



Speaker Therese M. Terlaje <senatorterlajeguam@gmail.com>

Testimony on Bill 112-36

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Wed, May 12, 2021 at 1:29 PM

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Honorable Speaker,

Please see my written testimony for proposed bill 112-36.

Best regards,

Samir Ambrale MD., MPH.

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Respected Speaker, Ms. Therese Terlaje,

I am writing to you conveying my thoughts about Bill 112-36 regarding replacement of Guam's MMAA.

I am Medical Oncologist and Hematologist, practicing in Guam since 2016. Over the years, I have heard firsthand accounts from patients about how standard of healthcare has increased in Guam compared to just 10 years ago. We have also seen more patients have access to healthcare with increased funding for Medicaid assistance. On the other side, we have also seen cost of healthcare rise rather disproportionately. Cost of medications, especially cancer drugs has been constantly rising, out of reach of patients who are under or uninsured, driving those with insurance into substantial debts with out-of-pocket expenses. Recently we read an opinion piece in the local newspaper by my colleague Dr. Samuel Friedman about long wait times for approval of cancer drugs.

We are also learning that some patients have genuine grievances about healthcare delivered to them or their loved ones after an adverse event or outcome. Costs of mandatory arbitration are prohibitive to some families. I fully believe current arbitration requirements are burdensome and changes are needed.

Bill 112-36 is touted to be a fair replacement for the MMAA. It certainly provides equity to families to seek justice in cases of medical negligence. On a deeper look, it is very open ended in terms of standard of healthcare in the community and offers no protection to healthcare providers in cases of frivolous lawsuits. I would like to suggest we take more time to deliberate on the following aspects/consequences of the bill:

1. Specify 'standard of care' in the community. If we apply standard of care in American 'mainland' community health system, this bill certainly will cause financial strain and mental anguish for patients and their providers. Though our healthcare standards have improved, we certainly lack the expertise, equipment, skills in certain specialties for which patients would need to travel off island. 'Standard of care in Guam's healthcare community' seems appropriate.
2. Cost of defensive medicine- If the bill is passed unedited, we will see significant increase in laboratory testing, imaging, patient visits, off island referrals. Physicians always discuss pro's and con's of every test that we order but with this bill there will be a strong 'pro' to test. How much more will this cost a patient and their insurance premiums? I fear this will disproportionately affect the most socio-economically disadvantaged population in Guam.
3. Introduce a cap on non-economic damages similar to the provisions in the Government Claims Act, which provides a cap to damages where lawsuits are brought against healthcare providers practicing at GovGuam facilities. This is certainly equitable and would not discriminate against community providers.

4. Consider bringing back the bill that Senator Tina Muna-Barnes introduced in the 35th legislature to create a fund for arbitration. Through this pandemic we have seen remote testimonies which can decrease costs of arbitration. We could look at other ways to make the costs less prohibitive.
5. If possible, consider making an amendment to the bill to include that plaintiffs will bear costs of defendant's litigation in cases where the magistrate rules in favor of the defendant healthcare provider(s) or institution. This may discourage filing of frivolous lawsuits.

In my opinion, this bill makes it easier to seek justice in cases of medical negligence but may hurt our healthcare system in the long term with increase in healthcare spending, insurance premiums and financial toxicity to patients. It could also have an unintended consequence of decreasing access to healthcare to our residents who need it the most.

I certainly understand the good intentions behind the bill but fear it will lead to unintended consequences that could adversely affect the progress the medical community has slowly been working on over the years. I hope there are common grounds that we can achieve to keep this in a balance and nurture a healthy, progressive atmosphere to improve healthcare outcomes on Guam.

I am glad to meet with you personally if you wish to discuss this matter further.

Respectfully,

Samir Ambrat MD., MPH.

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