



Speaker Therese M. Terlaje &lt;senatorterlajeguam@gmail.com&gt;

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**malpractice legislation**

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**Edward Blounts Jr.** <[REDACTED]>

Sun, Apr 18, 2021 at 2:52 PM

To: Senator Therese Terlaje &lt;senatorterlajeguam@gmail.com&gt;, Vice Speaker Tina Rose Muña Barnes &lt;senatormunabarnes@guamlegislature.org&gt;, senatortelot@gmail.com

Senators:

Dr Taitano has taken over as Guam Medical Society President but he is currently off island, so he asked me to respond to the proposed legislation. Many of our members are very concerned about the new legislation. Not just physicians but many nurses, health care administrators and other allied health professionals.

Please see the medical society's preliminary statement attached. This may be revised once Dr Taitano is back on Guam and our board has the chance to meet in person

Edward Blounts DO, MS  
Past President, The Guam Medical Society

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April 14, 2021

To the members of the Guam Medical Society:

I have good news! Dr Taitano won last month's election, so I want to congratulate him. We still need a 2022 President-elect for there to be a smooth transition for next year. Please let us know if you are interested. Our board is working hard to outline CME opportunities for this year.

I just received an e-mail from Senator Therese Terlaje and Senator Taitague about Guam's Malpractice legislation. The new term Senators wish to move forward with the changes proposed last December - changes that GMS (as well as GMA and Attorney Thompson) is against.

The changes will end mandatory arbitration, and we worry this could lead to an increase in frivolous lawsuits. The Senate proposes instead a hearing by a magistrate judge to assess the validity of a complaint against a healthcare provider. The magistrate will then decide if the allegations caused harm and if the case should go to court. However, the magistrate's decision is non-binding, and plaintiffs or their lawyers can still proceed to a court case if they choose to do so. Expert witnesses can challenge the magistrate's opinion.

These cases will not only cause us financial harm but would take time away from patient care and could lead to a record on the National Practitioner Databank, hurting chances for future employment.

At the very least, the Senators should give more power to the magistrate's opinion. If a plaintiff or his/her attorney choose to pursue a case against the magistrate's recommendation and lose, we believe they should be responsible for the defendant's (health care provider's) legal fees including that of expert witnesses as well as legal counsel. Additionally, it would be important to cap non-economic damages (pain and suffering), which is what has caused such a problem in the mainland.

When similar legislation was passed in the mainland, it led to a crisis. The hospital I was born in no longer has an OB/GYN or Pediatrics program. Those changes were forced when physicians fled due to high malpractice insurance premiums. Guam is far from the mainland, and physician recruiting is difficult enough. If physicians leave Guam, there will be a health crisis on island far worse than what the island faced this last year due to COVID.

Once again, the Guam Medical Society urges the Senators not to rush this legislation and to take their time. We ask that the Senators speak to the health care providers on island (many of whom have been very busy helping the island fight COVID). While the proposed bill could be improved by adding a cap on non-economic damages and adding a disincentive if parties avoid the magistrate's recommendation and proceed to a trial, we believe other actions like establishing a fund to help those in need afford arbitration would be a better solution. Additionally, actions can be taken to decrease the costs of arbitration. We all learned about Zoom and other electronic platforms over the



last year. Those platforms could be used for an arbitration hearing. If physicians can securely meet with patients or hospitals can hold urgent business meetings over such platforms, then these platforms should be robust and secure enough to hold an arbitration hearing. This solution would be far cheaper than flying someone to island and providing housing during the arbitration.

I urge all members to e-mail, call, or write their Senators at this time. I urge the Senate to please review the case themselves and not to rush this legislation through.

Thank you,

Edward A Blounts Jr  
2019-2020 President, The Guam Medical Society