



July 12, 2021

Honorable Therese M. Terlaje
Chairperson, Committee on Health,
Land, Justice and Culture
36th Guam Legislature
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: Guam Nurses Association (GNA) Testimony in Opposition to Bill 112-36 (COR)

Dear Speaker Terlaje and Senators of the 36th Guam Legislature,

GNA is the one strong collective voice of its members – and it has been for over 70 years. Our mission is to promote, protect, and enhance nursing practice through education, advocacy, collaboration, and partnership. Nursing practice includes our duty and commitment to look out for the best interest of our patients and to do no harm. GNA agrees that healthcare workers should be held accountable for negligence and patients should be able to seek justice without financial barriers through a fair and just process. This is why GNA supports medical malpractice reform. However, Bill 112-36 as written is not the solution. This evening we testify before the 36th Guam Legislature in opposition to Bill 112-36.

The more than 1,700 nurses including Certified Nursing Assistants, Licensed Practical and Vocational Nurses, Registered Nurses, and Advanced Practice Registered Nurses (APRNs) including Nurse Practitioners, Certified Nurse Midwives, Certified Registered Nurse Anesthetists, and Clinical Nurse Specialists, all represent the largest group of healthcare professionals on Guam. Even as the largest group of health care professionals on island, we continue to face critical nursing workforce shortages. It is well known that nurse shortages lead to nurse burnout and nurse burnout can lead to medical errors and ultimately to nursing malpractice. There are about four times as many nurses in the healthcare workforce than there are physicians making nurses more likely to be named in malpractice lawsuits.

According to a Nurses Liability Exposure Claims report published in June 2020 by Continental National American Group (CNA), a leading professional liability insurer of U.S. nurses, the average cost of a registered nurses' malpractice claim is \$201,916.¹ Bill 112-36 will require each nurse to seek professional liability insurance – insurance that is **NOT** offered to **individual** nurses on Guam. As a result, nurses are left to continue practicing without **individual** liability insurance or be faced with an ethical dilemma of providing nursing care with scarce resources while increasing their liability risk.

Over the past several years, Guam has seen an increase in APRNs who fill access to care gaps and improve patient health outcomes. To date we have more than 20 APRNs practicing on Guam with an increase in other nurses pursuing advanced practice. One of our local nurses recently completed advanced nursing practice in critical care, a specialty area direly needed on island. This is a significant milestone for the nursing profession on Guam but this Bill may only place restrictions to such advances.

RNs fill a variety of roles across all health care settings. Currently, there are approximately five RNs who serve as Administrators and Chief Executive Officers in their workplace. They express concerns as Bill 112-36 increases their vulnerability to frivolous lawsuits.



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Nurses and our families are patients, too. We are a part of this community. One of our nurses expresses concern that Bill 112-36 will restrict access to specialty care for her child with an endocrine disorder. Guam does not have a pediatric endocrinologist. For this nurse and other community members in similar situations requiring specialty care, off-island travel for necessary treatment will be the only option they have.

While GNA supports our patients and all members of the community to have access to legal avenues when pursuing justice of medical malpractice, Bill 112-36 as written will further burden the already fragile health care system. Replacing mandatory arbitration with a pretrial screening by one magistrate judge who does **not** have the education and who does **not** have the specialized training in health care is unfair for all parties. Even just one complaint that goes to trial and is proven to be standard of care would still need to be submitted to a national databank, can ruin a nurse's reputation, and must be explained repeatedly for the rest of the nurse's career.

One alternate solution could be convening a screening committee consisting of two or three of our Professional Licensing Board Members to determine negligence at the Board level instead of leaving the decision up to one magistrate judge. One screening committee member or another appropriate designee could fill a role as a patient advocate or patient navigator to help patients and their families navigate through the arbitration process. For all of this to be successful, GNA recognizes that our Boards must then need to be appropriately funded with resources to take action on complaints filed at the Board level. Guam should also consider revamping our Professional Licensing Boards with the most eligible and most qualified members, including a designated attorney or investigator for each Board. We must also require our Boards to do educational outreach on their roles and responsibilities including their role in malpractice given that a large portion of all types of healthcare workers are still not fully knowledgeable about malpractice, this Bill, and its potential impact to access to care, patient outcomes, and their careers.

GNA agrees that healthcare workers must be held accountable for negligence and that patients and their families should be able to seek justice without financial barriers. If the source of the concern is the financial burden associated with the cost of arbitration, GNA strongly recommends finding a solution to fund the arbitration rather than to eliminate it.

GNA respectfully requests that you withdraw Bill 112-36 and urges for collective partnership between patients, policy makers, physicians, nurses, and other health care workers. We must all work together for a fair and unified solution.

We thank you for this opportunity to testify this evening. We are available to answer any questions and provide additional guidance.

Very Respectfully,

2021 Board of Directors
Guam Nurses Association



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Reference:

1. CNA and NSO (2020). Nurse Professional Liability Exposure Claim Report 4th Edition.

CNA: Continental National American

NSO: Nurses Service Organization