

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
Informational Briefing/ Oversight Hearing / Roundtable Hearing

STANDING COMMITTEE / SENATOR	HEARING	COMMITTEE REPORT	HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
Committee on Health, Tourism, Historic Preservation, Land, and Justice	Informational Briefing	3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act.	11/7/19 5:00 p.m.	2/11/20 10:04 a.m.	



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

January 30, 2020

The Honorable Régine Biscoe Lee **PBL:**
Chairperson, Committee on Rules
I Mina'trentai Singko na Liheslaturan Guåhan
163 Chalan Santo Papa
Hagåtña, Guam 96910

RE: Committee Report on Informational Hearing on the 3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).

Håfa Adai Chairperson Lee:

Transmitted herewith is the Committee Report on the Informational Briefing on the 3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).*

Sincerely,

Therese M. Terlaje



Revisions Rec'd 2/10/2020
11:11A.M.

2020 FEB 11 AM 10:04



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

COMMITTEE REPORT

INFORMATIONAL BRIEFING on

**3rd Informational Briefing on Guam's
Medical Malpractice Mandatory
Arbitration Act (10 GCA, Chapter
10): Options Overview:
Recommendations for Improvement
(All health professionals and patients
are invited to provide written
testimony or attend hearing).**

by Senator Therese M. Terlaje

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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FIRST NOTICE of Public Hearing – Thursday, November 7, 2019 beginning at 2:00 p.m.

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Oct 29, 2019 at 4:16 PM

To: Speaker's Office <speaker@guamlegislature.org>, Vice Speaker Telena Cruz Nelson <senatorcnelson@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, Senator Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Clynt Ridgell <sen.cridgell@teleguam.net>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Senator Sabina Perez <office@senatorperez.org>, Senator Wil Castro <wilcastro671@gmail.com>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telo Taitague <senatortelot@gmail.com>, Senator James Moylan <senatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>

Cc: phnotice@guamlegislature.org

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October 29, 2019

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson
Committee on Health, Tourism, Historic Preservation, Land and JusticeSubject: **FIRST NOTICE of Public Hearing – Thursday, November 7, 2019 beginning at 2:00 p.m.***Håfa Adai!*

Please be advised that the Committee on Health, Tourism, Historic Preservation, Land and Justice will convene a public hearing on **Thursday, November 7, 2019 beginning at 2:00 PM** in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

2:00 PM to 4PM:

- Bill No. 173-35 (COR) - Therese M. Terlaje- AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS

THE “CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT”. Bill Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20\(COR\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20(COR).pdf)

- Bill No. 99-35 (COR) - James C. Moylan- AN ACT TO AMEND §89.13(a) AND §89.13(b) OF CHAPTER 89, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ELECTRONIC MONITORING OF SEX OFFENDERS ON PROBATION OR PAROLE. Bill Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%2099-35%20\(COR\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%2099-35%20(COR).pdf)
- Bill No. 148-35 (LS) - James. C. Moylan- AN ACT TO AMEND § 81.10 OF CHAPTER 81, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO WORK CREDIT FOR THOSE INCARCERATED AT THE DEPARTMENT OF CORRECTIONS. Bill Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20\(LS\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20(LS).pdf)

5:00 PM: (Previously scheduled at 2:00 PM)

- **3rd Informational Briefing on Guam’s Medical Malpractice Mandatory Arbitration Act** (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [LiheSlaturan Guåhan’s live feed](#). A recording of the hearing will be available online via [Guam Legislature Media](#) on YouTube after the hearing. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Senator Therese M. Terlaje at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam; to the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na LiheSlaturan Guåhan

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan


35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

October 29, 2019

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson 
Committee on Health, Tourism, Historic Preservation, Land and Justice

Subject: **FIRST NOTICE of Public Hearing** - Thursday, November 7, 2019 beginning at 2:00 p.m.

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Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20\(COR\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20(COR).pdf)
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Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20\(LS\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20(LS).pdf)

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's live feed](#). A recording of the hearing will be available online via [Guam Legislature Media](#) on YouTube after the hearing. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Senator Therese M. Terlaje at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam; to the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

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GUAM DAILY POST • THURSDAY, OCTOBER 31, 2019

CURRENCY EXCHANGE RATES
On Oct. 30, \$1 was worth:

Keep posted and get more data and details online. Log on to see real-time market data with our stock market tool at postguam.com/stock_market.

51.0020 PHPP	108.840 JPY¥	1,168.07 KRW₩	30.4390 TWD NT\$	7.0608 CNY¥	1.4558 AUD A\$	0.8997 EUR €
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Guam luxury hotel sets April opening

The Premier Hotel Group on Wednesday announced its Guam luxury hotel, The Tsubaki Tower, will open on April 25, 2020.

Overlooking the sea in Tumon Bay, the hotel will offer 340 rooms, including 62 suites.

An affiliate of Japan-based Ken Corp., Premier Hotel Group announced the hotel will offer restaurants and bars, an infinity pool, The Garden Plaza and Sky Wedding an outdoor chapel on the 27th floor.

The Tsubaki Tower's style has been



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Committee on Health, Tourism, Historic Preservation, Land and Justice

SENATOR THERESE M. TERTEJE
Guam, Hagåtña, Agaña, San Antonio, Guam
Guam Legislature

Guam Legislature Public Hearing Room, Guam Congress Building, Hagåtña
PUBLIC HEARINGS • THURSDAY, NOVEMBER 7, 2019

2:00 PM to 4:00 PM Public Hearing: Bill No. 173-35 (COR)- T.M. Terteje- AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE "CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT." • Bill No. 99-35 (COR)- J.C. Moylan- AN ACT TO AMEND §89.13(a) AND §89.13(b) OF CHAPTER 89, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ELECTRONIC MONITORING OF SEX OFFENDERS ON PROBATION OR PAROLE • Bill No. 148-35 (COR)- J.C. Moylan- AN ACT TO AMEND § 81.10 OF CHAPTER 81, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO WORK CREDIT FOR THOSE INCARCERATED AT THE DEPARTMENT OF CORRECTIONS.

5:00 PM- 3rd Informational Briefing: GUAM'S MEDICAL MALPRACTICE MANDATORY ARBITRATION ACT (10 GCA, CHAPTER 10); OPTIONS OVERVIEW: RECOMMENDATIONS FOR IMPROVEMENT (ALL HEALTH PROFESSIONALS AND PATIENTS ARE INVITED TO PROVIDE WRITTEN TESTIMONY OR ATTEND HEARING).

If you require any special accommodations or for further information, please contact the Office of Senator Therese M. Terteje at 472-3586. Testimonies may be submitted to our office at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910, to the Guam Congress Building, or via email at senatorterteje@guam.gov. The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via LHeslaturan Guåhan's live feed at http://www.guamlegislature.com/live_feed.htm. This ad is paid for with government funds.

SECOND NOTICE of Public Hearing – Thursday, November 7, 2019 beginning at 2:00 p.m.

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 5, 2019 at 1:41 PM

To: Speaker's Office <speaker@guamlegislature.org>, Vice Speaker Telena Cruz Nelson <senatorcnelson@guamlegislature.org>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, "Office of Senator Kelly Marsh (Taitano), PhD." <office.senatorkelly@guamlegislature.org>, Senator Regine Biscoe Lee <senatorbiscoelee@guamlegislature.org>, "Senator Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Clynt Ridgell <sen.cridgell@teleguam.net>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, Senator Sabina Perez <office@senatorperez.org>, Senator Wil Castro <wilcastro671@gmail.com>, Senator Louise Borja Muna <senatorlouise@gmail.com>, Senator Telo Taitague <senatortelot@gmail.com>, Senator James Moylan <senatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, phnotice@guamlegislature.org

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NOVEMBER 5, 2019**MEMORANDUM**

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson
Committee on Health, Tourism, Historic Preservation, Land and JusticeSubject: **SECOND NOTICE of Public Hearing – Thursday, November 7, 2019 beginning at 2:00 p.m.***Håfa Adai!*

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5:00 PM: (Previously scheduled at 2:00 PM)

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature


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website: www.senatorterlaje.com

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan


35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

November 5, 2019

MEMORANDUM

To: All Senators, Stakeholders and Media

From: Senator Therese M. Terlaje, Chairperson 
Committee on Health, Tourism, Historic Preservation, Land and Justice

Subject: **SECOND NOTICE of Public Hearing** - Thursday, November 7, 2019 beginning at 2:00 p.m.

Håfa Adai!

Please be advised that the Committee on Health, Tourism, Historic Preservation, Land and Justice will convene a public hearing on **Thursday, November 7, 2019 beginning at 2:00 PM** in *I Liheslaturan Guåhan's* Public Hearing Room (Guam Congress Building, Hagåtña).

2:00 PM to 4PM:

- **Bill No. 173-35 (COR)** - Therese M. Terlaje- AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE "CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT". Bill
Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20\(COR\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20173-35%20(COR).pdf)
- **Bill No. 99-35 (COR)** - James C. Moylan- AN ACT TO AMEND §89.13(a) AND §89.13(b) OF CHAPTER 89, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ELECTRONIC MONITORING OF SEX OFFENDERS ON PROBATION OR PAROLE. Bill
Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%2099-35%20\(COR\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%2099-35%20(COR).pdf)
- **Bill No. 148-35 (LS)** - James. C. Moylan- AN ACT TO AMEND § 81.10 OF CHAPTER 81, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO WORK CREDIT FOR THOSE INCARCERATED AT THE DEPARTMENT OF CORRECTIONS. Bill
Link: [http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20\(LS\).pdf](http://www.guamlegislature.com/Bills_Introduced_35th/Bill%20No.%20148-35%20(LS).pdf)

5:00 PM: (Previously scheduled at 2:00 PM)

- **3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act** (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).



Senator

THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via [I Liheslaturan Guåhan's live feed](#). A recording of the hearing will be available online via [Guam Legislature Media](#) on YouTube after the hearing. If written testimonies are to be presented at the Public Hearing, the Committee requests that copies be submitted prior to the public hearing date and should be addressed to Senator Therese M. Terlaje. Testimonies may be submitted via hand delivery to the Office of Senator Therese M. Terlaje at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam; to the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam; or via email to senatorterlajeguam@gmail.com. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Therese M. Terlaje at (671) 472-3586 or by sending an email to senatorterlajeguam@gmail.com.

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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CURRENCY EXCHANGE RATES
On Nov. 4, \$1 was worth:

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50.510 PHPP	108.38 JPY¥	1,159.23 KRW₩	30.417 TWD NT\$	7.028 CNY¥	1.4459 AUD A\$	0.8965 EUR €
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Guam bankers contribute \$10K to H-2B lawsuit

During a press conference today, the Guam Bankers Association will discuss its \$10,000 contribution to the Guam Contractors Association lawsuit against the federal government.

The lawsuit was filed on Oct. 4, 2016 by a group of Guam compa-

UOG students aim to inspire entrepreneurs in Micronesia

A group of University of Guam students are holding a three-day event that aims to prepare people who dream of starting their own business will be held in Guam and throughout the Micronesia region.

businesses with thoughtful and innovative ideas.

The University of Guam Professional Master of Business Administration Cohort XV is bringing this initiative to Chuuk, Guam, Kosrae, Palau, Pohnpei, Surgery Forum.

Startup Weekend Micronesia



To learn more, go to <https://sweekendmicronesia.com/>

The event will be held Nov. 7-9 at the *(Daily Post Staff)*

NOTICE OF SPECIAL MEETING

The Judicial Council of Guam will conduct a special meeting on Wednesday, November 13, 2019, in the Justice Monessa G. Lujan Appellate Courtroom located on the 3rd Floor of the Guam Judicial Center, 120 West O'Brien Drive in Hagåtña at 9:00 a.m. The agenda will be made available prior to the meeting. The agenda for the Special Meeting will be to discuss proposed Financing Services.

Any person(s) needing special accommodations, auxiliary aids, or services, please contact the Administrator of the Courts at 475-3544, or Shelterihna T. Alokoa at 475-3589.

/s/ CHIEF JUSTICE KATHERINE A. MARAMAN
 Chairwoman

Committee On Health, Tourism, Historic Preservation, Land and Justice



SENATOR THERESE M. TERLAJE
I Mina'trentai Singko na Liheslaturan Guåhån
 35th Guam Legislature

Guam Legislature Public Hearing Room, Guam Congress Building, Hagåtña
 PUBLIC HEARINGS ♦ THURSDAY, NOVEMBER 7, 2019

2:00 PM to 4:00 PM Public Hearing: Bill No. 173-35 (COR)- T.M. Terlaje- AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE "CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT". ♦ **Bill No. 99-35 (COR)**- J.C. Moylan- AN ACT TO AMEND §89.13(a) AND §89.13(b) OF CHAPTER 89, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ELECTRONIC MONITORING OF SEX OFFENDERS ON PROBATION OR PAROLE ♦ **Bill No. 148-35 (COR)**- J.C. Moylan- AN ACT TO AMEND § 81.10 OF CHAPTER 81, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO WORK CREDIT FOR THOSE INCARCERATED AT THE DEPARTMENT OF CORRECTIONS.

5:00 PM- 3rd Informational Briefing: GUAM'S MEDICAL MALPRACTICE MANDATORY ARBITRATION ACT (10 GCA, CHAPTER 10): OPTIONS OVERVIEW: RECOMMENDATIONS FOR IMPROVEMENT (ALL HEALTH PROFESSIONALS AND PATIENTS ARE INVITED TO PROVIDE WRITTEN TESTIMONY OR ATTEND HEARING).

If you require any special accommodations or for further information, please contact the Office of Senator Therese M. Terlaje at 472-3586. Testimonies may be submitted to our office at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910, to the Guam Congress Building, or via email at senatorterlaje@guam.gov. The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4 and stream online via http://www.guamlegislature.com/live_feed.htm. This ad is paid for with government funds.

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Re: ARBITRATION HEARING NOV. 7, SUBMIT TO TESTIMONY

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Nov 5, 2019 at 7:11 AM

To: D L <dlubofsky@outlook.com>

Hafa Adai Mr. Lubofsky,

I am confirming receipt of your email and testimony. It will be added to the record and forwarded to Senator Terlaje.

Respectfully,
Charissa Manibusan
Committee Director

On Mon, Nov 4, 2019, 6:47 PM D L <dlubofsky@outlook.com> wrote:

*Greetings Senator Terlaje,*I am submitting testimony for November 7th regarding the Forced Arbitration hearings.
Please let me know if you get it okay.Thank you so very much,
David Lubofsky

Re: Guam Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Sep 17, 2019 at 5:15 PM



Hafa Adai Mr. Keogh,

We are accepting written testimony, which will be included in the Committee Report at the conclusion of the series of hearings, and will be available to the public. Written testimony can be submitted via email here, and can be read into the record if you wish to send a representative to do so. The hearing will also be live streamed on the Legislature's live feed, which can be found here <https://www.youtube.com/channel/UCWGC3ELFerIK7HtSuf70tyg>.

Thank you for your willingness to share your experience and to testify.

Séa A.Cruz

Chief of Staff

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

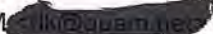
35th Guam Legislature

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On Tue, Sep 17, 2019 at 3:37 PM,  wrote:

Dear Senator Terlaje,

I have seen the notice through the Guam Bar Association of the upcoming hearings on the referenced subject. I have been practicing on Guam and Micronesia for over 42 years. Over this period I have represented numerous clients on both sides of medical malpractice complaints. This representation has involved cases initiated in the Superior Court of Guam prior to the enactment of the MMMAA, several arbitration proceedings under the MMMAA, and Guam Superior and Supreme Court trials and appeals after having complied with the MMMAA. I have also handled medical malpractice claims against GMH under the Government Claims Act. I suggest that I have valuable experience and testimony to impart. Unfortunately, I am currently off-island and will not return until September 27, after the currently scheduled hearings. If any accommodation can be made to allow me to present testimony after my return I will be happy to do all I can to assist in this process.

Thank you for your attention to this request.

Sincerely,

Robert L. Keogh

KEOGH LAW OFFICE

247 Martyr Street

Suite 105

Hagatna, GU 96910

Telephone: 1 (671) 472-6895

Facsimile: 1 (671) 472-6929

www.keoghlawoffice.com

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Re: Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: Guam Bar Association <info@guambar.org>

Tue, Sep 17, 2019 at 3:30 PM

Hafa Adai Edgar,

Thank you for the update. We will be in touch should any further assistance be required.

Sincerely,

Séa A.Cruz

Chief of Staff

--

Office of Senator Therese M. Terlaje**Committee on Health, Tourism, Historic Preservation, Land and Justice***I Mina'trentai Singko na Liheslaturan Guåhan*

35th Guam Legislature

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On Tue, Sep 17, 2019 at 1:53 PM Guam Bar Association <info@guambar.org> wrote:

Hafa Adai Senator,

Just a quick FYI, the request for participation on the Medical Malpractice Mandatory Arbitration Act is scheduled to go to the GBA members (active and inactive) today at 2 pm. I have also posted the request on the Guam Bar website under Announcements as it was the only way to link the PDF letter. I hope our members will take the time to provide their feedback on this important matter.

Please let me know how the Guam Bar can further assist you in any way.

Best Regards,

Edgar Dumlao

Administrative Support Staff

GUAM BAR ASSOCIATION

284 West Chalan Santo Papa

Hagåtña, Guam 96910

Telephone: 671.989.4227

Email: info@guambar.orgWeb: guambar.org

The Guam Bar Association is administered by its Board of Governors.

President: Jacqueline T. Terlaje

Vice President: Minakshi V. Hemlani
Treasurer: John C. Terlaje
Secretary: Janice M. Camacho
Member at Large: Joaquin (Jay) C. Arriola, Jr.
Member at Large: Joseph (Jojo) A. Perez
Past President: Jacqueline T. Terlaje

On Mon, Sep 16, 2019 at 3:02 PM Guam Bar Association <info@guambar.org> wrote:
Hafa Adai Senator!

We are in receipt of your email and notification. I'll be happy to share the request for participation to our GBA members via Listserve email.

Best,
Edgar Dumlao
Administrative Support Staff

GUAM BAR ASSOCIATION

284 West Chalan Santo Papa
Hagåtña, Guam 96910
Telephone: 671.989.4227
Email: info@guambar.org
Web: guambar.org

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Member at Large: Joseph (Jojo) A. Perez
Past President: Jacqueline T. Terlaje

On Mon, Sep 16, 2019 at 1:14 PM Senator Therese Terlaje <senatorterlajeguam@gmail.com> wrote:
September 15, 2019

Transmitted via electronic mail

info@guambar.org

Jacqueline T. Terlaje, Esq.,
President, Guam Bar Association
284 West Chalan Santo Papa, Hagåtña, Guam 96910

Håfa Adai Ms. Terlaje and Guam Bar Association Members,

As Chairperson of the Legislature's Committee on Health, I invite you and your members to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The goal of the first hearing on Thursday, September 19, 2019 at 2:00 p.m., is to present senators and the public with a basic background of the malpractice law, and prior cases interpreting said law. I have invited the Attorney General of Guam to briefly discuss and distinguish the law governing claims against the government and the government health professionals. I have invited Attorney Mitch Thompson, who represents several providers, including the Seventh Day Adventist Clinic, to present an overview of Guam's Medical Malpractice Mandatory Arbitration Act and a few of the relevant past

cases. To accommodate for any differing interpretation or caution regarding the law or the cases, I am also inviting input from those lawyers who affirmatively responded to the Guam Bar Association's call out for lawyers interested in assisting the Legislature with examination of Guam's Medical Malpractice Mandatory Arbitration Act. Senators will be allowed to ask questions of the panel following the presentation or any testimony. Following the information from the lawyers, there will be an opportunity at the first hearing for a limited number of patients or the general public to comment.

All health professionals are invited to a second hearing on Thursday, October 3, 2019 at 5:00 p.m., to focus on the impacts of the current law on their practice, on whether the law ensures the appropriate standard of care on Guam, and the impacts of the law on the availability of qualified health professionals. I have invited the heads of the Guam Medical Association and the Guam Medical Society to lead the health professional's panel. The second hearing will also allow limited testimony from patients and the general public.

Following the second hearing, I would invite each of you to submit suggestions for reform or arguments against reform, which will be more fully considered at a third hearing on Thursday, November 7, 2019 at 2:00 p.m. The Committee is particularly interested in your input as to whether the law can be improved to better protect patients and to ensure an appropriate standard of care. These hearings are for informational purposes only, to allow senators to hear suggestions and make inquiry towards formulation of legislation. The third hearing will also allow testimony from patients and the general public.

We ask that all testimony be submitted in writing in advance, to be distributed to all Senators, and that oral testimony be limited to five minutes.

Note that as of today, no bill has been introduced during this legislative term to revise the current Medical Malpractice Arbitration Act. A separate public hearing on any bill that might be introduced to specifically amend to the law is required. The above-described schedule is subject to change if a bill is introduced or if legislative session is scheduled during these times.

Thank you for your assistance and I look forward to your presence and participation.

Sincerely,
Therese M. Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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Re: Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Tue, Sep 17, 2019 at 5:33 AM

To: dlubofsky <dlubofsky@yahoo.com>

Hafa Adai Mr. Lubofsky,

You can submit your testimony via email to senatorterlajeguam@gmail.com or via hand delivery to the Office of Senator Therese M. Terlaje at Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam; to the mail room of the Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam. One copy is fine.

Respectfully,
Charissa

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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On Tue, Sep 17, 2019 at 12:22 AM dlubofsky <dlubofsky@yahoo.com> wrote:

Thank you Senator,
Where and how do I submit testimony and how many copies.
Thank you,
David

[Get Outlook for Android](#)**From:** Senator Therese Terlaje <senatorterlajeguam@gmail.com>**Sent:** Monday, September 16, 2019 11:29:20 AM**To:** dlubofsky <dlubofsky@yahoo.com>**Subject:** Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

Hafa Adai Mr. Lubofsky,

This is to invite you to a series of informational hearings on September 19, October 3, and November 7, 2019 relative to Guam's Medical Malpractice Mandatory Arbitration Act. There is a set agenda for each hearing, designed to ascertain an overview of the law, and suggestion for changes, and there is time set aside for public input during each hearing. We ask that all testimony be submitted in writing in advance, to be distributed to all senators, and that oral testimony be limited to 5 minutes.

Thank you for your patience and we look forward to your participation at one or all of the hearings.

Therese Terlaje

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I

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35th Guam

Legislature

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Re: Malpractice

1 message

Edward Blounts Jr. [REDACTED]
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 6:56 PM

Dr Cabrera just spoke. It was added in at the last minute. There were no slides. He mentioned the old law that was struck down. The new law, and the issue of some people not being able to afford arbitration.

The members then discussed their concerns. About 1/2 of our members do not have malpractice insurance, so changes to the law worry them.

We want to keep arbitration as it protects physicians by preventing frovalois suits but we want to increase access. We outlined several steps that could help this

The society will not issue an official statement till Thursday when we address the issue again but I have typed a position based on our last meeting. IT IS ONLY PRELIMINARY AND CAN CHANGE. I will add to it and amend based on Thursdays meeting. And the final version goes out Thursday night.

Due to senator Terlaje's support. I met with her at the GMA meeting last month I will send my preliminary report in a second e mail. This is the current consensus of out members and board. As the president my personal feelings are irrelevant as I represent my board and members but in this case I agree with the society.

As I said I will forward, in a separate e mail the society's current position. This could change Thursday evening and our final report will be released then

Ed Blounts

On Mon, Sep 16, 2019, 5:55 PM Senator Therese Terlaje <senatorterlajeguam@gmail.com> wrote:
Hafa Adai Dr. Blounts,

Thank you for your invitation. We will try our best to be there.

You mentioned that your discussion in July was led by Dr. Cabrera. Are you able give a summary of the discussion and provide any materials he may have used or presented during the discussion? This would assist us in preparation for the Public Hearing on Thursday, and with preparing for your meeting, should we be able to attend.

Thank you for your interest and response.

Séa A.Cruz

Chief of Staff

--

Office of Senator Therese M. Terlaje**Committee on Health, Tourism, Historic Preservation, Land and Justice***I Mina'trentai Singko na Liheslaturan Guåhan*

35th Guam Legislature

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On Mon, Sep 16, 2019 at 4:10 PM Edward Blounts Jr. <[REDACTED]> wrote:
Senators,

Thank you for your interest in obtaining a physicians viewpoint on the malpractice issue. As president of the Guam Medical Society I wish to inform you that we will be holding our 2nd discussion on this issue. Our last discussion (July) was lead by Dr Cabrera. This one will feature Mitch Thompson (attorney). It will be held as part of our bi monthly educational meeting series. It is at the View, at Pacific Star. This is on September 19 (Thursday). Doors open at 6 PM and the malpractice issue will be discussed from 6 30 till 7. This is being tacked on at the last minute so there will be other issues presented that evening as well. Public health/CDC have also asked for time to speak on Dengue (7 to 7 30) and then Dr Cabrera will give our educational talk from 7 30 till 8 30. 8 30 till 9 PM will be set aside for networking and it will give our members time to speak to you.

I do apologize for the chopped up nature of this meeting. It was only this weekend we added time for malpractice and dengue.

I would like to envite you and your staff to attend. Food and water /iced tea will be provided.

Dr Nathaniel Berg has also been invited.

After this meeting the medical society will issue an official statement on this matter and we have asked our members to attend the round table series.

Thank you again for your willingness to speak with our members on this important issue

Edward Blounts DO, MSED
2019 President, The Guam Medical Society

On Mon, Sep 16, 2019, 12:02 PM Guam Medical Society <theguammedicalsociety@gmail.com> wrote:

----- Forwarded message -----

From: **Senator Therese Terlaje** <senatorterlajeguam@gmail.com>

Date: Mon, Sep 16, 2019 at 11:48 AM

Subject: Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

To: Guam Medical Society <theguammedicalsociety@gmail.com>, Edward Blounts Jr. <[REDACTED]>

Transmitted via electronic mail

theguammedicalsociety@gmail.com

[REDACTED]

Dr. Edward Blounts, Jr.
President, Guam Medical Society
275G Farenholt, Ave., Suite 248
Tamuning, Guam 96913

Håfa Adai Dr. Blounts and Guam Medical Society Members,

As Chairperson of the Legislature's Committee on Health, I invite your members to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

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I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, **173 Aspinall Avenue**, Hagåtña, Guam 96910

Mailing address: Guam Congress Building, **163 Chalan Santo Papa**, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com

website: www.senatorterlaje.com

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--

Thank You,

Guam Medical Society

Mailing Address: 275G Farenholt Ave., Suite 248 Tamuning, Guam 96913

Email: theguammedicalsociety@gmail.com

INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:28 PM

September 15, 2019

Transmitted via electronic mail

Anita P. Arriola, Esq.
Arriola Law Firm
259 Martyr Street, Suite 201
Hagåtña, Guam 96910

Håfa Adai Ms. Arriola,

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Therese M. Terlaje

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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website: www.senatorterlaje.com

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TMT- Medical Malpractice Letter- Anita Arriola.pdf

150K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåban

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

anriola@arriola.com

Anita P. Arriola, Esq.
Arriola Law Firm
259 Martyr Street, Suite 201
Hagåtña, Guam 96910

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Sincerely,

Therese M. Terlaje

INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: pciville@civilletang.com

Mon, Sep 16, 2019 at 2:23 PM

September 15, 2019

Transmitted via electronic mail

~~pciville@civilletang.com~~

G. Patrick Civile, Esq.
Civille & Tang, PLLC
330 Hernan Cortez Avenue
Hagåtña, Guam 96910

Håfa Adai Mr. Civile,

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature


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 **TMT- Medical Malpractice Letter- Pat Civile.pdf**
154K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~pcville@cciville.com~~

G. Patrick Civile, Esq.
Civille & Tang, PLLC
330 Hernan Cortez Avenue
Hagåtña, Guam 96910

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Senator
THERESE M. TERLAJE

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INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:19 PM

September 15, 2019

Transmitted via electronic mail

Martin F. Deinhart, Esq.
Blair Sterling Johnson & Martinez, P.C.
210 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Mr. Deinhart,

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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TMT- Medical Malpractice Letter- Martin Deinhart.pdf

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~terlajeb@bsmlaw.com~~

Martin F. Deinhart, Esq.
Blair Sterling Johnson & Martinez, P.C.
210 Archbishop Flores Street
Hagåtña, Guam 96910

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www.senatorterlaje.com

Medical Malpractice Insurance Inquiry

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:15 PM


Hafa adai Mr. Paulino,

Please find the attached letter regarding our inquiry into Medical Malpractice Insurance on Guam.

Respectfully,

Séa A.Cruz
Chief of Staff

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan


35th Guam Legislature

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 **Cassidy's Letter.docx**
272K

RE: Medical Malpractice Insurance Inquiry

1 message

Victor Paulino <victorp@cassidysguam.com>

Thu, Sep 19, 2019 at 11:26 AM

To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

~~Cora Lujan <clujan@cassidysguam.com> Puanani Tom <ptom@cassidysguam.com>~~

Hafa adai!

My apologies but I will not be able to attend today's public hearing. My daughter has been out sick and I'll be bringing her back in to her doctor today as she came down with an allergic reaction.

Again, my sincerest apologies.

Greatly appreciate your understanding with my absence today.

Best regards,

Vic

Vic Paulino**Commercial Sales Executive****Cassidy's Associated Insurers, Inc.**

376 West O'Brien Drive

Hagatna, Guam, U.S.A. 96910

T: 1+ (671)472-8834

F: 1+ (671)477-3127

Email: victorp@cassidysguam.comWebsite: www.cassidysguam.com

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From: Senator Therese Terlaje [<mailto:senatorterlajeguam@gmail.com>]**Sent:** Monday, September 16, 2019 4:22 PM

To: Victor Paulino victor.p@casidysqlam.com
Subject: Re: Medical Malpractice Insurance Inquiry

Si Yu'us Ma'ase Mr. Paulino for your prompt response.

The schedule for the public hearings referenced in our letter is as follows:

Thursday, September 19th at 2pm

Thursday, October 3rd at 5pm

Thursday, November 7th at 2pm.

A response by Thursday, the 19th would be greatly appreciated.

Thank you again for your assistance. We look forward to whatever information you're able to provide.

Séa A.Cruz

Chief of Staff

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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35th Guam Legislature

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Mailing address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.com

website: www.senatorterlaje.com

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On Mon, Sep 16, 2019 at 4:06 PM Victor Paulino <victorp@cassidysguam.com> wrote:

Buenas yan Hafa adai!

I confirm receipt of this email with attached letter.

Allow me some time to review the requested information and provide a response.

I'm hoping to provide a response by Thursday.

Greatly appreciate your consideration with this email reply.

Best regards,
Vic

Vic Paulino

Commercial Sales Executive

Cassidy's Associated Insurers, Inc.

376 West O'Brien Drive

Hagatna, Guam, U.S.A. 96910

T: 1+ (671)472-8834

F: 1+ (671)477-3127

Email: victorp@cassidysguam.com

Website: www.cassidysguam.com

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From: Senator Therese Terlaje [<mailto:senatorterlajeguam@gmail.com>]

Sent: Monday, September 16, 2019 2:16 PM

To: victorp@cassidysguam.com

Subject: Medical Malpractice Insurance Inquiry

Hafa adai Mr. Paulino,

Please find the attached letter regarding our inquiry into Medical Malpractice Insurance on Guam.

Respectfully,

Séa A.Cruz

Chief of Staff

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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Senator

THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåban

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 16, 2019

Transmitted via electronic mail

[REDACTED]

Victor Paulino, Commercial Sales Executive
Cassidy's Associated Insurers
376 West O'Brien Drive
Hagåtña, Guam 96910

Håfa Adai Mr. Paulino,

As Chairperson of the Legislature's Committee on Health, I will be conducting series of informational hearings over the next three months as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act. I am hoping Cassidy's can provide information on the availability of Medical Malpractice Insurance on Guam, including whether other insurance companies provide this type of insurance for providers on Guam.

I am also specifically interested in the following information:

- What percentage of physicians on Guam are by insurance?
- What are the criteria providers must meet in order to avail themselves of Medical Malpractice Liability insurance?
- Have there been any denials of a provider's request for Medical Malpractice Liability Insurance? If so, what factors contributed to the denial or denials?
- How many Medical Malpractice Insurance claims have been made with Cassidy's?

Any information you can provide in general regarding Medical Malpractice Insurance on Guam and in response to these specific questions would be appreciated.

Thank you for your assistance.

Sincerely,

Therese M. Terlaje

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INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Law

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:15 PM

September 15, 2019

Transmitted via electronic mail

R. Marsil Johnson, Esq.
Blair Sterling Johnson & Martinez, P.C.
210 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Mr. Johnson,

As Chairperson of the Legislature's Committee on Health, I invite you to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The goal of the first hearing on September 19, 2019 at 2:00 p.m., is to present senators and the public with a basic background of the malpractice law, and prior cases interpreting said law. I have invited the Attorney General of Guam to briefly discuss and distinguish the law governing claims against the government and the government health professionals. I have invited Attorney Mitch Thompson, who represents several providers, including the Seventh Day Adventist Clinic, to present an overview of Guam's Medical Malpractice Mandatory Arbitration Act and a few of the relevant past cases. To accommodate for any differing interpretation or caution regarding the law or the cases, I am also inviting input from those lawyers who affirmatively responded to the Guam Bar Association's call out for lawyers interested in assisting the Legislature with examination of Guam's Medical Malpractice Mandatory Arbitration Act. Senators will be allowed to ask questions of the panel following the presentation or any testimony. Following the information from the lawyers, there will be an opportunity at the first hearing for a limited number of patients or the general public to comment.

All health professionals are invited to a second hearing on October 3, 2019 at 5:00 p.m., to focus on the impacts of the current law on their practice, on whether the law ensures the appropriate standard of care on Guam, and the impacts of the law on the availability of qualified health professionals. I have invited the heads of the Guam Medical Association and the Guam Medical Society to lead the health professional's panel. The second hearing will also allow limited testimony from patients and the general public.

Following the second hearing, I would invite each of you to submit suggestions for reform or arguments against reform, which will be more fully considered at a third hearing on November 7, 2019 at 2:00 p.m. The Committee is particularly interested in your input as to whether the law can be improved to better protect patients and to ensure an appropriate standard of care. These hearings are for informational purposes only, to

allow senators to hear suggestions and make inquiry towards formulation of legislation. The third hearing will also allow testimony from patients and the general public.

We ask that all testimony be submitted in writing in advance, to be distributed to all Senators, and that oral testimony be limited to five minutes.

Note that as of today, no bill has been introduced during this legislative term to revise the current Medical Malpractice Arbitration Act. A separate public hearing on any bill that might be introduced to specifically amend to the law is required. The above-described schedule is subject to change if a bill is introduced or if legislative session is scheduled during these times.

Thank you for your assistance and I look forward to your presence and participation.

Sincerely,
Therese M. Terlaje

—
Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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TMT- Medical Malpractice Letter- Mars Johnson.pdf

152K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~th.terlaje@bsmlaw.com~~

R. Marsil Johnson, Esq.
Blair Sterling Johnson & Martinez, P.C.
210 Archbishop Flores Street
Hagåtña, Guam 96910

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Senator
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Committee on Health, Tourism, Historic Preservation, Land and Justice

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Thank you for your assistance and I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:09 PM

September 15, 2019

Transmitted via electronic mail

John R. B. Bell, Esq.
The Law Office of John Richard Bordallo Bell
157 Veronica Way
Tamuning, Guam 96910

Håfa Adai Mr. Bell,

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Sincerely,
Therese M. Terlaje

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature


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 **TMT- Medical Malpractice Letter- John Bell.pdf**
151K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~john.r.b.bell@gmail.com~~

John R. B. Bell, Esq.
The Law Office of John Richard Bordallo Bell
157 Veronica Way
Tamuning, Guam 96910

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Sincerely,

Therese M. Terlaje

INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:05 PM

September 15, 2019

Transmitted via electronic mail

Curtis C. Vandeveld, Esq.
The Vandeveld Law Office
123 Hernan Cortes Avenue
Hagåtña, Guam 96910

Håfa Adai Mr. Vandeveld,

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 2:01 PM

To: [REDACTED]

September 15, 2019

Transmitted via electronic mail

[REDACTED]

Jeffrey A. Cook, Esq.
Cunliffe & Cook
210 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Mr. Cook,

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Thank you for your assistance and I look forward to your presence and participation.

Sincerely,
Therese M. Terlaje

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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35th Guam Legislature

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TMT- Medical Malpractice Letter- Jeffrey Cook.pdf

151K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guãhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

[REDACTED]
Jeffrey A. Cook, Esq.
Cunliffe & Cook
210 Archbishop Flores Street
Hagåtña, Guam 96910

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Tel: (671) 472-3586 | Fax: (671) 969-3590 | Email: senatorterlajeguam@gmail.com

www.senatorterlaje.com



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Thank you for your assistance and I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

Mailing Address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

Office Address: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

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INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 1:54 PM

September 15, 2019

Transmitted via electronic mail

Gloria L. Rudolph, Esq.
Lujan & Wolff, LLP
DNA Building, Suite 300
238 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Ms. Rudolph,

As Chairperson of the Legislature's Committee on Health, I invite you to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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website: www.senatorterlaje.com

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TMT- Medical Malpractice Letter- Gloria Rudolph.pdf

151K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~crudo@guamcourts.org~~

Gloria L. Rudolph, Esq.
Lujan & Wolff, LLP
DNA Building, Suite 300
238 Archbishop Flores Street
Hagåtña, Guam 96910

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Thank you for your assistance and I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

Medical Malpractice Informational Briefing Invite

1 message

Senator Telo Taitague <senatortelot@gmail.com>
To: "Senator Therese M. Terlaje" <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 9:47 AM

~~cc: "Senator Telo Taitague" <senatortelot@gmail.com>~~

Hafa adai Chairwoman Terlaje,

Please see attached letter.

Best regards,
Senator Telo Taitague

Si Yu'os Ma'åse,

Create a Great Day!

Senator Telo T. Taitague

Minority Whip

35th Guam Legislature


Suite 309 DNA Building

238 Archbishop Flores St.

Hagatna, Guam 96910

Tel: (671) 989-8356

Email: senatortelot@gmail.com

 **Ltr. to Sen.Terlaje - Medical Malpractice Info Briefings Invite.pdf**
218K

Re: Medical Malpractice Informational Briefing Invite

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: Senator Telo Taitague <senatortelot@gmail.com>

Mon, Sep 16, 2019 at 1:51 PM

Håfa Adai Senator Taitague,

Thank you for your letter. We will make every effort to accommodate your request. We have requested that written testimony be submitted prior to the hearings, and that oral testimony be limited to five minutes in length.

Si Yu'us Ma'åse,

Séa A.Cruz
Chief of Staff

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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On Mon, Sep 16, 2019 at 9:51 AM Senator Telo Taitague <senatortelot@gmail.com> wrote:

Hafa adai Chairwoman Terlaje,

Please see attached letter.

Best regards,
Senator Telo Taitague

Si Yu'os Ma'åse,

Create a Great Day!
Senator Telo T. Taitague

Minority Whip

35th Guam Legislature

Suite 309 DNA Building

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Tel: (671) 989-8356

Email: senatortelot@gmail.com



OFFICE OF SENATOR

Telo T. Taitague

Minority Whip

I Mina'trentai Singko Na Liheslaturan Guåhan • 35th Guam Legislature

Ste. 309 DNA Building
238 Archbishop Flores St.
Hagatna, Guam 96910
(671) 989-8356
senatortelot@gmail.com

September 16, 2019

The Honorable Senator Therese Terlaje
Chairperson, Committee on Health, Tourism,
Historic Preservation, Land and Justice
Mina' Trentai Singko na Liheslaturan Guåhan
Sent via: senatorterlajeguam@gmail.com

Subject: Medical Malpractice Informational Briefing Invite

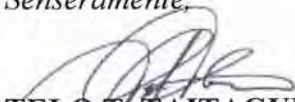
Håfa adai Chairwoman Terlaje,

Thank you for scheduling a series of informational briefings regarding the Medical Malpractice Mandatory Arbitration Act. To help ensure participation from pertinent voices across our community, I respectfully request for the Committee on Health, Tourism, Historic Preservation, Land and Justice to invite the following individuals and organizations to attend the briefings as their schedules permit:

1. Health Insurance Companies
2. Unified Judiciary of Guam
3. Attorney General of Guam
4. Guam Bar Association
5. Department of Public Health & Social Services
6. Guam Board of Allied Health Examiners
7. Guam Board of Medical Examiners
8. American Medical Center
9. Attorney Michael Phillips
10. Attorney Robert Keogh
11. Department of Administration

I appreciate your consideration of this request.

Senseramente,


TELO T. TAITAGUE
Senator

INFORMATIONAL HEARINGS: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 1:19 PM

September 15, 2019

Transmitted via electronic mail

Larry Lizama, M.D.
IHP Medical Group
655 Harmon Loop Road, Suite 108
Dededo, Guam 96929

Håfa Adai Dr. Lizama,

As Chairperson of the Legislature's Committee on Health, I invite you to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

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I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature


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 **TMT- Medical Malpractice Letter- Dr. Larry Lizama.pdf**
151K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåban

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

~~linda@guam.net~~

Larry Lizama, M.D.
IHP Medical Group
655 Harmon Loop Road, Suite 108
Dededo, Guam 96929

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Sun, Sep 15, 2019 at 3:07 PM

To: [REDACTED]

Hafa Adai Dr. Lizama,

Here is the link to the Medical Malpractice Mandatory Arbitration Act that was passed in 1991. Please see Section 10131 regarding Damages. <http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The schedule for the informational hearings is: September 19, October 3, and November 7 at 2p.m. Tomorrow I will be sending out a formal email inviting all health professionals to the October 3 hearing.

Thank you,
Therese Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 12:04 PM

September 15, 2019

Transmitted via electronic mail

[REDACTED]
Mitchell F. Thompson, Esq.
Thompson Thompson & Alcantara, P.C.
DNA Building, Suite 801
238 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Mr. Thompson,

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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TMT- Medical Malpractice Letter- Mitch Thompson.pdf

155K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

mthompson@tdslaw.net

Mitchell F. Thompson, Esq.
Thompson Thompson & Alcantara, P.C.
DNA Building, Suite 801
238 Archbishop Flores Street
Hagåtña, Guam 96910

Håfa Adai Mr. Thompson,

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Following the second hearing, I would invite each of you to submit suggestions for reform or arguments against reform, which will be more fully considered at a third hearing on Thursday, November 7, 2019 at 2:00 p.m. The Committee is particularly interested in your input as to whether the law can be improved to better protect patients and to ensure an appropriate standard of care. These hearings are for informational purposes only, to allow senators to hear suggestions and make inquiry towards formulation of legislation. The third hearing will also allow testimony from patients and the general public.

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Note that as of today, no bill has been introduced during this legislative term to revise the current Medical Malpractice Arbitration Act. A separate public hearing on any bill that might be introduced to specifically amend to the law is required. The above-described schedule is subject to change if a bill is introduced or if legislative session is scheduled during these times.

Thank you for your assistance and I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

Re: Guam arbitration law meetings

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Sun, Sep 15, 2019 at 1:33 PM

[REDACTED]
Hafa Adai Atty Thompson,

Could you please call me at [REDACTED] as earliest convenience? I would like to discuss this matter further with you.

Thank you,

Therese Terlaje

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Mailing address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajeguam@gmail.comwebsite: www.senatorterlaje.com

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On Fri, Sep 13, 2019 at 2:03 PM Mitch Thompson [REDACTED] wrote:

I have heard from a number of doctors that they would like to attend one or more of the meetings, but the current schedule (early afternoon) is disruptive of the care of their patients. I wonder if it would be possible to move at least one of these meetings to 5 p.m.?

Also, I was a little unclear as to the breakdown of the 3 meetings. Is the intent that only patients are to appear at the 1st meeting, with providers only to appear at the 2nd? I look forward to clarification on this point.

Thank you.

Mitchell F. Thompson**Thompson Thompson & Alcantara, PC****238 Archbishop Flores Street , Suite 801****Hagåtña, Guam 96910****Telephone: (671) 472-2089**

Facsimile: (671) 477-5206

Email: Mthompson@ttalaw.net

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Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>
To: Guam Bar Association <info@guambar.org>

Mon, Sep 16, 2019 at 1:14 PM

September 15, 2019

Transmitted via electronic mail
info@guambar.orgJacqueline T. Terlaje, Esq.,
President, Guam Bar Association
284 West Chalan Santo Papa, Hagåtña, Guam 96910

Håfa Adai Ms. Terlaje and Guam Bar Association Members,

As Chairperson of the Legislature's Committee on Health, I invite you and your members to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The goal of the first hearing on Thursday, September 19, 2019 at 2:00 p.m., is to present senators and the public with a basic background of the malpractice law, and prior cases interpreting said law. I have invited the Attorney General of Guam to briefly discuss and distinguish the law governing claims against the government and the government health professionals. I have invited Attorney Mitch Thompson, who represents several providers, including the Seventh Day Adventist Clinic, to present an overview of Guam's Medical Malpractice Mandatory Arbitration Act and a few of the relevant past cases. To accommodate for any differing interpretation or caution regarding the law or the cases, I am also inviting input from those lawyers who affirmatively responded to the Guam Bar Association's call out for lawyers interested in assisting the Legislature with examination of Guam's Medical Malpractice Mandatory Arbitration Act. Senators will be allowed to ask questions of the panel following the presentation or any testimony. Following the information from the lawyers, there will be an opportunity at the first hearing for a limited number of patients or the general public to comment.

All health professionals are invited to a second hearing on Thursday, October 3, 2019 at 5:00 p.m., to focus on the impacts of the current law on their practice, on whether the law ensures the appropriate standard of care on Guam, and the impacts of the law on the availability of qualified health professionals. I have invited the heads of the Guam Medical Association and the Guam Medical Society to lead the health professional's panel. The second hearing will also allow limited testimony from patients and the general public.

Following the second hearing, I would invite each of you to submit suggestions for reform or arguments against reform, which will be more fully considered at a third hearing on Thursday, November 7, 2019 at 2:00 p.m. The Committee is particularly interested in your input as to whether the law can be improved to better protect patients and to ensure an appropriate standard of care. These hearings are for informational purposes only, to allow senators to hear suggestions and make inquiry towards formulation of legislation. The third hearing will also allow testimony from patients and the general public.

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Thank you for your assistance and I look forward to your presence and participation.

Sincerely,
Therese M. Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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website: www.senatorterlaje.com

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TMT- Medical Malpractice Hearings- Guam Bar Association.pdf

156K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guãban

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

info@guambar.org

Jacqueline T. Terlaje, Esq.,
President, Guam Bar Association
284 West Chalan Santo Papa, Hagåtña, Guam 96910

Håfa Adai Ms. Terlaje and Guam Bar Association Members,

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www.senatorterlaje.com



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Therese M. Terlaje

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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35th Guam Legislature

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TMT- Medical Malpractice Letter- Guam Medical Association.pdf

153K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

guammedicalassn@gmail.com

Dr. Thomas Shieh M.D.
Guam Medical Association
339 Chalan San Antonio, Suite 101
Tamuning, Guam 96913

Håfa Adai Dr. Shieh and Guam Medical Association Members,

As Chairperson of the Legislature's Committee on Health, I invite your members to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Therese M. Terlaje



Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 11:47 AM

To: Guam Medical Society <theguammedicalsociety@gmail.com>, [REDACTED]

Transmitted via electronic mail

theguammedicalsociety@gmail.com

[REDACTED]

Dr. Edward Blounts, Jr.
President, Guam Medical Society
275G Farenholt, Ave., Suite 248
Tamuning, Guam 96913

Håfa Adai Dr. Blounts and Guam Medical Society Members,

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Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

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website: www.senatorterlaje.com

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TMT- Medical Malpractice Letter- Guam Medical Society.pdf

151K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

theguammedicalsociety@gmail.com

Dr. Edward Blounts, Jr.
President, Guam Medical Society
275G Farenholt Ave., Suite 248
Tamuning, Guam 96913

Håfa Adai Dr. Blounts and Guam Medical Society Members,

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Senator
THERESE M. TERLAJE

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35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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I look forward to your presence and participation.

Sincerely,

Therese M. Terlaje

Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 11:29 AM


Hafa Adai Mr. Lubofsky,

This is to invite you to a series of informational hearings on September 19, October 3, and November 7, 2019 relative to Guam's Medical Malpractice Mandatory Arbitration Act. There is a set agenda for each hearing, designed to ascertain an overview of the law, and suggestion for changes, and there is time set aside for public input during each hearing. We ask that all testimony be submitted in writing in advance, to be distributed to all senators, and that oral testimony be limited to 5 minutes.

Thank you for your patience and we look forward to your participation at one or all of the hearings.

Therese Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan


35th Guam Legislature

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152K

Informational Hearings: Guam's Medical Malpractice Mandatory Arbitration Act

1 message

Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Mon, Sep 16, 2019 at 11:26 AM

To: Speaker's Office <speaker@guamlegislature.org>, phnotice@guamlegislature.org

Bcc: reporters@postguam.com, mindy@postguam.com, The Post Editor in Chief <editor@postguam.com>, nick@postguam.com, Kevin <kevin@postguam.com>, Desk Editor <deskeditor@postguam.com>, John Oconnor <john@postguam.com>, Lannie Walker <lannie@postguam.com>, parroyo@k57.com, Phill Leon Guerrero <phill@spbguam.com>, andrea@k57.com, Sorensen Pacific Broadcasting <news@spbguam.com>, josh@spbguam.com, Joycelynn Atalig <joycelynn@spbguam.com>, amanda@spbguam.com, louella@spbguam.com, aiyana@spbguam.com, gerry@spbguam.com, jolene@spbguam.com, Joan Aguon Charfauros <joan@kuam.com>, Chris Malafunkshun Barnett <Chris@kuam.com>, adriana@kuam.com, Nestor Licanto <nestor@kuam.com>, Jason Salas <jason@kuam.com>, Sabrina Salas Matanane <Sabrina@kuam.com>, julius@kuam.com, heugenio@guampdn.com, "Kaur, Anumita" <AKaur@guam.gannett.com>, Jerick Sablan <jpsablan@guampdn.com>, "Stole, Jasmine" <jstole@guam.gannett.com>, Steve Limtiaco <slimtiaco@guampdn.com>, Mar-Vic Cagurangan <publisher@pacificislandtimes.com>, publisher@glimpsesofofguam.com, businesseditor@glimpsesofofguam.com, Bruce Hill <pacificjournalist@gmail.com>, KISH <kstokish@gmail.com>, KPRG <admin.kprg@gmail.com>, KPRG Guam <pdkprg@gmail.com>, Manuel Cruz <cruzma812@gmail.com>, Troy Torres <troy@kanditnews.com>, raygibsonshow@gmail.com, Laila Boyer <laila.boyer@mvariety.com>, editor@mvariety.com, cherrie@mvariety.com, emmanuel@mvariety.com, lyn@mvariety.com, junhan@mvariety.com, bryan@mvariety.com, jayvee_vallejera@saipantribune.com, mark_rabago@saipantribune.com, ferdie_delatorre@saipantribune.com, erwin_encinares@saipantribune.com, bea_cabrera@saipantribune.com, kimberly_bautista@saipantribune.com, jon_perez@saipantribune.com, roselyn_monroyo@saipantribune.com, ashleykspn2@gmail.com

RE: Guam's Medical Malpractice Mandatory Arbitration Act Informational Hearings

Transmitted via electronic mail
phnotice@guamlegislature.org

Håfa Adai Speaker Muña Barnes and Colleagues,

As Chairperson of the Legislature's Committee on Health, I invite you to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The goal of the first hearing on September 19, 2019, at 2:00 p.m. is to present senators and the public with a basic background of the malpractice law, and prior cases interpreting said law. I have invited the Attorney General of Guam to briefly discuss and distinguish the law governing claims against the government and government health professionals. I have invited Attorney Mitch Thompson, who represents several providers, including Seventh Day Adventist Clinic, to present an overview of Guam's Medical Malpractice Mandatory Arbitration Act and a few of the relevant past cases. To accommodate for any differing interpretation or caution regarding the law or the cases, I am also inviting input from those lawyers who affirmatively responded to the Guam Bar Association's call out for lawyers interested in assisting the Guam Legislature with examination of Guam's Medical Malpractice Mandatory Arbitration Act. Senators will be allowed to ask questions of the panel following the presentation or any testimony. Following the information from the lawyers, there will be an opportunity at the first hearing for a limited number of patients or the general public to comment.

Health professionals will be invited to a second hearing on October 3, 2019 at 5:00 p.m., to focus on the impacts of the current law on their practice, on whether the law ensures the appropriate standard of care on

Guam, and the impacts of the law on the availability of qualified health professionals. I have invited the heads of the Guam Medical Association and the Guam Medical Society to lead the health professional's panel. The second hearing will also allow limited testimony from patients and the general public.

Following the second hearing, I am extending an open invitation to the legal and health professionals, along with the public, to submit suggestions for reform or arguments against reform, which will be more fully considered at a third hearing on November 7, 2019, at 2:00 p.m. The Committee is particularly interested in input as to whether the law can be improved to better protect patients and to ensure an appropriate standard of care. The third hearing will also allow testimony from patients and the general public.

These hearings are for informational purposes only, to allow senators to hear suggestions and make inquiry towards formulation of legislation. Note that as of today, no bill has been introduced during this legislative term to revise the current Medical Malpractice Mandatory Arbitration Act. A separate public hearing is still required on any bill that might be introduced to specifically amend the law. The above-described schedule is subject to change, especially if a bill is introduced or if legislative session is scheduled during these times.

Si Yu'os Ma'ase,

Therese Terlaje

--

Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature


Office Location: Ada Plaza Center, Suite 207, 173 Aspinall Avenue, Hagåtña, Guam 96910

Mailing address: Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910

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 **TMT- Medical Malpractice Hearings- Senators.pdf**
152K



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

September 15, 2019

Transmitted via electronic mail

phnotice@guamlegislature.org

Speaker Muña Barnes and Senators, 35th Guam Legislature
Guam Congress Building
Hagåtña, Guam

Håfa Adai Speaker Muña Barnes and Colleagues,

As Chairperson of the Legislature's Committee on Health, I invite you to participate in a series of informational hearings as part of the committee's efforts to examine Guam's Medical Malpractice Mandatory Arbitration Act:

<http://www.guamcourts.org/CompilerofLaws/GCA/10gca/10gc010.PDF>

The goal of the first hearing on September 19, 2019, at 2:00 p.m. is to present senators and the public with a basic background of the malpractice law, and prior cases interpreting said law. I have invited the Attorney General of Guam to briefly discuss and distinguish the law governing claims against the government and government health professionals. I have invited Attorney Mitch Thompson, who represents several providers, including Seventh Day Adventist Clinic, to present an overview of Guam's Medical Malpractice Mandatory Arbitration Act and a few of the relevant past cases. To accommodate for any differing interpretation or caution regarding the law or the cases, I am also inviting input from those lawyers who affirmatively responded to the Guam Bar Association's call out for lawyers interested in assisting the Guam Legislature with examination of Guam's Medical Malpractice Mandatory Arbitration Act. Senators will be allowed to ask questions of the panel following the presentation or any testimony. Following the information from the lawyers, there will be an opportunity at the first hearing for a limited number of patients or the general public to comment.

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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Libeslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

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Sincerely,

Therese M. Terlaje

cc: All Media



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

PUBLIC HEARING AGENDA
Thursday, November 07, 2019

2:00 PM to 4:00 PM

- Bill No. 173-35 (COR) - Therese M. Terlaje- AN ACT TO ADD A NEW CHAPTER 93 TO TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A STANDARDIZED RISK ASSESSMENT AND SYSTEM OF TREATMENT PROGRAMS FOR CRIMINAL SEXUAL CONDUCT OFFENDERS, WHICH SHALL BE KNOWN AS THE "CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT"
- Bill No. 99-35 (COR) - James C. Moylan- AN ACT TO AMEND §89.13(a) AND §89.13(b) OF CHAPTER 89, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ELECTRONIC MONITORING OF SEX OFFENDERS ON PROBATION OR PAROLE.
- Bill No. 148-35 (LS) - James. C. Moylan-AN ACT TO AMEND § 81.10 OF CHAPTER 81, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO WORK CREDIT FOR THOSE INCARCERATED AT THE DEPARTMENT OF CORRECTIONS.

5:00 PM: (Previously scheduled at 2:00 PM)

Note this hearing is the third of a three-part series

- 3RD Informational Briefing on *Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing)*



I Mina'trentai Singko na Liheslaturan Guåhan
Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

Date: **Thursday, November 07, 2019**

Time: **5:00 PM**

3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	David Lubofsky	Tamuning	687-2819 09173	dlubofsky@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
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**I Mina'trentai Singko na Liheslaturan Guahan
Office of Senator Therese M. Terlaje**

Committee on Health, Tourism, Historic Preservation, Land and Justice

Date: Thursday, November 07, 2019

Time: 5:00 PM

3rd Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10): Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearing).

	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Dr. Ferman de Guzman	109 Keku Lane	649-9104	celes-deguzman@			✓	
2	Ms. Felicitia de Guzman	Tamuning Guam		hothment.com			✓	
3	DENNIS A. STAMMERTING	Tamuning	647 2511					
4	Mamie Balajadia	Dededo	688-6264				✓	
5	HOA NAURU	PETI	486-6210				✓	
6	Phillip Tutwauer	Tamuning	788-1500				✓	
7	Teresa Underwood	Tamuning	588-2394	cfwhguam@gmail		✓		
8	ALFREDO BUSTAMANTE	PITI	483-0206	alfredob@prol.com		✓		
9	Mo-Ping Tham	Tamuning	929-4246			✓		
10	Reynald Bus	Tamuning						
11	Doris Lu	Tamuning						



I Mina'trentai Singko na Liheslaturan Guåhan
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Committee on Health, Tourism, Historic Preservation, Land and Justice

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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Antonio Garcia	Tamuning, GU	4886714					
2	Dr. Mahi Karjunapp	Tamuning, GU	488-8953					
3	P. Geighton	Tamuning,	401 688-6074					
4	Erika Aiford	Tamuning	647-8242			✓		
5	Mitch Thompson	CU TTA	472-2085			✓		
6	PAUL SAUJET	Tamuning	864-8809					
7	RACHEL CERNA	DEDEDU	456-6538					
8	Wilson W. Weepong	Asiatic	565-9416					
9	Sarah Clegg	Tamuning	670 783 3460					
10	Peachy Piana	Dededo	482-2978					



I Mina'trentai Singko na Liheslaturan Guåhan
Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Ramel @lor	the Newmyr clinic	645-0469	theneurologist@telikom.net				
2	TOM SHIELT	Dns SHIELT	777-8360	Doctor shielty				
3	MICHAEL ABUWONCA	THOMAS LEE DENTAL	969-8533	leadental@guam.net				
4	Joseph Helm MD	Island Surgical	929-3478	jhelm970@gmail.com				
5	Melissa Helm	AMC						
6	Robert Keogh	POGZ Nagatna	472-6895	RIK@guam.net				
7	Amanda del Rosario	AMC	480-4263					
8	DINA DOMALANNA VILLANNA	TPAC	482-2314					
9	Mesitt Idechon	Guam SDA Clinic	938-3037	mesitt@gmail.com				
10	N. BERG	GRC	649-1001					



I Mina'trentai Singko na Liheslaturan Guåhan
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	NHSM Franco, MD	129 Grv Roadle,	482-3657					
2								
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I Mina'trentai Singko na Liheslaturan Guåhan
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	JOEL RUBIO, MD	TAMUNING					✓	
2	STAN YASUHIRO	TAMUNING				✓		
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I Mina'trentai Singko na Liheslaturan Guåhan
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Victor Perez	114 ETON COURT, S.W.A.J.A.N.A GUAM 96910	988-8040	drvmpervez@yahoo.com		X		
2	Edna Acuna	GRMC	929 9745					
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I Mina'trentai Singko na Liheslaturan Guåhan
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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	FLORENCE Lizama	G M H	G M H	larry.lizama@gmh.org	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2	Luca Nguyen	AMC		nguyen22@gmail.com	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Colin Souza	Payneville clinic	4828716	ngcolinsouza@yaho.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Arellyn	Lagrimas	777-5601		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Michael Robinson	388ypa rd	773-2481	mrobman@gusda.com	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



I Mina'trentai Singko na Liheslaturan Guåhan
Office of Senator Therese M. Terlaje

Committee on Health, Tourism, Historic Preservation, Land and Justice

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	NAME	ADDRESS	CONTACT NO.	E-MAIL	Type of Testimony		Support	
					WRITTEN	ORAL	Yes	No
1	Maria Blancia	MP6 Delicias	6485437	maria.blancia@awl.gm				
2	ERIC PLINSKE	133 ROUTE 3 DEDEDO, GU 96929	688-3571	eric.plinske@grmc.gu				
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November 5, 2019

Hafa Adai Senators,

I write this testimony in opposition to repealing Guam's current malpractice arbitration law. The recent events involving the deaths of certain individuals is without a doubt tragic and heartbreaking, I can't even imagine. However attacking the hard working medical personnel we have at Guam Memorial Hospital and throughout our island community is not the answer. My name is Dr. Vinny Duenas and I returned home in 2013 to fulfill my lifelong dream of becoming a physician. Born and raised on Guam, I am too familiar with the many struggles our people face day in and day out. I must say though that in the past 6 years of practice here, I have seen tremendous progress in the quality of medical care provided to our island community. I am both proud and honored to work amongst some of the most dedicated and competent professionals I've ever come across. Because of this I remain committed to the growth of this industry and anticipate nothing but great things for the future of medical services on Guam. There are many factors that affect the outcome of a patient, factors that many people are unaware of, and furthermore may not even comprehend. The recent storm of accusations and lack of appreciation for the medical practice has forced me to resign my position in the Guam Board of Medical Examiners just a few weeks ago. In addition, it has also led me to make an exit from GMH as an internal medicine hospitalist. My last shift will be next month. It's possible that other fellow docs will follow suit. Not because of wrongdoing or fear of litigation, but rather just not wanting to deal with such stressors. It's hard enough to do what we do on a daily basis. We save lives, keep people healthy, that's what we signed up for. We sacrifice time, we sacrifice family, personal health, and many other things to commit to our calling. Being a physician is not

just a job. It's a personal, spiritual, and moral duty. To be constantly under fire and to have our extremely hard work criticized and discredited is beyond disappointing. It's offensive. If the malpractice law is changed I only see bad things in Guam's future. Making it easier to sue will not improve quality of care but rather put us in a much more compromising position. Physicians will leave and no one will come to replace them. Physician competency and patient safety should be left in the hands of professionals, in the hands of the medical board, in the hands of the AMA. We're already held to the highest standard. Nothing will change that.

Very Respectfully,

Vincent S. Duenas, D.O.

Internal Medicine

*The Law Office of
John Richard Bordallo Bell*

157 Veronica Way, Tamuning, Guam 96913
Tel: (671) 646-5722 (JRBB) Fax: (671) 646-5721
Cell: (671) 488-1159/www.johnbellguam.com/Email: john.r.b.bell@gmail.com

November 7, 2019

Honorable Therese M. Terlaje
35th Guam Legislature
Hagåtña, Guam 96910

Re: Supplemental Testimony regarding Mandatory Medical Malpractice.

Dear Senator,

Thank you for addressing this issue and inviting my comments. Having attended the first couple of hearings, submitted my testimony on September 18th, and read and listened to what others had to say, I would like to address a few things. I am currently off island on urgent court-related business but will submit this via email while I am away. I have a fair deal of medical malpractice education, training, and direct experience, both as an attorney and as a patient born and raised on Guam. To get to the bottom-line up front, I endorse Attorney Robert Keogh's idea of simply getting rid of the current arbitration act altogether and allowing patients to simply litigate malpractice suits before a court just like any other personal injury negligence case.

In order to explain my position, I would like to address some of the comments made at the second hearing. I have friends, relatives, and even clients who are in the medical community whose interests I care about very much. But some of what was said by certain physicians and other health professionals was simply wrong; legally, factually, and morally, in my opinion. Arbitration might be faster but it is definitely not cheaper, as Mr. Keogh much more competently made my earlier point about how it costs tens of thousands, or even over \$100,000.00 *in costs alone* as compared to a trial court wherein the costs to the injured party would probably be less than \$10,000 over a couple of years. I especially took exception to one comment that the claimant and her lawyer would be somehow able to pay the costs of arbitration if it were really a good case. That really shows how out of touch some people are. Physicians on Guam often make hundreds of thousands per year. The typical injured patient does not. I know I certainly don't have that kind of money; in part, *because* I tend to represent low income clients.

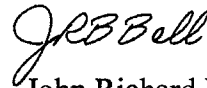
I get that I am not a physician. But I do not understand the 'defensive medicine' arguments suggesting that doctors would be forced to order unnecessary and risky tests to avoid malpractice. That shows the misunderstanding of how the law works. The tests are either necessary or they are not, on the medical facts, based on the local standard of care and options feasibly available. If ordering a test is more risky than not, then don't order the test. Doctors are required to weigh the risks and (if able) allow the patient to make an informed choice. The only question is whether the doctor acted *negligently*. Let's not conflate negligence with strict liability, because that is not what we are talking about here. Let us not be fooled by the false dichotomy of 'it's either our current system or a "highly litigious environment."' There is no data to support that claim. There is no data to support wild allegations of litigation run amok. Physicians can easily win lawsuits on summary judgment for less cost than a patient or her family would need to spend in order to push a valid claim through arbitration.

Respectfully, I believe some people are out of touch with the economic realities of everyday Guamanians. I interpreted some of the testimony by physicians as, 'we deserve to make all this money and be immune from court lawsuits because we worked hard and paid a lot for medical school and make sacrifices.' Can't many professionals on Guam claim the same? I can only speak for myself, but I left law school with \$195,000 in debt, and that was with the GI Bill and a half-priced scholarship. Due to our broken student loan system, I now owe close to \$300,000 in student loans. I certainly work hard. I have certainly sacrificed more than anyone will know. But I am not immune from suit. I can and do practice my craft with diligence and a great deal of care, not only because it is right and ethical, but because I can be sued, and *personally* at that. With all due respect, what makes

healthcare professionals so special? Why shouldn't they be held liable for their own personal negligence like anyone else? Addressing some of their concerns about the high cost of malpractice insurance, you should ask them how much they net *after* paying insurance. It's still hundreds of thousands per year for many of these professionals. They are not starving I assure you. They are paid top dollar and there is nothing wrong with that. We all want them to excel. My point is that they can and will be able to afford to practice even if without the act.

The sad reality is that most valid malpractice claims go unaddressed because victims simply cannot afford the high start-up costs of arbitration as compared to litigation. Generally speaking, only the doctors/clinics can. Thus, the arbitration act as it stands is very one-sided. The testimony of the families of patients who have suffered the consequences of negligence was extremely powerful and moving. We ought not legislate based purely on emotion, but I would venture to guess we all agree that legislation ought to be based on what we feel is the just, moral, and ethical thing to do. The current act unfairly shifts the risk and cost to those who can least afford it. That is why I am for simply banning Guam's current medical malpractice act and permitting patients and their loved ones and advocates to litigate medical malpractice cases just like any other civil litigation.

Respectfully,

A handwritten signature in cursive script that reads "JRBBell". The signature is written in black ink and is positioned above the printed name.

John Richard Bordallo Bell, Esq.



HEALTH SERVICES OF THE PACIFIC

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October 4, 2019

**Senator
Therese M. Terlaje**

OCT 21 2019

Time: 10:55am

Received by: [Signature]

To: Senator Therese Terlaje
Ada Plaza Center, 173 Aspinall Ave
Suite 207, Hagåtña, 96910, Guam

Re: Testimony on Medical Malpractice
Edmund F. Schroeder, MD

I have been a family practice physician on Guam for 35 plus years. I have been in several different practice situations; I love Guam and its wonderful people. To quote from Governor Calvo, I consider myself a "Guamanian". I spent a substantial part of my career without malpractice insurance. During that time, I was very aware that essentially all my family's assets and possessions were potentially at risk of loss from malpractice lawsuits.

During my career I have gone through one malpractice lawsuit. It was decided by arbitration, before a single retired judge. It was stressful, but I felt the process was fair.

In my opinion and experience, arbitration offers a reasonable and fair process for at least a first review of malpractice claims. I believe the current law allows the claimant to pursue a suit despite an adverse arbitration decision.

I acknowledge that as currently offered, arbitration provides an often insurmountable a barrier for claimants both financially and logistically. This should be addressed.

Perhaps claimant's attorneys should be encouraged (required) to accept cases on a contingency fee, where they would cover arbitration costs? This would discourage frivolous lawsuits.

Perhaps arbitration could be funded by a malpractice insurance pool? From Medical license fees or by Government of Guam? Perhaps we could return to arbitration hearings before a single judge or something less expensive than AAA arbitration.

Guam's perceived "malpractice climate" is a major factor in recruiting new Health Care Providers to Guam. Also, for retention of those already here, most especially for surgical specialists: OB-Gyn, Neurosurgery, Orthopedics.

Medical Malpractice is a very emotional topic. I do believe that claimants are entitled to a fair evaluation of these claims – a "day in court". However, an unfortunate bad outcome does not always equal Malpractice.

Our goal is a process that is fair and available for claimants, fair for physicians, and which will not create a "Malpractice Crisis" which could drive away many physicians (and insurers) and make physician recruitment impossible.

[Signature]

TESTIMONY:

Guam Medical Malpractice Mandatory Arbitration Act, Informational Hearing

Senator Therese Terlaje, Chairperson, Committee on Health, Tourism, Historic Preservation, Land and Justice

November 7th HEARING

From: David Lubofsky

(Speaking for Asher Dean Lubofsky)



I am David Lubofsky, the father of Asher Dean Lubofsky. I am here to again give a voice to my son and the hundreds of people on Guam that have died or have been injured due to negligent medical care that continues to go unaccounted for. I have some recommendations to make regarding Arbitrations future, but want to make some points first.

In the last meeting, Dr. Berg, Chair of the Guam Medical Board of Examiners, implied public policy should not be changed based on the death of one child. That statement alone should worry all of us, as it comes from either being uninformed or wanting to hide the truth of what Arbitration has done to the people of Guam. Sure, I have been verbal and Asher has given a face to the (apathetic) Arbitration Act that kills and hides, but I would venture to say, based on national statistics, that there are thousands of people over the last 30 years that can attest to loss or injury of family members due to Medical Negligence, not to mention the “dumbing down” of medical care on Guam. This is a no brainer for the average citizen on Guam, not sure why Dr. Berg who is in charge to medically protect island residents with his Board of Medical Examiners does NOT know that.

The most important thing we can do for health care on Guam is to repeal the Arbitration Act and allow people to go directly to court and figure things out. **That is my opinion and simply put what I think should happen. LET THE COURTS FIGURE IT OUT AND ALLOW DUE PROCESS, OUR CONSTITUTIONAL RIGHT.**

With that said, it's probably unlikely that will happen as negligence has been rewarded over the years and it's hard to change mindsets, so I concede alternatives are important to impact change that will benefit the island and protect us from negligent doctors.

In any case, there should never be such secrecy as we see now in the process of any new law that is proposed and the current laws already on the books should be followed, such as the **PATIENT PROTECTION THROUGH INFORMATION ACT**. This is all about a Physicians profile being public information so we can know who these doctors are, complaints against them etc. and make informed decisions as consumers of health care. **THIS IS A LAW THAT HAS BEEN IGNORED FOR 8 YEARS, especially by the Guam Board of Medical Examiners, who is charged to implement it. IT SHOULD HAVE BEEN ON THEIR WEBSITE FOR YEARS.** (*Guam Board of Medical Examiners to publicly disclose to individual citizens and via the internet what is commonly referred to as a "Physician's Professional Profile."*)

Guam needs an open Malpractice system that is not hidden behind closed doors that protects the citizens, with the goal of improving health care. Open information leads to decisions by all of us as to where to take our family members. If doctors want to hide what they have done and threaten to leave using Arbitration as an excuse, let them go. We should look for quality not quantity. With that said, at the last meeting, I did not hear one doctor say they would leave. One said if insurance got too expensive he may consider leaving. Well, after all of these years doctors have paid one of the lowest MALPRACTICE premiums in the country, so being realistic there may be increases. **Why else would doctors leave Guam when Guam doctors are some of the highest paid in the country.** This little known fact brings doctors here, makes recruiting easier in contrast to what some have said and keeps doctors here once they arrive.

Per the Economic Research Institute, Doctor Medical Salary in Guam, United States averages \$197,037 (USD)

ERI's **compensation data** are based on **salary surveys** conducted and researched by ERI. **Cost of labor** data in the Assessor Series are based on actual housing sales data from commercially available sources, plus rental rates, gasoline prices, consumables, medical care premium costs, property taxes, effective income tax rates, etc.

Physicians made a median salary of \$192,930 in 2017 in the USA, per a Newsweek article by **Jada A. Graves**, the Careers product manager at U.S. News. (<https://money.usnews.com/careers/best-jobs/physician/salary>)

This is important info and **doctors should be paid well**, but when they say they may leave or malpractice insurance may be too high on Guam, their counterparts in the USA are earning less on average and are paying much more for Malpractice Insurance. So, if anyone wants to leave, it will not be due to ARBITRATION REPEAL or salary or

income. **IT MAY BE DUE TO A HISTORY OF NEGLIGENCE THAT WILL BECOME A PUBLIC RECORD WHEN ARBITRATION IS REPEALED.**

Actually, this info gives credence to the fact that it's easier to recruit for Guam than our doctor friends want to let on. According to one doctor, a friend of mine, he said it's easy to get doctors to Guam these days with the internet, information available, high salaries and ease of getting licensed under Dr. Berg and the Board of Medical Examiners.

Anyway, we are here to figure out where to go from here and how to resolve the deadly crises created by the (Apathy) Arbitration Act and what I see as the related demise of medical care on the island.

I have read the laws over in most states, especially **Massachusetts and Hawaii** and have spoken to doctors here on Guam. **LET ME FIRST STATE EMPHATICALLY, It's my opinion, as stated earlier, that The Arbitration Act should be outright repealed and all cases go directly to court.**

An alternative, that I propose, as followswould be to allow 3 years to file a Malpractice case as in most places.

Once the case is filed, a six-month "cooling off period" should begin in which two things should happen.

1. Claimant and Defendant would submit their claims to an organization like Mountain-Pacific Quality Health, which is a Quality Innovation Network-Quality Improvement Organization that has served Guam I am told in the past. They would be tasked to look at the issues and make recommendations to help improve overall care on Guam, to help make our community healthier and to ultimately lower health care costs. They could compile info. and look at trends on Guam, such as problems at a certain neonatal ward or issues that repeat themselves over and over again at certain clinics or at the hospital and make recommendations for improvements.

They are off island, so there will not be the local inherent bias that has been discussed by Attorney Mitch Thompson and others.

This organization or a similar organization can do a **peer review** of the Malpractice Claim or any complaints against doctors that the Board of Examiners (GBME) receives.

2. Mediation should happen during the 6-month period, **which is not mandatory**. The information from the peer review, step 1, can be used during the mediation for discussion and to try to resolve cases before they go to the next step.

ALL COSTS ARE THE RESPONSIBILITY OF THE DOCTOR OR CLINIC OR CAN BE COVERED BY A FUND SET UP. CLAIMANTS OR DEFENDANTS CAN WAIVE THE MEDIATION.

3, At the end of the six months, if the case is not resolved thru attempted mediation then parties should be allowed to proceed to court via a conciliation process, similar to what Hawaii has. .

4."Medical Inquiry and Conciliation Panel"(MICP) (Similar in Hawaii) Before a medical malpractice lawsuit can be filed in court, it requires that the prospective plaintiff "submit an inquiry" to a "medical inquiry and conciliation panel" consisting of one attorney and one properly-licensed physician, **WHICH SHOULD NOT BE FROM GUAM. .**

The inquiry (as similar in Hawaii) must include:

- the facts on which the lawsuit will be based, and
- the names of all health care providers who might be included in the suit.

After receiving the inquiry, giving notice to all named care providers, and giving each provider a chance to file a written response, the panel sets a date to consider all evidence, review medical records, and hear from witnesses. The panel then issues a review of information decision. This info cannot be used in court, but the decision should not prevent court. The goal of the MICP process is to provide non-adversarial review of claims by patients and their families, and to facilitate the conveyance of information without assignment of blame. When the parties are not able to resolve their dispute, the MICP process attempts to narrow and define the claims, and to address questions of causation, liability and damages in order to help the parties better understand the nature of the claims and to help and encourage them to reach a voluntary settlement. Statements made during the course of the MICP process, and any recommendations made as a result of that process, are not admissible in later court proceedings. **THE PROCEEDING IS NOT CLOSED TO OTHERS UNLESS BOTH PARTIES AGREE.**

The information from the Peer Review by Mountain-Pacific Quality Health or a similar company would be admissible to the MICP.

IF THE PARTIES CAN NOT COME TO AN AGREEMENT, A COURT CASE IS ALLOWED.

No part of the process is secretive.

FINANCIAL CAPS

There should be **no ECONOMIC Caps** under any circumstances. Taxpayers are not responsible for doctors mistakes, which is what would happen with Economic caps. Most places in the USA do not have Economic Caps.

NON ECONOMIC CAPS could be set at 1,500.000, with cost of living adjustments every 5 years, but if the negligence can be shown to have caused prolonged and exacerbated suffering then the CAP limit should be waived. As an example, little 6 year old Zqry-Wakyn was brought to the same doctor for 4 days, had numerous blood tests and the doctor saw the child's slow and painful demise. The mother had to put his limp body into a baby carriage to get him back and forth to the doctor. That child suffered for 4 days getting worse day by day where apathy and incompetence seemingly ruled his care. Eventually, he ended up at GMH where another so called doctor wanted to drill a hole in his head while the mother held him down in an isolation room, not a surgery room, not sedated. The mother freaked out. This child suffered due to what appears to be callous, negligent apathetic incompetent care and died a painful death that has traumatized the family still to this day. In this case, as an example, the NON ECONOMIC CAP should be lifted and this can be defined in law or in court.

LEGAL FEES

Legal Fees should be separate of the settlement and based on the current formulas as set forth in law. Any settlement will be plus legal fees as set in current law.

THE COLLATERAL SOURCE RULE Under the traditional collateral source rule, payments received by the malpractice victim from third parties such as medical insurance companies would not be considered in the calculation of damages. Hawaii applies this common law rule.

PUNITIVE REMEDIES SHOULD BE REMOVED. There should be no punitive measures in any law. Plaintiffs should not have to pay Defendants legal costs if they lose or take a case to court_ allowing due process. No other punitive measures should be defined in any new law.

The **PATIENT PROTECTION THROUGH INFORMATION ACT.** Which is already GUAM law, should be reinforced in any new legislation. The Guam Board of Medical examiners should put it on their website with information about doctors etc. IMMEDIATELY as should other government agencies and hospitals etc. ITTS 8 YEARS AND THE GBME HAS NOT IMPLEMENTED THIS.

PEER REVIEWS

The Guam Board of Medical Examiners should use Peer reviews when they have complaints about doctors, but these reviews should be sent off island as stated. The Board has biases, as we

have heard. A Peer Review is a form of self-regulation by neutral qualified members of a profession within the relevant field.

As Attorney Mitch Thompson, an attorney for doctors, accurately said during the first meeting, doctors do not want to judge their colleagues. There is no protection for us as consumers. The Guam Medical Examiners Board has proven that over and over again. **ANY CHANGE IN THE LAW SHOULD NOT INCLUDE GUAM DOCTORS TO OVERSEE COMPLAINTS OF OTHER DOCTORS, PER WHAT ATTORNEY MITCH THOMPSON SAID, and WHAT WE HAVE EXPERIENCED PERSONALLY. THEY ARE NOT IMPARTIAL AND WILL NOT PROTECT OUR INTERESTS OVER THEIR OWN OR THEIR COLLEAGUE'S. THIS HAS BEEN PROVEN WITH THEIR RELUCTANCE TO IMPLEMENT THE PATIENT PROTECTION THROUGH INFORMATION ACT.**

GET RID OF THE BAD DOCTORS; DO NOT BRING MORE TO GUAM. IMPROVE MEDICAL CARE ON GUAM, SAVE LIVES, REPEAL THE MALPRACTICE ARBITRATION LAW.

DAVID LUBOFSKY, FATHER OF ASHER LUBOFSKY who was robbed of his life by the people that this Arbitration ACT protects.



November 6, 2019

To: Senator Terlaje and the Guam Legislature
Fr: Edward Blounts DO, MSEd, 2019 President, The Guam Medical Society
Re: Malpractice review

The Guam Medical Society is comprised of Physicians, Chiropractors, Dentists, Podiatrists, Nurses, lab workers and other allied health professionals. As the malpractice hearings have proceeded we have been present in the hearings and physicians have continued to meet and discuss the issue as well. We believe the requirement for arbitration is still needed and beneficial to Guam and its citizens, but there are steps physicians support and the legislature can support to improve access to arbitration. I would like to thank the senators for hearing the opinions of the physicians and adjusting to hearing time to accommodate our work schedules.

Patients who have had negative outcomes and their families argue that Guam's requirement for malpractice issues to go through arbitration is costly. They argue this cost makes it difficult or impossible for some to pursue this course even if they have a strong case. Attorneys argue that due to limited funds they cannot cover the cost of their client's fees to apply for arbitration.

Physicians worry that ending the arbitration requirement will increase frivolous lawsuits, drive up the cost for malpractice coverage, and limit services on Guam. Frivolous lawsuits can be very damaging to physicians as doctors must report all malpractice cases (even if it is settled or dropped) to licensing boards and potential employers. Physicians sacrifice a lot to pursue their profession. Many of them finish medical school owing over \$200,000 in loans. But the sacrifices do not stop there. Medical school is a grueling 4 years (after college) where the student doctor's life is on hold. While many of their friends are starting families, starting careers the student doctor's life is on hold. This continues for residency (another 3 to 8 years) where they make minimal pay and work long hours. Physicians sacrifice a lot during their training to pursue a profession where they can help people.

The Guam Medical Society believes that arbitration access can be increased through several actions. Physicians and the government could set up a fund to help those with financial need and a strong case make their arbitration request. Physicians have yearly fees to maintain their practice (hospital privileges, state licensure, controlled substance permit, federal DEA license). A portion of these fees or a new fee could be used to establish a fund to help those with limited means receive arbitration. The government could use the financial cutoff used to determine MIP or eligibility for other assistance programs as a cut off. The government should also have a local review of the case to ensure it has merit and is not frivolous before monies from this fund would be dispersed. There are other methods to decrease costs as well. Guam could look at TV / web based arbitration similar to tele-medicine could be tried. Several steps could be taken to continue the arbitration process and protect physicians while driving the costs down and improving access.

Negative effects of repealing this requirement include several factors. It would decrease the number of physicians willing to practice thus reducing the populations' access to providers. Some specialties or sub specialties with higher premiums may leave island all together (on the mainland these higher cost services include Orthopedic Surgery as well as OB/Gyn, and Neurosurgery). Clinic and government costs would rise to cover the increased cost of malpractice insurance. These costs would be passed onto the patients and make health care more expensive. On Guam there is a lack of providers in some areas (most pediatric sub specialties and some adult services). To make up for this the islands providers provide care to these individuals but technically in doing so we are practicing outside the scope of our training and could be held accountable. Should the current arbitration law be repealed physicians would be less likely to perform this service and some patients would have to go off island for care that could be handled here. This again would increase health care costs. Repealing this law would hurt the people of Guam.

Some in the media report Guam salaries being higher then much of the US. These articles are largely inaccurate as in the article in question the Guam physician's total employment package (including benefits) is being compared to the US physicians base salary. Additionally, the cost of living on Guam is higher than many places in the US mainland (including where I trained). Guam has a difficult time recruiting and retaining physicians. Both hospitals have to partially supplement their staff by using higher priced recruiting firms from the mainland.

I play a large role in recruiting physicians for Guam Memorial Hospital. We require a criminal background check on both Guam and the state in the mainland where they came from before employment. We check the national practitioner data bank before anyone is employed and each time their privileges are up for renewal. We check references from their former employers and verify their training credentials. Hospitals on Guam take seriously the trust that is placed in them.

The Guam Medical Society is dedicated to improving health care on Guam and we feel that overturning the requirement for arbitration would have a negative impact on the islands health care. It would lead to fewer services, more off island referrals and increased costs. We believe that several steps can be taken to improve access to arbitration without over turning this needed requirement.



Edward Blounts, DO, MSED
2019 President, The Guam Medical Society

The guy was out of line last night

1 message

Thomas Shieh, MD, FACOG <[REDACTED]@yahoo.com>

Fri, Nov 8, 2019 at 6:10 AM

To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Cc: Hoa Nguyen <hoavannnguyen@yahoo.com>, Felix Cabrera <niyokpotu@gmail.com>, Michael Cruz <mwacruz@hotmail.com>, Erika Masuda Alford <erikamasuda@gmail.com>, Michael Robinson <mrobinson@adventistclinic.com>, mallik <mallirad@hotmail.com>, Nathaniel Berg <guamxray@yahoo.com>, Amanda del Rosario <amanda.del.rosario@gmail.com>, MD Michael Um <michaelum@gmail.com>, David Weingarten <drdave@thewinguan.com>, "Francis E. Santos" <francis.santos@grmc.gu>, Jensen Faye <fayegrl@yahoo.com>, Ramel A Carlos <ramelcarlos@hotmail.com>, Maria Blancaflor <maria blancaflor@aol.com>, cristina manaloto <cristinaqm@yahoo.com>, Paul Sauguet DDS MSD <psaugetddsmsd@gmail.com>, Dr Vince Akimoto <akimotovincent@yahoo.com>, "Joseph H. Helm" <joseph.helm@grmc.gu>, Pramila Sullivan <pramila008@hotmail.com>, Joleen Aguon <joleenaguon@gmail.com>, Dustin Prins <prinsdd@gmail.com>, Patrick Civile <pciville@civilletang.com>, Jon Sidell <jonsidell@yahoo.com>, Jeffrey Gabel <jeffrey.gabel@live.com>, Larry Lizama <ftlmd@guam.net>, Vince & <vjd2@guam.net>, Peter Lombard <peterlombard@gmail.com>, Jerry Castro <jrcastromd@hotmail.com>

Dear Senator Terlaje

I applaud you for standing up to the guy who was out of line at the hearing, his voice and his tone speaking about wise owl and then pointing his finger and raising his voice was totally unacceptable. I almost came down and told him "shut up." You handled the situation admirably so I stayed calmed.

As for the issue on Arbitration, I can honestly say as the current GMH Dept Chair of OB, that for us ObGyns, 90% of us have no malpractice insurance, it is unattainable for us and this is not going to be better for access should arbitration be touched. Many of us have discussed reducing and stopping obstetrics period, and the island could be in crisis with no OBs to deliver the 3,000 babies each year here in island.

The compromise to help the people to have access to arbitration is the proposal which we came up with and presented eloquently by Erica last night. I wanted to speak up when Keo stated that it was basically cheaper to sue in superior court, and let the "judge" decide. That comment was to me out of line. He failed to recognize or he just playing ignorant that the critical difference, arbitration help weed our fivourlous cases, where as without arbitration, anyone can just sue for cases that has zero merit at all. Litigation is always much more expensive and longer than arbitration, that's a no brainer for us to know. Arbitration does not take away the right for the patient to sue, it is merely one step to help not just the system but the patients themselves to also understand that their case may or may not have merit. And if they are not satisfied they can still sue. The issue here is that you have malpractice attorneys brain washing them and then charging them thousands of dollars, when attorneys know if there is true merit they invest in their case and persue. The reality here is majority of "claimed malpractice cases" has no merit. Medicine is not perfect, doctors are not God. Often we do everything perfect and above standard but the outcome is still negative.

I recalled vividly Dr Chris Perez who asked me to help TDC part time when I was at the Naval Hospital, and my biggest concern was lawsuits on Guam and he reassured me that merit less cases are screened by the GUAM arbitration law, and reassured me that GUAM needed a good ObGyn to help at GMH and the community, and so I did step up and help and I and still here helping women and children til this day. Since my arrival, it's been 23 years, and after delivering over 9,000 babies on Guam, saving many lives, I will admit to you that Guam's healthcare for women, men and children have improved tremendously over the years, and I credit this arbitration law for helping us and patients.

So I wish Dr Perez was still alive today with his dear Wife Dr Ericson, so they could come to the legislature and testify on the importance of keeping Guam's arbitration law in tact. This law has helped us keep good doctors on Guam. If anything, I hope my note to you carries a part of their voice from heaven.

Should this arbitration law be repealed or amended, Guam's patients will have lack of access to good doctors, and worse, we will be on a decline with even more difficulty in recruitment, and replacement of our aging healthcare provider population. It is hard to imagine that I remain one of the youngest board certified ObGyn on island and I can't recruit a replacement. So please think about the future of health for this island and help us doctors help patients by keeping arbitration in tact.

I did not speak last night but I feel strongly that you can carry my voice to your colleagues and feel free to share with them my email to you, I am CC'ing some of my colleagues here.

Thank you, and sorry for the grammar and typo on my small keyboard on this phone and it's 5:30 am.

Thomas Shieh, MD, FACOG
Board Certified, ABOG
Shieh Clinic

Shieh Clinic

By Shieh Clinic

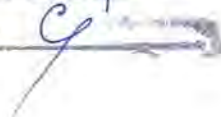
Office: (671) 648-BABY (2229)

Cell: (671) [REDACTED]

Apologies for grammar and typos from this iPhone keyboard. This message is confidential and is intended for the recipient. If you are not the intended recipient, please delete. Thank you.

NOV 08 2019

Time: 1:45 pm

Received by: 

Statement Legislature

To: Telo Taitague; Therese Terlaje

Cc: Attorney general of Guam Leevin Camacho

Cc: Jeff Cook

Yesterday Thursday November 07, 2019 I was present at the legislature meeting for the allied board to convey and express my frustration with the laws that have been in place since the 1957 and since then nothing has been done to amend and change the laws to protect the citizens of Guam.

On November 30, 2015 I filed a complaint with the allied board which at the time Marlene carbullido was the person in charge and with the A.G which at the time Barrett Anderson was the Attorney General.

4 years has passed and nothing has been done and no one phone call was given to me or to the situation done to me, my family and my dogs neither by the A.G or the Allied Board.

The worst of everything is that I met 9 times with Marlene carbullido and nothing was done due to the

incompetency of the system and people in charge of these departments.

I cannot believe that a doctor or veterinarian that goes to school for 8 to 10 years can commit malpractice and be unethical and the patient or patient representative cannot file a law suit on the court of Guam. This veterinarians and doctor need to be held to a higher standard; however this is not the case.

The reason I was at the legislature was to raise my concerns as a Guam Resident, a us veteran, and animal lover and a business person and to speak on behalf of many others that cannot be present or don't have the means or the opportunity to speak against Wise Owl(Joel Joseph) veterinarian and the numerous cases open at the allied board against him. Numerous others have been taking to court via small claims and due to the fact that some people cannot afford a lawyer or they do not understand their rights they either loose on the small claims court or abandoned the litigation due to financial burden. We cannot continuous allowing this type of abuse against the people of Guam.

I have already spent until now \$20,000.00 and December I will need to pay another \$25,000.00 and the case is not over. Do you think this is right? Do you think most of the people of Guam can afford this amount? Please we need to do something about it.

The allied board should have in place a lawyer representation to enforce the laws and any wrong doing against citizens of Guam; however this have not been the case until this year that the new Person in charge of the allied board was selected. Why nothing have been done to protect our citizens of Guam and our pets? Why we have waited so long to consider changing the laws.

Yesterday I was at the legislature and I was able to hear a doctor (OBGYN) indicated that she don't make too much money and that she cannot afford insurance of \$42,000 per year against malpractice and that she will leave Guam because in Texas the insurance against malpractice is \$22,000. I could not believe what I was hearing. A doctor that has attended 8 to 10 years of school should be able to be held accountable to the highest standards

and that is not the case. They are more concerned with the money to be made than to the patient's to be saved.

As I mentioned yesterday at the legislature meeting that it's time to correct the law and to protect the people of Guam that elected you in office. I'm thankful that senator Terlaje and Taitague were amenable to listen to my concerns and they show interest in correcting or fixing this laws. Maybe the insurance for malpractice offered to the doctors can be reduced, but I believe that every doctor must have a malpractice insurance in order to practice medicine.

I have attached a copy of the claim I submitted to Allied Board on November 25, 2015 to the Attorney General Office and to the Allied Board on November 30, 2015 for your review as I was asked to provide this documents yesterday by Senator Telo Taitague.

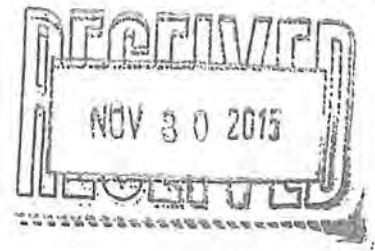
Please do not hesitate to let Jeff Cook or myself know if you have any questions or concerns.

Si Yu'os Ma'ase / Thank you

Alfredo Bustamante

NOVEMBER 08, 2019

Medical Malpractice
Arbitration Clause



November 25, 2015

Alfredo Bustamante
Edge Realty/ Principal Broker
929 South Marine Drive
Tamuning Guam, 96913
(671)483-0206

401-13

Senator
Therese M. Terlaje

Complaint Form – Joel Joseph, D.V.M.

NOV 08 2015

Time: 1:45 pm

To: Chair, Guam Board of Allied Health Examiners
Cc: Mrs. Marlene Carbullido; Robert Weinberg
From: Alfredo Bustamante
Re: Medical malpractice

Received by:

Dear Guam Board of Allied Health Examiners,

I am writing this letter of complaint for professional misconduct and medical malpractice against Joel Joseph, D.V.M (fka Joel Schiff).

I am a Guam resident – a U.S veteran, a family man, an animal lover, a real estate broker & owner of Edge Realty and Guam Edge tours. I am deeply concerned after an extensive investigation and research on Mr. Joel Joseph carrier as a veterinarian and after talking to other clients that have been harassed, bullied, and the worst where Mr. Joel Joseph have committed malpractice and may have used his license to hurt our pets and our entire community.

On September 11, 2015 two of my six dogs were the victims of a horrible abuse done by a person that was hired to take care of their daily needs. One of my two injured dogs Rex had two broken legs as a result from the abuse.

I have been taking my pets to Wise Owl for the last probably 2 years, we live in Tamuning next to the Carmelitas and our companies are located in Tamuning as well, so the location of Wise Owl was very convenient to us, our dogs have never needed anything major besides vaccines and dog food etc; until September 11, 2015 that I found my dog in the ground with his legs broken in which I immediately took my dog to Wise Owl for an emergency treatment. After some X-Rays to my dog, Mr. Joel Joseph indicated that the two legs were broken, that one of his legs was broken in 3 pieces and that my dog needed surgery. I gave an initial down payment deposit to Wise Owl for the amount of \$1450.00, Rex was released after 5 days, the community makes several monetary donations for the treatment and surgery of my dogs to Wise Owl. When I went to pick up Rex and pay my bill, I finished paying almost three thousand plus dollars after Mr. Joel Joseph, had applied all the donations from the community to my bill, so I requested a breakdown of all the donations given by the community and he told me that it was not needed because he was given me a 80% discount, however I emphasized that I would like to know the amount donated.

Mr. Joel Joseph indicated after the surgery that I will not be charged to change the gauze and splint he put in my dog front leg, for the next 8 weeks, however later on I find out that he was trying to charge me \$80.00 for every time he change the gauze, so I questioned him as to why the front leg was not casted as the rear leg was but he indicated that this was the procedure, I believe that he was trying to charge me \$80.00 per visit regardless of the initial communication where it was indicated to me that no charges will be given for changes of splint and gauzes. I also noticed that the rear leg was strong but the front leg was not steady.

I noticed a few days later, after I took it Rex home that his front leg was bending and the splint was bending creating a limp on my dog Rex leg ,

so I immediately took him back to Wise Owl, Joel Joseph indicated that because he only casted the rear leg, I will needed to make sure to bring Rex to them every time the front leg's splint and gauze were bending due to the humidity, so they can changed it,so that is when I discovered his unethical practice, so I told him that he should have cast it the front leg as he did the rear leg, because I wanted my dog to recover a 100% and I was not a millionaire to be paying \$80.00 every three days to 5 days.

Tuesday October 06, 2015 I took my dog Rex to wise owl because he was due for a checkup and because I communicated a few times during the previews week to Mr. Joel Joseph that the front leg was bending again and the splint and gauze were bending after he had his leg surgery. Later I found out that the pin Joel Joseph placed on Rex's front leg was bending because it was not operated properly. I believe that the bending of the pin placed on Rex's Leg was due to medical malpractice on behalf of Wise Owl and Mr. Joel Joseph which conducted the surgery. On that day they took an X-Ray and Joel Joseph communicated to me via phone that they needed to open Rex's leg again and replace the pin because it was bending, so I asked him "how much that will costed me?" he indicated that it will be \$350.00, so I authorized him to proceed, he indicated that they will call me after is done, that Rex needed to stay there for a few days after surgery and they will call me to let me know once he was ready to come home.

On Friday October 09, 2015 my wife received a call(on my cell phone) from the staff at wise owl and it was communicated to my wife that the dog was ready to be pick up, however my wife informed the staff at wise owl that I was not available because I had an emergency and I was off island and I was going to return on October 13, 2015, so she requested is the dog can be dropped at my house and to be charged to my account, however they indicated that they will let Joel Joseph know about the situation.

On Saturday October 10, 2015 my wife received a called again from Wise Owl (To my cell phone) and my wife again explained to the staff that I was off island and if they can drop the dog to the house because she doesn't drive, so they indicated that it was ok and to let me know upon my arrival to stop by wise Owl to pick up the dog.

On October 14, 2015 after my return I went to wise owl to pick up my dog and to pay the bill agreed over the phone with Joel Joseph, prior to the 2nd surgery for the removal of the bend pin, it was agreed that was going to be \$350.00. This was agree because I communicated to Joel Joseph on October 06, 2015 that he should have been casted the leg instead of splinted it, so he reduced from \$550.00 as he originally wanted to charge me, to \$350.00.

Upon my arrival to the clinic I asked for my dog and my bill so I can pay and take my dog Rex home, so they handed me with the bill first which it was for the amount of \$950.00. I noticed on the bill that the surgery was \$350.00, but the stay overnight for the dog was \$600.00. I dropped my dog on Tuesday and they call me on Friday to pick up my dog, so they should have not charge me for October 06, 07 and 08, 09, 2015, however in the event they need it to charge me for Rex stay overnight it should have been for 6 days or 5 nights.

Another concern I had is that Joel Joseph was charging me \$50.00 per day, which it sounded to me outrageous, neither me or my wife were never communicated that it was a charge of \$50.00 daily for keeping my dog inside a small dog kennel however he was counting October 06, 07, 08, and October 09, 2015 which usually you don't pay because is included on the surgery or is complimentary until you pick up your dog.

To my believe Joel Joseph was trying to take advantage of this unfortunate situation for his personal gain, he was acting unethical by

trying to charge me \$600.00 instead of \$250.00 for dog cage stay which it was from October 10, 2015 to October 14, 2015. Furthermore this 2nd surgery happened as a result of his malpractice and negligence.

Now He was charging me \$600.00 for the overnight stay of my dog at Wise Owl from October 06, 2015 (the day at dropped my dog) to October 14, 2015. I mentioned to him that I found my bill to be outrageous and unethical, so he indicated to I needed to pay the bill or the dog will not be released, so I indicated to him that I will be returning tomorrow to pick up my dog and that he needed to revised the bill and charge me what it was agreed.

The next day October 15, 2015 Mr. Joel Joseph delivered a letter to my office (enclosed Exhibit A) to which I replied with a letter dated on October 15, 2015 and delivered to wise Owl (enclosed Exhibit B).

On October 16, 2015 Joel Joseph/Wise Owl filed a **Small Claims Summons** against me (**SD 0584-15 for the amount of \$6,710.85**). I find this extremely vindictive and unethical; mr. Joel Joseph has demonstrated in this case substantial harm to the client including exploitation of trust; willful, reckless misconduct; and lack of competence, professionalism and ethics, lapses in those areas shows his lack of commitment to the oath's core values he promised to upheld.

On October 16, 2015 I went to the police around 4:10 pm to file a report, and to ask the police to help me to recover my dog from Wise Owl, the police indicated to me after making me and my wife wait for over 3 hours and after they interrogated me, my wife and my employee about the details of the nonpayment to Wise Owl, and about Wise Owl keeping my dog. During the interview with the police I came to know that Joel Joseph indicated to them that I was committing animal abuse by no taking care of my dog. After the police officer took our

statements the police indicated that they cannot force Joel Joseph and Wise owl to return the dog back to me and the best way was for the court to order Joel Joseph and Wise Owl to return the dog to me.

Joel Joseph mischievous, malevolent malpractices and unethical behavior has demonstrated and act of moral turpitude that need to be investigated extensively, Joel Joseph has a wide trail of cases with the same Modus Operandi as a veterinary practitioner. Enclosed files as "Exhibit C" for review. I'm waiting for affidavits from people that have endured malpractice or have received unethical services from Joel Joseph/Wise Owl.

We are not dealing with a person that has not liability, we are dealing with a supposed veterinarian doctor that should practice his profession conscientiously, with dignity, and keeping the principles of veterinary medical ethics, upon entering the veterinarian profession he took an oath in which Joel Joseph solemnly swear to use his scientific knowledge and skills for the benefit of society through the protection of animal health and welfare and the prevention and relief of animal suffering. Instead we are dealing with a person Joel Joseph that lacks integrity, and that have shocked the moral and public conscience.

Mr. Joel Joseph in Guam History is a contradiction to the oath he took when he became a veterinarian. His competence, professionalism and ethics show his lack of commitment to the oath values of all veterinarians.

My family has suffered tremendously after my dogs were almost killed and we trusted Joel Joseph/Wise Owl with our pets, however instead he took advantage to benefit his practice with the advertisement of my dog's pictures and case in order to obtain personal gain. In no moment I signed consent to release any pictures or information in to the media as Joel Joseph/Wise Owl did. (Enclosed Exhibit D).

The community come together in raising funds in order to help with the bill of my dogs, however when I asked to see a detail log of all donations Mr. Joel Joseph indicated to not worry that he was going to be able to provide me with 50% off, however I requested a few more times that I wanted to see the donations log but to my surprise he never provided to me. I received a few phone calls in which the people, like the Feathers and Fins owners indicated that they donated \$300.00 and two more treatments.

My family and I continuous to suffer by the lack of ethics on Mr. Joel Joseph that refused to return our dog to my family regardless of the request provided to him in writing.

On November 24, 2015 after returning from the reschedule hearing for his small claim, I delivered a letter to Mr. Joel Joseph and wise Owl letting they know that a small claims case has been opened and a hearing would be subsequently scheduled in order for Joel Joseph to return my dog immediately to us now that the legal system will be investigating this case in order to decide who is wrong.

As I indicated from the first day I arrived to pick up my dog on October 14, 2015 that I wanted to pay my bill and retrieve my dog, however Joel Joseph unethically and forcedly decided to keep my dog hostage and to inflict emotional distress on my entire family. My family my sons Dominic 3 years old, Giacomo 7 years old and Sebastian 11 years old, my wife and I have suffered tremendously because we raise our dogs as our family and that is the reason why we hired a dog taker to bathe, groom and clean our 6 dogs.

We currently attend Dr. Malacutti Veterinarian clinic and we can finally see the difference in quality service, care and ethical practice.

I decided to stand for my rights and for what is right before God and the community and for those that are afraid to expose Joel Joseph (FKA Joel Schiff) due to his intimidation and bully behavior.

I truly don't understand how this individual is still operating a veterinarian clinic against all odds. I used to believe before when I see his signs on his building that the legal system and the government was been unjust to Mr. Joel Joseph, however I was wrong and I began to investigate and to speak to other clients of wise owl and I become to find that Mr. Joel Joseph was the person continuously committing corruption against the community of Guam.

I have spent at Wise Owl on dog food purchases over \$3,600.00 per year and over \$1,500 on checkups and treatments for my dogs and I have never refused to pay for anything until the day that my dogs were abused and I trusted on Joel Joseph/ Wise Owl to take care of them however Joel Joseph ended up taking advantage of my situation for his own personal gain.

On November 24, 2015 at 1:00 pm I delivered a letter to Wise Owl requesting that my dog be released and returned to me now that we have a small claims hearing date coming.

Today at 8:05 am I stopped by wise Owl to request the medical records of my dogs and I was given rex medical records but Lucky medical records I was told to come back at 11:00 am which I did but this time they refused to give me Lucky medical records, so the lady on the front desk which I took a video indicated that Mr. Joel Joseph indicated that no records will be released until I pay the money owed on the summons.

Then while I was asking about my dog to the lady on the front Mr. Joel Joseph come out very aggressively and begin to treat me with

trespassing private property which to begin I was never informed that oi could not stop by Wise Owl to request medical records for my dogs, so Mr. Joel Joseph doesn't alter the contents as he have a reputation to do so.

He then screaming called the police indicating that I was causing problems and within 5 minutes officers Asadoma and Babauta arrived.

Mr. Joel Joseph was very aggressive and belligerent to the officers mentioned that he wanted me to be arrested for trespassing as he and his family was arrested previously by GPD for trespassing and demanded to see the police officers badges numbers.

Then Police Babauta asked me to wait outside so I did proceed to go outside and after 5 minutes he come outside and asked me if I was told previously by Wise Owl to not come to the premises, so I responded that I never did, so officer Babuta indicated that Mr. Joel Joseph has indicated now that he don't want me to stop by Wise Owl which I agree and knotted with my head, however I asked what about my dog which is personal property and a small claim is open for a court hearing and ready to proceed, so is no need for Mr. Joel Joseph to have my dog hostage with the sole intent to inflict emotional pain and distress and in order to inflate the bill and charge daily rate for having my dog in his premises. Officer Babauta indicated that he was going to call the A.G and he will get back to me and requested for me to move my car across the street and outside wise owl premises because Mr. Joel Joseph wanted me and my car out of wise out premises., So I complied and I moved my car and waited inside my car.

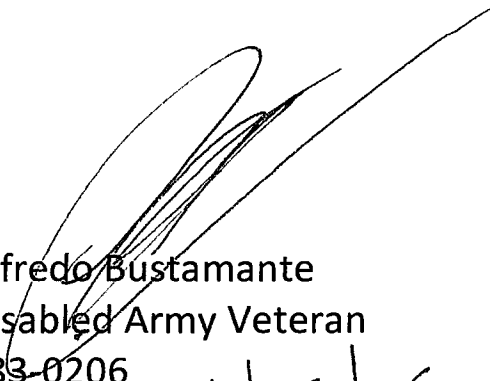
He also indicated to me in front the police officers that I was going to be charged with animal cruelty which I laughed at his comment and I told him that I will make sure he will be held accountable for his actions due to all the unethical actions that himself an his clinic have been

doing to other people and myself, however this time he has done wrong to someone that can stand for himself and I will make sure he will be held accountable to the highest standards as a veterinarian.

He returned to tell me that I need it to be at Wise Owl at 5:00 pm to retrieve my dog, however I need it to make coordination with the police for a police officer to be present.

I'm working on affidavits from other clients than are afraid to come forward and denounce Mr. Joel Joseph and Wise Owl malpractices, unethical behavior and extortion due to their lack of funds, intimidation or been scare to go against Mr. Joel Joseph. These affidavits shall be filed with the Guam Board of allied health Examiners in the next following weeks.

Senceramente,



Alfredo Bustamante
Disabled Army Veteran
483-0206

4:40pm 11/25/15

“Exhibit A”

Micronesian Exotic Animal Specialty Services

Wise Owl Animal Care & Hospital

109 Serenu Ave. Tamuning, GU 96931
671-646-2273 671-646-2264 FAX
PacificIslandVet@gmail.com

In association/support with
PACIFIC ISLANDS VETERINARY SERVICES
a non-profit NGO, operating in the North Pacific islands.
PacificIslandVet@hotmail.co.uk



"Your other Family Doctor"

Oct 15, 2015

Hafa adai Mr. Bustamante and family,

The team (copy) was advised by Mr. Joseph to Marica, wife of Mr. Bustamante @ 10:30 am Tues Oct 15 - Marica refused to sign the recovery letter

It was a tragedy and a crime against society what happened to Rex and Lucky. I am glad to hear that Lucky is doing well. Rex will heal almost fully given some more time. *copy letter to Marica*

Yesterday, Mr. Bustamante came to our clinic to pick up Rex. He declared that our daily hospitalization fee was excessive and that he would only pay \$20 per day for the days he abandoned Rex at the clinic. Very boisterously he declared that he works hard for his money, if we charged him these fees he would never come back, and if we wanted him to pay the existing bill we could keep Rex. He then stormed out of the clinic without paying and without Rex.

I take a personal affront to his declarations. I understand he works hard for his money. Does he mean to say that my staff and I do not work hard for our money? Did we not work hard on Rex and Lucky? Does Mr. Bustamante accept real estate fees determined by his clients? Will he accept a ½% commission for his work?

To add insult to injury,


- the original bill for Rex and Lucky was discounted almost 50% (\$1,340 + misc no charges).
- he failed to properly care for Rex when Rex came home with a cast. The cast and the splint were covered in urine and fungus. The legs smelled so bad, that Mr. Bustamante stated he took the splint off the front leg, prior to coming in, because his wife wouldn't let Rex into a vehicle with that stink.
- he complained that the recast fees were excessive (though they were highly discounted)
- Rex's rear leg repair failed due to the poor care he got at home and failure to timely care for the cast. As a result Rex had to undergo another surgery to repair the leg again. Let me be perfectly clear, not caring for Rex in this manner is a form of animal cruelty.
- With your permission we repaired what was destroyed by your lack of care given to Rex. Then you left Rex in our care for an additional 10 days, never visited, and ignored our daily calls for you to pick him up.
- Then you refused to pay for the days you left Rex abandoned, which was not our agreement.

If you pick Rex up on Thursday (bill @ \$1,055) or Friday (bill @ \$1,105) - **AND PAY THE BILL IN FULL IN CASH** - we will honor our verbal agreement. On Saturday Oct 17, 2015 we will consider Rex abandoned and our verbal agreement null and void. You will be responsible for the full bill (additional \$2,673 + 80% as you signed for) and the case will be immediately filed in court, PLUS we will file abandonment charges against you. At that point Rex will be put up for adoption and you will still owe all fees, court fees, and other charges but will not be able to get Rex back.

Rex will still need weekly rechecks and reevaluations that will be charged for at \$25/visit plus \$30 X-ray fee and any cleanup and wound care fees. When the pins/apparatus is removed there will be a \$150 fee plus \$30 for X-rays. There will be no more discounts or reduced fees. You will need to give medications daily and clean the pins/apparatus area daily until removal.

If you desire to seek care elsewhere we have no problem with that and will accommodate you with your decision. If you desire to continue care here at Wise Owl we will require cash payments in full at all visits, and no more discounts will be offered. We will not tolerate any outbursts of any nature. You must also keep to the weekly rechecks if you desire to continue his care with us- if you fail at these weekly rechecks even once you can continue your care elsewhere.

Regards,



Dr. Joel Joseph

“Exhibit B”

Letter of complaint Wise Owl

Received
10/15/15
12:20 PM

To: Wise Owl and Dr. Joel Joseph

October 15, 2015

CC: Cesar Cabot Attorney

Mr. Joseph you stopped by my office today at 10:30 am to deliver a letter to my wife that I found extremely unprofessional and disrespectful.

First of all you when I stopped yesterday to pay my bill which as it was agree over the phone would be \$350.00 and I have the phone conversation recorded because I sensed you will try to come out with other charges on Rex like you did with the original treatment indicated that X rays were taken and many other things that I didn't authorized.

The community raised money and I'm sure the funds raised were a lot more than the discount that you provided because you mentioned that money was donated by the community but you never told how much it was donated and you were very unethical in no letting me know how much was the total of the donations, however it's very easy for me to find out through Facebook by asking all people that donated the funds.

You never provided me personally with any discount because you deducted the funds donated by the community from the total bill which I pay the remainder for the amount of \$1856.00 (\$400.00 first and \$1456.00 later) the funds raised were applied to my bill and that is what you call a discount, don't forget that this discount was paid by the community and their donations for the treatment for Rex and Lucky.

As I indicated to you about the bill for Lucky and Rex been a monstrosity which at that moment I considered a rip off and I told you

on my last phone conversation in which over the phone I asked you how much it was going to cost me to remove the pin that was bend and you indicated \$350.00.

The pin that you located on the front leg of rex pin bend it because the result of your malpractice and it happened because you didn't cast the front leg. I have videos and pictures taken of the front leg and the piece of plastic and gauze that you rasped around his leg.

You did a horrible job on my dog Rex with the intentions of continuous making money \$80.00 once per week on the replacement of the rap on his front leg that you didn't even placed a cast on his front leg as you did on the rear leg. You should have casted the leg but you didn't do it.

Yesterday when I stopped by Wise Owl you indicated that your staff told my wife that it was \$50.00 per day to keep the dog on Wise Owl which is a lie and today you told my wife that you told me that it will be \$50.00 a day for keeping the dog pert night which through this letter I respond you are a liar. **You failed to inform my wife or myself that you charge \$50.00 per day for keeping a dog in your clinic.**

You also mentioned in your letter received by my office today that I abandoned my dog, however as you knew and your office knew when you called my house that I left off island and for your information I left off island because my sister was hospitalized and I Tuesday night and I stopped by your clinic Wednesday early morning and when I was going to write a check they told me that the bill was \$950.00 which it was different from what we agreed which it was \$350.00 (Agreement recorded by you indicating \$350.00 when I asked you how much will it cost). This accusation is extremely serious and I take it as a slandering of character and libel and I will make sure you will be held accountable

character, and many other claims that Cesar Cabot my partner and lawyer will file with the court of Guam if this continuous.

I will not stop until you return my dog to me plus lawyer expenses, emotional distress and punitive damages.

This is your option and your decision because as I indicated at your office yesterday and I will repeat again through this letter that I'm not refusing to pay the agreed \$350.00 for the treatment and I'm not refusing to pay \$20.00 per day, however if you disagree and I have not received my dog by Monday morning between 8:00 am and 11:00 am I will be forced to file a law suit against Wise Owl and you and I will personally take this entire malpractice and defamation of character to the entire media, so this doesn't happen again to others.

I'm sure I'm not the only client that have issues with Wise Owl or have the same concerns and accusations that I have, because I heard many things before about you and wise owl but of course I was an easy client because I spend over \$500.00 per month between dog food and treatment for the last 3 years but this will be something that will be investigated later if the need arise.

As I indicated I will never come back to your clinic again and I don't want to talk anymore with you. All I want is to pay my agreed bill and get my dog returned to me.

Sincerely,

Alfredo Bustamante



“Exhibit C”

March 05, 1987

Early Events, Unprofessional Conduct

Before coming to Guam, Dr Joseph ran Wise Owl Animal Care in Southgate, MI until it closed in February 2001 due to his Chapter 13 personal bankruptcy (filed 31 May 2001, resolved 24 October 2001). His divorce from Pauline Margaret Schiff (nee Francis) occurred the same year. Children Benjamin Schiff and Jacob Elliot Schiff came to Guam with him.

Jacob was enrolled at St John's School. Subsequently the school obtained a restraining order forbidding Dr Joseph entry to their property based on threats he made to the school's personnel. Jacob filed for emancipation from his father before reaching his majority and has since left the island.

Dr Joel Joseph has a checkered arrest record. While these are exempt from FOIA (Freedom of Information Act) requests, a scan of newspaper archives reveals some details:

- 2004 Sept 9: Assault/Disorderly Conduct - Misdemeanor (under the name Joel Schiff)
- 2005 July 12: Burglary - Felony (under the name Joel Joseph)
- 2009 Oct 25: Criminal Mischief and Terrorizing - Felony (Joel Joseph)

For most people their worst encounter with law enforcement has been moving violations or perhaps public intoxication in college. Two felony arrests in four years cannot be explained by "conspiracy" or "GovGuam corruption". N.B., none of these arrests led to convictions.

In 2005 Dr Joseph was charged with the theft of a dog (PDF) by Karon Johnson, President of Guam Animals In Need (GAIN). She followed up with a letter to Agriculture Director Paul Bassler (PDF), Director of Guam Department of Agriculture requesting assistance in retrieving the pet.

In January 2007, the Guam Board of Allied Health Examiners (GBAHE) determined that 30-40% of his continuing education credits claimed on his license renewal application were fraudulent (Letter from Sibyl Crisostomo, Chairperson, GBAHE to Judge Lamorena).

At the same time Dr Rebecca Diaz was in the process of selling Isla Veterinary Clinic to Dr Lisa Silk. Dr Joseph ran this advertisement intimating that Isla was closing and that Dr Diaz's clients would need a new veterinarian. This prompted Dr Diaz to write a complaint letter (PDF) to the GBAHE accusing Dr Joseph of libel.

Dr Joseph ran yet another unprofessional advertisement in December 2007 claiming that:

Unlike others we do not reuse needles, syringes, scalpels, suture & surgical drapes. We do not reuse surgical packs on more than one patient. We do not use outdated drugs or dilute our drugs. SO WHY ARE THEY SO EXPENSIVE? WHAT ARE YOU PAYING FOR?

This earned a 30-day cease and desist warning (PDF) from the Guam Attorney General before disciplinary charges would be filed. Anywhere else an advertisement this blatantly libelous and unprofessional would earn a license suspension.

For six months in 2008, Dr Joel Joseph ran this classy picture as the sole image of himself on the Wise Owl Animal Hospital website.

In July 2010 Dr Joseph met with then Guam Department of Agriculture Director Joseph Torres for what Dr Joseph claimed was a routine signature on a continuing education form. Only afterwards did the

Director learn that it was actually a USDA APHIS Accreditation form. Accreditation is required before a veterinarian can sign health certificates for animal travel. Dr Joseph lost his accreditation when his Michigan veterinary license lapsed. The Territorial Veterinarian, Dr Thomas Poole, had refused to approve renewal due to Dr Joseph's conviction on charges of incompetence and negligence (PDF) by the GBAHE. This deliberate misrepresentation (PDF of letter from Agriculture Director Joseph Torres to the US Department of Agriculture) of a government form would become Charge 19 in Disciplinary Case 11-001 of 13 June 2012.

In January 2011, Dr Joel Joseph announced he was "fed up" and that he was leaving Guam. He acted on his threat in March 2012 when he took the position of resident veterinarian at the Fiji Society for Prevention of Cruelty to Animals (SPCA) facility.

He abruptly left Fiji two months later. One of the SPCA's numerous concerns was that Dr Joseph had omitted informing them about the ongoing GBAHE investigation. There were other issues as well. From the Marianas Variety of 16 May 2012:

[...]

While in Fiji, Joseph allegedly euthanized 47 animals in the SPCA shelter in one day while a particular employee [ed: Joseph Kameo] was on leave, she said. The situation was further exacerbated when the nurse later discovered that of the 47 animals, three of them were personal pets belonging to Fiji SPCA.

[...]

Dr Joel Joseph responded to the Fiji SPCA's allegations in a Marianas Variety article of 17 May 2012 which can be summarized as:

- "[Joseph Kameo] has threatened the executive committee (individually and collectively), other vets and myself personally at least twice."
- The Fiji SPCA facility is in a decrepit state, including feces spread about the compound and dogs that have been locked in their cages for months, and in some cases years.
- A Royal SPCA Senior Manager never witnessed dogs being let out of their cages during his three-day visit

Other information gleaned from talking to past staff members:

- Most dogs there were in very poor health and kept in awful conditions. Untrained observers could easily see that they were malnourished, had large internal (worms) and external (fleas) parasite burdens.
- There wasn't the money to treat these conditions.
- The staff has a deeply ingrained resistance to change.
- Proper audit trails to account for money coming into the shelter don't exist.
- Telling lies seemed to be part of the culture, so its difficult to find the thread of truth in the various stories and points of view.
- Dr Joseph wasn't the only veterinarian to leave because of Joseph Kameo's bullying.
- The executive committee (including Wendy Montgomery) was made up of ex-pats. Sometime after Dr Joel Joseph's departure the committee was disbanded by the government and the members deported as they didn't have the correct visas. A local board was put in charge afterwards. Their effectiveness is unknown.

Based on these conversations and information from other sources, I believe both articles are probably



Date: Wed, 2 Aug 2006 13:46:42 -0700
From: leslee@netscape.com
To: microasianair@yahoo.com
Subject: info for you on Schiff (Dr Joel Joseph of Wise Owl Animal Care clinic)

To: Attorney General, Guam
Date: July 3rd, 2006
From: Barry Cox USDA liF.# 97-C-0002 CONFIDENTIAL DOCUMENT

To whom it may concern;

The following is to be filed on Dr Joseph Schiff, DVM aka Dr Joel Joseph, a local veterinarian practicing on the Island of Guam in the village of Tamuning.

This information is true, and factual, and shall be filed equally with the Attorney General's Office on Guam, the Guam Board of Allied Health Examiners, the US Attorney's Office in care of Leonard Rapadas, Director of the Department of Agriculture, Paul Bassler, the Territorial Veterinarian, Dr Poole, DVM, Deputy Director of the Department of Agriculture, Jose Torres, and the office of the Governor.

Dr Joel Joseph, DVM, also known as Dr Joel Joseph, DVM:

Operated an illegal clinic at his house in Chalon Pago for two years without a legal DEA license and a Guam business license, without a Sanitary permit issued by Public Health and without proper sanitary facilities to perform surgery, administer proper bloodwork or proper anesthesia. This carport area was without proper ventilation and autoclave for sterilizing instruments.

He opened a clinic at Southern Comfort Ranch without a Guam license to do so, without a Sanitary permit, and without the benefit of a legal DEA license. He informed the owners that he was only going to do veterinary work when needed on Zoo animals, licensed under the owners, under their federal license and was deemed the attending veterinarian "only" for the facility.

He was caught by the licensee's trading drugs for services with many clients, and was observed taking over one pound of marijuana from a local client for services rendered at the clinic. He was asked to remove his clinic from the facility at this time. Under police escort, Dr Schiff removed his personal belongings, files and all medicines and such from the premises. His stainless steel cages were left in the office as he built them into the walls and they became part of the real estate at this point, due to the lease agreement with Jesus Garrido, property owner, and they were not able to be removed by the lessees. During his removal from our facility, he illegally took our files for USDA on the current animals held in our collection, which is a violation of our license. He then proceeded to call USDA, Hawaii, and stated we had no records on file, causing a fine to be implemented.

Dr Schiff used his connection to Betsy Lyons, the USDA inspector from Hawaii (they were alumni from Michigan State University) to seek to have us lose our license by filling false reports of abandonment, mistreatment, and abuse.

Dr Schiff performed many surgeries such as tail docking, ear-cropping, spay and neuter, and many other surgeries without benefit of anesthesia on many personal pets of clients at our facility. He was unable to afford the proper anesthesia due to his inability to pay his bills with distributors and having no valid DEA

license. Thusly putting animals at risk, violating a code of ethics, and causing pain and suffering needlessly. He performed many surgeries with only gas, and many animals were observed moving and showing pain and discomfort during surgery.

The owners of Southern Comfort Ranch had to supply the hospital grade oxygen tanks for Dr Schiff, due to his lack of money and inability to "set up" the clinic properly. To date the owners, who have filed theft charges on Dr Schiff, have never been able to retrieve these tanks, or the large deposit monies expended to procure the tanks. They are still in Dr Schiff's possession, and he falsified documents to Island Equipment and signed the names of the owners of Southern Comfort Ranch. Theft charges were filed to GPD and nothing has been done to return these tanks.

Dr Schiff did not provide proper bloodwork analysis on animals, took blood and packaged it for the Honolulu Lab, but did not send it off due to his inability to pay his existing bills with the Lab located in Hawaii. Clients were billed for this procedure although their animals did not receive the benefit of proper bloodwork and he performed surgery without benefit of bloodwork. Blood samples were held in a backroom and were destroyed later.

Dr Schiff was allowed to draw blood samples for the horses at Southern Comfort Ranch, to try and determine what was causing the herd to be ill. Dr Schiff, due to his hatred for the Director of Agriculture, Paul Bassler, was trying to take charge of these samples prior to our sending them to the proper testing labs through USDA. Dr Schiff wanted the bloodwork to become tainted, thusly causing the Director to be held responsible for allowing a herd of horses to be transported from Tinian without proper protocol, and wanted to PROVE Paul Bassler was unable to protect the Island or perform his duties as the Director. Dr Schiff was NOT allowed to have the blood samples and had to be watched at all times while this procedure was being done. A veterinarian from Department of Agriculture did bloodwork also, and Dr Schiff proceeded to discount this veterinarian, try to get her hurt by one of the horses, and continually badgered her while she was performing her duties.

Dr Schiff under the Alias of "Joe Cruz" from Umatac, wrote many, many letters to Senators, the Governor, and many others to include individuals from the States, charging Paul Bassler with incompetence, deceit, dereliction of duty and many other false charges. He stated many times through letters and correspondence to Senator Rory Respicio, asking to have Paul Bassler removed from his position, especially after it became apparent that Dr Schiff would NOT be considered for the Territorial Veterinarian Position.

Dr Schiff set out to destroy the Spay and Neuter clinic established by GAIN, and sent out many letters to Veterinary Associations, stating that Guam was NOT rabies free, and that the travelling Doctors' possessed no licenses to perform these duties on Guam.

Dr Schiff began to file false charges with the Allied Board of Health concerning Dr Harper, Dr Diaz, and Dr Ehdlund. He filed reports with the FAA against Dr Ehdlund stating he was a "morephine" user and should have his pilot's license removed. He filed against Dr Rebecca Diaz, stating she was falsifying rabies vaccination forms, using outdated serum, and notified the CDC that Guam should have their "Rabies Free" status revoked. He equally contacted the USDA several times trying to have Paul Bassler's office investigated, and Dr Diaz's and Dr Harper's office.

Dr Schiff is a known drug user and dealer, and this is known by the Guam Police Department. Dr Schiff has been red-flagged by the Guam Airport Authority and is searched coming from Phonpei. He is known to use his "Doctor" status to avoid detection. He had a death threat on him from Phonpei and was held under protection several times in the Phonpei Airport.

He is known by many of the locals in the community and the Guam Police Department to offer services "after-hours" on pit-bulls that are involved in the illegal fighting that goes on in Guam. He has used his knowledge of the involvement by the Guam Police Department in this illegal fighting venue, to gain support from the local police department and thusly avoid having some of his charges filed, come to fruition.

He has filed false police reports to the Agana Precinct claiming assault from the Ogo family. He entered their home and building illegally and changed the locks on their home while they were away, and took goods from their home. He tried to file a lawsuit on them for their building and tried unsuccessfully to have Land Management "take" the building, citing drugs were being sold at their residence. He tried unsuccessfully to leave drug paraphernalia in their home for the police to find. All of this due to their not wanting him to lease the bottom-half of their building.

Through his incompetence at our Zoo facility, he is directly responsible for the deaths of over 11 animals. Through his mis-diagnosis, administration of improper drugs incompatible with exotics, and improper surgery techniques. He directly caused the death of one male African Lion demanding a needless surgery, and video-taped this surgery proving his own incompetence. He then filed a report stating that the veterinarian from the Air Force Base caused this animal's demise. Dr Schiff left the animal under full anesthesia, unattended, and left the property allowing this animal to die without monitoring his recovery from extensive surgery.

Dr Schiff was observed by Anderson Air Force base stealing supplies from their newly established veterinarian clinic on base, while he was a contracted civilian hire. They subsequently had him removed from their roster of civilian veterinarians. He was caught performing tail docking and ear-croppings on a military site, and was removed for his unethical practices.

Dr Schiff purchases his drugs for his clinic from a retailer located in Tumon, which is an "EXPORT ONLY" outlet. He uses these drugs for distribution to his clients on Guam knowing they cannot be for re-sale on Guam. He uses his practice in Phonpei to purchase these drugs, signs an export release, and takes them to his clinic on Guam.

He is known to "doctor" health certificates and to not spay and neuter animals that are adopted from GAIN. This is a clear violation of the adoption process, and a violation as a veterinarian.

Dr Schiff posted overcharges to the Department of Agriculture for services he stated he performed on local clients. He had local participants sign for services that were either never rendered, or triple billed.

Dr Schiff tried unsuccessfully to have Paul Bassler's wife charged by USDA for exhibiting her tropical birds without a Class C Exhibitors license. He equally notified Revenue and Tax that Paul Bassler did not pay taxes on Guam, and filed the same report on Paul's wife.

He charged Dr Velma Harper with operating an illegal quarantine site, tried to violate Guam Law by entering her quarantine facility and removing quarantined animals. He did this by notifying clients that had their animals transported to Guam (usually Military), and citing Dr Harpers facility as inadequate, and charging her with transporting animals from the airport to her Clinic. He tried unsuccessfully to have her quarantine license removed through Senators, and through the Military, eventually causing the military to build their own quarantine center. He filed hundreds of reports to all Military installations about the "unsafe" practices of Dr Harper's quarantine, and stated the animals held in quarantine were subject to rats and feces and improper caging. He did this repeatedly to Dr Harper after she had him removed from her clinic.

He has a report filed on him which is of Public record, by Dr Diaz, stating he tried to procure drugs at her clinic through her employees. He then went after her after she had him dismissed from her clinic.

He tried unsuccessfully to have Attorney David Lujan investigated by stating he was illegally bringing in birds from the Philippines, Thailand, and Southeast Asia. Expecting to cause Guam to be held on "alert" by the CDC for bird flu, and causing Guam to be banned to and from shipments into Hawaii, causing a problem with the military. He did all of these things after his rejection from the Territorial Veterinarian position on Guam, and his removal by the Lujans as their veterinarian for their bird collection.

Dr Schiff had a small claims suit filed in court while the owners of Southern Comfort Ranch were off-island, had the date of appearance changed, and caused a default. He subsequently came to the premises and removed items that were part of the structure, and became involved with AJ Balajadia with the illegal removal of leopards at our facility. He illegally sedated one black leopard, left her laying in the sun while he attempted to sedate the spotted leopard. He was unsuccessful in doing this and left the property only to see that the black leopard was now in distress. He returned with AJ Balajadia, and tried to sedate the leopard again, ended up administering the drug orally by squirting the solution into his mouth, and then left the premises while this leopard was showing signs of sedation. He showed a blatant disregard for the health and welfare of this animal. This leopard could have drowned in it's pool, or fallen from a perch area. Dr Schiff had NO authority to administer ANY drugs to animals held at this licensed facility. Only a veterinarian who is assigned through the proper paperwork by USDA OR the State or Territorial Veterinarian can administer drugs to licensed Zoo animals.

Dr Schiff was involved with the removal of a federally licensed zoo animal July 2nd, 2006, with AJ Balajadia, and was charged once again with trespassing by the owner of the property, Jesus Garrido.

Dr Schiff is known to have facilitated the help from a Marshall at the court division on Guam, named Tanya Taitano, who is a girlfriend and live-in partner of AJ Balajadia, and utilized her position to perform an illegal service of court paper on Barry Cox who was known to be off-island. Equally he mastered having the court date changed from the original August 8th, to June 27th, knowing Barry Cox would not be there to appear.

Dr Schiff has been charged with the following crimes, and has to appear in court for them, but the court dates seem undetermined for some reason and some are on the docket in the year 2008??:

1. Breaking and entering with damage 2005
2. Burglary 2005
3. Trespassing 2005- 2006
4. Theft
5. Assault and racial profiling
6. Falsifying a police report
7. Illegally taping a conversation with Major Reyes GPD
8. Theft and the removal of a federally licensed animal (pending)
9. Administering drugs to an animal that he is not authorized to handle (pending)

Dr Schiff has a sordid past, and immediately changed his name once on Guam. It is reported that he had similar ethical issues as a practicing veterinarian in the State of Michigan. He has had his two children removed from his authority, and one of them has been charged repeatedly with crimes such as drug distribution and drug possession. One of his boys has been in and out of DYA recently, and was in the charge of a foster care program.

This unethical man needs to have his veterinary license suspended and revoked on Guam, and needs to

be held to the high standards we expect Doctors' to be held to on Guam. Dr Schiff has a vengeful personality as witnessed by many that have crossed him. US Attorney Karon Johnson is equally on his list, and he has set out to try and destroy her credibility and the credibility of GAIN. Everyone who has crossed this man has reaped what he can sow, ten-fold. We will seek every method to have him removed as a veterinarian in Guam. We ask for your support and we ask you to conduct a full investigation of Dr Schiff, Tanya Taitano and AJ Balajadia, and Sgt. Paulino who was directly involved with the recent theft of zoo animals at Southern Comfort Ranch.

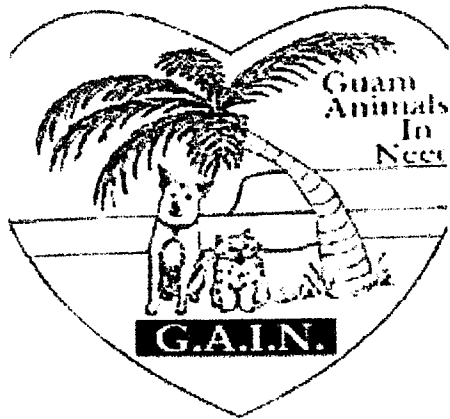
regards,

Barry Cox

Southern Comfort Ranch and ZooVenture PO Box 4451

Agana, Guam 96932

Ph: 828-8505



Guam Animals In Need, Inc.

P0 Box 22365, GMF Barrigada, Guam 96921 653-GAIN (653-4246)

September 9, 2005

Complaint concerning theft of dog and violation of the animal control laws.

TO WHOM IT MAY CONCERN

Guam Animals In Need, Inc. (GAIN) is under contract with the Government of Guam to operate the public animal shelter. The contract provides that GAIN act as an agent of Gov/Guam in enforcing the animal control laws set forth in Title 10, GCA Chapter 34.

All animals at the Shelter are the property of GAIN, as provided by Title 10, GCA § 34101(f).

GAIN runs an adoption program according to the laws set forth in Title 10, GCA § 34116. The code requires that all animals which are adopted from the Shelter be sterilized. In addition, animals over six months of age must be licensed and vaccinated for rabies. The statute sets forth the procedure for adopting animals six months of age and older.

1) Title 10, GCA § 34105 provides that a license be issued for the animal after it is vaccinated for rabies. The "date of rabies vaccination, vaccine expiration date, the type, manufacturer's name and serial number of the vaccine lot used" must be provided in the license application form.

2) All adopted animals over six months of age must be sterilized. In particular, Title 10, GCA § 34116(f) provides:

"All Pets over the age of six (6) months given for adoption shall be sterilized before being released to new owners. Any expense incurred for such operations or vaccinations shall be included with the costs of care and keep and borne by the new owner."

To effect this statute, the procedure at the Shelter for animals six months and over is as follows. Once an adopter has applied for an animal and been approved, the adopter is required to make an appointment with a veterinarian and pay for the sterilization operation and rabies vaccination. Either the adopter or the veterinarian advises GAIN of the date and time of the appointment, and a GAIN representative transports the animal to that veterinarian. For animals over six months, GAIN also issues a license tag and attaches it to a Department of Agriculture license application form. The application is only partially complete; the bottom portion must be completed by the veterinarian who administers the rabies vaccination.

The license tag and application are delivered to the vet at the same time as the animal. The veterinarian, after vaccinating the pet, fills in the required information concerning the rabies serum, and issues the license to the new owner along with a rabies tag.

We authorize the veterinarian to release the animal to the adopter after it has been vaccinated and sterilized. Until that time, the animal remains the property of GAIN. The veterinarian sends GAIN a certificate of sterilization, and a certificate of rabies vaccination, to confirm that he has complied with the law.

Any violation of these provisions is "punishable by a fine not less than Fifty Dollars (\$50), or by imprisonment not to exceed six (6) months, or both." 10 GCA § 34124.

On September 8, 2005, Bambi Leone, GAIN's Shelter Manager, told me the following information.

On August 4, 2005, James Salinas was approved to adopt a mixed pit bull dog, "Tank," which was two years old. Mr Salinas advised us that he would be having the dog sterilized at the Wise Owl Clinic, which is owned by veterinarian Dr Joel Schiff (now Joel Joseph). We approved the application. Subsequently, Mr Salinas telephoned the Shelter and advised the operation was set for Friday, August 16.

On August 16, Jill Craig drove the dog to the clinic for surgery, along with a license tag and license application form. Mr Salinas was to receive the dog only after it had been vaccinated and sterilized.

Dr Schiff did not send GAIN the certificate of sterilization or the certificate of rabies vaccination. On or about August 31, Bambi Leone, our Shelter Manager, drove to his clinic to collect the certificates. The receptionist said she did not have the file and the doctor was busy, but that he would call her.

No one called back. Ms Leone again telephoned the Wise Owl Clinic asking for the certificates and talked to a young man named Jacob, who said he would have the doctor call her back.

On September 9, Ms Leone telephoned the Wise Owl Clinic again, and again talked to the receptionist, who said the records were with Dr Schiff, and he would call her. Ms Leone then drove to Mr Salinas' residence and talked to his wife. Mr Salinas had lied on his application. He had said his yard was fenced; it was not. He said he had only one puppy; in fact, he has six dogs in his yard, all chained. "Tank" was not there. Mrs Salinas refused to tell her where the dog was.

Later on September 8, Ms Leone telephoned Dr Schiff, who told her that in fact he had not sterilized the dog, because Mr Salinas had changed his mind about the operation. Therefore, Dr Schiff had released the dog to Mr Salinas, knowing it was a Shelter animal, without first sterilizing it.

This dog is the property of GAIN. It's release to Mr Salinas was conditioned on it being sterilized and vaccinated, as required by law. Because it has not been sterilized, and appears not to have been vaccinated, it remains our property and we want it back.

Dr Schiff has admitted to violating Title 10, GCA § 34116(f) by releasing our dog to Mr Salinas without first sterilizing it. We are prepared to prosecute his conduct to the fullest extent of the law.

Ms Leone can be reached at 653-4246 or 632-1934.

Mr James Salinas provided the following information on his application form:

Address: 191H Kabesa Court, Yigo

Home telephone: 653-7650

Work telephone: 475-9276. He said he was a teacher at Astumbo.

I am enclosing a copy of Mr Salinas' adoption application, and application for license.

Sincerely,
[signature]
Karon V. Johnson
GAIN Board Member

Alicia G. Limtiaco
Attorney General



J. Patrick Mason
Deputy Attorney General
Civil Division

OFFICE of the ATTORNEY GENERAL

February 6, 2008

Mitchell F. Thompson, Esq.
Maher & Thompson, P.C.
140 Aspinall Avenue, Suite 201
Hagatna, Guam 96910

Re: Dr Joseph ad in the Pacific Daily News, NOTICE OF VIOLATION

Dear Mitch:

This notice is sent to you in your capacity as the attorney for Dr Joel Joseph. If you will not, or can not, accept it on his behalf, kindly promptly so inform me.

The attached ad of Dr Joseph's that appeared in the Pacific Daily News on several dates in the last few months was discussed at the February 1, 2008 monthly meeting of the Guam Board of Allied Health Examiners. All of the veterinarians on island deny, and maintain it is false and libelous, that any of them improperly re-uses needles, syringes, scalpels, suture & surgical drapes, or improperly reuses surgical packs on more than one patient; or sells outdated drugs, or dilutes drugs.

The Board determined that the ad is in violation of 10 GCA § 12816(b)(1), which prohibits advertisements that include false, misleading, or deceptive statements.

Pursuant to 10 GCA §12817, the Board hereby notifies Dr Joseph that he has thirty (30) days to correct the violation, or else disciplinary charges will be filed.

Thank you.

Sincerely,
[signature]
William C. BISCHOFF
Assistant Attorney General
Attorney for the Allied Health Board

January 11, 2007

To: Guam Board Of Allied Health Examiners

This letter is being written to file a formal complaint against Dr Joel Joseph of Wise Owl Veterinary Clinic. This complaint stems from an advertisement that was run in the Pacific Daily News on Wednesday January 10. The advertisement ran on page 4 of the Central Weekly Section.

Attached you will find a copy of the advertisement. It is clearly unprofessional and unethical, but in addition the advertisement fits the Guam legal definition of libel. The advertisement contained untrue facts, leads clients to believe that Isla Veterinary Clinic will be closing, advises my clients that they will need a new veterinarian and is obviously attempting to dismantle my business by offering a discount to anyone who brings an animal to Wise Owl with their full medical records from Isla. This is not a general advertisement just offering services or special prices.

I would appreciate the board looking into this matter. Dr Joseph has a long history of unprofessional and unethical behavior.

Thank you,
[signature]
Dr Rebecca Diaz
Isla Veterinary Clinic

Isla Veterinary Clinic, 866 Route 7, #101, Hagatna, GU 96910
671-477-7879

John P. Huntley, DVM, MPH, DACVPM
Area Veterinarian in Charge
AK/HI/HA/AmSamoa!Guam/CNMI
USDA, APHIS, VS

December 28, 2010

Dear Dr Huntley,

Last July, Dr Joel Joseph (fka Joel Schiff) visited my office and said that he planned to complete some continuing medical education and that he needed my signature on a form to receive proper credit. I took him at his word and signed the form while we chatted. After he left, my secretary informed me as to the true nature of the form (USDA Accreditation). Dr Joseph had waited until Dr Poole was off-island to approach me for a signature.

Dr Joseph intentionally misrepresented the purpose of his visit and that of the form. He intentionally misled me into signing what I believed to be an innocuous form related to continuing medical education credits. I am hereby requesting that you ignore my signature and the form on which it is applied. My signature was obtained through fraudulent means and should not be considered valid. For this reason and many others, I cannot now support Dr Joseph's request for accreditation by the USDA.

Thank you for your attention. Very Sincerely,

[signature]
Joseph D Torres

Cf: Guam Board of Allied Health Examiners

First-Person Stories of Abuse Experienced at Wise Owl Animal Hospital

[These stories were emailed to the editor and the sender's verified via subsequent phone conversations.]

Ghost by KU - 30 July 2015

I had called Wise Owl Animal Hospital to inquire about having a routine physical conducted on my dog. I explained to them that my dog (Ghost) had been missing for over a year after she was stolen from my home and we had just found her in another village. I wanted to check her health as she was not in the same condition she was before she was stolen. I explained that she was bumping into things and had really bad breath. I asked how much it would cost and was told it would be about 65 dollars for a routine exam. I was told to bring her in that day and that it would only take an hour.

I brought her to Wise Owl before lunch time and waited an hour in the waiting room with Ghost and my children before being brought into the exam room. While we were waiting in the exam room the veterinary technician told me that I needed to sign a document to allow them to conduct the bloodwork on her as I was told they needed to check for parasites in her blood. So I signed the document with the understanding it was only to allow them to draw her blood.

I proceeded to wait for an additional 2 hours during which time I had asked when the vet would be coming to look at her because my children were getting fussy and hungry. I was told that the vet could not see her and advised to leave my dog overnight because they were not sure how much longer the vet would be. They said that I would not be charged and they would call me after the vet saw Ghost which would possibly be after clinic hours. Because my children were hungry I agreed and left Ghost at Wise Owl under the impression that the vet was only going to do a routine check up on her.

Later that evening I received a call from Dr Joel Joseph notifying me that she did not have any blood parasites. He also stated that her eyes needed medication to clear them up and help her see better and that her teeth were in bad condition and would need to be pulled. He stated that he was not going to pull her teeth until a week from that day. He then told me I could pick her up the next day.

The following day prior to me attempting to pick up my dog I received another phone call from Dr Joel Joseph stating that he went ahead and pulled all her teeth out. This took me by surprise as he had already told me he wasn't going to do the procedure until I brought her back the next week and I did not give him authorization to do the procedure or sign any surgery documents. When I arrived to pick up Ghost I was told that my bill was over \$500 and I was only anticipating the bill to be \$65 to \$100 at the most. I told them I could not afford to pay the bill and asked if I could pay \$200 and go on a payment plan. I also spoke with Ben Joseph the son of Joel Joseph who said I could work out a payment plan with them.

However the staff told me that I could not because my bill was not over \$1000 and that I could not take my dog unless I paid in full. I explained that \$200 was all the money I have as I am a single mother of six and continued to ask them to please let me take my dog home because I would not be able to afford any additional charges. They said they would speak with Doctor Joseph and give me a call. I received a call the next day saying that they would not allow me to get on a payment plan despite me paying nearly half the bill already and that I could only have my dog back when the bill was paid in full and that each day my dog was there they would charge an additional 50 dollars. I again explained to them that there was no way I could afford to pay the rest of the bill and the additional 50 dollars a day. I explained my situation

September 1, 2006

To Guam Board of Allied Health Examiners

This letter is written in regard to Joel Schiff, aka Joel Joseph. Dr Schiff worked for me for the better part of a year. During that time, I noticed extremely poor sterile procedure practiced by Dr Schiff and some very sloppy surgical techniques. He has an excellent bedside manner and is good at convincing clients of the need for medical and surgical procedures. But his conduct of those procedures was often crude and lacking in sterile technique.

After he left my practice, a client asked if she could return some antibiotics that she had purchased from the clinic and for which Dr Schiff established the price. I said sure and expected to refund her about \$20 which would be typical for the prescription involved (Chloramphenicol). I was shocked to learn that he had charged her \$160. He was being paid on a commission basis so increasing charges would gather him more money. I refunded the money. Similarly, he would take radiographs on many many cases, far more than was justified medically. These are expensive procedures which again would gain him a high commission.

Also, after he left the practice, I was told a story by a client that she had called his cell number on a weekend about an emergency, thinking that she was calling my clinic. She was told by Schiff to bring her dog to my clinic. He met her outside the (closed) door, took the pet and then returned it directly to her house. During the last part of his stay at my practice, he would buy a large volume of drugs and supplies at my expense for his own use for practice on the side. I did not have adequate inventory control to verify that he reimbursed me fully for these, but my feeling is that they were not completely reimbursed.

While he was setting up his practice in Pohnpei, my drug bills were twice to three times what they normally were. Again, I cannot verify this but I strongly suspect he took drugs and supplies from my practice without paying for them to stock his Pohnpei practice.

While preparing for an avian influenza outbreak, I realized that having a respirator could be handy. I had purchased a Bird (brand) respirator several years before. It was sitting in a box under my desk. Although I searched the clinic high and low, I could never find it. Just recently, I was told by Barry Cox at the Merizo Zoo where Schiff had set up a clinic, that Schiff had told him that he had taken a lot of equipment from me because I had not paid him. I described the respirator and he said that yes, Schiff had that.

When queried about how to sharpen clipper blades, Schiff told me that he enjoyed sitting down with a marijuana joint and sharpening away while getting stoned.

[Second-hand reporting redacted]

While in Pohnpei, he had trouble of some sort and had to quickly leave the country. However, he was locked at the airport. He sought the assistance of Fred Ramp, an attorney who spent his entire Sunday working to get Schiff released. Then when Ramp submitted a bill for his services, it was never paid.

Also from Pohnpei, where I had established a practice where I would visit several times a year, Schiff took my client lists and cold-called my clients to offer his services. One client, Atty Craig Reffner, was quite upset over the lack of ethics displayed.

Dr Schiff has been a licensed veterinarian for 26 years. As an overall impression of Joel Schiff, aka Joel Joseph, I have never known a veterinarian of such low ethical standards. He is unethical in his treatment of other professionals. He is unethical in his treatment of clientele. His medical and surgical skills are sloppy at

ISLA VETERINARY CLINIC
866 ROUTE 7, #101
HAGATNA, GUAM 96910

AUGUST 30, 2006

TO: GUAM BOARD OF ALLIED HEALTH EXAMINERS

My association with Dr Joel Schiff (Joel Joseph) began in July of 2001. He came to Guam for an interview and appeared to be a genuine compassionate veterinarian.

He came to the island in late in 2001 and began working at my clinic part time.

It did not take long before I began to have serious concerns regarding his character and competence.

Concerns :

When I called him at home several times he asked me what day it was. He was being called because he was either late to the office or to an appointment.

He had a seizure while performing surgery and one of my office staff had to close the surgical site. Fortunately, only the skin was left.

I began to hear from my staff that he was asking to purchase drugs from them. Marijuana primarily. When I confronted him he told me it was none of my business, and I told him it was if it involved the employees or I even knew about it.

He had a couple of animals die after he performed surgery. Later I was to find out that he had incorrectly attempted particular procedures in a manner unlikely to be considered the correct process for the procedure. His comment when I would try to discuss it with him was that shit rolled uphill and it was my fault the animals died. Even though he had 15 years more experience than me, it was my fault by virtue of owning the clinic where he worked.

Supplies started to turn up missing. I believe he was stealing from me. I had to discuss sexual harassment with him several times. The staff complained about his behavior and comments to them. He announced to us all one day he had contracted a disease from a toilet seat. I was floored he was talking in front of the whole staff and also amazed that he would say he got a disease in a manner inconsistent with medical research.

in May/June 2002 Dr Schiff was informed that his services would no longer be needed at my clinic. He had been off-island for a week and the problems between him, my clients and staff was appalling. I was told he had accepted a job with Dr Edlund.

At the time he was released, he refused to leave the office and it was necessary to call the police before he would leave the property. He attempted to have my husband arrested by standing up, putting his hands in the air, backing into Gus and screaming don't hit me.

Needless to say, our parting was less than cordial.

[Second-hand reporting redacted]

First-Person Stories of Abuse Experienced at Wise Owl Animal Hospital

[These stories were emailed to the editor and the sender's verified via subsequent phone conversations.]

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I had called Wise Owl Animal Hospital to inquire about having a routine physical conducted on my dog. I explained to them that my dog (Ghost) had been missing for over a year after she was stolen from my home and we had just found her in another village. I wanted to check her health as she was not in the same condition she was before she was stolen. I explained that she was bumping into things and had really bad breath. I asked how much it would cost and was told it would be about 65 dollars for a routine exam. I was told to bring her in that day and that it would only take an hour.

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The following day prior to me attempting to pick up my dog I received another phone call from Dr Joel Joseph stating that he went ahead and pulled all her teeth out. This took me by surprise as he had already told me he wasn't going to do the procedure until I brought her back the next week and I did not give him authorization to do the procedure or sign any surgery documents. When I arrived to pick up Ghost I was told that my bill was over \$500 and I was only anticipating the bill to be \$65 to \$100 at the most. I told them I could not afford to pay the bill and asked if I could pay \$200 and go on a payment plan. I also spoke with Ben Joseph the son of Joel Joseph who said I could work out a payment plan with them.

However the staff told me that I could not because my bill was not over \$1000 and that I could not take my dog unless I paid in full. I explained that \$200 was all the money I have as I am a single mother of six and continued to ask them to please let me take my dog home because I would not be able to afford any additional charges. They said they would speak with Doctor Joseph and give me a call. I received a call the next day saying that they would not allow me to get on a payment plan despite me paying nearly half the bill already and that I could only have my dog back when the bill was paid in full and that each day my dog was there they would charge an additional 50 dollars. I again explained to them that there was no way I could afford to pay the rest of the bill and the additional 50 dollars a day. I explained my situation

to them that I am a single mother of six and only make so much but they would not release her to me.

The following week I received a call asking when I would be able to pay the bill in full to include the additional overnight charges. I again explained to them that I could not pay at this time and that they were making it even more difficult by not allowing me to take my dog home and withholding her while adding more charges. I told the vet technician that my remaining bill was about \$300 and that because they would not allow me to take Ghost home as I begged they were making it impossible for me to pay for the costs. I again asked for them to allow me to take her home to avoid the additional charges but they told me no I needed to pay in full. To which I told them I could not afford it as I did not have the money to pay for the costs.

It wasn't until my bill was \$1600, \$1100 more than the original bill, that they called me and said I could take my dog home but I had to pay at least 50 dollars to be able to bring her home and avoid any further charges. I agreed to pick her up because I did not want to continue to be charged. I am now being taken to court for \$1600 and need help as I feel he held my dog hostage and lied to me about when he would do the procedure. Please respond any information is greatly appreciated.

[Index](#) [Top](#) [Previous - Getting Sued by Wise Owl](#)

[Next - Conclusions](#)

[Contact: WiseOwlBeWarned@gmail.com](#)

“Exhibit D”

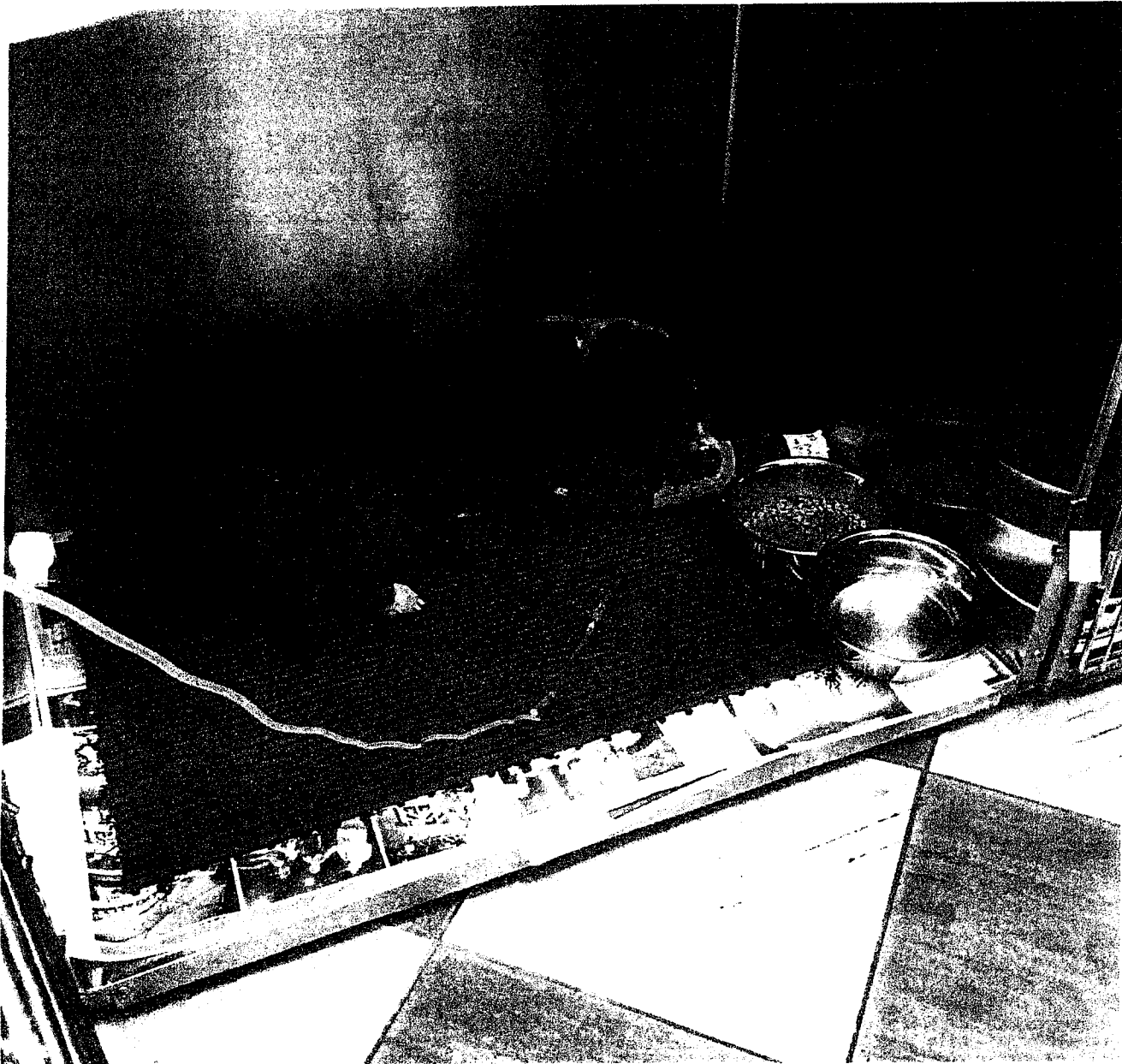
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Cold Stone Creamery GUAM
Sugar & Spice and everything
nice! Available at your Cold
Stone Guam stores!

Like Page Rowland
Perez likes this page



KUAM News
September 14

"Rex" sits in his kennel at Wi
Tamuning on Monday. The 2-
violently beaten on Friday, as
on social media. Rex sustain
underwent nearly two hours o
30-year-old Steven Borja, wa
and charged with animal abus
criminal mischief. by kuanne

Like Comment Share

Paul Pangelinan Bataja de
Perez Em Leon, Leon Perez

12 shares



Paul Pangelinan Bataja de
Perez wishing you to a speed
for both of them

Like Reply September



Nan Sumba Mucho lov

Like Reply September



Brenda Adams Get we
Borja needs to be cage-
broken.

Like Reply 1 Sep



Cindy Rayburn Hope y
soon Rex so you can b
butt.

Like Reply 1 Sep



Mary Roberts My heart
could come get you, Pls
St. Francis for Rex to rec

Like Reply 1 Sep



Eva Bella Awww...why t
animal?! That guy is a je

Like Reply 1 Sep

View 10 other comments



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2015

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9 02am

any concerned people around Guam I
and will not take "No" as an answer!!!

If an animal abuse victim or take a police
IDENTIFY THE OFFICER!!!!(Name, badge
numbers by law) .. See More

9 05am

yes. Wild isn't it?

11 38am



Ben-Scott Schiff
September 11, 2015
View profile

Today all of Guam was hear
animal abuse towards these
No the owner was not aware.
When he was informed he ir
police and brought the dogs
treatment....

Luckily for the owner this ca
documented on film and wen
immediate arrest of the indiv
With the amount of concerne
out to us about this case I be
change the animal cruelty law
hold people responsible for a

**PLEASE SHARE/REPOST
OF ANIMAL CRUELTY ON C**

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Ben-Scott Schiff, M. D., M. P. H.
Baltimore and Philadelphia, PA

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Nico Johnson I seen t



Like Reply 6 Sep

Antonio R. Lopez
Reply



Ann Marie Vrit the own
bringing them in right a
own. Most of the is the
proud to be associated
Heartbroken that some
ok to do that to these in



View photos and videos

Like Comment



Carita L. ...
May 2, 2015

in Profile



Tony Wood



Tony Joy SkedAttor que Aw! So glad you guys were the ones to help them out.
Your dad lost a ton of weight, huh?

1 Like Reply ...



View profile



Ben-Scott Schiff

September 11, 2015

Today the Guam Board of Allied Health made special exceptions to approve
a late application for old board member Verma Harper while still refusing to
re view Wise Owls Dr. Joe Josephson's license because it is early WTF
and a ...

“Exhibit E”

Letter of complaint Wise Owl

To: Wise Owl and Dr. Joel Joseph

October 15, 2015

CC: Cesar Cabot Attorney

Mr. Joseph you stopped by my office today at 10:30 am to deliver a letter to my wife that I found extremely unprofessional and disrespectful.

First of all you when I stopped yesterday to pay my bill which as it was agree over the phone would be \$350.00 and I have the phone conversation recorded because I sensed you will try to come out with other charges on Rex like you did with the original treatment indicated that X rays were taken and many other things that I didn't authorized.

The community raised money and I'm sure the funds raised were a lot more than the discount that you provided because you mentioned that money was donated by the community but you never told how much it was donated and you were very unethical in no letting me know how much was the total of the donations, however it's very easy for me to find out through Facebook by asking all people that donated the funds.

You never provided me personally with any discount because you deducted the funds donated by the community from the total bill which I pay the remainder for the amount of \$1856.00 (\$400.00 first and \$1456.00 later) the funds raised were applied to my bill and that is what you call a discount, don't forget that this discount was paid by the community and their donations for the treatment for Rex and Lucky.

As I indicated to you about the bill for Lucky and Rex been a monstrosity which at that moment I considered a rip off and I told you

on my last phone conversation in which over the phone I asked you how much it was going to cost me to remove the pin that was bend and you indicated \$350.00.

The pin that you located on the front leg of rex pin bend it because the result of your malpractice and it happened because you didn't cast the front leg. I have videos and pictures taken of the front leg and the piece of plastic and gauze that you rasped around his leg.

You did a horrible job on my dog Rex with the intentions of continuous making money \$80.00 once per week on the replacement of the rap on his front leg that you didn't even placed a cast on his front leg as you did on the rear leg. You should have casted the leg but you didn't do it.

Yesterday when I stopped by Wise Owl you indicated that your staff told my wife that it was \$50.00 per day to keep the dog on Wise Owl which is a lie and today you told my wife that you told me that it will be \$50.00 a day for keeping the dog per night which through this letter I respond you are a liar. **You failed to inform my wife or myself that you charge \$50.00 per day for keeping a dog in your clinic.**

You also mentioned in your letter received by my office today that I abandoned my dog, however as you knew and your office knew when you called my house that I left off island and for your information I left off island because my sister was hospitalized and I Tuesday night and I stopped by your clinic Wednesday early morning and when I was going to write a check they told me that the bill was \$950.00 which it was different from what we agreed which it was \$350.00 (Agreement recorded by you indicating \$350.00 when I asked you how much will it cost). This accusation is extremely serious and I take it as a slandering of character and libel and I will make sure you will be held accountable

for your actions and for slandering of character on your letter delivered to my office.

For your understanding my wife doesn't drive and we don't have anyone that can help my wife in picking up the dog. You never told me how long you will have Rex in order for me to know when the dog will be released and this was an emergency and in that scenario my sister is more important that picking up my dog specially when is located inside the clinic but \$50.00 per night I believe is a rip off because 2 to 3 start hotels in Guam charge \$50.00 per night and if you go to Tamuning plaza hotel is \$35.00 per night.

Then you begin to explain to me that you take the dog 4 times a day to pee and poo and then they sleep on a cage and you charge \$50.00 per day when you pay your employees minimum wage. What a rip off.

I will make sure you will be accountable for your actions and I will make sure everyone in Guam will know your ethics and I will file a complaint on the ethics comity with the proper authorities.

You have 48 hours from today to return my dog and I will pay the 350.00.00 plus \$20.00 per day for the 10 days, otherwise I will take this matter to court and I will do everything on my power to stop this corruption and bully behavior.

As I indicated to you yesterday I will never return to your clinic again. I'm an honest men and I will stand to anyone that tries to take advantage of any situation or anyone that have acted unethical as you have done both.

Take this letter very serious and understand that I will file a law sue against you and Wise Owl for unethical mal practices, defamation of

character, and many other claims that Cesar Cabot my partner and lawyer will file with the court of Guam if this continuous.

I will not stop until you return my dog to me plus lawyer expenses, emotional distress and punitive damages.

This is your option and your decision because as I indicated at your office yesterday and I will repeat again through this letter that I'm not refusing to pay the agree \$350.00 for the treatment and I'm not refusing to pay \$20.00 per day, however if you disagree and I have not received my dog by Monday morning between 8:00 am and 11:00 am I will be forced to file a law suit against Wise Owl and you and I will personally take this entire malpractice and defamation of character to the entire media, so this doesn't happen again to others.

I'm sure I'm not the only client that have issues with Wise Owl or have the same concerns and accusations that I have, because I heard many things before about you and wise owl but of course I was an easy client because I spend over \$500.00 per month between dog food and treatment for the last 3 years but this will be something that will be investigated later if the need arise.

As I indicated I will never come back to your clinic again and I don't want to talk anymore with you. All I want is to pay my agreed bill and get my dog returned to me.

Sincerely,



Alfredo Bustamante

To: Joel Joseph / Wise Owl
Small case Claim Number: 0584-15

Tuesday November 24, 2015

Mr. Joel Joseph(AKA Dr. Schiff),

Today Tuesday November 24, 2015 at 11:00 I appeared in court and the referee Benjamin Sison recused himself from this case due to conflict of interest. Referee Benjamin Sison indicated that a hearing date will be set for trial and we will be notify via mail.

This letter is to let you know that I'm here at your office with a written request for you to release my dog immediately due to the fact that Rex is personal property and you are holding hostage my dog Rex since Friday October 13, 2015 with the intent to continuous charging me for the dog stay, however this has come further because you are keeping personal property against my will.

This letter is to give you 24 hours to release my dog Rex in to my custody due to the fact that a small claim case is open and a court hearing will be set in order to allow the legal system to determine who have been or continuous been unethical.

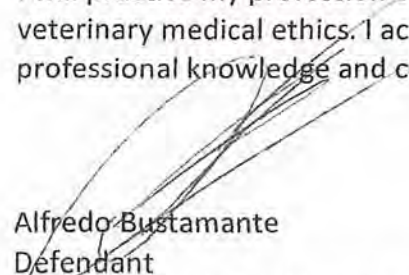
In the event you decide to continuous holding my dog hostage which a veterinarian cannot do without proper and legal permission from the owner of the Dog, especially when a small claims procedures have been established, then I will proceed through the superior court of Guam accordingly to the law.

This document shall serve as a notice that small claims proceedings was established today Tuesday November 24, 2015 and I request that my dog be released in to my custody immediately and not later than Tomorrow Wednesday at 12:30 (24 hours written notice to release my dog Rex as a private property). Your office can reach me at 483-0206 or 687-6545

As you may know a doctor may be held to highest standards as every veterinarian takes the following oath upon entering the veterinarian profession as indicated below:

Being admitted to the profession of veterinary medicine, I solemnly swear to use my scientific knowledge and skills for the benefit of society through the protection of animal health and welfare, the prevention and relief of animal suffering, the conservation of animal resources, the promotion of public health, and the advancement of medical knowledge.

I will practice my profession conscientiously, with dignity, and in keeping with the principles of veterinary medical ethics. I accept as a lifelong obligation the continual improvement of my professional knowledge and competence.


Alfredo Bustamante
Defendant
Disabled veteran and owner of Rex

100PM

received

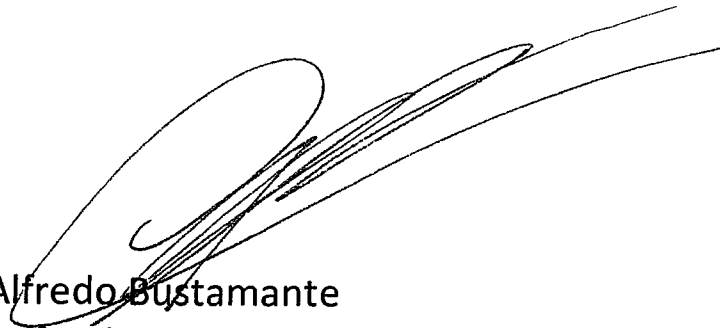
11/24/15

To: Joel Joseph / Wise Owl 3rd Letter
Wednesday November 25, 2015
Small case Claim Number: 0584-15

Mr. Joel Joseph(AKA Dr. Schiff),
Today Wednesday November 24, 2015 at 8:05 am I come to Wise owl
to request medical records of all my dogs as it should be released to me
by law.

Yesterday I delivered a letter to release our dog Rex to us, so once
again I need to remind you that you are holding my dog hostage and
unethically. You and Wise Owl will have until 1:00 pm to return my dogs
which are personal property of my kids and I.

^{letter}
This provided to you and Wise Owl yesterday afternoon was with the
intent to let you know of our rights, especially now that a small claims
case hearing will be held in court. In the event you decide to continuous
holding my dog hostage which a veterinarian cannot do without proper
and legal permission from the owner of the Dog, especially when a
small claims procedures have been established, then I will proceed
through the superior court of Guam accordingly to the law and I will file
a complaint with the Guam Allied Board of Health Examiners.


Alfredo Bustamante
Defendant
Disabled veteran and owner of Rex

received

11/25/15

8:05 AM.

Nov 7, 2019

Dear Senators,

I urge you to repeal the TripleMA or reform it because it does not serve the people but protect a select few

Arbitration law is unclear, with no expert witness on Guam, since local practicing physicians won't investigate or determine fellow physicians malpractice, negligence or medical error.

We cannot and must not turn a blind eye on the negligence and malpractice that does happen, and not determine them baseless or without merit without court litigation and a proper investigation.

No one deserves to go through the errors of medical care that could've been prevented. No one deserves to have 'never events' happen to them because it's not seen as a big matter or the patient was sick in the first place so it wouldn't matter if something like a stage 4 hospital acquired bed sore developed

No one deserves to be treated indifferently due to sickness, determining that these never events happen because the person was sick. If that was the case, why don't insurances cover it in the first place? CMS denies all payments associated to it, because of the medical error

It's unnatural to have something preventable form to a critical state in a hospital setting for more than a month

Everyone is prone or at risk of getting sued, be it any regular worker, a law enforcement officer, businesses, industries, contractors and even our own government, so why is it only a certain group or profession, exempt from the court of law?

Laws can be made to fix the shortage of medical professionals, like the NLC or funding medical scholarships, but not by hiding negligent malpractice

Instead of hiding the mistakes, the negligence and the preventable deaths that hurt the community by forcing a road block through arbitration, we should focus on inspiring, creating, mentoring, and generating new laws.

We need to pursue these sustainable options rather than the option to have those affected by negligent malpractice, go through tremendous suffering. There's no liability for the patient who suffers through medical errors.

The costs of long term treatment as a result, that can also lead to further disability should be addressed.

Physicians who lobby for the MMMA are more concerned about their malpractice insurance increasing then they are of the people who do go through the pains and suffering of medical error

When they swore to their medical profession, they were all aware of the possibilities of lawsuits, it's not like they graduated medical school, granted protection or immunity

Guam arbitration grants them that because of the lack of resources to even go through the Arbitration process

Thank you,

Anelyn Lagrimas

Fwd: re arbitration law

1 message

Gladys Linsangan [redacted]
To: Senator Therese Terlaje <senatorterlajeguam@gmail.com>

Sun, Nov 10, 2019 at 12:55 PM

I just want to make sure this was read by her since I came in late

Sent from my iPhone

Begin forwarded message:

From: Gladys Linsangan [redacted]
Date: November 9, 2019 at 8:35:51 AM GMT+10
To: "voice@guampdn.com" <voice@guampdn.com>
Subject: re arbitration law

As the legislature ponder on the fate of the arbitration law which will definitely change the landscape of the practice of Medicine on island and the escalating criticism both on paper and social media against very capable physicians I figured this is the best time to give the public some perspective from the other side of the issue. Most physicians would really rather not get involve in politics and controversies, most of our energy are taken up by the health worries of our patients and we really just want to do our job and take care of them. However after reading the editorial today I can not help but speak up and correct some of the misconceptions that the public may get from the said piece.

I moved to Guam in 2002 and immediately set up my own private practice. I was a naive Board Certified General Pediatrician who heeded my brother's encouragement to relocate and help the island and left an ideal set up of a 9 to 6 job with no call and no inpatient responsibility. I did it so i can be with my family both on island and the nearby Philippines and thought it was the perfect situation for me....that was until i was confronted with the realities of Pediatric practice on island. I quickly realized that i have chosen a more difficult path.

My fellow Pediatricians and I were forced to practice sub specialties beyond our expertise and comfort... We all became the intensivist, rheumatologist neonatologist, nephrologist, endocrinologist cardiologist etc to our pediatric patients.....because if we don't.....nobody will.....because if we don't...who will see and take care of these patients?

We have willingly exposed ourselves to potential malpractice to take care of these children because if we don't those who needed those subspecialty services at the critical time they need it will probably not survive another minute, another hour or another day.That premature baby may not make it to the NICU, or that child with Congestive heart Failure may die the next day or that kid with Diabetes may lose the function of his kidney by his 7th birthday.

Yes, we can not give perfect pediatric or health care at all times....but believe that all physicians always try the best way they can oftentimes to the detriment of their health and prioritized over family matters and important gatherings....because we understand it is part of the job.

Every time we have a sick child needing sub specialty care not available on island...we always try to engage our subspecialty colleagues from the mainland often at the wee hours of the morning so we can be guided on how we can better manage the patient....and yes there is no provision in the medical billing for such. Oftentimes we have to beg our adult sub specialist counterparts to consult on our sick children so we can at least provide the best care available with in reach.

Yes we can not cure everyone....yes we can not perform miracles....yes we can not predict who will survive or who will deteriorate first....we make decisions based on how the patient presented at that time the patient was seen.....we are guided by the norms that we have all learned from years of training and education we threw ourselves into.....but despite all the scientific and evidenced based protocols that we try to follow....there will always be a few instances where some situations can not be explained and is out of the norm.

The loss of any life is a devastating event to every family member.....But please believe that any physician who have lost a patient under their care is devastated as well....that when one of our patient die under our care....a part of us die as well....but we can only grieve so much because there is another patient, another crying child awaiting us in the next room needing our Pediatric services as well.

Frankly if I have known ahead of time the type of Pediatric practice I have to deal with in Guam....I probably would not have relocated here from California.

I came without any after thought on the how's of the kind of practice here. I just came back from a reunion with my medical school classmates in New York and they can not believe what we are forced to do for our patients.

Practicing General Pediatric care is hard enough....but doing sub specialty Pediatric care without the additional training for it is so burdensome and stressful.....and doing it without the current arbitration law is even worse....and to most of us probably not worth it.

If the arbitration law is changed into something that will make it easier for patients to seek redress over the simplest things and frivolous instances.....our sub specialty colleagues from the mainland and our on island adult sub specialties have expressed their apprehension and will most likely refuse to consult with us on behalf of our patients.....these will thereby forever change the pediatric norm of practice on island.

if the legislature in its wisdom decide to arm the patients who can not afford arbitration proceedings with a weapon that will allow them to sue easier than how it is now....then your physicians will practice defensive medicine and do all the tests available to ensure that they don't miss any diagnosis ...the hospital will be crowded to monitor possible complications for the simplest of diagnosis ...thereby overwhelming our system already overwhelmed....the public health care funding will be bankrupt paying for all of the examinations and the hospitalizations and the medical insurance cost will likely rise more than how it is now.....and that is just the financial burden of the equation....

But more than that.....what it will do is take away from the same group people

it is trying to protect.....their ability to access the best possible health care for their needs.....These people who can not afford to fly anywhere to get the subspecialty care they need will not have alternative care available on island....and those children who thru no fault of their own cannot see a Pediatric nephrologist or Endocrinologist because their family has no means to go off island to see one..... will also be denied access to expert care from an adult sub specialist care because these physicians will be afraid to offer their services because this is not the patient population they have trained for.

I find it ironic that the very people this discussion about the arbitration law is trying to protect will in fact going to be the same group of people who will suffer the most from this.

This must have been the guiding reason for this arbitration law....Protection and health benefits for most of the population.....and that even though new measures can be added to make this law accessible to those seeking justification and redressi strongly believe that this should ultimately be the guiding reason for this legislature.

Gladys Linsangan MD, FAAP

Board Certified

American Board of Pediatrics

Lives in Tamuning

Practice in Dededo

Young Physician View on Medical Arbitration

1 message

Lawrence Lee [REDACTED]
To: senatorterlajeguam@gmail.com

Fri, Oct 18, 2019 at 12:28 PM

Hello Senator Terlaje ,

My name is Lawrence Lee, I am an emergency room physician who has been following your hearings on the current medical arbitration law. I was present at the first hearing but was unable to attend the most recent hearing due to work (however I was able to watch it later online). I'd like to offer my point of view as a young physician who recently moved to the island.

I believe that abolishing the medical arbitration law would be detrimental Guam. Many points were well made during the last hearing, especially from Dr. Alfred, I'd like to re-iterate a few points.


1. Abolishing the medical arbitration law would cause an exodus of doctors and only increase the hardship of recruiting new ones.
 - o I recently graduated from my emergency room residency in Michigan this past July and moved to the island in August. I never would of thought that I would take my first job out of residency in Guam. My wife, who happened to have family in Guam, was presented with the opportunity to work here which led to our move. Without my wife's family tie, we would not have moved to Guam. We all are aware how isolated Guam is, which is one of the reasons why physicians are hesitant to make the move. That being said, although my time has been short on the island, the people and the community has been great, and we are both very happy with our decision. If there were no medical arbitration in place, and Guam became a high liability state, even despite my wife's family, I would NOT have moved to Guam. I have over a quarter million dollars in debt from medical school, and I simply would not take the medical liability risk of practicing here when there are other States located much closer to my family and friends. Abolishing the medical arbitration law would strongly reconsider my choice of staying in Guam.
2. There are already a shortage of physicians with some specialties not even available.
 - o Coming from the mainland, Guam's healthcare is still a far cry compared to State side. The standard of care is not even comparable. Many specialties only have 1 or 2 physicians practicing on the island, while many specialties are not even available. For example, there are no Gastroenterologist (GI) on the island. In the states, if a patient were to come to the hospital with an acute upper GI bleed, hemorrhaging from their stomach, a GI doctor would be called to perform an endoscope and fix any bleeding vessels. This is not possible on Guam. These cases would be medically managed with medicine, which is not ideal, but the next best thing to do. As Dr. Alfred mentioned in the last hearing, we still have many specialties not available in Guam, and some are forced to practice outside their comfort zone simply because there are NO alternatives. If the medical arbitration law is abolished, this would only worsen the shortage of specialty medicine available in Guam, which would be devastating for the healthcare of our community. In addition, the medical care is already stressed in Guam. Being in emergency medicine, I see firsthand how full the ERs have been. Both GMH and GRMC having to go on ambulance divert as the ER's are brimming full of sick patients and lacking space. Patient's are being held in the ER sometimes more than a day due to how full the hospital is.
3. "The arbitration law harbors apathy from doctors by not practicing defensive medicine"
 - o This is far from the truth. Every doctor who enters medical school does so with the goal of helping people, we all take an oath. Personally, I treat each patient I see as I would for a family member. Practicing defensive medicine does not benefit the doctor, when in reality, in fact may HARM patients. Imagine a child with a fever and cough. Years of medicine training tell us that the patient most likely has a viral disease such as a common cold. Practicing defensive medicine would order unnecessary tests (a CBC has no value in diagnosing a viral disease). This child would have blood work drawn in the ED, perhaps even a spinal tap (needle in the back to draw spinal fluid) to rule out meningitis, X-rays (more radiation) all to avoid medical liability. These invasive procedures would put the child at risk for more harmful complications. Not to mention driving the medical costs for everyone, and delaying testing for those who actually need it.
4. "Doctors are unfairly held to a different standard"
 - o The medical field is very different from all other fields. I'll give you ER as an example. As an ER physician, by federal law, I cannot refuse to see anyone who comes to my ER. Young, old, sick, or not sick, I am required to see everyone for anything. Which other field is mandated like mine? I can't think of one. Lawyers

can refuse clients, so can plumbers, contractors, restaurants, etc. Because I am forced to see everyone, my liability is much higher than any other field. That being said, that is why I love ER so much. I love seeing mothers, children, grandparents etc. I see everyone in the community and feel that everyday at work I make a difference in helping those seek ER care. Medicine is simply very different from any other field, and cannot be held to the same standard.

Medical doctors who practice GROSS negligence SHOULD be held accountable for their actions. But simply abolishing the arbitration act is not the answer. I kindly ask the senators to keep the bigger picture in mind of how a change in the arbitration act would impact the healthcare for the island. It's easy for us to sympathize with losses of loved ones. We all should, that is a part of human nature, and I truly feel sorry the unfortunate cases. The worst part of my job is tell a patient's family that their loved one has passed. However, as mentioned in the last hearing, a bad outcome does not always mean bad care. Sometimes despite our best efforts, we cannot save a patient, and that is the unfortunate reality of the field we practice in.

Thank you for your time Senator. Please forward this email to others who are involved in the evaluation of the arbitration act.

Sincerely,
Lawrence Lee, D.O.
Emergency Medicine

LAW OFFICE OF
ROBERT L. KEOGH
SUITE 105, ANGELA FLORES BUILDING
247 MARTYR STREET
HAGATÑA, GUAM 96910
TELEPHONE (671) 472-6895 • FACSIMILE (671) 472-6929
email address: @guam.net


November 26, 2019

Senator Tina Muna Barnes
Senator Therese M. Terlaje
Senator Telo Taitague
Senator Kelly Marsh (Taitano)
35th Guam Legislature
Guam Congress building
163 Chalan Santo Papa
Hagatna, Guam 96910

**Senator
Therese M. Terlaje**

NOV 26 2019

Time: 2:06pm

Received by: 

Re: October 3, 2019 Testimony

Dear Senators Muna Barnes, Terlaje, Taitague and Marsh (Taitano),

I am writing to all of you collectively since you have each shown considerable genuine interest and concern in addressing the inequities and impediments to just resolution of medical malpractice claims presented by the Guam Mandatory Medical Malpractice Arbitration Act, 10 GCA §10100, et seq. (MMMAA). I have been giving the issue a lot of thought over the past several weeks to try and come up with a solution that is fair to potential victims of medical negligence and to the medical community. As I acknowledged during one of the Informational Hearings conducted, this is a difficult issue with sincere concerns held and expressed on all sides. I have arrived at two possible approaches which I wish to impart.

1. Amend the existing law to provide that all fees of arbitration are to be paid by the health professional or health care institution.

The greatest impediment to victims of medical negligence seeking and obtaining meaningful relief under the MMMAA is the prohibitive cost of arbitration through the AAA, the only arbitration service available. In California, the courts have established a set of criteria that must be satisfied for arbitration agreements to be enforceable. They are that any such agreement:

(1) provides for neutral arbitrators, (2) provides for more than minimal discovery, (3) requires a written award, (4) provides for all of the types of relief that would otherwise be available in court, and (5) **does not require employees to pay either unreasonable costs or any arbitrators' fees or expenses as a condition of access to the arbitration forum.**

See, Armendariz v. Foundation Health Psychcare Services, Inc., 24 Cal. 4th 83, 102 (Supreme Ct. of Ca., 2000) (emphasis supplied).

There is a significant distinction between arbitration agreements and the MMMAA. Arbitration agreements are contracts entered into by two presumably willing parties creating their mutual agreement to resolve disputes by way of arbitration. The MMMAA is a statutorily mandated process where neither party has a choice. It is arbitration or nothing.

The California courts took the step of imposing the above conditions on arbitration contracts in recognition that such arbitration clauses in contracts are usually created in the context of what are called adhesion contracts, i.e. contracts where one party has superior bargaining power and the other party has no real meaningful choice to reject or negotiate the condition. The Armendariz decision mentioned above involved arbitration provisions in employment contracts. The employees were faced with either agreeing to arbitration when applying for a job or not getting a job. The courts have held that in order not to be deemed unconscionable contracts the arbitration clauses have to comply with the 5 criteria. The employers had to pay all costs associated with arbitration.

The MMMAA should be held to an even higher standard than arbitration contracts. The MMMAA is **LAW** that requires arbitration, not an agreement between two parties. The MMMAA complies for the most part with the first 4 criteria from the Armendariz decision, but overwhelmingly fails the 5th. The high cost of arbitration with the AAA under the MMMAA would certainly render the process as unconscionable if it were a contract. A statute that creates an unconscionable result is unconstitutional.

My first proposal is, if health care providers want the protections afforded by arbitration then they should pay for it. They get the benefit of a private, non-public, confidential process; the benefit of having a doctor on the panel; and the benefit of an expedited process. Since they are asking for these benefits, not the claimants, in order to keep their malpractice

insurance premiums down, then they should pay for them. The amendment of the law could also include a provision that Health Professional or Health Care Institution as defined in the MMMAA may opt to forego arbitration if they so choose so as not to incur costs themselves, at which point Claimants may proceed with a Superior Court action.

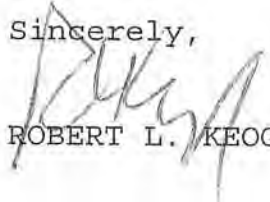
2. Create a Medical Malpractice Court Division in the Superior Court of Guam.

As a second suggested alternative, the Legislature could establish a Medical Malpractice Court within the Superior Court of Guam. This could be accomplished by either adding to 7 GCA § 2101(a) a Medical Malpractice Court, or preferably adding a new subsection (f) to 7 GCA § 2101 creating a Guam Medical Malpractice Court, just as has been done with subsection (c) Guam Veterans Treatment Court; (d) Guam Adult Reentry Court Program; and (e) DWI Treatment Court. The details of whether it would be a court of record or how the Court would be organized and administered could be worked out through the legislative process or directing the Supreme Court of Guam to create the rules and procedures so as to satisfy constitutional and Organic Act requirements.

The suggestions above would still need further detail considerations such as: how the legislation would affect pending arbitration claims; how the timing of serving arbitration demands or court actions would relate to the current statute of limitations; and perhaps other matters that I have not considered and that are not within my area of expertise. I would also like to suggest that the current "cooling off period" draft legislation suffers from some of these same difficulties such as the status of pending claims and how the cooling off period affects the statute of limitations. Frankly, my personal opinion is that a cooling off period will more likely just generate delay rather than settlement of claims as has been my experience with the 6 month administrative claim process under the Government Claims Act.

I would be happy to discuss either of these suggestions, or perhaps alternative approaches to addressing this important issue, at any time. Thank you for conscientious efforts regarding addressing the inequities of the MMMAA.

Sincerely,


ROBERT L. KEOGH



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

COMMITTEE REPORT DIGEST

I. OVERVIEW

The Committee on Health, Tourism, Historic Preservation, Land and Justice convened a public hearing on Guam's Medical Malpractice Mandatory Arbitration Act (10 GCA, Chapter 10) on Thursday, November 7, 2019 at 5:00 PM in *I Liheslatura's* Public Hearing Room to discuss Guam's Options Overview: Recommendations for Improvement (All health professionals and patients are invited to provide written testimony or attend hearings).

Public Notice Requirements

Notices for this Public Hearing were disseminated via email to all senators and all main media broadcasting outlets on Tuesday, October 29, 2019 and again on Tuesday, November 5, 2019. The notice was also published in the Guam Daily Post on Thursday, October 31, 2019 & Tuesday, November 5, 2019.

Senators Present

Senator Therese M. Terlaje, Chairperson
Senator Telo Taitague

Appearing before the Committee

David Lubofsky
Dr. Teresa Underwood
Alfredo Bustamante
Dr. Erika Alford
Dr. Mo-ping Tham
Dr. Stanley Yasuhiro
Attorney Robert Keogh
Anelyn Lagrimas

II. SUMMARY OF TESTIMONY & DISCUSSION

The informational hearing was Called-to-Order at 5:05 PM.

*(Proceedings are informally transcribed below. For an official record of hearing please go to:
<https://www.youtube.com/watch?v=zxEB9T80Tt8>)*



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Chairperson Therese M. Terlaje:

Håfa adai! Thank you everyone for being here today. We're going to begin this hearing. We've got a lot of people here. So, let's get started.

The Committee on Health, Tourism, Historic Preservation, Land and Justice is now called to order. It's about 5:05 PM. Today's Thursday, November 7, 2019.

Notices for this Public Hearing were disseminated via email to all senators and all main media broadcasting outlets on Tuesday, October 29, 2019 and again on Tuesday, November 5, 2019. The notice was also published in the Guam Daily Post on Friday, October 31, 2019 & Tuesday, November 5, 2019.

The agenda item is our Third Informational Briefing on Guam's Medical Malpractice Mandatory Arbitration Act. Which is contained in Chapter 10 of Title 10, Guam Code Annotated. We wanted to concentrate in this third briefing on options going forward and there have been many suggestions.

So, we'd like to just take a very brief review of that. There's additional testimony that some people would like to provide tonight and recommendations for improvement of our Mandatory Medical Arbitration Act.

We, the committee, is particularly interested in whether the law can be improved to better protect patients and to ensure an appropriate standard of care. Suggestions for reform or arguments against reform will be heard and considered.

The goal of the committee is to hear and gather these arguments in order to allow all the senators to fully consider any changes and impacts to changes to the current law.

At our First Informational Hearing held on September 19th, the public was provided with a basic background on the Malpractice Law and the Government Claims Act as it relates to claims against government medical professionals.

At the Second Informational Hearing held on October 3rd, health professionals testified to the impacts of the current law on their current practice and the standard of care on Guam.

Testimony was also provided on the possible impact of prospective reform to by several including Attorney Robert Keogh and Attorney Mitch Thompson. Some attorneys testified at several hearings on the experience that including Attorney Bell, as s to their experience representing claimants. And, of course, we've had some claimants who have testified directly



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

regarding their own experiences. I've prepared a very short spreadsheet while my staff prepared this pretty much. Just to summarize the concepts that have been put out there or recommendations. And what we are going to continue to hear some of these tonight. All of the testimony will be compiled that's going to be put up on our website. It will be sent to the Speaker of the Legislature in a report. So, that all senators who have access to every document that has been submitted to me and all recommendations that you have made.

As we said earlier and other hearings that this hearing is not considering any particular amendment. That amendment would have to be made in a bill form and it would have to have its own hearing and testimony from the public.

So, to begin I'd like to if I could get the sign-in sheet. I'd like to recognize the presence of my colleague, Senator Telo Taitague, she's been here at every hearing. Thank you very much senator.

Okay, so, we've got quite a few people who've signed in but to give oral testimony. We have Mr. Lubofsky, if you could have a seat. We have Dr. Guzman, and Maria De Guzman, Mamie Balajadia; Dr. Balajadia. Okay, and I see Teresa Underwood, Alfredo Bustamante, Mo-Ping Tham, Dr. Alford and Attorney Thompson.

So, according to the sign-in sheets no one else is here to present oral testimony and then we'll proceed with Stan Yasuhiro.

All right. Mr. Lubofsky, is it okay if I ask you to keep your testimony to five minutes and we will allow everyone to talk and then we also want to put on the table all the proposals that have been made. That's okay. Please proceed.

David Lubofsky:

Good afternoon, senators. Thank you for allowing me to give testimony.

Do you want me to?

Please see attached testimony.

Chairperson Therese M. Terlaje:

Just read the topics. We're way beyond the topics. Just read the topics and we will.

David Lubofsky:



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Okay.

Please see attached testimony.

Chairperson Therese M. Terlaje:

Appreciate that. If we could get a copy I appreciate that and we will make sure we provide that to all the senators. And as to the information on the website. Yeah, I've been following up with that and that should be up to par very soon.

So, I know and you were right. It should have been there. Well some of this information should be. There's the new law that increases what's going to be put on the website has to be followed through. And I think the Health License Office is trying to do this to get website up for all of them that are consistent with the requirements of the law.

So, thank you very much Mr. Lubofsky. Doctor?

Dr. Teresa Underwood:

Hi, my name is Dr. Teresa Underwood. I've been on Guam since 2013. In 2017, I opened up my private practice, Center for Women's Health. And I'm an OB Gyn Doctor. When I opened my practice, there was no assistance in opening the practice. Okay, it's just me and my husband.

There's no income guarantee like in the states. Where they help set you up and you spend your time paying it back by serving the community. Everything is out of my own pocket a little bit loans that were paying back to the bank.

Okay, it's hard practicing on Guam here. Okay, the reimbursements are dismally low. I'm not making a lot of money, okay. So, we don't make a lot of money here in general at least Ob Gyn. My Medicaid reimbursements, I have over fifty thousand dollars in delinquent payments, okay. The GRT not very helpful. It's actually quite painful because of that we have to offer less services to patients, okay.

Medicaid patients are not offered long-acting reversible contraceptives because we're reimbursed invoice price. And then it takes six to twelve months to get reimbursed and then we have to turn around and pay five percent of a thousand-dollar device to the government.

We can't afford to practice losing five percent of a birth control, okay. So, we're not making a lot of money. It's very difficult to be an Ob Gyn on Guam. Here, half my patients more than half are obstetrics patient. Which means, I don't bill for their delivery until they actually deliver.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

So, I'm taking care of them for months and with no payment, okay and forge in reimbursement, it's awful okay. If they had a well woman visit but they had an annual physical, I don't get paid for that. I end up finding out later that they had a physical and I have to bill the patient now but they're out of my office.

So, how do I get reimbursed after that, okay it's very hard here. If you repeal the arbitration law and there's no protection for doctors. The caps aren't set, okay, one lawsuit can bankrupt me, okay. Malpractice for OB Gyn is almost fifty thousand dollars a year. I was quoted forty-seven thousand dollars last year, okay.

I can't afford that and to practice here, okay. I would be forced to close my office and leave Guam, okay. There's a shortage of OB Gyn here, there's a shortage all over the U.S. By the way, Dr. Jensen, at SDA, is leaving at the end of the year. Dr. Bieling is going to retire from being an OB hospitalist. A midwife is leaving on Friday.

We're losing providers for women's healthcare here, okay. If there's no protection for doctors here. I won't be able to afford to practice here. Paying such high malpractice rates which are going to get higher. I will end up leaving and so will other doctors.

And you're wrong, a lot of doctors don't want to come here, okay. And there will be testimony on how hard it is to recruit a doctor here, it's very hard, okay. Many doctors have tried to find partners here and they haven't been successful for many years. There are a lot of good doctors here.

Most of the OB Gyn practicing private practice are boarded. Which means we have to follow a standard of care. We have to keep up maintenance of certification, okay. I'm a very good doctor but some patients get mad at me, okay. It just takes one lawsuit to completely tear down a practice.

We can't afford to keep losing doctors. We're not getting a lot of specialists here. So, taking this arbitration law away and not giving us any kind of protection is going to harm Guam. It's going to limit access to care here. We're going to be moving backwards, okay. So, that's all I got to say.

Chairperson Therese M. Terlaje:

Thank you, doctor. Senator Taitague?

Senator Telo Taitague:

Thank you. Thank you, Dr. Underwood for being here. Where did you practice before?



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Dr. Teresa Underwood:

I spent eleven years of private practice in the states.

Senator Telo Taitague:

Which state?

Dr. Teresa Underwood:

Well, I practiced in Texas.

Senator Telo Taitague:

Texas? What are the arbitration laws in Texas?

Dr. Teresa Underwood:

Well they have I don't know in arbitration law but I know they have tort reform.

Senator Telo Taitague:

Tort reform?

Dr. Teresa Underwood:

And we don't have anything like that here.

Senator Telo Taitague:

Tort reform and of course here it's just a really helping the doctors is quite a bit here on Guam. The current law right now. So, you were in Texas and the tort reform in Texas was very.

Dr. Teresa Underwood:

I believe it's worked out pretty well. I mean Texas is where a lot of doctors are trying to flood to. I know my malpractice there was only about twenty-thousand a year, okay. It actually got less the longer I practice and I stayed. No claim.

Senator Telo Taitague:



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Was there a limit to the liability or yeah.

Dr. Teresa Underwood:

I think it was a cap.

Senator Telo Taitague:

Was there a cap?

Dr. Teresa Underwood:

I think there was a cap, two-hundred thousand, two-fifty.

Senator Telo Taitague:

Two-hundred fifty thousand?

Dr. Teresa Underwood:

My husband's the numbers man.

Senator Telo Taitague:

So, okay, so if that's a case and the cost of so you're saying that if you were to leave Guam. Which you said you will leave Guam if the law changes.

Dr. Teresa Underwood:

I cannot financially afford to stay here. There is no incentive. I meant we have even commercial insurance payments. I haven't been paid for deliveries from commercial insurance for deliveries I did in July. And there's nobody enforcing the twelve percent interest.

We're supposed to be able to collect for delinquent payments. It's bad here. We had to stop taking Medicare patients because there's nobody to help us with unpaid claims for Medicare.

Senator Telo Taitague:

So, why did you come to Guam?



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Dr. Teresa Underwood:

Well, I was I signed up to do local work for two years with a multi-specialty company and I liked it. I like to travel here. The weather's great, we don't like the cold. So, that's why we stated. There was a need here, okay. And we like the patients but if it's financially unsound.

We can't stay open, okay. I'm making I'm paying myself half as much as what I made at FHP Clinic, okay. And by the way FHP, their base salary when I started there at fifteen thousand less than what I would have been offered in Washington State when I interviewed there.

So, it's not like were making a lot of money here. Private practice doctors they either have to love it here because they're financially there's not much of an incentive.

Senator Telo Taitague:

So, let me get this straight you're not happy with a lot of issues here on Guam especially with reimbursement. It's very hard for you to make a living here but you're still here.

Dr. Teresa Underwood:

Yes.

Senator Telo Taitague:

Okay.

Dr. Teresa Underwood:

I still believe that I can survive. I don't need to make a lot of money but I'm not willing to eat a loss.

Chairperson Therese M. Terlaje:

Thank you, Dr. Underwood. Doctor?

Alfredo Bustamante:

Please see attached testimony.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Chairperson Therese M. Terlaje:

Listen, I want to get to the part to what the issue is with the law. No, I'm not going to listen to you, Mr.?

Alfredo Bustamante:

Mr. Bustamante.

Chairperson Therese M. Terlaje:

Mr. Bustamante.

Alfredo Bustamante:

Thank you.

Chairperson Therese M. Terlaje:

Thank you. I want to listen to what you have to say.

Alfredo Bustamante:

Thank you very much.

Chairperson Therese M. Terlaje:

We are here to do that but I don't we don't need to be yelled at for that purpose.

Alfredo Bustamante:

We're there to represent the people of Guam. I pay my taxes.

Chairperson Therese M. Terlaje:

That doesn't mean you're going to yell at me. All right. You're going to calm down or we're not going to continue this. That's enough. Either you're going to calm down, that's all I'm asking. We are sitting here trying to listen to you but I did nothing to you that you need to yell at me, okay.



Senator
THERESE M. TERLAJE

I Mina'trentaj Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Alfredo Bustamante:

I can explain it to you I am just frustrated.

Chairperson Therese M. Terlaje:

So, get to the end of the story. Let's hear what is the issue with the law.

Alfredo Bustamante:

The issue of the law is we have it. Is that okay for you? Now that you're being elected as a senator, is that okay with you?

Chairperson Therese M. Terlaje:

Tell me what changes do you want to see in the law?

Alfredo Bustamante:

What you going to do about it?

Chairperson Therese M. Terlaje:

What do you want to see changed in the law that I'm asking you tonight?

Alfredo Bustamante:

Thank you. I tell you what it's a lot of people right there Senator Terlaje they don't have money to stand what I stand to enforce my rights. These people they cannot afford a lawyer and pay two-hundred fifty dollars. These people that can afford twenty, thirty, forty thousand like I am and you know what I'm doing it. No, because I can because it's the right thing to do. I created a law to protect the pets, it took me to send somebody to jail.

Now, I need to spend over forty to fifty thousand dollars and then in order to ask the senators and the legislature to create a law that will allow for somebody that has committed malpractice to pay for the consequences. I am talking about a pet. A lot of people well say you know it's a pet is like a son; it is to me. And a lot of people that has dogs they will understand, okay.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guahan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

I hear Mr. Lubofsky that has a similar situation. If you went to school for ten years, I went to university for five years, got my degree. I never been never had a loss while I practice on Guam because I know what I am doing.

The same thing you have to hold accountable to the highest standards. If you are a doctor, of veterinarian, my team. Senator Terlaje is we can still allow veterinarians to commit malpractice to do wrongdoings and that person that owns the pet cannot take the doctor or veterinarian to court because now he has to hire a lawyer. Two hundred and fifty dollars and he needs to go to mediation.

So, I decided to hire people from off-island to be the mediators, three hundred fifty dollars an hour. Mr. Mitch knows I am here because we have to do something. I apologize my voice is too loud but as a citizen, a Guam resident. One employs ten employees and give work to the people of Guam. I feel there is the need that I have to raise my concerns.

So, you senators can try to enforce it and make it better. I heard that is twenty cases plus that are sitting in the allied board doing nothing. Since 2005 my first complaint was in 2015 they stamp it did nothing until today. I've been carrying this case on my own.

Finally, I spoke to Mrs. Sina she's a nurse and she has indicated that they hire Mr. Camacho to take over this. Great, fantastic. Guess what not Mr. Camacho take his dogs to Wise Owl I want to point that out to you. So, we're working I heard that we working I think it's great but you know what ma'am.

I am the only point, point zero one percent that I can afford to do this and I will go all the way because it's the right thing to do. Once again, thank you so much for your time.

Chairperson Therese M. Terlaje:

Thank you, Mr. Bustamante. Can I ask you one question or a couple questions? So, first of all you were told you have to do mediation or arbitration?

Alfredo Bustamante:

Arbitration, ma'am.

Chairperson Therese M. Terlaje:

All right. Did you have a lawyer?



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Alfredo Bustamante:

Jeff Cook.

Chairperson Therese M. Terlaje:

All right. The arbitrators that you chose were not from the Triple A.

Alfredo Bustamante:

They are from Triple A. Yes, ma'am.

Senator Telo Taitague:

Can we get a copy of your testimony please? I don't think we have a copy. Good ladies, over there on the side. And you know I also recommend that if you want to update it to as well on suggestions and ideas where you think that might be helpful. Give a balance as well.

Alfredo Bustamante:

I will.

Senator Telo Taitague:

Thank you.

Alfredo Bustamante:

Thank you very much.

Chairperson Therese M. Terlaje:

My staff could I please get the Allied Health Board statute please. Thank you. Mr. Thompson?

Attorney Mitch Thompson:

Madame Chair, I'd like to yield to Dr. Alford. After her presentation I may have something to add to it but I'd like for I think it'd be better is she went.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Chairperson Therese M. Terlaje:

Dr. Alford?

Dr. Erika Alford:

Chairperson Therese Terlaje, and esteemed members of the 35th Guam Legislature, thank you for this opportunity to continue discussions on Guam's Medical Arbitration Act. This issue is very important to all people of Guam, including our healthcare professionals.

Before I start thought, I'd like to recognize all the health care professionals who are here with us today because I think we all find it important. If any everyone minds if they can please stand so we can recognize how important it is. It's very rare to get this many health care professionals in one room at a time on the island of Guam and even on the second floor is full of health care providers.

We have held numerous meetings with the Guam Medical Association, the Guam Medical Society, the Guam Dental Society, and the Guam Nurses Association to discuss this very important issue and we have spent hours brainstorming and looking at this issue from many different perspectives.

Let me start by taking back in time. In the 1980's health care on Guam was not where it is today. It was nearly impossible to recruit specialists to Guam to take care of the people. One big factor in recruitment was availability of malpractice insurance. There was no malpractice insurance available to health care providers. Even if you wanted to you could not purchase insurance. In the same way you would never drive a car without car insurance, many doctors would not agree to come to a place that had no malpractice. It also was impossible to recruit doctors because it would make it impossible to move from Guam. Malpractice insurance companies want evidence of prior coverage before you apply for, when you are applying for the coverage. Future employers also ask about your malpractice insurance coverage before they will even hire you. If coming to Guam would make it impossible to work anywhere else physicians may choose to not come in the first place.

There was a time in Guam when we did not have orthopedic surgeons, so if you broke a leg you'd be in a lot of trouble. If you had a complicated pregnancy and delivery, you did not have an obstetrician to help you through your labor and delivery. If you hit your head and you had a bleeding in your brain all you could do was pray. Something had to be done.

Dr. Eduardo Cruz, who was a surgeon, ran for Legislature with the intent to solve the malpractice crisis that existed at the time. Through his efforts in the Guam Medical Society the



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

current Arbitration Act was made into law. At that point insurance companies were willing to cover a small number of physicians on Guam. The medical Arbitration Act was not implemented to protect doctors and other health care professionals. It was implemented to give people access to care and to protect the people's access to care. Since then we have been able to hire and recruit many high-risk specialists on Guam. We now have orthopedic surgeons, obstetricians, neurosurgeons, we even have a half dozen interventional cardiologists. On top of that we have dentists, orthodontists, physical therapists, speech therapists; these are all people who may hesitate to come to Guam unless they had some form of tort reform.

Health care in Guam may not be perfect but we are a much better place than we were in the 1980s, prior to the Medical Arbitration Act of 1991. Why is this issue so important to health care professionals? First of all it has allowed us to recruit a malpractice insurance company to write policy here. Prior to this there was not a single company willing to come to Guam. However even with this act the cost of insurance in Guam is beyond what many physicians can afford. We actually just asked for a quote for surgery; it was over a hundred thousand dollars. This would take up this huge chunk of people's salaries and they would not be able to continue practicing here, and because of this the majority of physicians on Guam do not carry malpractice insurance.

Second, this protects physicians from meritless lawsuits. What typically happens in a lawsuit is every single person who touched that patient gets named. If you were a night doctor covering the night shift and you went in and saw the patient because he had a fever and gave him Tylenol, you did nothing wrong but a week later if there was alleged malpractice, that physician gets named for giving the patient appropriate treatment at that time. But let's say it gets settled; then now that physician has to declare in every jurisdiction they ever applied to, every hospital they apply for privileges, or every license board that they apply to, or renew their license to, even though they did absolutely nothing wrong.

Because of this, doctors often choose not to practice in regions that are known to be litigious and this, as this could potentially ruin their careers. This also applies to nurses and nurses also get named in malpractice cases. If a nurse has to worry about tarnishing her license by working in a litigious environment, it would be impossible to recruit them. As in any field of medicine nurses specialize in specific fields and it is often difficult to recruit nurses in specialty areas such as ICU or emergency room.

There is a massive nursing shortage all throughout the United States and we have a worse problem on Guam. Our two civilian hospitals often do not have beds for the patients who need them. Let me clarify this point because I didn't quite understand that when I first moved here. So, if you walk around GMH you will see empty ICU beds, empty telemetry beds, empty beds that are in the hospital.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

I used ask, this is dumb, why are these beds empty and yet they're saying that there are no beds? Well it's not a physical bed shortage it's a shortage of nurses to take care of those beds. You cannot have a patient occupy it if you don't have someone to take care of them. Without this arbitration law it would become even more difficult to recruit nurses to staff our hospitals and take care of our sick.

In public discussion doctors have been accused of being apathetic, not caring about patients, being white-coat killers, and only caring about our bottom line. I can tell you this is absolutely false. I do not know of a single health care provider who went into the health profession to harm people. We all went into this profession to help people to care for people, to care for the people during times of health, and times of illness. We spend many years in school followed by many years of training to be able to do what we do. Schooling and training are rigorous we would never ever survive it if we did not have the passion to care for people.

On top of which, Guam is a small island. We know that the person we're caring for is a member of our family, our friends, our neighbors. We know we're taking care of someone's mother, father, brother, sister friend co-worker. Our hearts are all intertwined on this island. It is a huge responsibility that we bear. We also do not go into this field for money. Many of us are saddled with enormous student loan debt. Doctors and dentists walk out the doors of school with a quarter million in debt, easy. For some cases nine hundred thousand dollars. Some people are stretching a million dollars in student loans. This is before we even start working.

There are many more fields we can go into that do not require the length of education that we have to go through. There are also many more fields that we could enter that would be significantly more lucrative. We also don't make that much more money. Nurses on Guam makes so little, if they were to decide to move to the States they would make easily triple that. Doctors, dentists, physical therapists, we all find the same. We all have our reasons for coming to Guam, for some of us it's home. For others it was an adventure to live in a faraway island. But we all stay for the same reason, our love of the island and its people.

Guam is a unique place we are part of the United States yet we are on the opposite side of the planet. we have many challenges that are unique to our island. Despite improvements in care, we are still far from where we would find at big University hospitals in the United States. We lack many specialists. Even if we have the specialists, we lack the equipment or the specialized team members so that these specialists can provide care. We often discuss scope of practice for physicians here and our scope is often much more broad here than would be in the United States, as we do not have the specialists available and flying distant lands is often not an option for patients.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

On top of which we have to deal with many of the social barriers that patients face on this island. If you're working two to three jobs going back and forth or you're going between job and elder care and childcare, when are you gonna find time to exercise? When are you gonna find time to grab a healthy meal? A quick meal usually does not equate to a healthy meal. I have patients who can't access their medications, they didn't have the transportation to get to the pharmacy, they don't have the funds for their co-pays or they're just so busy between their three jobs and they can't take enough time to get to the pharmacy. The big thing that GMH faces is when patients need care off-island, the patients don't even have passports and even if you expedite the passport, you're easily talking about waiting a week to two weeks before you can transfer them off island.

These are issues that are often out of our control yet affect patient care and our ability to take care of them. Despite all these difficulties we try our best. We are not perfect and I do not think any single one of us would ever claim to be perfect. We are people too, we are human beings just like everyone else. We all make mistakes. We try to learn from our mistakes so that we never repeat these mistakes. We are constantly learning, talking with each other, discussing treatment options, reading, going to conferences, so that we can be as good of a doctor as we could possibly be.

I want to take a minute two minutes acknowledge Mr. Lubofsky, who lost his son Asher. I also want to acknowledge all the members of the community who so bravely spoke about their experiences. This helped us start a dialogue among the medical community of Guam and for that we really appreciate it.

We need to be able to help improve access to care while helping people have a voice. We agree that there should be some sort of safety net for the community in the case of medical malpractice or negligence. We still believe arbitration is important for several reasons, but we acknowledge the cost of arbitration is a huge barrier for many people.

Medical arbitration is not cheap, we've heard many testimony about this. It could be in the tens of thousands to one hundred, over a hundred thousand dollars between filing fees, arbitrator fees, lawyer fees, expert witness fees. This can dissuade someone from filing a malpractice claim. Not having the financial means to file a malpractice claim should not be a barrier for people who have been affected by medical malpractice or medical negligence.

Because of this we propose an access to medical arbitration fund for people who wish to file a malpractice claim. This fund would be used for the sole purpose of assisting a petitioner with the cost of arbitration filing fees and arbitrator fees. The funds shall be administered by the Office of the Attorney General, a portion of our licensure fees from every single licensed



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

healthcare professional in Guam at initial licensure and renewal would be deposited into the fund.

The government would contribute an initial matching amount about \$100,000 to help set up the fund. Criteria would be set for those who qualify for assistance from the fund based on income or asset limits, for example based on MIP eligibility. Application for assistance would be submitted to the Office of the Attorney General, and the petitioner would agree to participate in good faith in a review of the claim by a hearing officer as designated by the Attorney General. The hearing officer would issue a Certificate of Qualification that the claim has a reasonable probability of success on the merits. The Hearing Officer would consider evidence of material submitted by both the petitioner and the health care professional. They may also consult with members of the professional licensing board for the respondent health professional in making such determination. Neither the issuance or non-issuance of the Certificate of Qualification shall be admissible during the procedures.

If assistance is approved and the Certificate of Qualification is issued, the funds shall pay the filing fee for the arbitration and/or the arbitrator's fees directly to the association or arbitration service provider. A lien in the favor of the fund in the amount of all assistance provided would be created against any settlement award or judgment, which would be paid prior to any disbursements of such proceeds.

We hope you consider our proposal. We hear the community's complaint that medical arbitration cost is insurmountable for many. With a fund created and funded by health care professionals for those who need assistance, medical arbitration will not discriminate against those who cannot afford the filing costs and the arbitration fees.

We feel that the medical arbitration law should stand. Guam is a very unique place; we are a small island in the middle of the vast Pacific. We are also still a part of the United States. It is difficult to recruit and often even more difficult to retain health care professionals. Even under the best circumstances, if Guam becomes a litigious society and medical malpractice insurance becomes unavailable or cost prohibitive as it already is for some then we may not be able to recruit physicians to come to Guam whether they are from here or not. We may not be able to retain those that are already here. Many people have said they would have to seriously consider moving. Even worse we have a massive nursing shortage. Hospital beds are closed because there are not enough nurses to take care of patients. This is a reality throughout the United States and even a harsher reality for Guam. This discussion affects every aspect of health care in Guam.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Senators, please take into account the big picture and consider far-reaching consequences of repealing the medical arbitration law. Please consider our proposal as we feel it will offer protection to patient access to care. Thank you.

Chairperson Therese M. Terlaje:

Thank you, Dr. Alford.

Senator Telo Taitague:

Good evening, Dr. Alford. For the record you're my doctor. I just wanted to make it clear to everybody. I did what you were reading actually was something that someone was somebody gave me that same thing that you're reading about the suggestions and you know I brought it to some of my staff and people who've been studying with this.

And the question that kept coming out was why is it that the Government of Guam needs to fork out a hundred thousand dollars when these doctors have private practices you know. We have a Government Claims Act that handles for the hospital.

So, my question to you are you amenable to at least providing a fee to doctors who practice on Guam yearly to fund that fund instead of using Government of Guam funding.

Dr. Erika Alford:

A big part of it is it's just seed fund for one hundred thousand dollars but every time we renew our contract. We would be the ones funding it.

Senator Telo Taitague:

It's just seed money?

Dr. Erika Alford:

Correct. So, seed money and so.

Senator Telo Taitague:

Every thirty-five dollars the amount of thirty-five dollars on the fee will be enough to cover a hundred thousand dollars a year?



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Dr. Erika Alford:

Correct. We did the math. I forget the actual number but when we multiplied thirty-five by the total number of health care professional licenses on Guam. It ended up one-hundred thousand dollars.

Senator Telo Taitague:

If I'm not mistaken there are about seven or five cases a year and if you have that many a year. That's not even close to you know a hundred thousand would be wiped out with just two clients.

Attorney Mitch Thompson:

Senator, if I may butt in and in response to a question from the Chair. I checked with the Triple A as far as the number of arbitration cases that had been filed with Triple A over the past five years and they confirmed that there was a total of three.

Senator Telo Taitague:

And if I may interject here the reason why there was only three as I heard that other people just could not afford it and never filed. But there are several cases out there where people had to just turn their back because they didn't have the money. And that number came up to about seven.

Dr. Erika Alford:

Because we are looking cases with merits. This is why we thought that the Attorney General's Office would be a good office to use to determine whether the claim has merit and just because you want to file a claim does not mean it necessarily has merits.

Which is why we're going to have a gatekeeper of the fund because we can't let it be a free-for-all like you said the fund would run out of money quickly and what would happen is we have an initial fund every time we renew our licenses.

We would put an additional and the thirty-five just you know a point to start just because we thought having two-hundred thousand initially and the fund would be at least reasonable. Now, if the claim does not have merit and in the light of the hearing officer they just do not have access to the money in the fund.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

They also have to meet specific assess you know if it's someone who has a lot of assets and a high income they would not qualify for this because this is meant specifically for people who cannot afford to go to arbitration. And there was also the last statement where we would put in a lien on any money that was dispersed.

So, that can reach put back into the fund. So, that it regenerates the fund each time.

Senator Telo Taitague:

Keep going.

Dr. Erika Alford:

And it was it's hard to imagine that there would be seven simultaneous cases so and because the nice thing with arbitration is it's a lot quicker than going to a big long trial. Hopefully, the arbitrations will be finished and the funds would be regenerated before the next person would have access to it.

Senator Telo Taitague:

Dr. Alford if I'm not mistaken these are some of the suggestions for it but to maintain the current law as it is.

Dr. Erika Alford:

Correct.

Senator Telo Taitague:

Not to amend it at all but only to include these options for individuals you know and plus creating the fund itself but your suggestion is not even to touch the current law.

Dr. Erika Alford:

Correct.

Senator Telo Taitague:

Thank you, Madame Chair.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Chairperson Therese M. Terlaje:

Thank you, Dr. Alford.

Dr. Erika Alford:

Thank you.

Dr. Mo-ping Tham:

Good evening, senators. Thank you for the opportunity for allowing me to speak. My name is Dr. Mo-ping Tham. I'm a double boarded in family Practice and Osteopathic Manipulative Treatment.

I've been here five years in Guam. I was hired to come here by FHP Clinic to work in their urgent care. As far as I'm aware I'm the only physician, Osteopathic Physician in Guam who's practicing Osteopathic Manipulative Treatment on patients here.

Just to give you a little background about myself prior to coming to Guam. I was an Assistant Professor at the University of North Texas Health Science Center at Fort Worth Medical School where I oversaw the training of medical students, interns and residents.

Before I came here I had many opportunities to further my career. I could have chosen to stay at my medical school. I was also offered a job to work at a medical school in New York. I was even offered a position to join a private practice in New York City.

So, for me I had many options but I chose to come to Guam out of my own desire to be here on this island. Enjoying the island life but just as I came here by choice. If the environment becomes more litigious towards doctors and people practicing here. I could also easily choose not to be here and I just wanted to speak to you a bit about the issue with recruiting doctors here on Guam because I know it's been brought up a few times before.

It is difficult to recruit doctors to come here. In the past five years that I've been working here I've seen 13 providers come and go in my urgent care department. *Locums tenens* doctors were hired as a stopgap measure until full-time permanent doctors could be hired. The ones that were hired for full-time positions with the company chose not to renew their contracts when their contracts ended. Not only is it hard to bring people from the mainland to come here, but once here it's hard to retain them after their contracts expire.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

The challenges of retaining doctors can be numerous. They don't have ties to Guam, their families don't like living here, they move back to be closer to family or they just don't like the weather, or when somebody in North Korea threatens our island it freaks people out. So there are reasons for why it's difficult to get doctors to come here. If malpractice rates increase and cost to practice medicine goes up clinics will have to spend more to cover the cost of malpractice insurance, and ultimately they will pass that cost on to the patients in the form of higher premiums and co-pays. The higher malpractice rates will increase barriers to physicians coming to the island, for clinics to recruit physicians from the mainland, or for those already here and wishing to open up their own practices. It's a lose-lose situation for all involved.

Thank you.

Chairperson Therese M. Terlaje:

Thank you, Dr. Tham. I think we have one more person signed up Anelyn Lagrimas. If you could if you don't mind staying for a few more questions. I called you earlier. Was there anyone who else who had signed up earlier who intended to testify? Okay. Wait, turn on the microphone please. Thank you, state your name for the record.

Dr. Stanley Yasuhiro:

Thank you very much, Senators Taitague and Terlaje.

My name is Stan Yasuhiro, I'm a dentist here. Been practicing here for over thirty-six years. It's been a home since 1964 and basically it's home. I was very much puzzled about why this arbitration situation was becoming such a big issue and in reviewing the whole the way things are being done as far as malpractice or any kind of disagreements.

I had to fall back to my experience. I'm a former Chairman of the Guam Dental Board. I am also a two-time past President of Guam Dental Society. Over twenty-five years of International Liaison for Guam Dental Society in the World Dental Federation.

And so, I was able to kind of look at both sides of this situation and there are things that can be done. There is a lot of talk about arbitration. So, I'm not going to even kind of get into the pros and cons of that. But I'm going to kind of bring this down to our local level.

From what I'm seeing here there are a lot of frustrated patients. There are a lot of frustrated people against the healthcare community and some of it is misunderstanding and some of it is outright bonafide problem.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

And I think that the other issue that we have is having proper practitioners on this island. So, if we're going to expect proper care on this island. We need people that can practice properly. We need good people. We need good health care provider.

And in order to do that we have to have a strong regulatory body. Which we don't at this time and we don't at this time. The HPLO office, the health professional's office. And I don't fault the individuals that are running the office.

Actually I have to give my hats off to them because they are trying to do their best with very little that they were given. There is no priority given to the HPLO office which is probably affecting almost everybody on this island.

And right now there are people that are doing their best trying to work things out. And with all the complaints that are coming in. they're just not enough time, there's just not enough money, there's just not enough energy to get through all this.

And they're handling medical, nursing, dental, allied health. They're handling everybody and this is absolutely just ridiculously kind of cruel actually. And the support that they need has to come from this body, the legislative body in the form of a proper budget.

There has to be support from the public health office in the way that they need to give them priority. And we have to as a group sit down and take them seriously. We've had situations where dentist came to on this island seeking to get a license.

Sad to say I have seen cases that were just totally ridiculous and I don't know why they even attempted to get a license here but they were told by their recruiter that oh you won't have a problem; you'll get a license. And when we failed them, we received a lot of criticism and there was even an instance where the Guam Board of Licensure was threatened to be disbanded.

This was several years ago by a legislature and so you know I think that's the area that we need to work at because it is the premier regulatory body. Now, in the process of a complaint we need to go through the hearing process while the hearing officer and the attorney's from the Attorney General's Office as stated and mandated in public law.

We can we should not and cannot have our private attorneys they have to be appointed through the AG's Office then after that is done. Then we can they can go ahead and accept the parties can accept the recommendations and settle or they can go ahead and go take it to court.

They can go through the arbitration and perhaps the discussion of coming up with the proper funding for that may help that but we at this time our hearing process in my opinion my personal opinion at this time I think is broken.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

And I think that needs to be fixed so you know people such as Mr. Lubofsky and his family have a way of getting some type of resolution from this tragedy and so I think that we need to kind of work at with the system that we have right now and fix it.

So, I'm not going into detail at this point but if you like I'd be happy to make any input. Thank you.

Chairperson Therese M. Terlaje:

Dr. Yasuhiro, you are a breath of fresh air and I want to thank you because it's very timely because I do think there's been just very recently a new focus on the HPLO the licensing office for all the healing arts. For all the medical, nursing, the allied health – all of it.

And exactly what you've pointed out so and that was also one of Mr. Lubofsky's initial complaints. Was that his initial complaint was not handled quickly and some of the allied board complaints are not yet handled.

But so the good news is that yes new focus on it. I want to thank the Director of Public Health that she prioritized this. They have dedicated already sent out RFPs and for some of these things. They have to renew the hearing process.

So, hearing officer from the Attorney General, Prosecutor hired by the boards or the HPLO office they're going to hire investigator and an inspector for all the boards to share at this point. They are making a renewed, they have a renewed interest in their funds. Obviously in order to fund all of this.

So, you might be in your respective professions seeing some requests for increased fees. They're going to look at fees and the funds. And I have promised to make sure that the original intent of the statute where all the fees for your field go to the board for that field and are utilized for regulation as it was intended.

And I think the regulation is what you're describing. This we have strict criteria and we need to enforce that.

Dr. Stanley Yasuhiro:

I just wanted to mention right now that all the funds are going to the public fund, the general fund.

Chairperson Therese M. Terlaje:



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Right, that's the complaint. That's what I'm saying. It's they're supposed to be allocated to the boards and we're going to ensure that this is happening. So, that everybody can be satisfied that the fees you are paying are actually used for the purpose of regulating your field as they're supposed to be.

And that the patients are can be satisfied that they are going to get that due process. That process that they've been asking for and so you're correct. There is a big disconnect in that area at this moment but thank you for that.

All right. Thank you very much.

All right. I had a couple questions. So, in your proposal well, Mr. Lubofsky, one of your alternate proposals now, not the original proposal to repeal the entire statute but in one of your alternates you discussed extending the time period. In which to file up to three years. Right now it's one year in some cases and up to three years.

Did you, did anyone else have anything to say about that proposal? The one year is a little bit problematic because if you go through arbitration and it takes a while. That one year is actually your deadline to also file in court.

So, I think what you're looking for is a way to also file in court. Have some time after the arbitration to decide whether you're going to continue in court or not.

David Lubofsky:

Also in most states as I looked at it was three years and during the first year there's something said that came I discovered that wasn't towards the end of the first year that impacted our own case. It took about a year to try to get information.

So, first year so everything that you're going from things come up. So, for sure three years to file and I think it's fair. Why not? And sometimes if somebody is injured in the first year. The ramifications of that injury is not really known until the second year they've been injured. They don't do anything and finally find out or you have this serious problem but the one year's already passed. So, it allows time for the ramifications of an injury to be defined.

Chairperson Therese M. Terlaje:

Thank you. All right. And then the proposal to have a fund that will help patients who want to make a claim or go through arbitration to be able to afford those initial costs of arbitration. And that if the fund would be reimbursed if the patient is successful and receives an award in arbitration and they would reimburse that fund.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

All right. Did Mr. Keogh did you want to say anything regarding any of these proposals? There were other proposals that are on the table. If I could just read them there's a short list. So, those are a couple.

One was to of course one suggestion was to make sure that we don't have to use one single provider for arbitration, the Triple A and that we can have many alternatives or any alternatives that the party can decide less expensive alternatives, I guess was the goal right?

So, instead of a three panel perhaps a one panel. Those were some of the suggestions to be able to get arbitrators that might be less expensive from different areas. That was another suggestion the assistance fund when the suggestion is made to repeal arbitration altogether. There were also some other suggestions that if you repeal arbitration put something else in its place and this is what we've seen in other jurisdiction. Not always very satisfactory either because you in some of those we have a screening panel.

So, that's a proposal that's on the table. A screening panel that where they're going to screen the merits of the case and then you go to court or caps on damages is kind of the trade-off that we've seen in some other jurisdictions. Where they repeal or they don't you know you can go straight to court but they're going to cap what you're going to be able to receive. Changes in the statute of limitation on this list.

A more transparent claims process and I'm hoping to solve that issue through this HPLO board that claims complaints to the boards are dealt with efficiently and we can't tell. Well I'm not sure I haven't heard exactly a proposal of how to make an arbitration process transparent.

It's you know I mean to show the parties but still that's possible. I guess island peer review of claims. I think this is kind of what these boards were set up to do. We have boards for each field that's supposed to be comprised of members of your field and they're supposed to be the ones who are reviewing claims at that level at least.

And then there was some ideas for caps on the government claims. So, these are claims against government physicians and that there's also been a suggestion that the claims against doctors practicing at the hospital in particular because it's a government entity. That those should be more public and that we should but I think that the hospital this is something I have to admit I haven't looked into too much but I will. I've believed the hospital is also supposed to have its own review process and to be able to address that type of concern right there.

Yes, Dr. Yasuhiro?

Dr. Stanley Yasuhiro:



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

If I may add on the HPLO level, we do need some dialogue with the Attorney General's Office. I don't know about the current administration but in the past there had been backlogs there wasn't really much of a priority on these kind of situations and so I think a little dialogue with the Attorney General's Office is needed.

Chairperson Therese M. Terlaje:

Thank you. Yes, I think that this is happening. So, thank you very much. Mr. Keogh, did you want to say anything and I know that we have Anelyn Lagrimas, if you can have a seat. Are you to testify. One more testimony and Mr. Keogh; Attorney Keogh?

Attorney Robert Keogh:

Yes, just briefly. I think you have just put your finger on the most difficult problem here and that is the American Arbitration Association. Just to file your case your filing fee is based on what you assessed to be the value of your claim.

If you put no value on your claim and let it be determined by the arbitrator's. it's a ten-thousand-dollar filing fee just to file the case with them not counting the cost of the arbitrator's and everything else that goes along.

You file a case in court, it's three hundred regardless of whether it's worth ten million or ten thousand. The American Arbitration Association is just incredibly prohibitively expensive. Arbitration in and of itself is not the culprit.

It's the expense that's involved in it that's the problem that has to be addressed and there is no other local alternatives here. I know Mr. Thompson has mentioned PAMS. He's a principal in it if he's representing a party. You can't have that party arbitrate a case where they're opposing counsel is the one who owns the company that's arbitrating it.

There's nobody else so somehow some process has to be created where the claims can be heard less expensively. Before I came here forty-two years ago, I practiced law in Pennsylvania. Every lawyer in order to be licensed in Pennsylvania had to sit on an arbitration panel and listen to cases that would be decided. Any kind of negligence claim had to be screened by an arbitration panel.

This was usually just a one-day process where each side presented their claim and it was decided whether or not the claim should go forward or should not go forward. and there were penalties if you went forward and it was determined that your claim was not meritorious to begin with.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

That's the kind of process we need here's something like you're talking screening panels or something. This is not the issue here is not as I read in one of the testimonies the written testimonies. The solution is not to attack hard-working doctors.

I don't think anybody is here to attack hard-working doctors. Nobody's here to attack anybody or anything other than the process to get a legitimate bonafide claim heard and decided that's what has to be addressed.

Chairperson Therese M. Terlaje:

I appreciate that. Thank you.

Senator Telo Taitague:

Thank you, Attorney Keogh. What do you think of the caps?

Attorney Robert Keogh:

Yeah, caps I did talk about caps a little bit the last time was when we had an example of a case in Kansas. I think it was where a person was quadriplegic as a result of an injury. A seventeen-year-old boy, the cap was two-hundred and fifty thousand for his non-economic is pain and suffering. Spending a life suffering from quadriplegia I think anybody would acknowledge is worth more than two-hundred and fifty thousand dollars.

I'm not talking about economic damages but the non-economic damages. Caps are very selective and arbitrary and all that does is keep insurance costs down. There had to be a better way to do it than caps.

Chairperson Therese M. Terlaje:

I agree I don't want to see a trade-off for patients who want to seek some type of you know justice. That they have to be limited. So, I think in that regard our arbitration law are all right now having no caps is such it's good.

All right. Did you want to say something else?

Attorney Robert Keogh:

Just to reiterate the arbitration process in the current law is not prohibitively burdensome. I mean it's a similar of going to court it's the same thing only you have to pay for your judges and pay for the administration of it. And that's where it ends up costing fifty, sixty, seventy



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

thousand dollars to have your case heard through the arbitration process. It's just the expense of it that is unfair and burdensome.

Senator Telo Taitague:

Attorney Keogh, you get an opportunity to look at another type of coverage and it's the screening panel. And in the screening panel it has three members. I think it was two doctors and one attorney in the screening panel process.

Do you recommend because the costs were looking at the cost it's very difficult for doctors to be you know judgmental against their colleague? Very difficult for that but do you think that this screening panel should, what should be the makeup then? Any idea other than putting another doctor on there or you know the allied health board.

We were talking about that and they're held to a certain standard to scrutinize doctors as well regardless if it's doctors coming in or doctors that are here right now. They hear cases a lot of times. I mean one case was the Joe Joseph one that they heard.

So, do you think that it really is such an issue for to have one at least one doctor on that screening panel from Guam and then a couple of attorneys? Your suggestion on a makeup of that screening panels, appreciated.

Attorney Robert Keogh:

You know as a screening panel can be a wide variety of different makeup of how it's done. To me the most effective screening panel we have are Superior Court judges. They can screen cases, that's their job and that's what they're paid to do.

We have them already. I haven't seen the evidence of malpractice crisis here on Guam. They're just it doesn't happen all that often but some kind of process to screen the cases as long as it's not costing tens of thousands of dollars to be able to do that.

You know mediation is a means of having your claims assessed by somebody's who's impartial to it but it's just the expense of doing that that's the problem.

Chairperson Therese M. Terlaje:

Thank you. We've also received testimony from Health Services of the Pacific, it's like a Dr. Schroeder and Dr. Lee.

All right. Ms. Lagrimas?



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

Anelyn Lagrimas:

Please see attached testimony.

Chairperson Therese M. Terlaje:

Thank you very much.

Mediation is a viable alternative in other places, the issue again is how is it structured and how is what's the cost? It's very similar in many ways to arbitration in that we hiring somebody to do the mediation or somebody to do the arbitration.

But thank you very much Ms. Lagrimas. Is there anyone else who would like to testify before we end this hearing. Like I said earlier I'm going to send my summary of these proceedings and all the testimony that has been provided is going to forward it directly to all the senators.

It will be put up on our website so everyone has an equal opportunity to craft whatever legislation is that they might want to. You are always welcome to send anything you want to me.

I'm going to do my best to try to address whatever it is that your concerns are and but I know I need your help. I'm going to need all of your help in order to do really get something that's good for the entire community.

We need to make sure that we do this going forward and we want of course I know all of you want the best health care that we can get here on Guam. And we haven't lost sight of that. So, we are that is our pursuit and I want to thank all of you for your testimony and for the time that you have spent trying to ensure that we hear you.

And we have heard you at least we have heard you and we're going to do our best. So, again thank you. Is there anyone else who would like to say anything? If not, I'll ask Senator Taitague any other words.

Senator Telo Taitague:

This is the last of three public hearings we've had and I greatly appreciate everyone who's here. Especially those who've we've been through a trying time. A very difficult time and Anelyn being here again. I just really appreciate you coming here the time I know you're taking care of your father and what you said about it. I appreciated your testimony it's different from the last time.



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

So, if you can please email that testimony to us. You made some good points there and thank you everybody. I want you to know as far as I'm concerned you know I'm I've been studying this for a while now and for me it's about a balance. It's a balance for everybody as well as our doctors to ensure that we have good care on this side more than the standard of care but an excellent care of health on our island.

So, I greatly appreciate it and to my staff just a little shout out. I grilled them on this so they did a lot of research on that too. I just wanted to say thank you to Sandra, who's sitting over there, who's done quite a bit of research, thank you so much.

Chairperson Therese M. Terlaje:

Thank you again for everything.

Si Yu'os ma'ãse'

The hearing is now ended. It's about 6:40 p.m.

Thank you.

The public hearing was adjourned at 6:40 p.m.

III. SUMMARY OF ISSUES AND SUGGESTED CHANGES

Summary of Issues Raised

- Mandating arbitration denies claimants access to justice, unfairly protects practitioners
- According to the current law, arbitration services are limited to American Arbitration Association (AAA) as there is no other entity organized to arbitrate on Guam
- AAA services are too costly, and can be cost prohibitive for claimants
 - AAA is located off island, arbitrators need to be flown in
 - Associated administrative costs include airfare and per diem for arbitrators
 - Expert witness fees and arbitrator fees are assessed as well
 - Filing fees alone can be in the tens of thousands; they cannot be waived, only deferred
- The current statute of limitations is too short
 - Arbitration may take longer than 1 year
- The penalty provision in the current law disincentives claimants from bringing possibly valid claims to court
- Caps on damages in the Government Claims Act are too low
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Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

- There is no information on claims, arbitration awards, or other disciplinary action on GBME website
- Conflicts of interest within and familiarity of medical community prevent objective reviews of claims (GBME) and objective arbitrators

Summary of Suggestions for Change

- Complete repeal of MMMA; allow claims to go straight to court, treat malpractice claims as regular tort claims
- Extend the statute of limitations for filing suit for malpractice to 3 years

IF MANDATORY ARBITRATION IS REPEALED

- Implement some other process of review
- Require a six month “cooling off” period, where parties may participate in voluntary mediation
- Health care providers and/or health care institutions pay for all costs throughout any review, mediation, and/or litigation
- **IMPLEMENT SCREENING PANELS TO REVIEW MALPRACTICE CLAIMS**
 - Screening panel would review for liability, but be non-binding
 - Screening panels review for liability
 - Screening panel findings would be admissible in court
 - Mandatory, pre-action screening would determine liability and damages
 - Liability determination would be admissible in court, damages would not
 - Claimants would liable for defendant’s cost if loses at *both* panel and court
 - If the claimant receives a favorable offer, defendant refuses, litigates and loses, defendant would be responsible for claimant’s costs
 - If claimant prevails at panel level, and the defendant offered the amount set by the screening panel, and the claimant refuses and litigates, the claimant bears risk of cost if the verdict is not 25 percent higher than the damages determined by the panel
- **REQUIRE PEER REVIEW OF MALPRACTICE CLAIMS**
 - Peer review would look at issues and trends, and make recommendations to improve overall care in Guam
- **MAKE MEDIATION AN OPTION**
 - During a 6 month “cooling off” period
 - Mediation would be voluntary
 - Information from any peer review could be used to further mediation



Senator
THERESE M. TERLAJE

I Mina'trentai Singko na Liheslaturan Guåhan

35th Guam Legislature

Committee on Health, Tourism, Historic Preservation, Land and Justice

- **UTILIZE A MEDICAL INQUIRY AND CONCILIATION PANEL**

- Panel would be comprised of an attorney, appointed by the Attorney General of Guam (Yasuhiro), and one licensed physician who is not from Guam
- The panel would provide non-adversarial review, for the purpose of facilitating the conveyance of information
- The process would narrow and define claims
- The panel would address questions of causation, liability, and damages
- Peer review findings would be used, but would be inadmissible in court

If claim a cannot be settled after this process, it would be allowed to proceed to court

IF MANDATORY IS ARBITRATION LEFT IN PLACE

- Increase access to arbitration
- Require Medical Malpractice Claims to be arbitrated under Guam arbitration law
- Require all arbitration fees be paid by health professional or health care institution
- Create a Malpractice Court at Superior Court of Guam

CREATE AN ASSISTANCE FUND USING LICENSING FEES

- Claimants who meet MIP qualifications would submit applications for financial assistance for their malpractice claim to the DPHSS or Attorney General's Office
- The Attorney General would appoint a Hearing Officer, who would evaluate the claim for validity
- The Hearing Officer may/shall consult with board of licensure of practitioner's field
- AG Hearing Officer would issue Certification or Affidavit after determining "reasonably probability" of success on the merits
- Claimants filing fees and and/or arbitrator's fees paid directly to American Arbitration Association or other "service provider"
- No other costs covered
- Claimant would agree to a lien on amount of assistance received from fund
- General fund seed \$100K
- Licensing fees (\$35) of every health professional for initial and renewal goes to fund