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LONG VERSION TESTIMONY IN FAVOR OF BILL 112-36 HYBRID PUBLIC HEARINGS

1 message

George Macris [redacted]mail.com> Sat, Jul 17, 2021 at 1:00 PM
To: senatorterlajeguam@gmail.com

LONG VERSION (with attachments) TESTIMONY IN FAVOR OF BILL 112-36 HYBRID PUBLI HEARINGS

Hafa Adai Honorable Senators!

I would like to thank you for the opportunity to submit a long version testimony in favor of Bill 112 36 with modifications to the proposed law suggested at the end. As I anticipate bein professionally undermined for this submission, I apologize for having to provide an abbreviate historical preamble and disclaimers for those who do not know who I am , as well as to illustrat what could happen to Healthcare Providers HCP's (MD's, DO's, nurses, etc.) that speak u against the medical "status quo".

I've listened to hours of painful, often self-aggrandizing diatribes about how important and wha legends these newly trained and politically connected doctors were, how much they sacrificed t come back or work in Guam (at impossible starting salaries), and how they could live anywher else. And how they were allegedly the only doctor who was able to care for or refer a patient of island. The mob was well orchestrated, used similar talking points, had the (baby) props, th borderline waterworks and metaphorically winced in pain regarding the need to pay back loan which, unlike many Americans, approximates some doctor's gross annual GovGuam salaries.

The reality is the primary reason individuals pursue careers in medicine and dentistry is for mone and prestige and Guam is no different. Wanting to help people is somewhere on the list keeping i mind that 2% to 4% of physicians are sociopaths. **Common denominators between doctor and sociopaths are traits such as superficial charm, an exaggerated sense of self-worth glibness, lying, lack of remorse and manipulation of others. Most doctors think they know better about how other peoples' lives should be lived or ended**. I am not in any wa suggesting any those who provided testimony are sociopaths, but I would like to point Guam has provider profile, at minimum , like the rest of the U.S. with the MMMAA (maybe) encouragin good Health Care Providers to come (doctors, dentists, nurses, etc.) but also uninsurable ones For what it is worth, visiting subspecialists are often able to carry malpractice insurance allowin for coverage on Guam and are usually paid well for their services.

And through all this there was not a mention of unnecessary losses such as in the case c Asher Lebosky.

I arrived on Guam in 1985 with the US Navy as a Submarine Medical Officer. I spend most of m time in Florida, have current primary and sub-specialty certifications by the American Board c Medical Specialties, was Guam Memorial Hospital Medical Director, Guam Board of Medica Examiner Vice-Chair, on a committee of the Federation of State Medical Boards a (now retirec reservist, drilled at NRMC, etc., and the first to have a private multispecialty medica

mammography (when there were none including GMHA), and hyperbaric oxygen (HBO) facilitie on Guam. I was medical director of the Hyperbaric Treatment Center of the John A Burns Schoo of Medicine- University of Hawaii until 2016 where I periodically work and remain on clinica faculty. I was first licensed on Guam and the CNMI in the late 1980's and practiced in th Marianas until 2019. As such, have a great deal of regional familiarity with medical care, and fo what it is worth, have maintained a residence in Tamuning for over 36 years.

As with most providers, the decision to practice on Guam had nothing to do with the MMMAA (thi is an after-the-fact attempt to change history). Guam was a Paradise close to Asia, where ther were no state taxes, limited competition, minimal regulation, and great diving. HCP's police themselves and professional licenses were considered sacrosanct. In the mid -1990's, as "Ol School" doctors began to retire, there arrived a certain element and the situation changed for th worse due to reasons beyond the scope of this testimony.

RETRIBUTION OOG:

I am not on Guam because of malpractice, fraud, and for patient care beneath the standards, bu not my own.

With respect to the healthcare industry regulation on Guam, fear of retribution plays an importar role in preventing corrective action, especially when Adelup gets involved. As GMHA Medica Director, then Administrator Bill McMillan and I were proactive with respect to removing dangerou practitioners while attempting to enforce Public Law 24-84 Relative to Peer Review (introduced b then Senator Lou Leon Guerrero). I formally expressed my concern about the frauduler representations of training and certifications of two physician-politicians (one in office at th time), including a lack of malpractice reporting. The Surgeons wanted their way as well and mor money at one time-- and as a department-- did not respond to calls from the emergency room i a boycott orchestrated by one of those politician-surgeons which endangered patients to get wha they wanted! As retribution, in 2006, the GMHA administrator suspended my privileges after th BOT Chairman was removed (this action was later voided and vacated).

In 2008, as President of the Guam Medical Society, signed the "Unanimous Letter of N Confidence" in the GBME Chair and the very next day was invited to a disciplinary hearing. M license was suspended for allegedly "violating patient confidentiality and negligence a determined by the board" (there were no GBME patient complaints, no HIPPA violations, and n documented deviations from standards of care). The former GBME attorney filed a case on m behalf 18 months before when there was a different board for which he had to request from th judge permission to redact personally identifiable information. After replacing the Chairman wit the business partner of the Lt. Governor, the newly appointed, mostly GovGuam employee GBME having no provable violations, simply created one and a private law firm was hired to prosecut me and the hearing records (embarassing to GovGuam) soon thereafter, went missing.

I was treated like an "imminent threat to health and public safety" for a court filing and possibly th FIRST Guam physician ever reported by GMHA to the National Practitioner Data Bank. My clini had to abruptly cease treating medical cases with HBO without which patients died. The USN however, continued to treat diving accidents.

Most healthcare providers (HCP's) in Guam are good and abhor unexpected patient mortality an morbidity, but some could care less.

As previously mentioned by others, in the U.S., one percent of physicians were responsible for 3 percent of paid malpractice claims with GMHA likely being the biggest local offender. On Guam an HCP Mafia of sorts enforces Omerta (silence) by punishing HCP's/ staff who attempt to expos even serially injurious providers, unsafe practices and or policies**. What was not disclosed i**

testimony is threatened or settled malpractice cases and selected "unexpected advers therapeutic outcomes" (i.e. deaths) may never be referred for peer review, depending o the provider. These cases are rarely, if ever, reported to the National Practitioner Data Ban (NPDB). Even unlicensed practitioners have been allowed to "practice" on patients and th matter buried.

HCP caucuses can make decisions based upon politics and money without following rules c evidence. **Out of control HCP boards, administrators, and committees can conduct "Sham Peer Reviews and invent violations which threaten the employment, privileges, an licenses of Whistleblowers and do so with qualified immunity and without oversigh** Retribution can involve the co-opting and political manipulation of government agencies, privat attorneys, and even the judiciary.

WITHOUT CONSEQUENCES, PATIENT'S PAY THE PRICE WHEN ADVERSE EVENTS AR NOT REPORTED, KEPT FROM THE PUBLIC, AND NO CORRECTIVE ACTION TAKEN:
Public Law. 24-84, intended to improve medical practice by shielding peer review findings done a local hospitals, and mandatory arbitration, meant to attract and retain qualified (insurable) HCP' has failed, if not backfired. Moreover, P.L. 24-84, required the reporting to the National Practitione Data Bank (NPDB) of certain adverse actions, including relating to malpractice settlements i addition to that required by federal law has not been complied with (and the NPDB rarely enforce "must" report regulations) . **Testimony suggests Guam HCP's are more concerned insuranc companies will find out about malpractice settlements via the NPDB than patient care when any settlement should be a matter of an official public record.**

HCP regulatory agency members need to be very, very carefully vetted. Peer review committe and licensing board adverse actions should be unenforceable until there is an evidentiary hearin and a judicial determination. Healthcare facility "Whistleblower" HCP's/ staff, if employees whether private, classified, or unclassified, by law, should be placed on paid leave or allowed t practice until such a determination is made.

Testimony suggests HCP's are in panic with the thought of having to deal with th consequences of not practicing within local – or as they allege- "national standards". Bi 112-36 does not apply to GMHA or DPHSS but cases with unexpected therapeutic adverse actio can be sent to (CMS) Approved Medical Specialty Professional Review Organizations (PRO's) fc an objective analysis. As mentioned, serially injurious providers continue to be allowed to practic if they are "politically connected". With a dysfunctional peer review process perhaps two of thre sets of negative findings from three separate Medical Specialty PRO's evaluating unexpecte deaths within a three-year period could be grounds for statutory non-renewal or due proces contract termination. The same objective assessment may need to be applied to other regulator agencies. HCP's on Guam are too incestuous and fearful of retribution should they act agains another established provider or openly agree with PL 112-36.

It is preposterous to require a Guam Magistrate to be medically trained when in othe jurisdictions Judges accept findings of fact with respect to medicine, engineerin environmental and other issues. It may be appropriate to have the Plaintiff, Defendant, an Magistrate each select a PRO and proceed with trial, arbitration or dismissal depending o findings. In the US 95% of cases are settled out of court. As the Chief Justice has already hinte that it would take one year for a Magistrate to be trained, it might be prudent to have the effectiv day of such law be one year from any passing. This would give HCP's concerned about cases chance to leave the island before being subject to any new law.

Doctor-Patient (Mandatory) Arbitration Agreements: Some jurisdictions have Doctor-Patier Arbitration Agreements which need to be codified in law to be legally enforceable. Patients an

doctors can, by mutual consent, be bound to an arbitration process prior to elective care. Doctor can refuse to treat patients who do not agree to arbitration beforehand.

The MMMAA should apply to all emergency "on call" cases in all specialties as well a elective obstetrics, with the exception of "birth tourism". All cases with unexpected advers therapeutic outcomes (i.e. deaths) could be referred to possibly three specialty PRO's for analysi and remain confidential as per PL 24-84 with findings reported to the GMHA Board of Trustees s that there is accountability and incidents are not concealed.

The ability to file a malpractice claim could be extended to seven years as is the practice i other states in the case of fraud. Patients or survivors should have recourse within the minimur seven-year period medical records are required to be accessible.

Acting with hubris, HCP's are threatening to abandon patients, leave island, and clair they will give up lucrative positions they would have a difficult time getting elsewhere (www.pacificislandtimes.com/post/2019/10/02/for-some-doctors-gmh-is-paradise) or refus care for patients "outside of their scope of practice" .There is nothing which would prevent provider from performing any intervention or doing any procedure to save a life or limb withi reason and many can get malpractice coverage for the same on an elective basis. If they leave will likely be due to other reasons.

Most unexpected adverse therapeutic outcomes and deaths on Guam are related t problems with medical and nursing negligence (not watching monitors, providers nc responding to calls, etc.) and have nothing to do with the need for specialists or lack c equipment. PL 112-36 will encourage HCP's to police colleagues, if not for self-preservation, bu to keep medical malpractice premiums down.

When industries or professions ineffectively regulate themselves in a manner which create hazards to health and public safety, lawyers need to get involved. However**, any propose medical malpractice reform should include a statute of limitations for fraud, reasonabl award caps, and elimination of the Small Claims Court provision.**

Thank you,

George Macris, MD

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13 attachments

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