 The Members of the Council shall serve a term of two (2)
14 years.

15 Community at large members must be United States
16 citizens or permanent resident aliens domiciled on Guam for at
17 least two (2) years prior to appointment to the Council.

18 (2) The GMHA Board of Trustee member shall serve as
19 temporary chairperson, and shall convene the first meeting of
20 the Council. At its first meeting the Council shall elect from
21 among its members a chairperson and a vice-chairperson. The
22 chairperson shall preside at all meetings of the Council, shall

1 act as the spokesperson of the Council and perform such other
2 duties as the Council shall direct.

3 The vice-chairperson shall succeed to the duties of the
4 chairperson in the absence or inability of the chairperson to
5 serve. From among its members, the Council shall select a
6 secretary and any other officers that the Council may deem
7 necessary.

8 **(b) Duties.**

9 (1) The Council shall develop a statement of the selection
10 criteria to be applied and a description of the responsibilities
11 and duties of a trustee, and shall distribute this to potential
12 candidates.

13 (2) In making its nominations, the Council shall: consider
14 the needs of the Guam Memorial Hospital Authority; advertise;
15 locate potential candidates; maintain a list of their names and
16 contact information; match potential candidates with projected
17 vacancies; review candidates' qualifications and references;
18 conduct interviews; and carry out other recruitment and
19 screening activities as necessary.

20 (3) The Council shall be responsible for submitting a list
21 of at least one (1) and no more than three (3) qualified
22 candidates for every vacancy on the Board to I Maga'lahaen
23 Guåhan.

1 (4) Nominations shall be made thirty (30) days prior to
2 the expiration of a term, or within fourteen (14) days following
3 an unforeseen vacancy. I Liheslaturan Guåhan [Guam
4 Legislature] finds that it is critical that a vacancy on the Board
5 be filled promptly. Therefore, I Maga'lahaen Guåhan [Governor]
6 shall make the appointment of the qualified candidate from a
7 list of candidates provided by the Council, which list shall
8 contain at least one (1) and no more than three (3) qualified
9 candidates submitted by the Council within forty-five (45) days
10 of a vacancy, subject to the advice and consent of I Liheslaturan
11 Guåhan.

12 If I Maga'lahaen Guåhan does not make the appointment
13 within forty-five (45) days of a vacancy, the Speaker of I
14 Liheslaturan Guåhan [Guam Legislature] shall make the
15 appointment of the qualified candidate from the identical list
16 submitted to I Maga'lahaen Guåhan [Governor] by the Council,
17 subject to the advice and consent of I Liheslaturan Guåhan. Any
18 appointment to fill a vacancy which is made by the Speaker of I
19 Liheslaturan Guåhan pursuant to this Section shall not become
20 void due to a later appointment by I Maga'lahaen Guåhan
21 [Governor] to fill the same vacancy.

22 (5) The Council shall make an annual report to I
23 Maga'lahaen Guåhan [Governor] and I Liheslaturan Guåhan

1 [Guam Legislature] at the termination of each fiscal year setting
2 forth a summation of its activities and general
3 recommendations.

4 (c) Council Meetings. The Council shall hold at least one (1)
5 meeting quarterly and as often as necessary. The Council shall
6 conduct its first meeting within fourteen (14) days after approval of
7 this Act. A majority of the Council members shall constitute a
8 quorum. The vote of six (6) Council members shall be required for
9 any action of the Council. The Council may adopt rules to govern its
10 procedures.

11 (d) Support Services. The Administrator of GMHA shall
12 provide administrative and support services for the Council.

13 **§ 80105.6 Tenure of Members Currently Serving as Trustees.** The
14 current members of the Board shall continue to serve until the
15 expiration of their term as set out in §80105.3 of this Chapter and in
16 the event of a vacancy, the Governor shall fill said vacancy in
17 accordance with this Chapter.

18 **§ 80106. Board Members Not Deemed Officers or Employees of the**
19 **Government of Guam.** The members of the Board shall not, by
20 reason of such membership, be deemed employees of the
21 government of Guam.

1 **§ 80107. Removal From Office.** A member of the Board may be
2 removed by a vote of five (5) members for malfeasance in office or for
3 persistent neglect of, or inability to discharge, duties, or for offenses
4 involving moral turpitude, and for no other cause. However, no
5 member of the Board shall be removed from office before a written
6 bill of particulars shall have been given to the accused and before an
7 investigation and an open and public hearing shall have been had.
8 Any member who removes his residence from Guam shall be
9 deemed to have vacated his office, thereby creating a vacancy on the
10 Board.

11 **§ 80108. Officers.** The Board shall elect a Chairman, a Vice-
12 Chairman, a Secretary and a Treasurer from among its membership
13 every two (2) years.

14 **§ 80109. Powers.**

15 The hospital shall have and exercise each and all of the
16 following powers:

17 (a) Maintain and operate a facility providing acute,
18 chronic and all other health care services, including those
19 services specifically provided by contract for the Department of
20 Mental Health and Substance Abuse, for the people of the
21 Territory.

1 (b) Establish a schedule of fees, in accordance with 10
2 GCA §80105, to be charged for care and services at or by the
3 hospital. The schedule of fees shall be sufficient to recover the
4 operating costs and fixed costs and to generate such revenue as
5 is necessary to enable the hospital to meet its financial
6 obligations, operating expenses and capital improvement
7 needs. The Guam Public Utilities Commission shall not have
8 any purview over the Authority rates. The rates established
9 per fee schedule may be increased by the Board of Trustees up
10 to five percent (5%) per year; provided, that the total revenues
11 from all increases per fee schedule shall not exceed five percent
12 (5%) of the total revenues adopted by the Board in the
13 Authority's budget for that fiscal year, or decreased as
14 necessary.

15 Fees for new services, medications, or supplies, or rate
16 increases of more than five percent (5%) annually shall be
17 established by the Authority, approved and ratified by the Board of
18 Trustees and forwarded to I Liheslaturan Guåhan for approval.
19 Prior to the approval and ratification by the Board of Trustees, public
20 hearings must be conducted by the Authority for any new fee
21 or rate increase of more than five percent (5%).

22 I Liheslaturan Guåhan shall have forty-five (45) days
23 from the receipt of the proposed new fee or rate increase to

1 conduct a public hearing and approve the increase or new fee. If I
2 Liheslaturan Guãhan does not disapprove or amend the proposed
3 new fee or increase in rates within the forty-five (45) days, new fee or
4 rate increase will immediately become effective.

5 (c) The Authority may establish interim fees for new, un-
6 tariffed services, medication and supplies, without prior legislative
7 approval and without compliance with the Administrative
8 Adjudication Law; provided, that:

9 (1) the interim fees are consistent with the
10 Authority's Net Revenue Enhancement Engagement Pricing
11 Model, as prepared by Deloitte & Touche, dated February 7,
12 1992, or such other protocol as may be approved by the Board
13 of Trustees; and

14 (2) a petition for permanent approval of the interim
15 fees is filed by the Authority with I Liheslaturan Guãhan within
16 three (3) months of the Authority's establishment of the interim
17 fee.

18 (d) Forward the billings for the cost of medical care and
19 services rendered to any person under the Old Age Assistance
20 for the Aged Program, Aid to the Blind Program, and Aid to
21 the Permanently and Totally Disabled Program of the Social
22 Security Act, as well as those persons considered medically
23 indigent as the term is defined in Chapter 2 of this Title, of

1 which shall be paid by the Department of Public Health and
2 Social Services.

3 (e) Acquire, subject to the laws of Guam, by grant,
4 purchase, gift, devise or lease, and hold and use any real
5 property necessary or convenient or useful for the carrying on
6 of any of its powers pursuant to the provisions of this Article;
7 upon written certification of the Administrator, that specified
8 and specialized medical equipment and related supplies are
9 needed immediately for the health and welfare of the patients
10 of the Hospital in particular, and the people of Guam in
11 general, the Guam Memorial Hospital Authority shall be
12 exempt from the provisions of §§ 5210 and 5211 of Title 5,
13 Guam Code Annotated, in the acquisition of the medical
14 equipment and related supplies specified in such written
15 certification of the Administrator; provided, that the Hospital
16 shall use its best judgment and efforts to secure the best
17 equipment and supplies at the lowest cost, utilizing businesses
18 licensed to do business on Guam whenever possible.

19 (f) Establish its internal organization and management;

20 (g) Perform such acts as may be reasonably necessary to
21 accomplish the purpose for which it was formed;

22 (h) Adopt a seal;

23 (i) Sue or be sued in its own corporate name;

1 (j) Employ, retain or contract for the services of qualified
2 managers, specialists or as individuals or as organizations;

3 (k) Adopt such rules and regulations pursuant to the
4 Administrative Adjudication Act as may be necessary for the
5 exercise of the hospital's powers, performance of its duties and
6 administration of its operations;

7 (l) Adopt and maintain a uniform system of accounting;

8 (m) Adopt and maintain a travel authorization policy
9 notwithstanding any law to the contrary;

10 (n) Adopt rules and regulations governing selection,
11 compensation, promotion, performance evaluation, disciplinary
12 action and other terms and conditions of employment affecting
13 personnel, subject to the provisions of the Administrative
14 Adjudication Act. Such rules and regulations shall provide for
15 the employment and retention of persons on the basis of merit,
16 and shall include an orderly and systematic method of
17 recruitment and the establishment of a list of qualified
18 applicants for employment purposes, *except* that compensation
19 for non-medical personnel shall remain consistent with
20 compensation plans and pay scales as determined by the Civil
21 Service Commission or its successor. *Non-medical personnel* are
22 defined as personnel employed by the Authority who are *not*
23 physicians, nurses, medical technicians or technologists,

1 licensed or certificated therapists of any sort, laboratory
2 technicians, personnel certificated in any medical or nursing
3 field, nurse practitioners, pharmacists or other medical
4 personnel.

5 (o) Do any and all other things necessary to the full and
6 convenient exercise of the above powers;

7 (p) Contract with a corporation to exercise any or all the
8 powers of the Administrator and of those officers authorized by
9 '80108 of this Article, if the Board so chooses;

10 (q) Acquire in accordance with the Procurement Law (5
11 GCA Chapter 5) and hold and use any personal property or
12 construct any projects necessary or convenient or useful for
13 carrying on of any of its powers pursuant to the provisions of
14 this Article;

15 (r) With the concurrence of I Maga'lahaen Guahan
16 [Governor], negotiate with appropriate Federal official
17 (Secretary of Defense, officials of Tripler Army Hospital, etc.)
18 for the implementation of '105(k) of the Compact of Free
19 Association Act of 1985 with the Freely Associated States of
20 Micronesia.

21 All terms of the agreement shall be negotiated by the
22 Guam Memorial Hospital Authority in the best interests of the

1 people of Guam. The agreement must be submitted to the
2 Governor for his review and approval.

3 (s) Arrange a line of credit not to exceed Twelve Million
4 Dollars (\$12,000,000) with banks or other lending institutions
5 licensed on Guam. All terms of the line of credit agreement
6 shall be negotiated by the Authority and I Maga'lahaen Guåhan
7 [Governor] in the best interests of the people of Guam. The
8 terms of the line of credit shall include the following:

9 (1) the line of credit shall be used by the Authority
10 when a cash shortage threatens the operation of the
11 Hospital, and provided that the loan shall not be used for
12 the hiring of non-health care professionals not involved
13 with providing direct patient care or patient care support;

14 (2) no charge shall be levied by a lender for making
15 the loan;

16 (3) the interest rate shall be subjected to negotiation
17 between the Authority, I Maga'lahaen Guåhan and the
18 lender; such interest rate shall be computed on a monthly
19 average and based on the actual amount extended to the
20 Authority; and

21 (4) interest earned by the lender shall be exempt
22 from taxation by the government of Guam.

1 (5) I Maga'lāhen Guåhan is authorized to pledge
2 funds which Guam shall receive from the State Attorneys
3 General Tobacco Litigation, as provided by Public Law
4 Number 24-174, or the General Fund, or both funds in
5 any combination, as a security for repayment of the loan,
6 in addition to any revenues which may be pledged by the
7 Authority. I Maga'lāhen Guåhan and the Authority is
8 hereby authorized to execute the loan agreement and
9 other necessary documentation.

10 (6) The line of credit authorized in this Act shall not
11 be used in the calculation for rate relief in any rate
12 methodology for any rate case before the Public Utilities
13 Commission.

14 (t) Notwithstanding any other provision of law, make,
15 negotiate and enter into a commercial lease, or issue a permit or
16 license for the use of its real property and other related facilities
17 for a term not to exceed five years.

18 **§ 80110. Administrator and Chief Executive Officer.**

19 (a) The Board shall hire or contract an Administrator, who shall
20 be its Chief Executive Officer. The Administrator's duties and
21 compensation, salary and endowments, shall be determined by the

1 Board. The Administrator shall meet the following minimum
2 qualifications:

3 (i) shall have graduated from a recognized college or
4 university with a Master's degree in hospital administration,
5 health services management or a related field, plus six (6) years
6 of experience in hospital administration or healthcare services
7 management, of which three (3) years must have been
8 experience as an administrator in a hospital setting; or

9 (ii) shall have graduated from a recognized college or
10 university with a Bachelor's degree in hospital administration,
11 health services management, or a related field, plus eight (8)
12 years of experience in hospital administration or healthcare
13 services management, of which five (5) years must have been
14 experience as an administrator in a hospital setting;

15 (iii) shall have experience in negotiating and directing
16 activities related to obtaining reimbursement from government
17 programs, such as Medicare, Medicaid or the Medically
18 Indigent Program of the government of Guam; and

19 (iv) shall have experience in negotiating contracts with
20 external parties, including third party payers, vendors,
21 insurance carriers and other contracting parties.

1 (b) The Board shall set the tenure of office for the
2 Administrator of the Guam Memorial Hospital Authority. The Board
3 may hire the Hospital Administrator by direct employment as an
4 unclassified employee of the government of Guam, or by personal
5 services contract, as the Board deems necessary to attract and retain a
6 qualified Administrator. However, the term of employment for the
7 position of Administrator shall not end six months prior to nor six
8 months after an election for Senators and Governor and Lt. Governor.
9 The Board by an affirmative vote of at least five (5) members may
10 renew the contract of the Administrator. Similarly, the affirmative
11 vote of at least five (5) members may terminate the services of the
12 Administrator for cause in the same manner and procedure as a
13 Trustee may be removed pursuant to Section 80107 of this Chapter.
14 Upon a change of administration of the government of Guam after a
15 gubernatorial election, no courtesy resignation shall be requested by
16 the new administration nor offered by the Administrator of the
17 Hospital.

18 (c) The Administrator shall have full charge and control of the
19 operations and maintenance of the Hospital. The powers of the
20 Administrator shall include:

21 (i) to recommend rules and regulations for adoption by
22 the Board of Trustees and to see that all rules and regulations of
23 the Hospital are enforced;

1 (ii) to ensure compliance with all federal and local
2 regulations;

3 (iii) to act as liaison to the governing body for the
4 medical, nursing, and other professional staff and all facility
5 departments;

6 (iv) to attend, unless excused by the Board, all meetings
7 of the Board and to submit written reports on the affairs of the
8 Hospital each month;

9 (v) to keep the Board advised on the needs of the Hospital
10 and approve demands for payment of obligations within the
11 purposes and amounts authorized by the Board;

12 (vi) to prepare and cause to be prepared all plans and
13 specification for purchased services and the construction and
14 repair of equipment and facilities operated by the Hospital and
15 serve as the Hospital's Chief Procurement Officer;

16 (vii) to devote that person's time to the business of the
17 Hospital, to select and appoint the employees of the Hospital
18 except as otherwise provided in this Chapter, and to plan,
19 organize, coordinate and control the services of such employees
20 in the exercise of the powers of the Hospital under the general
21 direction of the Board;

22 (viii) to prepare within one hundred twenty (120) days
23 from the end of each fiscal year an annual report of the results

1 of the operations for the preceding fiscal year and the financial
2 status of the Hospital on the last day thereof;

3 (ix) to perform and issue such other additional duties as
4 the Board may require; and

5 (x) to arrange for the burial of any fetus not claimed by its
6 mother or father within thirty (30) days.

7 **§ 80111. Chief Financial Officer.**

8 (a) The position of Chief Financial Officer is established within
9 the Guam Memorial Hospital Authority. The Chief Financial Officer
10 *shall* meet the following minimum qualifications:

11 (i) Possession of a Certified Public Accountant (CPA)
12 certificate in the United States and a Bachelor's degree in
13 Health Services Management (HSM) or health related work
14 experience, plus one (1) year supervisory experience; or

15 (ii) Graduation from a recognized college or university
16 with a Master's degree in accounting, finance, economics,
17 business administration or a related field, plus four (4) years
18 experience as an administrator for general accounting and fiscal
19 services of which one (1) year must be management-level fiscal
20 experience in a hospital or health care facility; or

21 (iii) Graduation from a recognized college or university
22 with a Bachelor's degree in accounting finance, economics,

1 business administration or a related field, plus five (5) years as
2 an administrator responsible for general accounting and fiscal
3 services of which two (2) years must be management-level
4 fiscal experience in a hospital or health care facility; and

5 (iv) *shall* have experience in negotiating contracts with
6 external parties, including third party payers, vendors,
7 insurance carriers and other contracting parties.

8 (b) The Chief Financial Officer shall report directly to the
9 Hospital Administrator. The Hospital Administrator shall hire the
10 Chief Financial Officer by direct employment as an unclassified
11 employee of the government of Guam, or by personal services
12 contract, as is deemed necessary by the Hospital Administrator to
13 attract and retain a qualified Chief Financial Officer. The Chief
14 Financial Officer's duties and compensation shall be determined by
15 the Hospital Administrator, in consultation with the Board of
16 Trustees.

17 **§ 80112. Construction With Other Laws.** Insofar as the provisions of
18 this Chapter are inconsistent with the provisions of any other law, the
19 provisions of this Chapter shall be controlling; and in particular but
20 not by way of limitation, except as may be provided in this Chapter,
21 no provision of any law with respect to employment of personnel,
22 shall be applicable to the Guam Memorial Hospital Authority unless

1 the Legislature shall specifically so state; provided, however, that the
2 Guam Memorial Hospital Authority may utilize in its operations the
3 procedures and facilities provided by any such law or by the
4 executive agencies of the government of Guam.

5 **§ 80113. Employment Practices.**

6 (a) The Board shall establish and administer rules and
7 regulations governing the compensation and classification of health
8 professionals of the hospital.

9 (b) All employees of the hospital, except physicians and
10 healthcare administrators, the Hospital Administrator, Associates
11 Administrators for Clinical, Operations, Medical Services and the
12 Chief Financial Officer, shall be members of the classified service of
13 the Government.

14 (c) Each hospital employee shall be eligible to continue to be or
15 to become a member of the government of Guam Retirement Fund
16 pursuant to §4204(d) of the Government Code. The hospital shall pay
17 for the employer's contribution to the Retirement Fund that is
18 assessed by the Fund's Board of Trustees for the benefit of hospital
19 employees who are members of the Fund.

20 (d) Each hospital employee shall be eligible to participate in any
21 government of Guam health and life insurance plan or prepaid health
22 plan.

1 **§ 80114. Attorney.** The Guam Memorial Hospital Authority may
2 employ an attorney to assist and represent it in all civil matters which
3 concerns the Hospital. The Attorney which the Hospital is interested,
4 provided that the Attorney General shall designate the attorney for
5 the Hospital as a Special Assistant Attorney General for this purpose.

6 The Guam Memorial Hospital Authority may set the terms and
7 conditions of employment for the attorney, his or her compensation
8 and whether he or she be appointed as a full-time employee, an
9 independent consultant. In the alternative, the Hospital may utilize
10 the services of a law firm.

11 The Attorney so employed or engaged shall be admitted to
12 practice before the courts of Guam under the same conditions as are
13 attorneys employed by the government pursuant to Section 28002.2
14 of the Government Code.

15 **§ 80115. Exemption From Taxation.**

16 As an instrumentality of the Territory, the hospital and all
17 property acquired by or for the hospital, and all revenues and income
18 there-from are exempt from taxation by the Territory or by any
19 political subdivision or public corporation thereof and from all taxes
20 imposed under the authority of the Legislature of the Territory, or
21 with respect to which the Legislature is authorized to grant
22 exemption.

1 **§ 80116. Fiscal Authority; Accounting and Expenditures.**

2 (a) There is hereby established a fund to be known as the
3 'Hospital Operations Fund' which shall be maintained separate and
4 apart from other funds of the government of Guam and independent
5 records and accounts shall be maintained in connection therewith;

6 (b) All moneys received by the hospital from whatever source
7 derived shall be deposited in said fund and eligible banks as defined
8 in 5 GCA §21112.

9 (c) All appropriations, if any, by the Guam Legislature from the
10 General Fund to the hospital shall be transferred to the fund on a
11 quarterly basis upon certification by the hospital of the need
12 therefore;

13 (d) All expenditures including payments into sinking or other
14 special accounts and debts, liabilities, obligations and operational
15 expenses of the hospital shall be paid from the fund;

16 (e) The hospital shall report to the Governor and the Legislature
17 concerning administration of the affairs of the hospital. The annual
18 report shall be presented within one hundred twenty (120) days after
19 the end of each fiscal year and special reports, if any, shall be
20 presented within thirty (30) days after the end of each intervening
21 quarter. The financial information presented in the reports shall be in
22 accordance with the uniform
23 system of accounting adopted by the hospital.

1 **§ 80117. Irreversible Renal Failure.**

2 Citizens of the territory of Guam afflicted with irreversible
3 renal failure who are medically indigent as determined by the
4 Department of Public Health and Social Services by regulations, shall
5 receive hospitalization, medical treatment and drugs for the
6 treatment of irreversible renal failure, and any conditions directly or
7 indirectly caused thereby, without charge, provided, however, that
8 this Section shall not apply to those persons whose treatments are
9 chargeable to health and medical insurance programs or medical
10 assistance programs. Nothing in this Section shall be construed or
11 used as a basis for the exclusion or limitation of any private or
12 government third party health or medical insurance coverage, or
13 benefits for hospitalization, medical treatment and drugs for the
14 treatment of irreversible renal failure and any condition directly or
15 indirectly caused thereby.

16 **§ 80117.1 Cancer Data Collection.**

17 The Guam Memorial Hospital Authority ('GMHA') and the
18 GMHA Medical Staff shall continue to collect information regarding
19 cancer cases with relevant data for the Cancer Registry as established
20 by the Department of Public Health and Social Services. GMHA shall
21 provide DPHSS cancer information semiannually.

22 **§ 80118. Patients' Records Confidential.**

1 Patients' medical records are confidential and copies thereof
2 may be released only upon the written consent of the patient
3 involved or by written order of the Superior Court of Guam;
4 provided, however, that any information, data or reports with respect
5 to cases of malignant diseases may be furnished to, or procured by,
6 the Guam Tumor Registry-Tumor Clinic, Guam Memorial Hospital,
7 for statistical, scientific and medical research and no physician,
8 surgeon, dentist, institution or hospital, furnishing such information,
9 data or reports to the Guam Tumor Registry-Tumor Clinic, Guam
10 Memorial Hospital, shall by reason of such furnishing be deemed to
11 have violated the provisions of this Section, or have violated any
12 confidential relationship or be held liable therefore.

13 **§ 80119. Mandatory Annual Budget.**

14 On March 30, 2010 for Fiscal Year 2011, and March 30 for the
15 succeeding fiscal years, the Board shall submit a comprehensive
16 program and financial plan to I Liheslaturan Guåhan in a budget
17 format utilized by the Bureau of Budget and Management Research
18 for the Executive Branch. If I Liheslaturan Guåhan does not reject the
19 comprehensive program and financial plan by September 30, the
20 program and plan is deemed approved.

1 **§ 80120. Solicitation, Acceptance, Utilization and Administration of**
2 **Donations, Contributions, Gifts, and Bequests for Specific**
3 **Purposes.**

4 (a) The Administrator of the Guam Memorial Hospital
5 Authority ('GMHA'), with the concurrence of the GMHA Board of
6 Trustees, shall be authorized to solicit, accept, utilize and administer
7 on behalf of GHMA, donations, contributions, gifts and bequests for
8 any specific purpose relative to medical care, and may expend any
9 sums so received for purposes intended by the giver, or donor, in
10 addition to the regular appropriations made for such purposes. Such
11 donations, contributions, gifts and bequests received, or income
12 accrued on a continuing basis, shall, as a matter of policy, be reflected
13 in the annual budget of the receiving agency as credit to offset the
14 expense budget request for that agency for the fiscal year under
15 consideration.

16 (b) GMHA shall promulgate rules and regulations to reflect the
17 purpose of this Act and shall biannually report contributions,
18 donations, gifts and bequests actually received by the Governor and
19 the Speaker of the Guam Legislature for proper acknowledgment
20 purposes.

21 **§ 80121. Receiving of Revenues from Vending Machine.** GMHA is
22 hereby authorized to install vending machines or similar machines,

1 which can be contractual, for the purpose of serving the Hospital and
2 its employees and shall be entitled to all revenues from such
3 activities. The Hospital Administrator shall use such revenues for the
4 Hospital employees health or other services for the benefit of its
5 employees.