



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OCT 09 1997

**Refer to  
Legislative Secretary**

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910


Dear Speaker Unpingco:

Enclosed please find a copy of Bill No. 414 (LS), "AN ACT TO AMEND CHAPTER 41 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE DIVISION OF HEALTH PLANNING AND DEVELOPMENT AND THE DIVISION OF EVALUATION, ENFORCEMENT AND COMPLIANCE WITHIN THE DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES ('DISID')", which I have signed into law as Public Law No. 24-92.

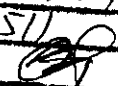
Contemporaneously with the enactment of Public Law No. 24-16, creating the new Department of Integrated Services for Individuals with Disabilities ("DISID"), new federal regulations changed the descriptions of approved agency structures for government agencies receiving federal funding for vocational rehabilitation services.

This bill contains a structure which has been approved by the federal officials having oversight over the disbursement of federal funds for vocational rehabilitation, and thus, Guam's state plan will then be in compliance and federal funding will continue to be available for those persons on Guam who need vocational rehabilitation services. I am very pleased that the Guam Legislature, especially the Chairman of the Committee on Health and Human Services, took action on protecting the availability of services for persons with disabilities.

Very truly yours,

  
Carl T. C. Gutierrez  
Governor of Guam

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT  
Received By: Jani Gamalante  
Time: 4:20 p.m.  
Date: 10-9-97

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 10-9-97  
Time: 1:51  
Rec'd by:   
Print Name: Charlene Thomas

Attachment

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

00485

TWENTY-FOURTH GUAM LEGISLATURE  
1997 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

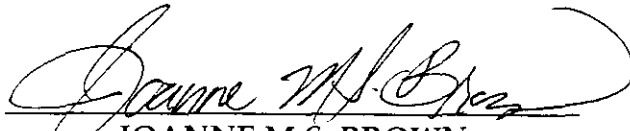
This is to certify that Bill No. 414 (LS), "AN ACT TO AMEND CHAPTER 41 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE DIVISION OF HEALTH PLANNING AND DEVELOPMENT AND THE DIVISION OF EVALUATION, ENFORCEMENT AND COMPLIANCE WITHIN THE DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES ("DISID")," was on the 9<sup>TH</sup> day of October, 1997, duly and regularly passed.



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ANTONIO R. UNPINGCO  
Speaker


Attested:



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JOANNE M.S. BROWN  
Senator and Legislative Secretary

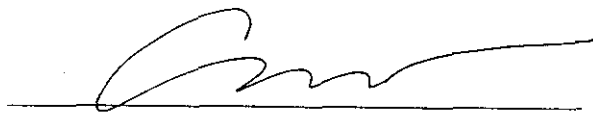
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This Act was received by the Governor this 9<sup>th</sup> day of October, 1997, at  
11:15 o'clock 9 .M.



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Assistant Staff Officer  
Governor's Office

APPROVED:



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CARL T. C. GUTIERREZ  
Governor of Guam

Date: 10-9-97

Public Law No. 24-92

**TWENTY-FOURTH GUAM LEGISLATURE**  
**1997 (FIRST) Regular Session**

**Bill No. 414 (LS)**

As amended by the Author  
and on the Floor.

Introduced by:

E. J. Cruz  
J. C. Salas  
T. C. Ada  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
A. C. Blaz  
J. M.S. Brown  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
W. B.S.M. Flores  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO AMEND CHAPTER 41 OF TITLE 17 OF  
THE GUAM CODE ANNOTATED, RELATIVE TO  
ESTABLISHING THE DIVISION OF HEALTH  
PLANNING AND DEVELOPMENT AND THE  
DIVISION OF EVALUATION, ENFORCEMENT

**AND COMPLIANCE WITHIN THE DEPARTMENT  
OF INTEGRATED SERVICES FOR INDIVIDUALS  
WITH DISABILITIES ("DISID").**

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

2           **Section 1. Legislative Statement.** Public Law No. 24-16 created a new  
3 Department of Integrated Services for Individuals with Disabilities ("DISID"),  
4 to take effect on October 1, 1997. Public Law Number 24-16 went into effect  
5 on March 24, 1997, however, also in March, 1997, new Code of Federal  
6 regulations ("CFR") provisions took effect requiring that the state plan for the  
7 delivery of vocational rehabilitation services provide that the designated state  
8 agency be one (1) of three (3) specified types of agencies. Because of this  
9 change in Federal regulations, the new DISID now does not qualify as a  
10 designated agency, because the categories of approved agency structure are  
11 changed. The reason that the new DISID is not now in compliance is that the  
12 structure of the new agency contains only two (2) divisions, instead of more  
13 than two (2) divisions. The CFR's require a state agency that includes a  
14 vocational rehabilitation unit to have at least two (2) other major  
15 organizational units, each of which administers one (1) or more of the state's  
16 major program of public education, public health, public welfare, or labor.  
17 DISID only has one (1) other major organizational unit besides the unit that  
18 administers the vocational rehabilitation programs. (34 CFR §361.13)

19           Noting the change in the CFR's, our local Department of Vocational  
20 Rehabilitation attempted to get a waiver of this new requirement, at least  
21 temporarily, in order to make amendments to the local compliance with  
22 Federal grant requirements. On September 24, 1997, the Guam State Plan was  
23 disapproved, based on the requirements of the CFR.

1 Guam has received notice that since the State Plan does not conform to  
2 the new regulations, that all federal funding coming to Guam for vocational  
3 rehabilitation will cease October 1, 1997. This does not allow for time to  
4 examine all of the ramifications of making changes in the new DISID  
5 department before the cessation of Federal funding in October 1, 1997.

6 Section 2. A new Article 4 is hereby added to Chapter 41, as added by  
7 Public Law No. 24-16, of Title 17 of the Guam Code Annotated to read as  
8 follows:

9 **"ARTICLE 4.**

10 **DIVISION OF HEALTH PLANNING AND DEVELOPMENT.**

11 Section 41401. Definitions. (a) Division shall mean the  
12 Division of Health Planning and Development of the Department of  
13 Integrated Services for Individuals with Disabilities.

14 (b) Agency shall mean the division as defined in (a).

15 (c) GHC Council or Council for this article shall mean the  
16 Guam Health Coordinating Council.

17 (d) Administrator means the Administrator of the Division of  
18 Health Planning and Development.

19 The Administrator must have at least a bachelors degree and at  
20 least four (4) years of community experience in community services  
21 dealing with persons with disabilities, of which two (2) years shall be  
22 administrative and two (2) years of planning experience. The position  
23 shall be of the classified service of the government of Guam. The  
24 position Classification Standard and Compensation shall be established  
25 by the Civil Service Commission.

1           **Section 41402. Division.** There is a division within the 'The  
2 Department of Integrated Services with Individuals with Disabilities'  
3 ('DISID'), entitled 'Division of Health Planning and Development' and  
4 shall be responsible for the collection of data, analysis, identification of  
5 resources, identification of funds, and any other required tasks from the  
6 Director of DISID for the continuous effort to improve the quality of  
7 services to Individuals with Disabilities and shall also do the following  
8 division functions:

9           (a) Coordinate and conduct the health planning activities of  
10 Guam to develop and implement the Guam Health Plan and the  
11 assembling and analysis of data concerning the following an any other  
12 data which the Division might be required to assemble:

13                 (1) the status (and its determinants) of the health of the  
14 residents of Guam;

15                 (2) the status of the health care delivery system in Guam  
16 and the use of that system by the residents of Guam;

17                 (3) the effect the Guam's health care delivery system has  
18 on the health of the residents of Guam;

19                 (4) the number, type and location of the Guam's health  
20 resources, including health services, manpower and facilities;

21                 (5) the patterns of utilization of Guam's health resources;  
22 and

23                 (6) the environmental and occupational exposure factors  
24 affecting immediate and long-term health conditions.

1 For the purpose of improving the health of the residents of Guam,  
2 increasing the accessibility (including overcoming geographic,  
3 architectural and transportation barriers) acceptability, continuity and  
4 quality of the services provided them, restraining increases in the cost of  
5 providing them health services, preserving and improving competition  
6 in the health service area and preventing unnecessary duplication of  
7 health resources, the Division shall have as its primary responsibility the  
8 provision of effecting health planning for Guam and the promotion of  
9 the development within Guam of health services, manpower and  
10 facilities which meet identified needs, reduce documented inefficiencies  
11 and implement the Guam Health Plan.

12 (b) Serve as staff to and provide technical assistance and  
13 substantive advice to the Guam Health Coordinating Council in the  
14 preparation and establishment of the Guam Health Plan and its review  
15 and revision as necessary (but at least triennially).

16 (c) Administer the Guam Certificate of Need Program:

17 (1) make findings as to the need for incurrence of  
18 obligations for capital expenditure, offering of new institutional  
19 health services, or acquisition of major equipment within Guam;

20 (2) promulgate rules and regulations therefor; and

21 (3) only the Director of DISID with the recommendation  
22 of the Guam Health Planning and Development Division  
23 Administrator (or the appropriate administrative or judicial  
24 review body), may issue, deny or withdraw certificates of need,

1 grant exemptions from certificate of need reviews, or determine  
2 that certificate of need reviews are not required.

3 (d) Review all institutional health services being offered in  
4 Guam respecting the appropriateness of such services and make public  
5 its findings and shall be updated not less than every five (5) years  
6 thereafter.

7 (e) The Division shall establish, annually review and amend as  
8 necessary an Annual Implementation Plan (hereinafter referred to as the  
9 'AIP') which describes objectives which will achieve the goals of the  
10 Guam Health Plan and priorities among the objectives. In establishing  
11 the AIP, the division shall give priority to those objectives which will  
12 maximally improve the health of the residents of Guam, as determined  
13 on the basis of the relation of the cost of attaining such objectives to their  
14 benefits, and which are fitted to the special needs of Guam. The Division  
15 shall develop and publish specific plans and projects for achieving the  
16 objectives established in the AIP.

17 (f) The Division with the concurrence of the Director of DISID  
18 shall implement the Guam Health Plan and AIP, and in implementing  
19 the plans it shall perform at least the following functions:

20 (1) The Division shall seek to implement the Guam Health  
21 Plan and AIP with the assistance of individuals, public and private  
22 entities;

23 (2) The Division may provide, in accordance with the  
24 priorities established in the AIP, technical assistance to individuals  
25 and public and private entities for the development of projects and



1 programs which the Division determines are necessary to achieve  
2 the health systems described in the Guam Health Plan;

3 (3) The Division shall, in accordance with the priorities  
4 established in the AIP, make grants to public and non-profit  
5 private entities; and enter into contracts with individuals and  
6 public and private entities to assist them in planning and  
7 developing projects and programs which the Division determines  
8 are necessary for the achievement of the health systems described  
9 in the Guam Health Plan. Such grants and contracts shall be made  
10 from the Area Health Services Development Fund of the division  
11 established with funds provided through grants as it may be from  
12 time to time amended or any future provision taking its place  
13 under federal regulations and local criterias. No grants or contract  
14 under this Subsection may be used (A) to pay the costs incurred  
15 by the entity or individual in the delivery of health services (as  
16 defined in regulations by the Secretary of Health, Education and  
17 Welfare), or (B) for the cost of construction or modernization of  
18 medical health care facilities. No single grant or contract made or  
19 entered into under this Paragraph shall be available for obligation  
20 beyond the one (1) year period beginning on the date the grant or  
21 contract was made or entered into. If an individual or entity  
22 receives a grant or contract under this Paragraph for a project or  
23 program, such individual or entity may receive only one (1) more  
24 such grant or contract for such project or program.

1           (g) The Division shall coordinate its activities with all entities  
2 in Guam involved in general or special purpose planning, development  
3 or regulation which may have impact upon the health delivery systems  
4 of Guam. The division shall, as appropriate, secure data from them for  
5 use in the Division's planning and development activities, enter into  
6 agreements with them which will assure that actions taken by such  
7 entities which alter Guam's health system will be taken in a manner  
8 which is consistent with the Guam Health Plan and the AIP in effect  
9 and, to the extent practicable, provide technical assistance to such  
10 entities.

11           (h) The Division with the concurrence of the Director of DISID  
12 shall review and approve or disapprove each proposed use within  
13 Guam of Federal funds:

14           (1) appropriated under the Public Health Service Act, the  
15 Community Mental Health Centers Act or the Comprehensive  
16 Alcohol Abuse and Alcoholism Prevention, Treatment and  
17 Rehabilitation Act of 1970, as it may be from time to time amended  
18 or any future provision taking its place, or any other Acts not  
19 excluded--included under this Section, for grants, contracts, loans  
20 or loan guarantees for the development, expansion or support of  
21 health resources; or

22           (2) made available from an allotment to Guam under the  
23 Acts referred to in clause (1) for grants or contracts for the  
24 development, expansion or support of health resources.

1           The Division shall not review and approve or disapprove the  
2 proposed use of Federal funds appropriated for grants or contracts  
3 under Title IV, VII or VIII of the Public Health Service Act as it may be  
4 from time to time amended or any future provision taking its place  
5 unless the grants or contracts are to be made, entered into or used to  
6 support the development of health resources intended for use in Guam  
7 or the delivery of health services.

8           (i) The Division shall require by regulation that providers of  
9 health care doing business in Guam shall make statistical and other  
10 reports of such information prescribed as necessary by the division in  
11 such form and manner as the division may prescribe on a regular basis,  
12 which shall include but not be limited to:

13                   (1) periodic reports from holders of Certificate of Need  
14                   respecting development of the proposal for which Certificates  
15                   have been issued;

16                   (2) master plan feasibility studies and other long range  
17                   plans and studies;

18                   (3) financial information;

19                   (4) utilization information;

20                   (5) manpower inventory.

21           (j) The Division shall develop a Guam Health Plan which is  
22 responsive to the statewide health needs and which describes the  
23 institutional health services and other health services including mental  
24 health, alcohol and drug abuse services. It should additionally insure  
25 that the plan describes the health resources required and the health

1 facilities in need of modernization, conversion and/or closure and  
2 which are required to meet the goals of the Guam Health Plan.

3 **Section 41403. Guam Health Coordinating Council.** There is  
4 established the Guam Health Coordinating Council (hereinafter called  
5 the 'GHC Council') in accordance with 1524, U.S. P.L. No.93-641, and  
6 amended by U. S. P.L. No. 96-79 and P.L. No. 96-538.

7 The Council shall be an advisory body and shall have no fewer  
8 than sixteen (16) representatives who shall be appointed by the  
9 Governor from lists of nominees submitted by the Division with  
10 concurrence from the Director of DISID. The Director of DISID or his  
11 designee shall be an ex-officio member of the Guam Health Council.

12 The Governor may select the Chairperson of the Council with the  
13 advice and consent of the Legislature. If the Governor does not select a  
14 Chairperson within forty-five (45) days of the existence of such a  
15 vacancy, the Council shall elect a Chairperson from among its current  
16 membership.

17 The Council shall establish, with the assistance of the Division,  
18 policies, procedures and methods which shall be used in carrying out  
19 Council responsibilities and duties.

20 The Council shall serve as an advisory body to the Division.

21 **Section 41404. Duties and Responsibilities.** Council shall:

22 (1) Prepare, review and revise as necessary (but at least  
23 triennially), the Guam Health Plan. The plan shall be developed in  
24 accordance with the requirements and intent of U.S. P.L. No. 93-  
25 941, as amended by U.S. P.L. No. 96-79 and P.L. No. 96-538, and

1 appropriate regulations, and the expectations of the Regional  
2 Health Administrator, U.S. Public Health Service, San Francisco.  
3 The plan must be responsive to Guam-wide health needs and  
4 must describe institutional health services and other health  
5 services including mental health, alcohol and drug abuse services.  
6 It must describe the health resources required and the health  
7 facilities in need of modernization, conversion and/or closure and  
8 which are required to meet the goals of such plan.

9 (2) Review applications submitted for grants under the  
10 U.S. Public Health Services Act, the Community Mental Health  
11 Centers Act, the Comprehensive Alcohol Abuse and Alcoholism  
12 Prevention, Treatment and Rehabilitation Act of 1970 and Section  
13 409 of the Drug Abuse Office and Treatment Act of 1972 for  
14 projects which will affect more than one (1) health service area.  
15 The Council shall conduct such reviews under a prescribed set of  
16 established criteria and procedures and submit its  
17 recommendations for approval or disapproval of the proposed use  
18 of federal funds for each application.

19 (3) Review annually and recommend approval or  
20 disapproval of all Guam plans, and any revision of a Guam plan  
21 or any application, and any application submitted to the Secretary  
22 of Health and Human Services as a condition to the receipt of  
23 federal funds under allotments made to Guam under the Public  
24 Health Services Act, the Community Mental Health Centers Act,  
25 the Comprehensive Alcohol Abuse and Alcoholism Prevention,

1 Treatment and Rehabilitation Act of 1970, or §409 or §410 of the  
2 Drug Abuse Office and Treatment Act of 1972, or they may be  
3 from time to time amended or any future provision taking their  
4 place.

5 (4) Advise the Division generally on the performance of  
6 its functions.

7 (5) The Council shall review and comment on the  
8 following before such actions are made final by the Division:

9 (a) the establishment, annual review and  
10 amendment of the Annual Implementation Plan ('AIP');

11 (b) the development and publication of specific  
12 plans and programs for achieving the objectives established  
13 in the AIP;

14 (c) the making of grants and contracts from the Area  
15 Health Services Development Fund;

16 (d) the making of findings as to the need for  
17 institutional health services proposed to be offered or  
18 changed in Guam;

19 (e) the making of findings as to the appropriateness  
20 of existing institutional health services being offered in  
21 Guam;

22 (f) the approval or disapproval of each proposed  
23 use of Federal funds within Guam from allotment programs.

24 (6) Review and make recommendations to the Division on  
25 all Certificate of Need applications.

1                   (7) Notwithstanding the provisions outlined in this  
2                   Section, the council shall incorporate plans pertinent to the  
3                   Department of Integrated Services for Individuals with Disabilities  
4                   requirements, to include Island-wide data, needs assessment and  
5                   demographic for persons with disabilities.”

6                   **Section 4.** A new Article 5 is hereby added to Chapter 41, as added by  
7 Public Law No. 24-16, of Title 17 of the Guam Code Annotated to read as  
8 follows:

9   **“ARTICLE 5.**  
10    **DIVISION OF EVALUATION,**  
11    **ENFORCEMENT AND COMPLIANCE.**

12                   **Section 41501. Definitions.** (a) **Administrator** means the  
13 Administrator of Division of Evaluation, Enforcement and Compliance.

14                   The Administrator must have at least a bachelors degree and at  
15 least four (4) years of community experience in community services  
16 dealing with persons with disabilities, of which two (2) years shall be  
17 administrative. The position shall be of the classified service of the  
18 government of Guam. The position Classification Standard and  
19 Compensation shall be established by the Civil Service Commission.

20                   **Section 41502. Division.** There is within the ‘Department of  
21 Integrated Services for Individuals with Disabilities (‘DISID’),’ entitled  
22 ‘Division of Evaluation, Enforcement and Compliance’ and shall be  
23 responsible for the enforcement of the Americans with Disabilities Act  
24 (‘ADA’) provisions, which prohibits discrimination based on a disability  
25 in employment, public accommodation, and the provision of local

1 government services. The Evaluation, Enforcement and Compliance  
2 Division shall monitor compliance of accessible parking for individuals  
3 with disabilities and ensure community awareness regarding parking  
4 issues for individuals with disabilities. The Evaluation, Enforcement  
5 and Compliance Division shall include an evaluation program  
6 responsible for program compliance reviews and to determine other  
7 compliance activities required by government wide guidelines, as well  
8 as the rules of many Federal funding agencies. As part of the  
9 Evaluation, Enforcement and Compliance Division's procedures, the  
10 government-wide guidelines shall apply to both public and private  
11 sectors.

12 The Evaluation, Enforcement and Compliance Division shall  
13 conduct directed compliance reviews. A directed compliance review  
14 may be initiated in response to a complaint, or several complaints,  
15 alleging discrimination. The Evaluation, Enforcement and Compliance  
16 Division shall conduct compliance review, expanding the scope of the  
17 initial complaint investigating to determine overall compliance with  
18 federal and local laws affecting persons with disabilities. The  
19 Evaluation, Enforcement and Compliance Division shall take  
20 administrative sanctions and court action for consequences of failing to  
21 comply to Federal and local laws affecting persons with disabilities.

22 Section 41503. Funding. The Evaluation, Enforcement and  
23 Compliance Division shall utilize the funds deposited into the  
24 Accessible Parking Fund for the purpose of ensuring community



1 education and awareness regarding compliance of accessible parking for  
2 individual with disabilities.”

3 **Section 5. Division Budget.** The Director of DISID shall prepare for  
4 the Division of Evaluation, Enforcement and Compliance a budget which  
5 include personnel, supplies, and capital expenditures for the Governor’s  
6 approval within thirty (30) days from the passage of this Act. The Governor  
7 may use his transfer authority for the purpose of funding this Division.

8 **Section 6. Transfer.** All resources including but not limited to, the  
9 budget and staff (classified and unclassified) of the Guam Health Planning  
10 and Development Agency are hereby transferred to the newly created  
11 Division of Health Planning and Development of the Department of  
12 Integrated Services for Individuals with Disabilities (DISID). This resulting  
13 transfer of the staff shall not change their employees classification. This  
14 resulting transfer of the staff shall not change their employees classification.  
15 The Guam Health Coordinating Council members established pursuant to  
16 §5104 of Title 5 of the Guam Code Annotated are hereby transferred to the  
17 Guam Health Coordinating Council of the newly established Department of  
18 Integrated Services for Individuals with Disabilities (‘DISID’).

19 **Section 7.** A new Item (c) is hereby added to §41102 of Article 1,  
20 Chapter 41 of Title 17 of the Guam Code Annotated to read as follows:

21 “(c) *Deputy Directors* means the Deputy Directors of the  
22 Department of Integrated Services for Individuals with Disabilities  
23 (‘DISID’). The two (2) Deputy Directors shall be appointed by the  
24 Governor and shall serve in the unclassified service. The Director of

1 DISID shall assigned a Deputy director to the Operations of DISID and a  
2 Deputy director to Administration of DISID.”

3 **Section 8. Interim Director of DISID.** The Director of the Department  
4 of Vocational Rehabilitation shall be the new Director of the Department of  
5 Integrated Services for Individuals with Disabilities, until such time that the  
6 Governor appoints and the Guam Legislature confirms the appointment  
7 pursuant to §41102(b) of Article 1, Chapter 41 of Title 17 of the Guam Code  
8 Annotated. Compensation shall not be more than the established  
9 classification and pay schedule for the Administrator of the Guam Health  
10 Planning and Development Agency.

11 **Section 9. Certificate of Need Transactions Pending.** The Director of  
12 the Department of Integrated Services for Individuals with Disabilities is  
13 hereby authorized to approve or disapprove all pending Certificate of Need  
14 transactions of the Guam Health Planning and Development Agency prior to  
15 the date of enactment.

16 **Section 10. Repeal.** Articles 1, 2 and 3 of Chapter 5 of Title 10 of the  
17 Guam Code annotated are hereby repealed.

18 **Section 11. Effective Date.** The provisions contained in this Act shall  
19 take effect upon enactment.

20 **Section 12. Severability.** If any of the provisions of this Act or the  
21 application thereof to any person or circumstance are held invalid, such  
22 invalidity shall not affect any other provision or application of this Act, which  
23 can be given effect without the invalid provision or application, and to this  
24 end the provisions of this Act are severable.