

**June 23, 2021**

**VIA EMAIL: [senatorterlajeguam@gmail.com](mailto:senatorterlajeguam@gmail.com)**

Honorable Therese M. Terlaje  
Chairperson, COMMITTEE ON HEALTH  
36<sup>TH</sup> GUAM LEGISLATURE, 173 Aspinall Avenue, Suite 207  
Hagåtña, Guam 96910

**Re:** Response to letter from Attorney's "Smoke Screen" letter to Senators

Dear Speaker Terlaje & the 36<sup>th</sup> Legislature of Guam:

Hafa Adai and I apologize in advance for my typos and grammar, but I felt the need to respond to a letter that have been sent to you all in the last hour. So here is my brief and quick response.

I know that you've all just received a letter from a personal injury attorney that was trying to present a "balanced" view of Bill 112, and I am sure I am sure you are smart enough to recognize how biased that letter intent to try and make you believe Bill 112 will help improve Guam's healthcare for patients. Perhaps that is the same attorney who helped create Bill 112 along with the original sponsoring authors.

1. The notion that MMMAA in his letter noting that it is unfair to victims is **not true** and citing the cost of arbitration but failed to mention that to litigate the cost is even higher. Remember also the plaintiff is not prevented from moving to trial. To arbitrate first with a panel with professionals is the right course to initiate first. After arbitration, the plaintiff is not forbidden from moving to trial, they can still. If the case has merit, certainly the attorney would feel worth their while to invest. But to simply ignore a fair process of a three-panel arbitration is abuse of the system and merit less cases filed will cause more harm than one may think to our healthcare system. The odd thing, is, that attorney's letter cited one case that costed a lot, one case, perhaps his fees are over the top, and should be limited to make arbitration even more affordable. FACT: to litigate is exponentially more costly.
2. Bill 112 **does NOT** provide a fair solution. The personal injury attorney wants you to believe that a three-person panel is not fair, but it is. Medicine is complex, and the panel as Dr. Chris Perez and Dr. Stadler noted making up of 1 medical professional, 1 judge and 1 non-medical professional is well balanced. To ensure fairness is not to put all the weight on the shoulder of one magistrate judge, who has no medical background and will decide on a case that may have no medical merit and moving to litigation would cause more harm to not just patients but to the healthcare provider. Because the healthcare provider would be stuck with defense costs that could be in the tens if not hundreds of thousands and at the end just to prove there is no merit in the case. On this point where he argues that to have another healthcare professional cannot be on the panel because he

feels that the healthcare professional will be biased. That is ridiculous and an insult. He admits that in any case there must be expert witnesses, so by the panel selecting an unbiased healthcare professional to be on there to help determine if there is merit is actually positive, so his argument holds very little water. Again, if the case has merit, the attorney will invest in the case.

3. The fear of frivolous claims is **very real**. The personal injury attorney's letter as written, and he wants you to believe that the current arbitration law does not prevent meritless claims but screen out those who cannot afford it. Now that is the most ridiculous notion ever, if one cannot afford arbitration, they can afford a much more costly litigation?

He cited over that in his last 24 years in Guam and he only had 5 malpractice cases that would be even relevant/helped by this bill? 5 went to arbitration so cost wasn't a factor - 7 were settled without court or arbitration and leaving only FIVE (5!) that were withdrawn possibly due to "high-cost arbitration," or perhaps they were meritless. To me the current system WORKS! It's a very fair process. To litigate is must more costly.

4. As for the comment on standard of care. Those doctors will be held to the "community standard," I mean you want us to stop raising the standard and go backwards into the dark ages of medicine? Talk about the mal intent of Bill 112. We want Guam to raise our standard of care for patients and not go backwards. The false notion in his letter that we are judged by the local standards for some reason we suppose to feel good? Absolutely not, we as healthcare professional we strive to help improve and raised the standard of care over the last 25 years, and this is because of the MMMAA, Bill 112 will take us backwards.
5. His comment on us providers not performing certain procedures or seeing high risk patients is extortion? Wow that is really a total lack of insight in medicine. The reason for the stoppage of certain procedures or high-risk cases is because of the fear that Bill 112 will encourage merit less lawsuits because it makes it an unreliable system with a one judge decision without any professionals on the panel, and it would be more costly to move to litigation. Many providers in Guam would not want to risk that because it's what is called "No good deed goes unpunished."

Furthermore, the elaborated propaganda in the letter which he compares drivers auto insurance to malpractice insurance coverage is not only uninformed but unrealistic. We all know there are tens of thousands of cars and drivers in Guam. How many doctors do we have on island? Spreading the risk? Are you kidding? Are we on earth or on planet Mars?

He further tells you that it's a smoke screen that malpractice rates will go up. I think the smoke and the screen is obvious in his letter. Ridiculous, most of the healthcare providers on Guam don't have malpractice insurance because it is not affordable and in fact, when I had a quote only one insurance was willing, and I had it for 5 years. First year, \$25,000 a year, second \$36,000 a year, third \$56,000 a year, 4<sup>th</sup> was \$78,000 a year, then 5<sup>th</sup> year was \$120,000 a year, the 6<sup>th</sup> year that company stopped offering it, and I

could not afford it regardless, and this was for very little coverage. There are not enough doctors in Guam for us to “spread the risk.” By the way, did you know that majority of Guam’s obgyn are senior citizens? Think about this, in 5 years, who will be left to deliver babies let alone caring for the most vulnerable high-risk population.

I ask our honorable Senators who know me to listen, and I ask for your help. You know that I care a lot for patients. I have done my best and have made many healthcare improvements on this island. I hope my last 25 years of delivering nearly 10,000 babies and the lives I have saved will encourage you to understand that I want our healthcare to improve but Bill 112 is not the answer. The personally injury attorney also like refer to us as “lobbying you,” well, I think he should look in the mirror on who is lobbying who? I don’t lobby, I advocate. I am here to advocate for my patients. Ultimately Bill 112 harms patients and does not improve healthcare.

One point I must make clear, tonight’s “informational hearing” was not transparent as it implied that the Guam Bar Association was involved and they are not, the Ad taken out by the legislature to me violated what supposed to be transparent government, and should have had a disclaimer on the ad. Furthermore, we feel the informational hearing is a propaganda event because when Attorney Mitch Thompson ask to speak, he was denied by the speaker, and then when I pointed it out, he was only called less than 24 hours to this hearing. Lastly, to have a balance informational hearing, no healthcare professional was invited to present, and this was very bothersome, because if you are going to provide unbiased information and discuss the healthcare law, I would imagine healthcare professionals should have be invited to speak tonight.

I hope to be on Guam for many more years, but Bill 112 is discouraging, and is bad medicine. If you are all willing to make more improvements to healthcare, I will commit my time and energy to this island and work with you.

Sincerely,



**Thomas Shieh, MD, FACOG, Board Certified**