

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN MARIANA ISLANDS

VOLUME 22 NUMBER 05



MAY 19, 2000

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COMMONWEALTH

REGISTER

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# COMMONWEALTH REGISTER

VOLUME 22 NUMBER 05  
MAY 19, 2000

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# COMMONWEALTH HEALTH CENTER

Office of the Secretary

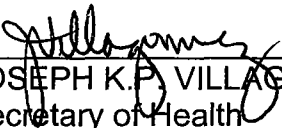
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH SERVICES

## PUBLIC NOTICE

### PROPOSED RULES AND REGULATIONS GOVERNING THE MAINTENANCE AND RELEASE OF PATIENT HEALTH CARE INFORMATION

The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC § 2603(f) and §2605 hereby proposes these Rules and Regulations Governing the Maintenance and Release of Patient Health Care Information. The purpose of these Rules and Regulations is to set forth procedures for the public for accessing medical records maintained by the Department of Public Health as well as establishing clear rules for the release of medical records in judicial and administrative proceedings.

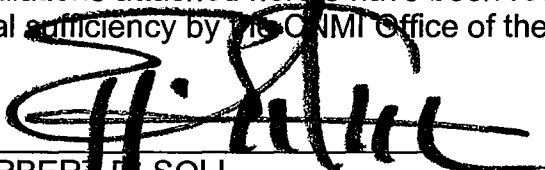
It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CMC §9104, in proposing these Rules and Regulations. Copies of the proposed Rules and Regulations may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 500409 CK, Saipan, MP, 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

  
\_\_\_\_\_  
JOSEPH K.P. VILLAGOMEZ  
Secretary of Health  
Department of Public Health

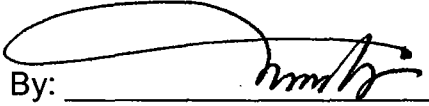
Date: 5/2/2000

Certification by Office of the Attorney General

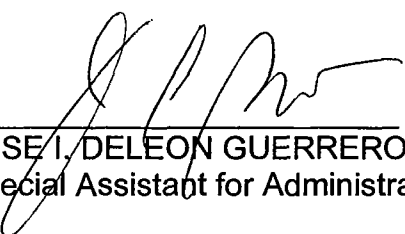
Pursuant to 1 CMC §2153 as amended by PL 10-50, the proposed rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

*for*  
  
HERBERT D. SOLL  
Attorney General (Temporary)

Date: 5/15/00

Filed By:   
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Date: 5/18/00

Received By:   
JOSE I. DELEON GUERRERO  
Special Assistant for Administration

Date: 5/19/2000



# Commonwealth i Sangkattan Siha na Islas Marianas Dipattamenton Hinemlo' Pupbliku

*Ofisian i Sekretaru*

## NUTISAN PUPBLIKU

### MAPROPONEN AREKLAMENTO YAN REGULASION SIHA PARA GOBIETNA I MASUSTIENEN YAN MALAKNOS INFOTIMASION POT I INADAHEN HINEMLO' MANMALAÑGU NA PETSONA SIHA

I Sekretariun i Dipattamenton Hinemlo' Pupbliku i Commonwealth i Sangkattan siha na Islas Marianas, sigun gi aturidat ni mana'e gue' ginen 1 CMC §2603 (f) yan §2605, ha propone este siha na Areklamento yan Regulasion ni para u gobietna i **Masustienen yan Malaknos Infotmasion pot i Inadahen Hinemlo' Manmalañgu na Petsona siha**. I propositun este siha na Areklamento yan Regulasion ni para u dinirihe i publiku na siña ma rekonose iyon ñiha notan mediku na lepblo (medical records) ni sunisteteni nu i Depattamenton Hinemlo' Pupbliku yan lokue i ma establisian klaru na areklamento ni para i malaknos-ña i notan mediku na lepblo para hafa siha na dispusion pot huestitia or sino atministrasion.

I intension i Dipattamenton Hinemlo' Pupbliku para u akonfotma i nisisidat siha sigun gi Akton Dinirihen Atministrasion (Administration Procedures Act), espesiatmente 1 CMC §9104, ni mapropopone siha na Areklamento yan Regulasion guaha gi Ofisinan i Sekretariun Hinemlo' Pupbliku, ni gaige gi primet bibenda giya Commonwealth Health Center. Komento put i manmapropopone siha na Araklamento yan Regulasion siña ha manmatuge' papa ya u manahanao guato para i Ofisinan i Sekretariun Hinemlo' Pupbliku, Dipattamenton Hinemlo' Pupbliku, P.O. Box 500409 CK, Saipan, MP 96950. Todu i komento siha debi di ufan marisibi gi halom trenta (30) dias desde malaknos este na nutisia gi Rehistran Commonwealth.

Sinettifika as:

  
JOSEPH KEVIN P. VILAGOMEZ  
Sekretaru, Dipattamenton Hinemlo' Pupbliku


5/2/2000  
FECHA

**Setifikasion ginen i Ofisinan i Abugadun Hinerat:**

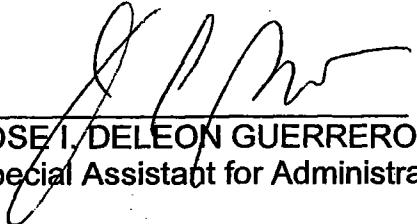
Sigun gi 1 CMC §2153 ni inamenda nui i Lai Puplicu 10-50, i mapropopone siha na amendasion gi Areklamento yan Regulasion ni chechetton guine, esta manma inan maolek yan apreba para u fotma ligat yan suficiente ginen i Ofisinan i Abugadun Hinerat giya CNMI.

\_\_\_\_\_  
HERBERT SOLL  
Kuantan Abugadun Hinerat

\_\_\_\_\_  
FECHA

Filed By:   
\_\_\_\_\_  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Date: 5/18/00

Received By:   
\_\_\_\_\_  
JOSE I. DELEON GUERRERO  
Special Assistant for Administration

Date: 5/19/2000

**Proposed Rules and Regulations Governing the Maintenance  
and Release of Patient Health Care Information**

Citation of Statutory Authority:

1 CMC §2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC §2603(f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities. This includes the authority to control the maintenance and release of patient medical records.

Short Statement of Goals  
& Objectives:

The purpose for proposing these Rules and Regulations is to establish procedures for patients and third parties accessing medical records maintained by the Department of Public Health. Medical records are protected by the constitutional right to privacy. There is currently no statute which controls the maintenance and release of patient medical records. The Department of Public Health believes that it is important to ensure that there are adequate safeguards regarding the maintenance and release of confidential medical records, and that patients are aware of situations when their medical records may be released to third parties.

Brief Summary of the  
Proposed Rule:

The Rules and Regulations establish procedures for patients and third parties to access medical records, restrictions on disclosure of medical records, examination and copying of medical records, corrections and amendments to medical records, and retention of medical records.

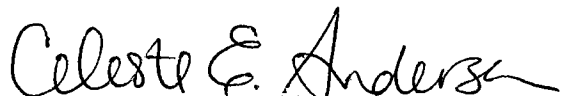
Contact Person(s):

Sandy Scroggins, Acting Health Information Manager,  
Commonwealth Health Center, Department of Public  
Health.

Citation of Related and/or  
Affected Statutes, Regulations,  
and Orders:

1 CMC §2603(f) and §2605.

Date: 5/2/00



Celeste E. Andersen, Legal Counsel  
Department of Public Health

# Rules and Regulation Governing the Maintenance and Release of Patient Health Care Information

## I. Definitions

1.1. "Audit" means an assessment, evaluation, determination, or investigation of the Department of Public Health by a person not employed by or affiliated with the Department of Public Health to determine compliance with:

- (a) statutory, regulatory, fiscal, medical, or scientific standards;
- (b) a private or public program of payments to the Department of Public Health; or
- (c) requirements for licensing, accreditation, or certification.

1.2. "Department of Public Health" includes the Commonwealth Health Center, the Tinian Health Center, the Rota Health Center, the Division of Public Health, and the Community Guidance Center.

1.3. "Directory Information" means information disclosing the presence, and for the purpose of identification, the name, residence, sex, and the general health condition of a particular patient who is an in-patient or who is currently receiving emergency health care at the Commonwealth Health Center.

1.4. "General Health Condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

1.5. "Health Care" means any care, service, or procedure provided by the Department of Public Health:

- (a) to diagnose, treat, or maintain a patient's physical or mental condition; or
- (b) that affects the structure or any function of the human body.

1.6. "Health Care Information" means information whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care.

1.7. "Health Care Provider" means a person who is licensed, certified, or otherwise authorized by the laws of the CNMI to provide health care in the ordinary course of business or practice of a profession.



1.8. "Institutional Review Board" means a board, committee, or other group formally designated by an institution or authorized under federal or CNMI law to review, approve the initiation of, or conduct periodic review of research programs to ensure the protection of the rights and welfare of human research subjects.

1.9. "Legally Authorized Representative" means

- (a) a parent or legal guardian if the patient is a minor;
- (b) a legal guardian if the patient has been adjudicated incompetent to manage the patient's personal affairs;
- (c) an agent of the patient authorized under a durable power of attorney for health care;
- (d) a guardian ad litem appointed for the patient;
- (e) an administrator for the estate of the patient or a personal representative designated by the patient if the patient is deceased; or
- (f) any attorney retained by the patient or by any of the individuals listed in subsections (a) through (e) above.

1.10. "Maintain" as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

1.11. "Medical Records" means all records pertaining to the history, diagnosis, treatment, or prognosis of a patient.

1.12. "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

1.13. "Person" means an individual, corporation, business, trust, estate, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

1.14. "Third Party Payor" means an insurer authorized to transact business in the CNMI, including a health care service contractor or health maintenance organization, or employee welfare benefit plan, or a state or federal health benefit plan.

II. Disclosure by Department of Public Health; Restrictions on Disclosure of Medical Records for Psychiatric Treatment, Alcohol and Substance Abuse Treatment, and HIV Testing.

(1) Except as authorized in Section V, "Discovery Request or Compulsory Process" or Section VI, "Disclosure Without Patient's Authorization" the Department of Public Health, or an agent or employee of the Department of Public Health, shall not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the specifics of that authorization. The Department of Public Health shall chart all disclosures, except to third party payors, of health care information and such chartings shall become part of the health care information.

(2) Notwithstanding Section V, "Discovery Request or Compulsory Process" or Section VI, "Disclosure Without Patient's Authorization", the Department of Public Health shall not disclose medical records for psychiatric treatment, alcohol and substance abuse treatment, and HIV testing to any person other than the patient without receiving proof that the requesting party has complied with the following procedures:

(a) For records pertaining to any psychiatric treatment, care, or counseling, the person requesting the medical records shall:

(i) obtain the patient's written consent for release of the records; or

(ii) obtain a court order for the release of the records, after the court has afforded the patient the opportunity to object to the release of such records as required by the Patient's Rights Act at 3 CMC §2561.

These restrictions on the release of psychiatric records shall not apply to the patient's attorney or third-party payors.

(b) For records pertaining to any alcohol and substance abuse treatment, care, or counseling, the person requesting the medical records must comply with the requirements established under the federal requirements for confidentiality of patient records, codified at 42 U.S.C. §290ee-3 and §290dd-3, and regulations promulgated thereunder at 42 CFR §2.1-§2.67.

(c) For records pertaining to HIV testing and diagnosis of AIDS, disclosure shall not be made without either the patient's written consent or a court order, except with respect to disclosures to Department of Public Health employees on an as needed basis.

### III. Patient Authorization of Disclosure

(1) A patient, or a patient's legally authorized representative, may authorize the Department of Public Health to disclose the patient's health care information. The Department of Public Health shall honor an authorization and, if requested, provide a copy of the recorded health information unless the Department of Public Health denies the patient access to health information under Section VIII "Patient Request – Denial of Examination and Copying."

(2) The Department of Public Health may charge a reasonable fee for providing the health care information and shall not be required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to the Department of Public Health shall:

- (a) be in writing, dated, and signed by the patient, or the patient's legally authorized representative;
- (b) identify the nature of the information to be disclosed;
- (c) identify the name, address, and institutional affiliation of the person to whom the information is to be disclosed;
- (d) identify the patient.

(4) The Department of Public Health shall retain each authorization or revocation in conjunction with any health care information from which disclosures are made. This requirement shall not apply to disclosures to third party payors.

(5) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or to provide information to third party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than six months after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form.

### IV. Patient's Revocation of Authorization for Disclosure

A patient, or patient's legally authorized representative, may revoke in writing a disclosure authorization to the Department of Public Health at any time unless disclosure is required to effectuate payments for health care that has been provided, or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the Department of Public Health for disclosures made in good-faith reliance on an authorization if

the Department of Public Health had no actual notice of the revocation of the authorization. A revocation is valid only if it is in writing, dated with a date that is later than the date on the original authorization, and signed by the patient or the patient's legally authorized representative.

V. Discovery Request or Compulsory Process

(1) Before service of a discovery request or compulsory process demand on the Department of Public Health for health care information, an attorney shall provide advance written notice to the patient or the patient's attorney through service of process indicating what health care information is sought, and stating that the patient may obtain a protective order to prevent the Department of Public Health from complying. Thereafter the discovery request or compulsory process demand may be served on the Department of Public Health with a copy of the written notice provided to the patient or patient's attorney attached. The date by which the Department of Public Health must comply with the discovery request or compulsory process demand must allow the patient adequate time to seek a protective order, but in no event be less than fourteen days from the date of service or delivery to the Department of Public Health.

(2) Without the written consent of the patient, the Department of Public Health shall not disclose the health care information sought under subsection (1) of this section if the requestor has not complied with the requirements of such subsection, except upon the order of a court with competent jurisdiction. If the requirements of subsection (1) have been satisfied, and in the absence of a protective order issued by a court of competent jurisdiction forbidding compliance, the Department of Public Health shall disclose the information in accordance with these regulations. The discovery request or compulsory process demand, and any protective order or other related court documents shall be made a part of the patient medical record.

VI. Disclosure Without Patient's Authorization

(1) The Department of Public Health may disclose health care information about a patient without the patient's authorization to the extent that a recipient needs to know the information, if the disclosure is:

(a) to a person who the Department of Public Health reasonably believes is providing health care to the patient at the time the request for disclosure is made;

(b) to any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial or actuarial services to the Department of Public

Health, or for assisting the Department of Public Health in the delivery of health care and the Department of Public Health reasonably believes that the person:

(i) will not use or disclose the health care information for any other purpose; and

(ii) will take appropriate steps to protect the health care information;

(c) to any other health care provider reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(d) to any medical or law enforcement personnel if the Department of Public Health reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this section on the part of the Department of Public Health or its agents or employees to so disclose;

(e) oral, and made by the patient's treating physician, nurse, or other health care provider to immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(f) to a hospital or treatment facility that is the successor in interest to the Department of Public Health for the purpose of maintaining the health care information;

(g) for use in a research project that an institutional review board has determined:

(i) is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) is impracticable without the use or disclosures of the health care information in individually identifiable form;

(iii) contains reasonable safeguards to protect the information from re-disclosure;

(iv) contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) to a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) to the Division of Youth Services, Department of Community and Cultural Affairs, pursuant to the terms of the Multi-Disciplinary Response Team memorandum of understanding signed by the Department of Public Health to assist in addressing issues regarding sexual abuse and assault;

(j) to provide directory information, unless the patient has instructed the Commonwealth Health Center not to make the disclosure;

(k) in cases reported by fire, police, or other public authorities, a report may be provided to them as to the name, residence, sex, age, occupation, general health condition, diagnosis, or extent and location of injuries as determined by a health care provider, and whether the patient was conscious when admitted.

(l) to the administrator or designated personal representative of the patient if the patient is deceased;

(m) to any person or third-party payor involved in paying or collecting fees for health care services provided by a professional;

(n) to other professionals and personnel under a health care provider's direction who participate in the diagnosis, evaluation, or treatment of the patient.

(2) The Department of Public Health may disclose health care information about a patient without a patient's authorization in a judicial or administrative proceeding:

(a) when the proceedings are brought by the patient against a Department of Public Health health care provider, including but not limited to malpractice proceedings, and in any criminal or license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claims or defense of a Department of Public Health health care provider;

(b) when the purpose of the proceedings is to substantiate and collect on a claim for health care services rendered to the patient;

(c) in any civil litigation or administrative proceeding, if relevant, brought by the patient or someone on his behalf if the patient is attempting to recover monetary damages for any physical or mental condition including death of the patient;

(d) in any disciplinary investigation or proceeding of a health care provider conducted under or pursuant to the Medical Practice Act, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are examined, except for those patients covered under any of the subsections in this Section VI or those patients who have submitted written consent to the release of their medical records;

(e) in any criminal investigation of a health care provider in which the Medical Profession Licensing Board is participating or assisting in the investigation or proceeding by providing certain medical records obtained from the health care provider, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are provided in the investigation or proceeding except for those patients covered under any of the subsections in this Section VI or those patients who have submitted written consent to the release of their medical records. This subsection does not authorize the release of any confidential information for the purpose of instigating or substantiating criminal charges against a patient;

(f) in an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing under the Involuntary Civil Commitment Act of 1994, 3 CMC §2501-§2522 or the Patients Rights Act, 3 CMC §2551-§2564.

(g) when the patient's physical or mental condition is relevant to the execution of a will.

(3) The Department of Public Health shall disclose health care information about a patient without a patient's authorization if the disclosure is:

(a) to federal or CNMI public health authorities, when needed to determine compliance with CNMI or federal licensure, certification, or registration rules or laws, or when needed to protect the public health;

(b) to CNMI law enforcement authorities when necessary to assess whether a patient's death was the result of a criminal act and whether an autopsy is required;

(c) pursuant to compulsory process in accordance with Section V.

#### VII. Patient's Examination and Copying – Requirements

(1) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, the Department of Public Health, as promptly as required under the circumstances, but no later than fifteen (15) working days after receiving the request shall:

(a) make the information available for examination during regular business hours and provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) inform the patient and provide the name and address, if known, of the health care provider who maintains the record, if the Department of Public Health does not maintain a record of the information;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than twenty-one (21) working days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) deny the request, in whole or in part, under the Section VIII and inform the patient.

(2) Upon request, the Department of Public Health shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the Department of Public Health in the requested form, the Department of Public Health is not required to create a new record or reformulate an existing record to make the health care information available in the requested form. The Department of Public Health may charge a reasonable fee for providing the



health care information and is not required to permit examination or copying until the fee is paid.

VIII. Patient's Request – Denial of Examination and Copying

(1) The Department of Public Health may deny access to health care information by a patient if the Department of Public Health reasonably concludes that:

(a) knowledge of the health care information would be injurious to the health of the patient;

(b) knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate.

(c) knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;

(d) the health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes;

(e) access to the health care information is otherwise prohibited by law.

(2) If the Department of Public Health denies a request for examination and copying under this section, it shall, to the extent possible, segregate health care information for which access has been denied under subsection (1) of this section from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

(3) If the Department of Public Health denies a patient's request for examination and copying, in whole or in part, under subsection (1) (a) or (c) of this section, it shall permit examination and copying of the medical record by a health care provider not employed by the Department of Public Health, selected by the patient, who is licensed, certified, registered, or otherwise authorized under the laws of the CNMI to treat the patient for the same condition that was treated by the Department of Public Health staff. At the time the patient's request for health care information is denied, the Department of Public Health shall inform the patient of the patient's right to select another health care provider under this subsection. The patient shall be responsible for arranging for compensation of the other health care provider so selected.

IX. Correction or Amendment of Medical Record

(1) For purposes of accuracy or completeness, a patient may request in writing that the Department of Public Health correct or amend its medical record of the patient's health care information to which a patient has access under Section VII.

(2) As promptly as required under the circumstances, but no later than ten (10) days after receiving a request from a patient to correct or amend its medical record of the patient's health care information, the Department of Public Health shall:

(a) make the requested correction or amendment and inform the patient of the action;

(b) inform the patient if the medical record no longer exists or cannot be found;

(c) inform the patient and provide the patient with the name and address if known, of the person who maintains the medical record, if the Department of Public Health does not maintain the medical record;

(d) if the medical record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing, the earliest date, not later than twenty-one (21) days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) inform the patient in writing of the health care provider's refusal to correct or amend the medical record as requested and the patient's right to add a statement of disagreement.

(3) In making a correction or amendment, the Department of Public Health shall:

(a) add the amending information as a part of the medical record; and

(b) mark the challenged entries as corrected or amended entries and indicate the place in the medical record where the corrected or amended information is located, in a manner practicable under the circumstances.

(4) If the health care provider refuses to make the patient's proposed correction or amendment, the Department of Public Health shall:

(a) permit the patient to file as a part of the medical record of the patient's health care information a concise statement of the correction or amendment requested and the reasons therefore; and

(b) mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the medical record where the statement of disagreement is located, in a manner practicable under the circumstances.

X. Consent by Others; Health Care Representatives

(1) A person authorized to consent to health care for another may exercise the rights of that person under these regulations to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental consent under federal or CNMI law, only the minor may exercise the rights of a patient under these regulations as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, the Department of Public Health may rely on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

(a) the parents are married, unmarried, or separated at the time of the representation;

(b) the consenting parent is, or is not, a custodial parent of the minor;

(c) the giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered in a child custody dispute.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

XI. Personal Representative of Deceased Patient

A designated personal representative of a deceased patient may exercise all of the deceased patient's rights under these regulations. If there is no designated personal representative, or upon discharge of the designated personal representative, a deceased patient's rights under these regulations may be exercised by the next of kin of the deceased patient in the following order: spouse, parents, children, siblings.

XII. Safeguards for Security of Health Care Information

The Department of Public Health shall adopt and implement reasonable safeguards for the security of all health care information it maintains.

XIII. Retention of Medical Records

The Department of Public Health shall retain medical records for a minimum of seven (7) years after the date of the last entry on the record. In the case of minor children, the Department of Public Health shall retain the medical records for a minimum of seven (7) years after the date the child reaches 18 years of age unless there are entries on the medical records after the child reaches 18 years of age. X-ray files shall be retained for a minimum of five (5) years.

XIV. Severability

If any provision of these Rules and Regulations or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected hereby.



# COMMONWEALTH HEALTH CENTER

Office of the Secretary

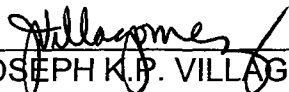
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH SERVICES

## PUBLIC NOTICE

### PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF THE MEDICAL REFERRAL PROGRAM

The Secretary of the Department of Public Health of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in him pursuant to 1 CMC §2605, hereby propose these Amendments to the Rules and Regulations Governing the Administration of the Medical Referral Program in order to allow for appropriate payments to the health care professional that provide medical escort services to patients referred to off-island referral facilities.

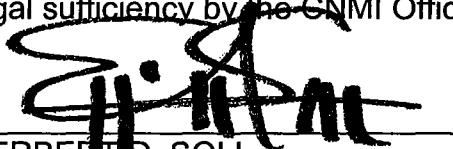
It is the intention of the Department of Public Health to comply with the requirements of the Administrative Procedures Act, specifically 1 CMC §9104, in proposing these amendments to the Rules and Regulations. Copies of the proposed Rules and Regulations may be obtained from the Office of the Secretary of Public Health located on the ground floor of the Commonwealth Health Center. Comments on the proposed Rules and Regulations may be sent to the Office of the Secretary of Public Health, Department of Public Health, P.O. Box 409 CK, Saipan, MP, 96950. All comments must be received within thirty (30) days from the date this notice is published in the Commonwealth Register.

  
\_\_\_\_\_  
JOSEPH K.P. VILLAGOMEZ  
Secretary of Health  
Department of Public Health


Date: 5/02/2000

Certification by Office of the Attorney General

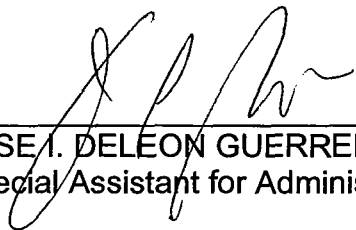
Pursuant to 1 CMC §2153 as amended by PL 10-50, the proposed rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Office of the Attorney General.

*ja*  
  
HERBERT D. SOLL  
Attorney General (~~Temporary~~)

Date: 5/15/00

  
Filed By: \_\_\_\_\_  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Date: 5/18/00

  
Received By: \_\_\_\_\_  
JOSE I. DELEON GUERRERO  
Special Assistant for Administration

Date: 5/19/2000



# Commonwealth i Sangkattan Siha na Islas Marianas Dipattamenton Hinemlo' Publiku

*Ofisian i Sekretaru*

## NUTISAN PUBLIKU

### MAPROPONEN AREKLAMENTO YAN REGULASION SIHA PARA U GOBIETNA I ATMINISTRASION PROGRAMAN I MA REFERIN MINALAÑGU (MEDICAL REFERRAL)

I Sekretariun i Dipattamenton Hinemlo' Publiku i Commonwealth i Sangkattan siha na Islas Marianas, sigun gi aturidat ni mana'e gue' ginen 1 CMC §2605, ha propone este siha na amendasion para i Areklamento yan Regulasion ni para u gobietna i **Atministrasion Programan i Ma Referin Minalañgu (Medical Referral)**, ni para siña u ma sedi i apropositu na apas para i profesiat hinemlo' ni man man esgaihon manmalañgu na petsona siha para otro tano' na facilidad.

I intension i Dipattamenton Hinemlo' Publiku para u akonfotma i nisisidat siha sigun gi Akton Dinirihen Atministrasion (Administration Procedures Act), espesiatmente 1 CMC §9104, ni mapropopone siha na Areklamento yan Regulasion guaha gi Ofisinan i Sekretariun Hinemlo' Publiku, ni gaige gi primet bibenda giya Commonwealth Health Center. Komento put i manmapropopone siha na Araklamento yan Regulasion siña ha manmatuge' papa ya u manahanao guato para i Ofisinan i Sekretariun Hinemlo' Publiku, Dipattamenton Hinemlo' Publiku, P.O. Box 500409 CK, Saipan, MP 96950. Todu i komento siha debi di ufan marisibi gi halom trenta (30) dias desde malaknos este na nutisia gi Rehistran Commonwealth.

Sinettifika as:

  
JOSEPH KEVIN P. VILDAGOMEZ  
Sekretaru, Dipattamenton Hinemlo' Publiku

5/02/2000  
FECHA

**Setifikasion ginen i Ofisinan i Abugadun Hinerat:**

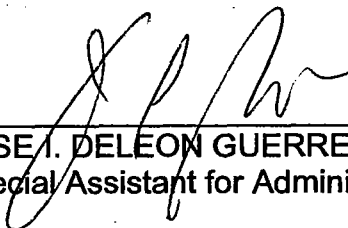
Sigun gi 1 CMC §2153 ni inamenda nui i Lai Publiku 10-50, i mapropopone siha na amendasion gi Areklamento yan Regulasion ni checheton guine, esta manma inan maolek yan apreba para u fotma ligat yan sufisiente ginen i Ofisinan i Abugadun Hinerat giya CNMI.

\_\_\_\_\_  
HERBERT SOLL  
Kuantan Abugadun Hinerat

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FECHA

Filed By:   
\_\_\_\_\_  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

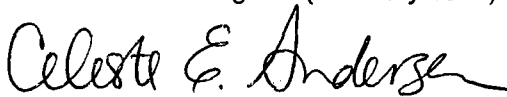
Date: 5/18/00

Received By:   
\_\_\_\_\_  
JOSE I. DELEON GUERRERO  
Special Assistant for Administration

Date: 5/19/2000



**Proposed Amendments to the Rules and Regulations  
Governing the Administration of the Medical Referral Program**

Citation of Statutory Authority:	1 CMC §2605 authorizes the Department of Public Health to adopt rules and regulations regarding those matters over which it has jurisdiction. 1 CMC §2603(f) grants the Department of Public Health the power and duty to administer all government-owned health care facilities. This includes the authority to operate the Medical Referral Program.
Short Statement of Goals & Objectives:	The purpose for proposing amendments to the Rules and Regulations is to provide a transport fee for physician, nurse and/or respiratory therapist escorts who accompany patients on medical referrals. The current system of paying these medical escorts a per diem allotment has proven unworkable, with the medical escorts sometimes having to pay back their per diem because they completed travel within less than 24 hours. Escorting medical referral patients can be labor intensive, requires a demanding travel schedule, sometimes throughout the night, and often occurs during the medical escort's time-off. The Medical Referral Office wants to ensure that the medical escorts are being appropriately compensated for their time and efforts.
Brief Summary of the Proposed Rule:	The proposed amendment to the Rules and Regulations establishes a transport fee, which shall be in lieu of a per diem for the first 24 hours of travel, based on the location of the medical referral. The transport fee is intended to cover payment for any hotel accommodations and food required by the medical escort.
Contact Person(s):	Joe Santos, Medical Referral Officer, Department of Public Health.
Citation of Related and/or Affected Statutes, Regulations, and Orders:	Rules and Regulations Governing the Administration of the Medical Referral Program, Vol. 18 No. 7 Commonwealth Register (July 1996); Vol. 20 No. 2 Commonwealth Register (February 1998).
Date: <u>5/1/00</u>	 _____ Celeste E. Andersen, Legal Counsel Department of Public Health

5.4 Patient Escorts. Medical personnel and/or one family member or close friend to serve as a patient escort in the following situations, as authorized by the Medical Referral Committee:

a. Physician, Nurse, or Respiratory Therapist Escort. The Medical Referral Committee, in conjunction with the patient's primary care physician, shall determine whether it is necessary for a physician escort, nurse escort, respiratory therapist escort, or two of the above, to accompany the patient to the referral health care facility to ensure adequate medical care in transit. The following guidelines shall be considered by the Medical Referral Committee and the primary care physician in deciding whether a medical escort is needed:

(i) Physician Escorts. A physician escort should accompany a medical referral patient whenever there is a high likelihood that the patient's medical condition could change during the transport and it may be necessary for the physician to make a diagnosis, stabilize the patient, or provide acute treatment for the patient.

(ii) Nurse Escorts. A nurse escort should accompany a medical referral patient whenever the patient will require nursing services (e.g., the patient requires monitoring of vital signs and other nursing care, intravenous lines must be maintained for the patient, or medications must be administered to the patient by means of intravenous or intramuscular injection, or by a feeding tube during the transport), and the patient is stable and his or her medical condition is unlikely to change.

(iii) Respiratory Therapist Escort. A respiratory therapist escort should accompany a medical referral patient whenever the patient will require respiratory therapist services (e.g., patient in respiratory failure who requires a ventilator or other breathing assistance), and the patient is stable and his or her medical condition is unlikely to change.

The patient's primary care physician, in conjunction with the Director of Medical Affairs and the appropriate Nurse or Respiratory Therapist Supervisor, shall decide which members of the Commonwealth Health Center medical staff, nursing staff, and/or respiratory therapist staff shall accompany the patient. In

those cases where a physician, nurse, and/or respiratory therapist escort accompany the patient, it shall be such escort's responsibility to:

- (1) assist and attend to the patient during the flight;
- (2) ensure that the patient's medical documents are turned over to the appropriate personnel from the referral health care facility; and
- (3) ensure that all medical instruments, pillows, sheets, and other hospital supplies used during the medical transport are accounted for and returned to the Commonwealth Health Center.

(iv) Transport Fees for Physician, Nurse, and Respiratory Therapist Escorts. Physician, nurse, and/or respiratory therapist escorts accompanying the patient on the medical referral shall each be entitled to receive a lump sum transport fee, in lieu of a per diem allotment, for the first 24 hours of travel, based on the location to which the patient is being medically referred. The transport fee, which is intended to cover payment for any hotel accommodations and food required by the physician, nurse and/or respiratory therapist escorts during the transport, shall be based on the following schedule:

- |                         |          |
|-------------------------|----------|
| (1) Guam                | \$175.00 |
| (2) Philippines         | \$200.00 |
| (3) Hawaii              | \$250.00 |
| (4) From Hawaii to CNMI | \$250.00 |

If, because of unavailability of seats on the airline, the physician, nurse and/or respiratory therapist escorts are unable to return to the CNMI within a 24 hour period, they shall then be entitled to receive the standard government per diem allotment for the hours following the first 24 hours of travel.



# COMMONWEALTH PORTS AUTHORITY

Main Office: SAIPAN INTERNATIONAL AIRPORT  
P.O. BOX 1055 • SAIPAN • MP 96950  
Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962  
E-Mail Address: cpa.admin@saipan.com

## PUBLIC NOTICE

### PROPOSED AMENDMENT TO PART V (PILOTAGE) OF THE HARBOR RULES AND REGULATIONS

The Commonwealth Ports Authority (CPA), pursuant to its rule-making authority under 2 CMC § 2122 (j), and in accordance with the provisions of 1 CMC §§ 9102, 9104 (a), and 9105, hereby gives public notice of its intention to amend Part V (Pilotage) of the Harbor Rules and Regulations. The proposed amendment would (a) require vessels including tugs and tows, homeported in Guam or the Northern Mariana Islands to be piloted by a vessel master or operator who has been issued a valid pilot's license by the Authority; and (b) would provide for the licensing of harbor pilots by CPA, to set forth the qualifications required to be a harbor pilot, and so forth.


All interested persons may examine the proposed amendments and submit written comments, positions, or statement for or against the proposed amendments to the Executive Director, Commonwealth Ports Authority, P. O. Box 501055, Saipan, MP 96950, no later than thirty (30) calendar days following the date of the publication of this Notice in the Commonwealth Register.

Dated this 13th day of April, 2000, at Saipan, Northern Mariana Islands.

COMMONWEALTH PORTS AUTHORITY

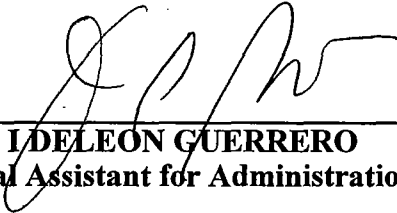
By:   
CARLOS H. SALAS, Executive Director

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the rules and regulations proposing to amend Part V (Pilotage) of the Harbor Rules and Regulations, a copy of which is attached hereto, have been reviewed and approved by the CNMI Attorney General's Office.

  
~~HERBERT D. SOLL~~  
HERBERT D. SOLL  
Attorney General

Date: May 12, 2000

RECEIVED BY:

  
\_\_\_\_\_  
**JOSE IDELEON GUERRERO**  
Special Assistant for Administration

Date: 5/19/2000

FILED BY:

  
\_\_\_\_\_  
**SOLEDAD B. SASAMOTO**  
Registrar of Corporations

Date: 5/18/00



# COMMONWEALTH PORTS AUTHORITY

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P.O. BOX 1055 • SAIPAN • MP 96950  
Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962  
E-Mail Address: cpa.admin@saipan.com

## NUTISAN PUPBLIKU

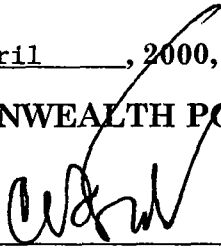
### MAPROPOPONI NA AMENDASION I PATTE V (POT LICENSIA PARA PILOTUN BATKU) GI PAPA I REGULASION YAN AREKLAMENTON PANTALAN

I Commonwealth Ports Authority, sigun gi aturidat para u famatinas areklamento gi papa 2 CMC § 2122(j) yan sigun gi prubinsion siha ginen 1 CMC § 9102, 9104(a) yan 9105, ginen este ha nutisia I pupbliku nu I intension-na para u amenda Patte V (pot licencia para pilotun batku) gi papa I Regulasion yan Areklamenton I Pantalan. I mapropoponi na amendasion para u (a) obliga batko siha, kontodu tugs yan tows, homeported giya Guam pat I Northern Marianas para ufanma-pilotu ni I magas I batku pat I operator ni ma-licensia lalala na licensian pilotu ginen I CPA; yan (b) para una-guaha para man-licensia pilotu ginen I CPA, ana guaha qualificasion para pilotun pantalan yan otro siha.

Todo petsona ni man-interesao, sina maexamina I mapropoponi na amendasion siha yan sina mansatmiti halom tinige na komentu, pision, pat sinangan (kontra pat ahi) pot I mapropoponi na amendasion guato gi Direktot Eksekativu, Commonwealth Ports Authority, P. O. Box 501055, Saipan, MP 96950, ti mas di trenta (30) dias anai ma-publika este na Nutisia gi Commonwealth Register.

Dia 13th gi April, 2000, gi Saipan, Northern Mariana Islands.

### COMMONWEALTH PORTS AUTHORITY

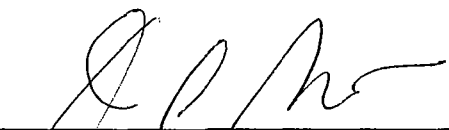
By:   
Carlos H. Salas, Direktot Eksekativu

Sigun gi 1 CMC § 2153 ni inamenda ni Lai Pupbliku 10-50, I areklamento yan regulasion ni mapropoponi para u amenda Patte V (pot licencia para pilotun batku) gi papa I Areklamento yan Regulasion Pantalan, I kopia ni checheton guine, esta man-maribisa yan apreba ginen I Ofisinan Attorney General gi CNMI.

HERBERT D. SOLL  
Attorney General


Fecha

Rinisibi as:

  
\_\_\_\_\_  
**JOSE I. DELEON GUERRERO**  
Special Assistant for Administration

Fecha: 5/19/2000

Ma file as:

  
\_\_\_\_\_  
**SOLEDAD B. SASAMOTO**  
Rehistradoran Kotporasion

Fecha: 5/18/00



# COMMONWEALTH PORTS AUTHORITY

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Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962  
E-Mail Address: cpa.admin@saipan.com

## ARONGORONGOL TOULAP

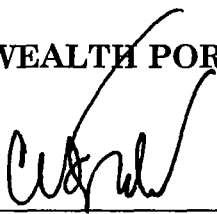
### FFEERUL LLIWEL MELLOL AUTOL ALLEGH REEL LISENSIYAAR PALUW KKA RE AFFAARAGH POBWOOR FAAL ALLEGHUL LELIYEEL FFEETAGHIL WAA

Commonwealth Ports Authority, sangi bwangil allegh ye 2 CMC faal 2122(J) me afal kka sangi 1 CMC § 9102, 9104(a) yan 9105, nge rekke arongaar toulap igha remangiyy bwe rebwe ayoora lliiwel mellol Peighil ye V (Reel Llisensiyaa Paluw kka re Affaaragh Pobwoor) mellol Alleghul Ffeetaghil Waa. Lliiwel kaal nge ebwe (a) aiti pobbwoor, me bwal milikka tugs me tow ikka elo Guam me ngare Northern Marianas bwe Paluw re llang me lisensiyaa ngare iir paluw nge re lisensiya sangi CPA: me bwal (b) bwe rebwe ayoora lisensiyaa paluw sangi bwulasiyool CPA, me ebwe yoor mille qualification reer paluw me akkaaw.

Aramas kka re mwuscha atootoolong tiip, mangemang reel lliiwel kka nge emmwe schagh bwe rebwe ischiitiw nge rebwe afanga ngali Executive Director, Commonwealth Ports Authority, P. O. Box 501055, Saipan, MP 96950, eliigh (30) ral sangi igha e rongolo arongorong yeel mellol Commonwealth Register.

E ffeer lol raalil ye 13th maram ya April, 2000, Seipel, Matawal Wool Marianas.

COMMONWEALTH PORTS AUTHORITY

Sangi:   
Carlos H. Salas, Executive Director

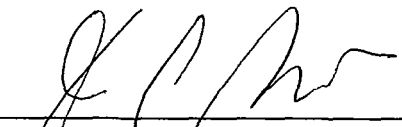
Sangi 1 CMC faal § 2153 iwe e lliiwel mellol owtol Alleghul Toulap ye 10-50, Faal Alleghul Leliyeel Ffeetaghil Waa ffeerul ayoora lliiwel mellol Peighil ye V (Reel Llisensiyaa Paluw kka re Affaaragh Pobwoor) Faal Alleghul Leliyeel Ffeetaghil Waa, kopiyaal milikka eschuu me millikka nge aa takk allegh sangi Bwulasiyool Attorney General mellol CNMI.

HERBERT D. SOLLER  
Attorney General

Ral




**Bwughiyal:**

  
\_\_\_\_\_  
**JOSE I. DELEON GUERRERO**  
Special Assistant for Administration

Ral: 5/19/2000

**Isaliyal:**

  
\_\_\_\_\_  
**SOLEDAD B. SASAMOTO**  
Registrar of Corporations

Ral: 5/18/00

**PROPOSED AMENDMENTS TO PART V (PILOTAGE)  
OF THE  
HARBOR RULES AND REGULATIONS  
COMMONWEALTH PORTS AUTHORITY**

**Citation of  
Statutory  
Authority:**

The Commonwealth Ports Authority proposes to amend Part V of its Harbor Rules and Regulations relating to Pilotage, pursuant to its rule-making authority under 2 CMC § 2122 (j) and 1 CMC §§ 9102, 9104 (a), and 9105.

**Short Statement of  
Goals and  
Objectives:**

The proposed amendments to the Harbor Rules and Regulations would provide for the Authority to license harbor pilots who guide vessels entering and leaving the ports of the Commonwealth. Prior to the enactment of Public Law 11-99, the CNMI Board of Professional Licensing was responsible for the licensing of harbor pilots in the Commonwealth. The Office of the Attorney General recently rendered an opinion that the Authority now has jurisdiction to regulate and license harbor pilots, pursuant to 2 CMC § 2122 (j). The proposed amendments would also amend existing regulation to require vessels, including tugs and tows, which are homeported in Guam or the Northern Mariana Islands to be piloted by a vessel master or operator who has been issued a valid pilot's license by the Authority.

**Brief Summary of  
Proposed  
Regulations:**

The proposed regulations set forth the requirements for licensing of harbor pilots, their qualifications, the annual license fee, harbor pilot examination, license renewal, vessel accident reporting, revocation/suspension of license, radar training, and so forth. It would also amend the existing pilotage regulation so as to required pilotage for homeported vessels.

**For Further  
Information, Please  
Contact:**

Carlos H Salas, CPA Executive Director at Telephone No. 664-3500.

**Citation to Related  
or Affected Statutes,  
Regulations and  
Orders:**

2 CMC § 2101 *et seq* (particularly § 2122 (b) and (j)); *Harbor Rules and Regulations Part V: Pilotage*, published in Vol. 14, No. 5 of the Commonwealth Register, dated May 26, 1992, and as subsequently amended in Vol. 16, No. 9, of the Commonwealth Register, dated September 15, 1994; see also, 4 CMC § 3101 *et seq.*, and CNMI Board of Professional Licensing: *Regulations Governing The Licensure of Harbor Pilots*, published in Vol. 18, No. 11, of the Commonwealth Register, dated November 15, 1996, pp. 14662-14667.

**AMENDMENT TO PART V (PILOTAGE)  
OF THE  
COMMONWEALTH PORTS AUTHORITY  
THE HARBOR RULES AND REGULATIONS**

**Part V of the Commonwealth Ports Authority (“Authority”) Harbor Rules and Regulations relating to Pilotage is hereby amended to, among other things, provide for the licensing of harbor pilots by the Authority and to waive the pilotage requirement for vessels homeported in Guam and the Northern Mariana Islands.**

- 1. Part 5.11 of the Harbor Rules and Regulations is hereby amended to read:**

**5.11 Vessels, including tugs and tows, which are homeported in the Northern Mariana Islands and which operate inter-island within the Marianas chain of islands are required to be piloted, by a vessel master or operator, who has been issued a valid pilot’s license by the Authority.**

- 2. New Parts 5.12 to 5.24 to provide for the licensing of harbor pilots by the Authority are hereby adopted and shall read as follows:**

**5.12 (a) All vessels which, under these regulations, require a pilot to guide the vessel within the harbors of the Commonwealth shall be guided, as they enter or leave a harbor, by a pilot duly licensed by the Commonwealth Ports Authority to provide such service, unless the master of the vessel has already been issued a valid pilot’s license by the Authority.**

**(b) The pilot shall guide the movement of a vessel from the outer limit of the harbor entrance or from anchorage to the dock, or from the dock to the outer limit of the harbor entrance or the vessel anchorage site.**

**(c) No person may pilot a vessel within a harbor of the Commonwealth unless that person possesses a valid pilot’s license issued by the Authority.**

**(d) A license shall specify the pilotage district or harbor where the pilot may serve.**

**(e) Each pilot duly licensed shall pay to the Authority a license fee of FIVE HUNDRED DOLLARS (\$500.00) per**

year for the privilege of piloting vessels within the harbor of the Port of Saipan, and **THREE HUNDRED FIFTY DOLLARS (\$300.00)** per year for either San Jose Harbor, Tinian or West Harbor Rota. For the privilege of piloting vessels in all harbors of the CNMI, the pilot's license fee shall be **ONE THOUSAND DOLLARS (\$1,000.00)** per year. Such fee shall be paid in full prior to issuance or renewal of one's pilot license.

**5.13 In order to serve as a harbor pilot, a person must file with the Authority a harbor pilot application on a form furnished by the Authority, and shall meet the following qualifications:**

- (a) An applicant must be at least 21 years of age;**
- (b) Must be either a U.S. citizen, or a lawful permanent resident of the United States, or a citizen of one of the Freely Associated States of Micronesia, and must be lawfully residing in the Northern Mariana Islands;**
- (c) Must be physically capable of performing the duties of a pilot, as determined by a duly-licensed physician;**
- (d) Must be mentally fit and competent to serve as a harbor pilot;**
- (e) Must have normal vision, or vision that is correctable to 20/20, for both eyes, as certified by a licensed optometrist;**
- (f) Must successfully pass all U.S. Coast Guard examination and requirements required to pilot a vessel;**
- (g) Must successfully complete the required number of harbor familiarization trips required by the Authority, and provide proof thereof;**
- (h) Must satisfy at least one of the following:**
  - (1) Holds a valid U.S.C.G. First Class Pilot License for vessels of unlimited Tonnage and endorsed for one, or more of the pilotage districts of the**

**CNMI and must document, to the satisfaction of the Board, at least 30 safe vessel movements, within the preceding year (25% of movements must be at night), in any port of the United States, or former Trust Territory of the Pacific Islands, as a harbor pilot working under the authority of his U.S.C.G. First Class Pilot License; or**

- (2) Possesses a U.S. Coast Guard Master or First Mate's License of unlimited tonnage on steam or motor vessels upon oceans (excluding fishing vessels); or**
  - (3) Possesses a U.S. Coast Guard Master or First Mate's license of not less than 1600 gross ton on steam or motor vessels upon oceans (excluding fishing vessels); or**
  - (4) Possesses a valid U.S. Coast Guard License with a rating as Master on Steam or Motor Vessel of 500 gross tons including freight or towing vessels (excluding fishing vessels); and, two-thirds of the required number of vessels movement for that pilotage district have been on vessels of 500 gross tons or more; or**
  - (5) Previously held a Trust Territory deck officer's license for vessels over 500 gross tons and can demonstrate to the satisfaction of the Authority one-year sea time as Master or Mate of steam or motor vessel of 500 gross tons or more; or**
  - (6) Previously held a Trust Territory Harbor Pilot's license for vessels of at least 500 gross tons for the ports in the CNMI and can document to the satisfaction of the Board, at least an average of 10 vessel movements per year in the immediately preceding 5 years in the applicable pilotage district.**
- (i) Must speak, write and comprehend the English language**

to the satisfaction of the Authority; and

- (j) Pays a non-refundable application fee of \$100.00, at the time the application is submitted.
- 5.14 (a) Each harbor pilot applicant shall take and pass, or provide satisfactory evidence that the applicant has passed, the U.S. Coast Guard written examination and is licensed, holds or possesses any of the licenses set forth in Part 5.13 (h) (2) to (h) (4) inclusive, is familiar with the International Rules of the Road, and possesses a working knowledge of the physical characteristics of the harbor for which the applicant seeks a pilot license for.
- (b) Applicants applying for a harbor pilot license under Part 5.13 (h) (5) and (6) shall obtain a U.S.C.G. First Class Pilot license for the harbor in which applicant seeks a license.
- (c) Applicants who are applying for a harbor pilot license pursuant to Part 5.13 (h) (1) are exempted from the U.S.C.G. examination requirement, but shall provide U.S.C.G. certification to the Authority that applicant meets Part 5.13 (h) (1).
- 5.15 Any person who is applying for a harbor pilot license and who needs to take the U.S. Coast Guard written examination may make arrangements directly with the U.S Coast Guard regarding the date, time, and location to take the examination and shall request the U.S. Coast Guard to send the results of the exam directly to the Authority. The Authority shall accept the passing criteria established by the U.S. Coast Guard and the results of the examination.
- 5.16 (a) All applicants applying for a harbor pilot license must meet the following minimum number of familiarizationtrip for a harbor pilot district:
- (1) For the Port of Saipan, at least 12 trips;
  - (2) For West Harbor Rota, at least 6 trips; and

- (3) For San Jose Harbor, Tinian, at least 6 trips.
- (b) One familiarization trip shall consist of one vessel movement in the harbor included in the pilotage district without any accident, collision or similar incident.
  - (c) At least half of the required familiarization trips shall be conducted between one hour after sunset and one hour before sunrise.
  - (d) All of the required familiarization trips shall be on self propelled vessels of at least 300 gross tons or larger, with operational radar.
  - (e) All familiarization trips must be made under the supervision of a licensed harbor pilot for the pilotage district.
  - (f) All familiarization trips shall be documented and signed by the licensed harbor pilot on a form provided by the Authority.
  - (g) After completion of the required number of familiarization trips, the Authority shall evaluate the applicant's performance in ship handling skills on the basis of the evaluation forms and other relevant information and decide whether the applicant should be licensed or whether additional familiarization trips should be required. The Authority may require that a pilot applicant perform additional familiarization trips if the supervisory pilot's evaluations indicate that the applicant needs additional experience in ship handling.
- 5.17 (a) The following applicants and pilots must have a physical examination by a CNMI licensed physician as follows:
- (1) For all applicants within 30-days of application;  
and
  - (2) For all licensed pilots on an annual basis.
- (b) The physical examination required of all applicants or

**pilots shall demonstrate that a person is in all respect physically fit to perform the duties of a pilot. The examination shall assure that the person's abilities as a pilot are not impaired by eyesight, hearing or other bodily function and shall include examination of the pilot's eyes (including tests for color blindness, depth perception, night vision, disease, field of vision and reflexes); ears; heart; blood pressure; blood components; pulse; speech capabilities; history of diseases (including diabetes, cancer, arthritis, arrhythmia, asthma, bronchitis, emphysema, ulcers, alcoholism and other illnesses) and any other medical information which the physician feels is relevant. The Authority reserves the right to impose unannounced mandatory testing for drug or alcohol use.**

- (c) The applicant or the pilot shall file with the Authority on a form supplied by the Authority the examining physician's Statement of Fitness:
  - (1) Within 60 days of the applicant filing the completed application form with the Authority;**
  - (2) Within 60 days of the date of a pilot's annual physical examination or physical examination for renewal.****
- (d) If the physician's Statement of Fitness indicates that the applicant is not physically or mentally fit to perform the duties of a pilot, the Authority shall not issue or renew a license.**
- (e) In the case of the annual physical exam, should the physician's Statement of Fitness indicate that the pilot is not capable of performing the duties of a pilot, the Authority shall temporarily suspend such license until a further physical examination has been completed and indicates that the pilot is capable of performing his duties as a pilot.**
- (f) In the case of the renewal of a pilot's license, should the pilot be temporarily physically incapacitated at the time his license is due to be renewed, the Authority shall not**



renew such license until a further physical examination indicates that the pilot is capable of performing his duties as pilot.

5.18 (a) Each pilot shall renew his or her pilot's license once a year upon the anniversary date of issue. All licensed pilots seeking to renew their license shall complete the application form provided by the Authority and file it at least sixty (60) days prior to the expiration date of the license. Upon approval of the license renewal application the renewal fee shall be paid to the Authority as provided for in Part 5.12 (e) above.

(b) In addition to filing the application to renew one's pilot license, the applicant must also meet the following renewal requirements:

(1) Have completed the following vessel movements on self propelled vessels of 300 gross tons or more in the applicable pilotage district during the time he was licensed (half of the trips shall be conducted after sunset). At least half of the trips shall have been completed during the immediately preceding 12 months from the date the application for renewal is filed with the Authority:

Port of Saipan	-	6
San Jose Harbor, Tinian	-	3
West Harbor, Rota	-	3

(2) Pass a general physical examination within sixty (60) days prior to the renewal date. The physician shall submit to the Authority a Statement of Fitness stating whether and under what conditions the pilot is capable of providing pilotage services.

(c) If an applicant for renewal fails to meet the required number of trips in the pilotage district, the Authority shall require the applicant to complete additional familiarization trips under the supervision of a licensed

**pilot prior to renewing the pilot's license. During such time if the time for the pilot's license renewal has already passed, such pilot shall not pilot a vessel without the supervision of a licensed pilot.**

- (d) A pilot who fails to renew his or her license and fails to complete the requirements contained in Part 5.19 (b) above before the license expiration date, shall be assessed the renewal fee and a \$50.00 monthly delinquent fee for each month the license is not renewed.**
  - (e) A pilot whose license has expired for over 60-days must file a new application and receive approval from the Authority for reinstatement.**
- 5.19 (a) In every case where a vessel piloted by a CPA-licensed harbor pilot collides with another vessel, collides with a dock, meets any casualty, or is injured or damaged in any way, the pilot shall file a written report with the Authority immediately upon returning to shore but in no event not later than 24-hours after the incident. The report shall apprise the Authority of all relevant facts relating to the incident.**
- (b) Any pilot who shall fail, neglect, or refuse to make a written report to the Authority within the time period the report is required to be filed, shall have his license suspended or revoked as the Authority may determine.**
  - (c) The Authority may temporarily suspend the license of a harbor pilot, after an accident, collision or other mishap, if it appears that the same was caused by the pilot's negligent or intentional act or omission.**
- 5.20 (a) Pursuant to applicable CNMI law, including but not limited to the CNMI Administrative Procedure Act, the Authority shall have the power, on its own motion, at its discretion, or upon the written request of any interested party, to investigate the performance of a pilot subject to these regulations and issue a reprimand, or suspend, withhold, or revoke the license of any pilot, for misconduct, incompetence, inattention to duty,**

intoxication, drug use, or failure to perform his or her duties under these regulations, or for violation of any of the rules or regulations or order by the Authority for the government of pilots, including training requirements, or for misrepresentation in the application process. The Authority may require that a pilot satisfactorily complete a specific course of training or treatment prior to reinstatement of one's pilot's license.

- (b) The Authority shall have the right to suspend or revoke the license of any pilot convicted of a felony offense in any U.S. jurisdiction, a crime related to the harbor pilot profession, or for a crime involving the use of illegal drugs or alcohol, or the use of alcohol or drugs while on duty, including missing an assignment due to alcohol or illegal drug use.
- (c) The Authority shall have the right to suspend or revoke the license of any pilot who files false information or a fraudulent report with the Authority.
- (d) Any pilot whose license has been revoked must reapply with the Authority to obtain a new license.

5.21 (a) All harbor pilots must complete a Coast Guard-approved, unlimited radar observation training course prior to issuance of a pilot license. If a pilot, licensed under the authority of these regulations, conducts the movement of a vessel required to have a pilot under regulations promulgated by the Commonwealth Ports Authority but does not hold a valid active unlimited radar observation training course certificate of completion, that pilot's license is subject to revocation/suspension proceedings under the authority of these regulations.

- (b) The Authority shall not renew a pilot's license if the applicant's unlimited radar observation certificate has expired.

5.22 All persons who pilot a vessel in violation of these regulations shall be subject to criminal or civil penalties as provided by law,

as well as suspension or revocation of one's pilot license.

- 5.23** The Authority reserves the right to require satisfactory completion of a drug screening test by an applicant prior to issuance or renewal of a license. The Authority also reserves the right to conduct a mandatory, random drug testing/screening for all persons holding a harbor pilot license issued by the Authority.
- 5.24** All harbor pilot licenses duly issued by the CNMI Board of Professional Licensing prior to the enactment of Public Law 11-99 shall continue being effective until they expire; provided that all harbor pilots duly licensed by the CNMI Board of Professional Licensing shall hereafter be under the jurisdiction of the Commonwealth Ports Authority and shall be governed by these regulations and applicable Federal and Commonwealth law, including any lawful order issued by the Port Manager or Harbor Master, or the Executive Director of the Commonwealth Ports Authority.
- 3.** The foregoing amendments to Part V (Pilotage) of the Harbor Rules and Regulations shall become effective upon adoption by the Authority of the final version thereof and publication in the Commonwealth Register, in accordance with 1 CMC § 9105 of the CNMI Administrative Procedure Act.