



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

01 FEB 2007

The Honorable Mark Forbes
Speaker
Mina' Bente Nuebe Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

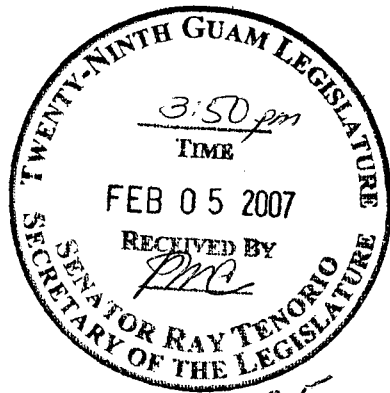
Transmitted herewith is Bill No. 267(EC), "AN ACT TO AMEND §82101, ARTICLE 1, CHAPTER 82, DIVISION 4, TITLE 10 OF THE GUAM CODE ANNOTATED, AND TO ADD §82610, ARTICLE 6, CHAPTER 82, DIVISION 4, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE FRAMEWORK OF A SECLUSION AND RESTRAINT POLICY, AND SETTING RESTRICTIONS ON THE USE OF PHYSICAL RESTRAINTS ON PERSONS WITH MENTAL, BEHAVIORAL DIFFICULTIES, AND/OR DEVELOPMENTAL DISABILITIES" which I signed into law on January 29, 2007, as **Public Law 28-173**.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Ray Tenorio
Senator and Secretary of the Legislature



Office of the Speaker
MARK FORBES
Date: 2/2/07
Time: 11:41 a.m.
Rec'd by: [Signature]
Print Name: Rol B/ [Signature]
29-07-0125

RECEIVED
[Signature]
5:04 PM
2/2/07

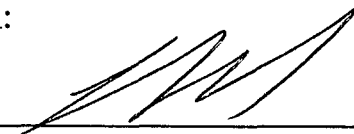
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

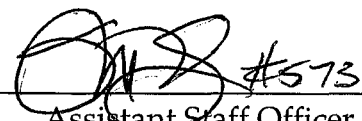
This is to certify that Substitute Bill No. 267 (EC), "AN ACT TO AMEND §82101, ARTICLE 1, CHAPTER 82, DIVISION 4, TITLE 10 OF THE GUAM CODE ANNOTATED, AND TO ADD §82610, ARTICLE 6, CHAPTER 82, DIVISION 4, TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE FRAMEWORK OF A SECLUSION AND RESTRAINT POLICY, AND SETTING RESTRICTIONS ON THE USE OF PHYSICAL RESTRAINTS ON PERSONS WITH MENTAL, BEHAVIORAL DIFFICULTIES, AND/OR DEVELOPMENTAL DISABILITIES," was on the 20th day of December, 2006, duly and regularly passed.


Mark Forbes
Speaker


Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 30 day of Dec, 2006, at
1:30 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 29 JAN 2007

Public Law No. 28-173

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 267 (EC)

As substituted by the Committee
on Health and Human Services
and amended.

Introduced by:

Mike Cruz
Mark Forbes
B. J. F. Cruz
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
A. B. Palacios, Sr.
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

**AN ACT TO AMEND §82101, ARTICLE 1, CHAPTER 82,
DIVISION 4, TITLE 10 OF THE GUAM CODE ANNOTATED,
AND TO ADD §82610, ARTICLE 6, CHAPTER 82, DIVISION 4,
TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE
TO THE FRAMEWORK OF A SECLUSION AND RESTRAINT
POLICY, AND SETTING RESTRICTIONS ON THE USE OF
PHYSICAL RESTRAINTS ON PERSONS WITH MENTAL,
BEHAVIORAL DIFFICULTIES, AND/OR DEVELOPMENTAL
DISABILITIES.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
3 that persons with mental difficulties, behavioral difficulties and developmental
4 disabilities require appropriate care and treatment during agitated or excited
5 delirium states. The use of any form of physical restraint is not appropriate unless

1 it is an emergency and direct service personnel are properly trained in safe crisis
2 intervention strategies.

3 *I Liheslaturan Guåhan* finds that improper restraint and particularly prone
4 restraint (face down) is potentially lethal, particularly for individuals who are
5 overweight, have diagnosed breathing disorders, are pregnant, or who have been
6 agitated and struggling before and during restraint. A few states, after the death of
7 an individual, banned the use of prone restraint or have limited prone restraint to a
8 maximum intervention of five (5) minutes when used as the last resort to manage
9 extreme situations and then only by trained personnel.

10 *I Liheslaturan Guåhan* further finds that it is critical that direct service
11 personnel are trained in an evidence-based, strength-based safe crisis intervention
12 program that strives to ensure the safety of the client or student and personnel
13 involved, as well as all stakeholders. Therefore, *I Liheslaturan Guåhan* intends to
14 provide for the safety of said individuals exhibiting aggressive behavior by
15 creating a seclusion and restraint policy based on the least restrictive alternative
16 policy and by restricting the use of physical restraints in Government of Guam
17 agencies and by agents and employees of the Government of Guam.

18 **Section 2. §82101, Article 1, Chapter 82, Division 4, Title 10 of the**
19 **Guam Code Annotated is hereby *amended* and all following subsections are**
20 ***renumbered* to read as follows:**

21 **"§82101. Definitions.** As used in this Chapter, unless the context
22 requires otherwise:

23 (a) *Department* means the Department of Mental Health and
24 Substance Abuse and *Director* means the Director of the Department
25 of Mental Health and Substance Abuse.

26 (b) *Facility* means a public or privately operated institution
27 operated by or contracted with a Government of Guam agency, which

1 has been designated by the Director as being adequately equipped for
2 the care of persons suffering from mental illness.

3 (c) *Gravely disabled* means a person who, as a result of
4 mental disorder, is unable to use the elements of life which are
5 essential to health or safety, including food, clothing or shelter, even
6 though provided to the person by others.

7 (d) *Investigator or Investigating Officer* means a person or
8 organization appointed by a Judge of the Superior Court.

9 (e) *Mentally ill* or *Mentally disordered* means a person
10 having a psychiatric or other disorder, which substantially impairs the
11 person's mental health, but does not include a person suffering from:

- 12 (1) epilepsy; or
- 13 (2) mental retardation; or
- 14 (3) brief periods of intoxication caused by substances
15 such as alcohol and drugs.

16 (f) *Patient* means a person under evaluation, care or
17 treatment in a facility pursuant to the provisions of this Title.

18 (g) *Professional staff, professional person or qualified*
19 *mental health professional* means a licensed professional qualified by
20 training or experience in the diagnosis of mental or related illness.
21 The following licensed professionals shall be so designated:

- 22 (1) a psychiatrist;
- 23 (2) a clinical psychologist;
- 24 (3) a certified psychiatric nurse at the Master's
25 level; or
- 26 (4) a physician.

1 (h) *Restraint* means the involuntary immobilization of a person
2 through the use of chemical, mechanical or physical means.

3 (1) *Chemical Restraint* means a drug or medicine used
4 as a restraint to control behavior or to restrict an individual's
5 freedom of movement that is *not* standard treatment for an
6 individual's medical or psychiatric condition.

7 (2) *Mechanical restraint* means the use of a
8 mechanical device, material, or equipment attached or adjacent
9 to the person's body that he or she cannot easily remove and
10 that restricts normal access to the person's body.

11 (3) *Physical restraint* means the use of a physical hold
12 to restrict freedom of movement of all or part of a person's body
13 to restrict normal access to the person's body, which is used as a
14 behavioral restraint.

15 (i) *Seclusion* means a behavior technique involving locked
16 isolation, but does *not* include a time out.

17 (j) *Time out* means a behavior management technique that is
18 part of an approved treatment program and may involve the
19 separation of the client or student from others, in a non-locked setting,
20 for the purpose of calming. *Time out* is *not* seclusion.

21 (k) *Treatment* shall mean any therapy approved by the
22 American Psychiatric Association or other recognized medical body,
23 but shall *not* include those forms of treatment known as Electro-
24 Convulsive Shock, Insulin Shock, Psycho-Surgery or any other
25 measure which requires the physical invasion of the patient's body."

26 **Section 3. A new §82610, Article 6, Chapter 82, Division 4, Title 10 of**
27 **the Guam Code Annotated is hereby *added* to read as follows:**

1 **"§82610. Seclusion and Restraint Policy.** The Government of
2 Guam's use of restraint or seclusion shall be strictly limited to emergencies
3 when there is imminent risk of an individual physically harming himself or
4 others and nonphysical intervention is not effective. This Section applies to
5 all direct care providers within Government of Guam agencies and agents
6 and employees of the Government of Guam who provide services to persons
7 with mental difficulties, behavioral difficulties and developmental
8 disabilities, but not the Department of Corrections and Guam Police
9 Department. *Direct care providers* means personnel working with persons
10 with mental difficulties, behavioral difficulties and developmental
11 disabilities who are subject to a behavior plan, individualized educational
12 plan or a similar plan.

13 **(a) Training Program.** An agency employing direct care
14 providers shall provide a minimum of sixteen (16) hours to newly
15 hired providers and annual follow-up training at a minimum of eight
16 (8) hours. The training shall instruct providers in the following:

17 (1) reducing the use of seclusion and restraint through risk
18 assessment and early intervention, which includes nonphysical
19 intervention;

20 (2) needs and behaviors of the population served (e.g. age,
21 gender, adults, or children);

22 (3) relationship building;

23 (4) proper and permissible techniques for seclusion, physical
24 holds and chemical restraints for the population served, including risks
25 versus benefits;

- 1 (5) preventive techniques for restraint and seclusion,
2 including a safe and calm physical
3 environment;
- 4 (6) positive alternatives to restraint and seclusion;
- 5 (7) de-escalation methods;
- 6 (8) avoidance of power struggles;
- 7 (9) thresholds for restraints and seclusion;
- 8 (10) the physiological and psychological impact of restraint
9 and seclusion;
- 10 (11) monitoring physical signs of distress and obtaining
11 medical assistance;
- 12 (12) legal issues;
- 13 (13) positional asphyxia;
- 14 (14) escape and evasion techniques;
- 15 (15) time limits;
- 16 (16) the process for obtaining approval for continued
17 restraints;
- 18 (17) procedures to address problematic restraints;
- 19 (18) documentation of restraints and seclusion;
- 20 (19) debriefing after the use of restraints and seclusion with
21 the client or student, the client's or student's family
22 member, or authorized representative, as well as staff
23 members; *and*
- 24 (20) processing with clients or students, and follow-up with
25 personnel, and investigation of injuries and complaints.

26 **(b) Reporting Requirements.** Direct care providers shall document the
27 use of every restraint defined in §§82101(h) and 82101(i), Article 1, Chapter 82,

1 Title 10 GCA on an incident report. Any injury as a result of restraint or seclusion
2 shall be reported immediately to professional staff, Department of Mental Health
3 and Substance Abuse, Department of Public Health and Social Services, and the
4 territorial protection and advocacy office or its successor.

5 Government of Guam agencies and agents and employees of the government
6 of Guam who provide services to persons with mental difficulties, behavioral
7 difficulties and developmental disabilities shall report all deaths and severe injuries
8 to Department of Mental Health and Substance Abuse, Department of Integrated
9 Services for Individuals with Disabilities, and the territorial protection and
10 advocacy office or its successor. Each agency shall maintain and update a list of
11 all deaths, severe injuries, and the frequency of its facility's use of seclusion and
12 restraint on an annual basis and shall post the same on its website with a proper
13 regard for client and student confidentiality.

14 **(c) Prohibited Acts.**

15 (1) seclusion is prohibited in school settings;

16 (2) chemical restraint is prohibited unless prescribed by a physician
17 who specifies the duration and circumstances under which the
18 restraints are to be used, and shall be indicated in a client or student's
19 individualized treatment plan.

20 (3) a physical restraint or containment technique that obstructs a
21 person's respiratory airway or impairs the person's breathing or
22 respiratory capacity, including techniques in which a staff member
23 places pressure on a person's back or places his or her body weight
24 against the person's torso or back is prohibited.

25 (4) a pillow, blanket, or other item covering the person's face as
26 part of a physical or mechanical restraint or containment process is
27 prohibited.

1 (5) prone restraint on a person at risk for positional asphyxiation as
2 a result of one of the following risk factors that are known to the
3 personnel is prohibited:

4 (i) obesity;

5 (ii) pregnancy;

6 (iii) agitated delirium or excited delirium syndromes;

7 (iv) cocaine, methamphetamine, or alcohol intoxication;

8 (v) exposure to pepper spray;

9 (vi) preexisting heart disease, including, but not limited to, an
10 enlarged heart or other cardiovascular disorders; *and/or*

11 (vii) respiratory conditions, including emphysema, bronchitis,
12 or asthma."

13 **Section 4. Effective date.** This Act shall become effective October 1,
14 2007.