

## TESTIMONY ON BILL 112

I am a physician practicing on Guam for 37 years at a variety of clinics: FHP, Island Health Clinic, PMG and HSP. My practice includes an outpatient clinic, Homebound and Hospice care. I wish to offer another round of thoughts on mandatory arbitration and Bill 112.

### **The Current System**

I, and several health care providers, agree that the current system is unfair and untenable with the cost of mandatory arbitration presenting a nearly insurmountable barrier and preventing almost all malpractice lawsuits. There are, however, several other ways this problem can be addressed.

- A fund partially funded by physicians to help cover the cost of arbitration.
- GovGuam could help underwrite arbitration costs, or
- A cheaper form of arbitration: a panel of 2 physicians, or perhaps a virtual video arbitration, etc.

All physicians, not just bad physicians, live in dread of malpractice suits. It is not just the financial threat, but also the wrenching emotions, the strain of being accused and going to trial, and the knowledge that especially with a jury trial, being found at fault does not even necessarily mean you did anything wrong.

Most physicians believe that Bill 112 will lead to a significantly increased rate of malpractice claims and therefore a significantly higher price of malpractice insurance. This is what is causing a number of physicians to reconsider when they are asked to stretch or exceed their scope of practice or limits of their training.

### **Why Guam physicians are called upon to exceed their official scope of practice?**

Guam does not have all the medical specialties. For instance, we have no pediatric endocrinologist and no pediatric surgeon. Therefore, when a child has uncontrollable diabetes or needs surgery, all that is available are the adult specialists. And, for surgery, the need to emergent. So far Guam specialists have been willing to offer their services beyond their usual limits. Already, however, the fear of increased risk of malpractice suits is causing specialists to become more restrictive. A classic example of a physician stretching his limits is as follows: A male individual presented to the ER with his male genitalia completely severed. The physician who was available and capable of performing the procedure was a hand surgeon. The operation was a success. Had the physician not been willing to exceed his scope of practice the body part would not have been reattached.

### **Malpractice Insurance**

Some, but not all, physicians have malpractice insurance. Only a couple of insurance companies offer malpractice insurance to Guam physicians. Guam is a small market, and we fear that these companies might stop offering coverage. Also, the perceived increased risk of suits will result in substantially increased premiums.

### Arbitration Panel

I believe that having or appropriate health profession, as a person knowledgeable about medical issues on the panel is important. Each side will usually have its own medical expert witness and knowing who to believe is often not easy, especially for a layman. If the defendant is a nurse. Then perhaps a nurse would be an appropriate panel member.

I would be happy to discuss this further. I may be reached at 671-988-6121 or via email at [cathyguam@yahoo.com](mailto:cathyguam@yahoo.com)

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