COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



~~~~=======

# COMMONWEALTH REGISTER VOLUME 28 NUMBER 05

May 19, 2006

## **COMMONWEALTH REGISTER**

**VOLUME 28 NUMBER 05 May 19, 2006** 

#### **TABLE OF CONTENTS**

**EMERGENCY DECLARATION:** 

### Extension of Emergency -Volcanic Activity on Anatahan Office of the Governor/Emergency Management Office..... 25625 **EXECUTIVE ORDER:** Executive Order No. 2006-4 Subject: Reorganization Plan No. 2 of 2006 Authority: Constitution, Article III, Section 15 Office of the Governor..... 25626 **EMERGENCY REGULATIONS:** Public Notice of Emergency Regulations and Notice of Intent to Adopt Amendment to Low Income Family Energy Assistance Program Department of Community and Cultural Affairs..... 25636 Public Notice of Emergency Policies/Regulations and Notice of Intent to Adopt Postsecondary Education Licensing Policy Northern Marianas College Board Of Regents..... 25640 **PROPOSED RULE AND REGULATIONS:** Public Notice of Proposed Rules and Reaulations of the Commonwealth Board of **Nurse Examiners** Board of Nursing Examiners.... 25686

## **COMMONWEALTH REGISTER**

**VOLUME 28 NUMBER 05 May 19, 2006** 

## **TABLE OF CONTENTS**

| Public Notice of Proposed Regulations for the control of Stray and Feral Dogs on the Islands of Tinian and Aguiguan  Mayor of Tinian and Aquiguan                               | 25707 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| Public Notice Proposed Amendments to the Rules and Regulations Governing the the Group Health Insurance Program  NMI Retirement Fund                                            | 25715 |
| NOTICE AND CERTIFICATION ON ADOPTION OF REGULATIONS:                                                                                                                            |       |
| Notice and Certification of Adoption of Amendments to Underground Storage Tank Regulations Division of Enviornment Quality                                                      | 25748 |
| Notice and Certification of Adoption of Proposed Rules and Regulations for the Saipan Higher Education Financial Assistance(SHEFA)  Office of the Mayor, Municipality of Saipan | 25758 |



#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

Timothy P. Villagomez
Lieutenant Governor

# **EXTENSION OF EMERGENCY Volcanic Activity on Anatahan**

WHEREAS, On January 23, 2006, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anatahan; and

WHEREAS, said Declaration declared the island of Anatahan as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

WHEREAS, the volcanic activity and seismic phenomena which prompted said Declaration continues to exist on the island of Anatahan;

NOW, THEREFORE, I, BENIGNO R. FITIAL, by the authority vested in me as Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, do hereby extend a state of disaster emergency in the Commonwealth with respect to the island of Anatahan under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been revoked or further extended for alike term, and giving reasons for extending the emergency.

Dated this 5<sup>th</sup> day of May 2006.

BENIGNO R. FITIAL

cc: Lt. Governor (Fax: 664-2311)

Senate President (Fax: 664-8803) House Speaker (Fax: 664-8900)

Mayor of the Northern Islands (Fax: 664-2710)

Executive Assistant for Carolinian Affairs (Fax: 235-5088) Director of Emergency Management (Fax: 322-7743)

Attorney General (Fax: 664-2349) Secretary of Finance (Fax: 664-1115)

Secretary of Finance (Fax. 004-1115)

Commissioner of Public Safety (Fax: 664-9027)

Special Assistant for Management and Budget (Fax: 664-2272) Special Asst. for Programs and Legislative Review (Fax: 664-2313)

Press Secretary (Fax: 664-2290)



#### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

Timothy P. Villagomez Lieutenant Governor

#### EXECUTIVE ORDER NO. 2006-4

**SUBJECT:** 

Reorganization Plan No. 2 of 2006

**AUTHORITY:** 

Constitution, Article III, Section 15

WHEREAS, Section 15 of Article III of the Constitution requires that Executive Branch offices, agencies, and instrumentalities of the Commonwealth Government be allocated among and within not more than fifteen principal departments, grouped as far as practicable according to major purposes; and

WHEREAS, under this section, regulatory, quasi-judicial, and temporary agencies may be so allocated, but need not be; and

WHEREAS, the Governor may make changes in the allocation of offices, agencies, and instrumentalities, and in their functions and duties, as necessary for efficient administration; and

WHEREAS, such changes may affect existing law; and

WHEREAS, the existence of a multitude of offices, agencies, and instrumentalities outside of the principal departments has resulted in duplication of functions, overlaps of responsibility, lack of coordination, and other forms of inefficient administration; and

WHEREAS, the power of the Governor to reorganize the Executive Branch has been affirmed and upheld by the Superior Court of the Commonwealth of the Northern Mariana Islands in its Decision and Judgment dated June 23, 1994, in the case of Marianas Visitors Bureau v. Commonwealth, Civ. No. 94-0516 (Memorandum Decision and Judgment) June 23, 1994;

**NOW, THEREFORE**, to comply with the mandate of the Constitution and to promote efficient administration, it is hereby

#### ORDERED:

That the following provisions shall constitute Reorganization Plan No. 2 of 2006 (the "Executive Order"):

1. Rescinding of Prior Executive Order. The Reorganization Plan No. 1 of 2006 is rescinded upon the effective date of this Executive Order.

- 2. <u>CUC Reorganized</u>. Under this Executive Order, the functions and duties of the Commonwealth Utilities Corporation are reorganized as a public corporation of the Commonwealth that has as its head an executive director. The role of the CUC board is advisory. With respect to utility services that are generated or delivered in whole or in part by private businesses, the CUC board will act as a public utility commission with respect to those services "only until such time as the legislature establishes a public utility commission and the commission notifies the board that it is ready to assume its duties and responsibilities with respect to utility services as defined in this Executive Order."
- 3. Rescinding of Fuel Surcharge Fee. The Fuel Surcharge Fee effective February 27, 2005 is rescinded as of the effective date of a new utility rate schedule to be adopted by the CUC as provided in this Executive Order.
- 4. Provisions of the Executive Order. The provisions of this Executive Order amend 1 CMC Section 8111 et seq., to read as follows:

#### "CHAPTER 1.

Commonwealth Utilities Corporation.

Article 1. General Provisions.

§ 8111.

Short Title.

§ 8112.

Definitions.

§ 8111.

Short Title.

This chapter may be cited as the Commonwealth Utilities Corporation Reorganization Executive Order.

Definitions. § 8112.

As used in this chapter:

- (a) "Corporation" means the Commonwealth Utilities Corporation or its designee.
- (b) "Utility service" includes the generation, provision, transmission, treatment, and delivery of electrical, water, and sewer services in the Commonwealth.

Article 2. Commonwealth Utilities Corporation Established.

§ 8121.

Commonwealth Utilities Corporation: Public Corporation.

§ 8122.

Commonwealth Utilities Corporation: Duties.

§ 8123.

Commonwealth Utilities Corporation: Powers.

§ 8121.

Commonwealth Utilities Corporation: Public Corporation.

- (a) There is in the Commonwealth government a Commonwealth Utilities Corporation, a public corporation.
- (b) The Commonwealth Utilities Corporation is the successor of the Commonwealth Utility Rate Commission for purposes of 4 CMC §§ 1602-1604.

May 19, 2006

(c) If a service is wholly or partially turned over to the private sector, the corporation shall be reduced in size accordingly and the CUC shall monitor the performance, rates, and contractual compliance of the private sector enterprise.

#### § 8122. Commonwealth Utilities Corporation: Duties.

- (a) The Commonwealth Utilities Corporation shall supervise the construction, maintenance, operations, and regulation of power, sewage, and water utility services; provided, that whenever feasible the corporation shall contract for private business to assume its duties with respect to one or more of its functions.
- (b) The corporation shall, within 60 days after the effective date of this Executive Order, implement a plan by which it will establish rates, meter, bill, and collect fees in a fair and rational manner from all consumers of its utility services, so that the corporation will be financially independent of all appropriations by the Commonwealth Legislature by July 1, 2006 or as soon as possible thereafter.

#### § 8123. Commonwealth Utilities Corporation: Powers.

Except as otherwise provided or limited in this chapter, or by other law, in order to carry out its duties, the corporation, acting through its executive director and his or her designees, shall have all of the powers conferred by law on a public corporation, and all powers reasonably incidental to its purpose, including the powers:

- (a) To prescribe, adopt, amend, and repeal administrative and operational policies.
- (b) To receive and hold funds from contractors, consumers, lessees, the government of the Commonwealth, and any other sources.
  - (c) To sue and be sued in its corporate name.
- (d) To acquire and hold any interest allowed by law in any real or personal property, tangible or intangible, in connection with the activities of the corporation, and to sell, mortgage, or otherwise dispose of such interest.
- (e) To borrow money from any private or public source, either within the Commonwealth or the United States or in any other country, and to give security in connection with such borrowing; provided that any such borrowing that is in excess of \$500,000 is approved by law specifically authorizing such borrowing.
- (f) Upon prior approval by joint resolution of the legislature in conformity with the Commonwealth Development Authority Act, 4 CMC § 10101 et seq., as to each issue of bonds, to make and issue tax exempt bonds and other tax exempt obligations for sale to the general public.
- (g) Pursuant to public notice and bidding whenever possible, to make contracts and execute all instruments necessary or convenient to exercise the powers of the corporation.
- (h) To hire such employees as are necessary for the operation of the corporation and to engage the services of independent experts, advisors, and other contractors as are necessary to the fulfillment of the purposes of the corporation.
- (i) To contract to transfer to private ownership or control the construction, management, and operation of the water, sewer, and electrical power systems in a public manner that is both timely and fair to the government, its employees, and utility service consumers.
  - (j) To assume existing contracts with respect to utility services.

COMMONWEALTH REGISTER

(k) To regulate utility services to the extent permitted by applicable federal law and the contractual obligations of the Commonwealth government.

- (l) To immediately strengthen the existing system of metering, billing, and collecting fees for utility services provided by the corporation, and to provide monthly financial reports to the Governor and presiding officers of the legislature.
- (m) To the extent the corporation deems lawful and necessary, to review and establish utility rates and other fees for water, sewer, and electrical power.
- (n) To prepare and submit a budget as a government corporation pursuant to 1 CMC § 7206.
- (o) To take such action as it deems necessary and proper to operate the corporation, further its purposes, administer its services, and perform its duties.
- Article 3. Corporate Directors, Officers, and Employees.
- § 8131. Board of Directors: Established.
- § 8132. Board of Directors: Meetings.
- § 8133. Officers and Staff of the Corporation.
- § 8134. Executive Director: Duties.

#### § 8131. Board of Directors: Established.

- (a) The corporation shall have a board of directors that shall serve the corporation in an advisory capacity and shall defer to the executive director with respect to the management and administration of the corporation.
- (b) The board shall be composed of five members. The Governor shall appoint the members with the advice and consent of the Senate; provided, however, that no employee or official of the Commonwealth government (including any agency, instrumentality, or political subdivision thereof) shall be appointed except as authorized by this section; provided, further, that no person shall be appointed who does not have at least an Associate of Arts degree from an accredited postsecondary educational institution. 1 CMC § 2901(g) is applicable to the board. The board shall additionally be composed as follows:
  - (1) At least one member shall have utility management experience; and
- (2) All members shall have engineering, accounting or business degrees from accredited colleges or universities or be certified public accountants or financial analysts. Members also shall have a minimum of three years private sector business experience, public sector utility management experience, or a professional background.
- (c) The appointed members shall serve a term of four years; provided that the terms of the initial members shall be staggered. Vacancies shall be filled in the same manner as the original appointment. Any person appointed to fill a vacancy created prior to the expiration of the term of a member shall serve the remainder of the unexpired term. Any member may be reappointed to serve successive terms. No person may act as a member of the board until confirmed by the Senate, except that reappointment to another term shall not affect the ability of an incumbent member to serve until the expiration of his or her term and until his or her successor assumes office
- (d) The appointed members shall receive such compensation as is provided by law for service on executive branch boards.
- (e) The board shall elect its officers from among its members and establish its rules of procedure. The board may issue bylaws with respect to its functions.
- (f) Appointed members shall be reimbursed for reasonable and necessary expenses at established Commonwealth government rates for meetings actually attended.

Rules on travel and per diem rates shall be the same as those established for the executive branch.

(g) The Governor may remove an appointed member for gross neglect or dereliction of duty, breach of fiduciary duty, conviction of a felony, or mental or physical incapacity. The board shall remove any member for missing three consecutive meetings or for other frequent absences without the prior written approval of the chairman. Upon resignation, removal or expiration of the term of appointment, the member shall cease to sit on the board and shall not be included in a quorum count.

#### § 8132. Board of Directors: Meetings.

- (a) Meetings of the board shall be held within the Commonwealth at a time and place publicly designated by the board.
- (b) All meetings shall be open to the public and comply with the Open Government Act.
- (c) The presence of three members shall constitute a quorum for the transaction of business at any board meeting.

#### § 8133. Officers and Staff of the Corporation.

- (a) Executive Director. The Governor shall appoint an executive director to manage and administer the operations of the corporation. The executive director shall have, in addition to such other qualifications as the Governor may prescribe, a minimum of five years professional experience in public utility services, business management, engineering, or finance and shall possess at least a bachelor's degree from an accredited university or college. The executive director shall receive a two year contract and shall be removed only for cause as specified in the contract.
  - (b) Other Corporate Officers.
- (1) The executive director shall appoint a chief financial officer pursuant to 4 CMC § 8134(d) and (e).
- (2) The executive director may hire management staff to be in charge of one or more functions of the corporation.
- (c) Staff. The staff of the corporation shall be exempt from the application of the Commonwealth Civil Service Act, title 1, division 8, part 1 (1 CMC § 8101 et seq.), except that 1 CMC §§ 8142 and 8145(c) shall apply to the corporation as if all employees of the corporation were members of the civil service, and employees of the corporation shall enjoy the protections of 1 CMC §§ 8141, 8145(b), (d), (e) and (f), and 8151-8153 to the same extent and in the same manner as if they were members of the civil service. The corporation shall develop, adopt, and administer a merit personnel system that rewards productivity and service, provides management flexibility, and includes provisions for employees to appeal serious disciplinary action. The executive director shall adopt a personnel manual governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the corporation.
- (A) No recommendation of any person who applies for examination or appointment to any office or position within the corporation which may be given by an elected official of the Commonwealth, except as to the ability or character of the applicant, shall be considered by any person in the giving of any examination or in the making of any appointment under the personnel system of the corporation.
- (B) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under the personnel system of the corporation, nor commit or attempt to commit any fraud preventing the impartial execution of any provision of the personnel system of the corporation.

- (C) No person shall, directly or indirectly, give, pay, offer, solicit, or accept any money, service, or other thing of value to obtain any appointment, proposed appointment, promotion or proposed promotion to, or obtain any advantage in, a position within the corporation.
- (2) The corporation may set its own compensation, wage and salary scales. The corporation shall provide a copy of its wage and salary scales to the presiding officers of the legislature upon adoption, and shall also so provide a copy of any changes to those scales as and when made from time to time. The corporation shall submit an annual report to the Governor and the presiding officers of the legislature no later than April 1 of each year detailing how the wage and salary scales in effect during the preceding calendar year compare with the wages and salaries paid by the Commonwealth and in the marketplace generally for positions requiring comparable education, training, or experience.
- (3) Employees of the corporation shall be eligible to participate in any Commonwealth health and life insurance plan, and shall accumulate leave time in accordance with applicable law and the personnel system of the corporation. The provisions of the Commonwealth Workers' Compensation Law, division 9, chapter 3 of this title (4 CMC § 9301 et seq.), apply to employees of the corporation, and compensation payments pursuant thereto unless otherwise secured shall be made from the Government Self-Insurance Fund (4 CMC § 9354), from appropriations by the legislature for that purpose, or from funds otherwise available to the corporation.

#### § 8134. Executive Director: Duties.

- (a) The executive director shall act for and on behalf of the corporation.
- (b) The executive director shall cause to be prepared an operating manual to implement the general operation and management policies established by this chapter including all internal administration, metering, billing, and collection procedures, privatization plans, and other matters.
- (c) The executive director shall review and determine all matters involving allocation of corporation funds or property.
  - (d) The executive director shall:
- (1) Monitor the progress toward the improvement of the financial status of utility services.
  - (2) Inform the board at each board meeting as to the activities of the corporation.
- (3) Prepare an annual report of the corporation's operation and activities for each fiscal year within three months of the end of the fiscal year, including appropriate financial statements, and submit a draft of the report to the board.
- (4) Prepare the annual administrative budget for review by the board and for submission to the Governor and the legislature pursuant to 1 CMC § 7206.
- (5) Hire such employees as determined necessary and as authorized by budget and by law.
  - (6) Perform such other duties as may be required by law.
  - (e) The executive director shall hire a chief financial officer who shall:
  - (1) Keep the official books and accounts of the corporation.
  - (2) Prepare an annual report of the financial condition of the corporation.
  - (3) Perform such other functions as the executive director may require.
- (f) The chief financial officer shall hold at least a bachelor's degree from an accredited college or university and ten years professional experience in governmental or financial accounting.

(g) The executive director may be dismissed by the Governor for cause, as specified by contract.

Article 4. General Corporate Operations.

§ 8141. Management.

§ 8142. Rates and Charges; Public Hearing.

§ 8143. Metering and Billing.

#### § 8141. Management.

- (a) The executive director shall manage the corporation in a business-like manner so as to provide the most efficient delivery of its services at the most reasonable cost to consumers. The executive director may call upon the board for advice with respect to the management and administration of the corporation.
- (b) If the executive director proposes to contract with a private business to provide a utility service, the board shall act as a utility commission with respect to the private business only until such time as the legislature establishes a public utility commission and the commission notifies the board that it is ready to assume its duties and responsibilities with respect to utility services as defined in this Executive Order. To the extent it may be required to act as a utility commission, the board shall review and approve any proposed contract that includes a proposed utility rate and billing structure after determining that it is in the best interests of the Commonwealth and provides the private business with a reasonable return on investment. The board shall determine reasonableness by reference, in part, to the rate of return on investment earned by providers of similar utility services in other jurisdictions. The board may adopt regulations with respect to its utility commission function.
- (c) The executive director shall adjust the rates charged for utility services provided by the CUC so that within one year from the effective date of this Executive Order and for all dates thereafter, the rates charged for electrical utility services are sufficient to recover the costs associated with the operation, maintenance, transmission, generation, and delivery of electricity service and the repayment of any debt associated with that service. The term "costs" shall include adequate financial reserves for debt service, if any, and the replacement costs of obsolete or damaged equipment.
- (d) The executive director's rate schedules for utility services may provide for separate utility service rates for different islands, residential, commercial, industrial or other categories of consumption. The rate schedule for each category of utility consumption shall be uniform within each island, except that the schedule may provide for increasing marginal rates as the consumption of a person increases. The executive director may provide life-line utility services at lower rates for the benefit of low income consumers.
- (e) The executive director shall annually review and shall revise the rate schedules as determined appropriate and as needed to comply with the requirements of this section. The executive director shall maintain procedures to permit consumers to contest their billings.
- (f) The executive director may finance the extension or improvement of utility services through tax exempt bonds or other tax exempt obligations issued by it, in conjunction with, or by the Commonwealth Development Authority.
- (g) Consumer accounts receivable for the utility service shall not be more than 90 days past due, unless the consumer is actively contesting the billing. The corporation

shall cut off utility services to consumers who are not actively contesting their billing and who have accounts more than 90 days past due.

#### § 8142. Rates and Charges; Public Hearing.

Before finally adopting any schedule affecting rates for services directly provided by the corporation, the executive director or his or her designees shall hold at least one public hearing in each senatorial district affected, and notice of the time and place of the hearing shall be published at least once in a newspaper of general circulation in the Commonwealth at least 10 days before the date of the hearing.

#### § 8143. Metering and Billing.

The corporation shall accurately meter electricity and water and shall bill all consumers including all government consumers and all government buildings for electrical power, water consumption, and sewer services by no later than January 1, 2008, at no less than the full cost of production, operation, and maintenance of those services; provided, however, that nothing in this Executive Order or any other law shall preclude the immediate equitable increase in the existing rate schedules prior to the accurate metering of all classes of consumers. The classes of consumers are commercial, residential and governmental or such other classes as the corporation may determine appropriate.

#### Article 5. Miscellaneous.

- Legal Counsel. § 8151.
- Procurement and Audits. § 8152.
- Conflicts of Interest. § 8153.
- § 8154. Civil and Criminal Penalties.
- § 8155. Funds Collected.
- § 8156. Energy Assistance.
- Rules and Regulations. § 8157.
- Judicial Review. § 8158.

#### § 8151. Legal Counsel.

The executive director may retain or engage in-house and private legal counsel pursuant to contracts approved by the Attorney General. In addition, unless prevented by conflict from doing so, the Attorney General shall serve as legal counsel to the corporation, providing the representation of such scope as the executive director may prescribe.

#### § 8152. Procurement and Audits.

- (a) The corporation shall comply with the procurement regulations of the Commonwealth or such other procurement regulations as may be issued by the executive director and approved by the Secretary of Finance and Attorney General. The corporation shall receive decentralized procurement status as provided in Section 2-201 of the procurement regulations and be exempt from the small purchase limitations set forth in Section 3-105; provided, however, that the corporation shall obtain three quotations for any purchase between \$10,000 and \$50,000.
- (b) The Public Auditor shall audit the operations, books, and records of the corporation in accordance with 1 CMC § 7710(a) and PL 3-91. The final report of the

audit shall be made public and shall be transmitted to the executive director, the board, the Governor, and the presiding officers of the legislature.

(c) Nothing in this section shall be construed as limiting the authority of the executive director to employ, retain or engage auditors or a private auditing firm. Basic responsibility for the audit function belongs to the executive director, which should appoint a certified pubic auditor with experience doing utility audits (which may be the Public Auditor) to conduct an annual audit and such other audits as the executive director deems appropriate. The annual audit should be complete with a management letter, shall be a public document, and shall include a summary suitable for ready publication in newspapers of general circulation in the Commonwealth. Copies of the annual audits shall be provided to the Governor and both houses of the legislature. Audits by the Public Auditor do not relieve the executive director of his or her overall responsibility for the audit function; the sufficiency of such audits shall be judged by the same standards as would apply in the case of private auditors retained or engaged by the executive director.

#### § 8153. Conflicts of Interest.

No member of the board, officer, counsel, agent, or employee of the corporation shall in any manner, directly or indirectly, participate in the determination of any question affecting his personal interest or the interests of any enterprise in which he or his parent, spouse, son, daughter, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law or any member of his household is directly or indirectly interested.

#### § 8154. Civil and Criminal Penalties.

A member of the board, officer, counsel, employee, or agent of the corporation or any other person who embezzles, abstracts, or willfully misapplies any money, funds, credits, or securities of the corporation, or who willfully makes any false entry in any book, report, or statement of the corporation, or who does any other act with intent to injure or defraud the corporation, or who accepts any unlawful consideration which relates to his duties under this chapter, or any individual who, with like intent, conspires with, aids, or abets any person in any violation of this section, shall be dismissed from employment, permanently barred from reemployment with the corporation, civilly liable for any losses that their actions caused the corporation, fined not more than \$2,000, or imprisoned for not more than five years, or both.

#### § 8155. Funds Collected.

The corporation shall deposit all funds received by it in insured or fully collateralized accounts.

#### § 8156. Energy Assistance.

This chapter does not affect the financial assistance for utility services provided under PL 1-22.

#### § 8157. Rules and Regulations.

The executive director may issue regulations necessary to carry out the purposes of this chapter.

#### § 8158. Judicial Review.

(a) Any person aggrieved by an act or omission of the corporation may obtain judicial review pursuant to the Administrative Procedure Act [1 CMC § 9101 et seq.]. A

litigant who, in the opinion of the court, substantially prevails on the merits shall receive his costs and attorney's fees.

- (b) An appeal shall not stay the effective date of any schedule of utility rates."
- 5. Severability. The provisions of this Executive Order are severable. If any provision of this Executive Order, 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 this Executive Order, or the application of its provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.
- 6. Savings Clause. This Executive Order and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Executive Order shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Executive Order shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this Executive Order becomes effective.
- 7. Effective Date. In accord with Article III, Section 15 of the Commonwealth Constitution, this Executive Order shall become effective 60 days after submission to the legislature, unless specifically modified or disapproved by a majority of the members of each house of the legislature.

Done this day of May,

BENIGNO R. FITIAL

Governor

#### PUBLIC NOTICE OF EMERENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENT TO LOW INCOME FAMILY ENERGY ASSISTANCE PROGRAM

EMERGENCY: The Commonwealth of the Northern Mariana Islands,
Department of Community & Cultural Affairs finds that under 1 CMC § 9104(b)
the public interest requires an amendment to the Low Income Family Energy
Assistance Program Rules and Regulations, regarding the monthly benefits paid
to program recipients. The current monthly benefit schedule is insufficient to
adequately assist low income families with their electrical bill. Due to the sudden
and dramatic increase in electrical utility costs, the Department of Community &
Cultural Affairs finds that the public interest mandates adoption of this regulation
upon fewer than thirty (30) days notice, and that this regulation shall become
effective immediately after filing with the Registrar of Corporations, subject to the
approval of the Attorney General and the concurrence of the Governor, and shall
remain effective for 120 days.

REASONS FOR EMERGENCY: The Department of Community & Cultural Affairs finds that adoption of this regulation upon fewer than thirty (30) days notice is necessary to provide adequate assistance to low income families in regards to their electric utility bills. Furthermore the notice period would prevent application of the regulation during the period of the notice. Accordingly, the Department of Community & Cultural Affairs finds that in the interest of the public, it is necessary that this regulation is approved and adopted immediately.

INTENT TO ADOPT: It is the intent of the Department of Community & Cultural Affairs to adopt the emergency amendment to the Low Income Family Energy

May 19, 2006

Assistance Program Rules and Regulations, as permanent, pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested parties may submit written comments on this emergency amendment to Daisy C. Villagomez-Bier, Secretary of the Department of Community and Cultural Affairs, Caller Box 10007, Saipan MP 96950 or by fax to (670) 664-2590.

| Submitted by: Daisy C. Villagoniez-Bier Secretary – DCOA | 5/10/00<br>Date    |
|----------------------------------------------------------|--------------------|
| Concurred by: Mulus Hith Benigno R. Fitial Governor      | 5/13/06<br>Date    |
| Filed and Recorded by: Bernadita B. Dela Cruz            | 5) 15   00<br>Date |

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the emergency regulation amendment attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this \_\_\_\_\_\_ day of May, 2006.

Matthew T. Gregory

**Attorney General** 

#### **PUBLIC NOTICE** EMEGENCY AMENDMENT TO THE LOW INCOME FAMILY **ENERGY ASSISTANCE PROGRAM EXHIBIT A**

This regulation is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101 et.seq.

Citation of

**Statutory Authority:** The Department of Community & Cultural Affairs is

authorized to promulgate regulations pursuant to 1

CMC § 2534.

**Short Statement of** 

**Goals and Objectives:** The proposed addition to the Low Income Family

> **Energy Assistance Program Rules and Regulations** will provide the program recipients with an adequate monthly benefit to offset their electrical utility bill.

**Brief Summary of the** 

**Proposed New Section:** The proposed addition to the Low Income Family

> Energy Assistance Program Rules and Regulations is promulgated to provide a greater financial monthly benefit in a time of dramatically increased electrical

utility costs.

For Further

**Information Contact:** Daisy C. Villagomez-Bier, Secretary for Department of

Community & Cultural Affairs, telephone (670) 664-

2576.

Citation of Related and/or Affected Statutes, Rules and Regulations,

and Orders:

The proposed amendment affect the Low Income Family Energy Assistance Program Rules and Regulations, NMI Admin. Code §§ 55-20-001 et. seg.

Dated this // day of May, 2006.

Submitted by:

Daisy C. Villagomez-Bier

Secretary - DCCA

# AMENDMENT TO REGULATION OF THE LOW INCOME ENERGY ASSISTANCE PROGRAM

1. AMENDMENT TO LOW INCOME ENERGY ASSISTANCE
PROGRAM REGULATIONS OF THE DEPT. OF COMMUNITY &
CULTURAL AFFAIRS

Exhibit "A", Low Income Families Electrical Energy Assistance Program Monthly Benefits is hereby repealed in its entirety and replaced with the following:

Exhibit A
Low Income Families
Electrical Energy Assistance
Monthly Benefits

#### Household Size (persons)

| Income pe<br>Over To | and Inc. |       |       |       | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11 & over |
|----------------------|----------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-----------|
|                      |          |       |       |       |       |       |       |       |       |       |       |           |
| 0                    | 747.50   | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00 | 46.00 | 49.00 | 52.00 | 55.00 | 58.00     |
| 747.51               | 934.58   | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00 | 46.00 | 49.00 | 52.00 | 55.00     |
| 934.39               | 1,121.35 |       | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00 | 46.00 | 49.00 | 52.00     |
| 1,121.26             | 1,308.13 |       |       | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00 | 46.00 | 49.00     |
| 1,308.01             | 1,495.00 |       |       |       | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00 | 46.00     |
| 1,495.01             | 1,681.88 |       |       |       |       | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00 | 43.00     |
| 1,681.89             | 1,868.75 |       |       |       |       |       | 0     | 21.00 | 27.00 | 32.00 | 36.00 | 40.00     |
| 1,875.56             | 2,055.63 |       |       |       |       |       |       | 0     | 21.00 | 27.00 | 32.00 | 36.00     |
| 2,055.64             | 2,242.50 |       |       |       |       |       |       |       | 0     | 21.00 | 27.00 | 32.00     |
| 2,242.51             | 2,429.38 |       |       |       |       |       |       |       |       | 0     | 21.00 | 27.00     |
| 2,429.39             | 2,616.25 |       |       |       |       |       |       |       |       |       | 0     | 21.00     |



## NORTHERN MARIANAS COLLEGE **BOARD OF REGENTS**

P.O. BOX 501250 Saipan, MP 96950 Tel. (670) 234-5498/99 Fax. (670) 234-1270

CHAIRPERSON Kimberlyn King-Hinds

MEMBERS - SAIPAN Eloise A. Furev Linsa Lizama Agnes McPhetres Dr. Rita H. Inos

MEMBERS - Rota Elaine Hocog-Orilla

MEMBERS-Tinian Kimberlyn King-Hinds

PRESIDENT Antonio V. Deleon Guerrero

#### PUBLIC NOTICE OF EMERGENCY POLICIES/REGULATIONS AND NOTICE OF INTENT TO ADOPT POSTSECONDARY EDUCATION LICENSING POLICY

EMERGENCY: The Board of Regents finds that under 1 CMC § 9104(b), the public interest requires the immediate adoption of a Postsecondary Education Licensing policy. The Board of Regents is mandated to implement such policies/regulations as are needed to ensure that the higher education needs of the Commonwealth of the Northern Mariana Islands are met and that Commonwealth students are adequately and fully protected in their higher education needs. The Board of Regents hereby adopts these regulations, effective upon filing with the Commonwealth Register, with the concurrence of the Governor and with approval of the Attorney General's Office as to form and legal sufficiency. These adopted regulations shall remain in effect for 120 days.

There are at least three, possibly four, entities **REASONS FOR EMERGENCY:** planning to submit an application to obtain a license from the Board of Regents to offer postsecondary education in the Commonwealth of the Northern Mariana Islands. These policies/regulations will adequately prepare the Board of Regents to conduct a complete and thorough review of such applications, and will minimize the chances of another Saipan University problem. Existing policies of the Board of Regents are inadequate. To address the Saipan University problems, the Board of Regents drafted proposed policies and submitted them to the Office of the Attorney General in October 2004 for publication. The Board of Regents and the Office of the Attorney General worked on certain changes to the proposed policies between January and August 2005. After August 2005, the proposed policies were held by the Office of the Attorney General for reasons not agreed to by the Board of Regents. The Board of Regents can no longer promulgate these policies through the normal procedure. There is no time remaining. These policies need to be promulgated immediately so that the constitutional mandate of the Board of Regents can be accomplished and the students of the Commonwealth can be adequately protected.

**INTENT TO ADOPT:** It is the intent of the Board of Regents to adopt the emergency policies/regulations on postsecondary education licensing as permanent, pursuant to 1 CMC § 9104(a)(1) and (2). Accordingly, interested parties may submit written comments on these emergency policies/regulations to Kimberlyn King-Hinds, Chair, Board of Regents at P.O. Box 501250 Saipan MP 96950, or by fax to (670) 234-1270.



# NORTHERN MARIANAS COLLEGE

### **BOARD OF REGENTS**

P.O. BOX 501250 Saipan, MP 96950 Tel. (670) 234-5498/99 Fax. (670) 234-1270

CHAIRPERSON Kimberlyn King-Hinds

MEMBERS - SAIPAN Eloise A. Furey Linsa Lizama Agnes McPhetres Dr. Rita H. Inos

MEMBERS - Rota Elaine Hocog-Orilla

MEMBERS- Tinian Kimberlyn King-Hinds

PRESIDENT Antonio V. Deleon Guerrero Submitted by:

Board of Regents Chair

Concurred by

Received by

ESTHER S. FLEMING

Special Assistant for Administration

Filed and Recorded by:

Commonwealth Register

Pursuant to 1 CMC §2153(e), the policies/regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 19th day of May 2006.

MATTHEW T. GREGORY

Attorney General

# POSTSECONDARY LICENSING POLICIES

# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

## **BOARD OF REGENTS**

July 2005

Mailing Address: P.O. Box 501250 CK Saipan, MP 96950 Phone: (670) 234-5498

#### TABLE OF CONTENTS

| Section<br>1 | Constitutional and Statutory Authority                                                                                                                                                                                                                                                 | Page<br>1                  |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| 2            | Definitions                                                                                                                                                                                                                                                                            | 1                          |
| 3            | Required License                                                                                                                                                                                                                                                                       | 4                          |
| 4            | Exclusions                                                                                                                                                                                                                                                                             | 4                          |
| 5            | Declaration of Intent                                                                                                                                                                                                                                                                  | 5                          |
| 6            | License Application                                                                                                                                                                                                                                                                    | 6<br>6<br>8<br>9           |
| 7            | License Requirements                                                                                                                                                                                                                                                                   | 9<br>10<br>16              |
|              | Population 7.03 Institutional Governing Capacity 7.04 Financial Stability and Integrity                                                                                                                                                                                                | 17<br>17<br>19             |
|              | <ul> <li>7.05 Educational Programs of Acceptable Quality, Content, and Length</li> <li>7.06 Quality Teaching Faculty</li> <li>7.07 Sufficient Library and Learning Resources</li> <li>7.08 Adequate Student Support Services</li> <li>7.09 Adequate Administrative Services</li> </ul> | 21<br>25<br>26<br>28<br>28 |
| 8            | Need for Additional Information                                                                                                                                                                                                                                                        | 29                         |
| 9            | Notification of Decision                                                                                                                                                                                                                                                               | 29                         |
| 10           | Reconsideration                                                                                                                                                                                                                                                                        | 30<br>30<br>31             |
| 11           | Provisional License                                                                                                                                                                                                                                                                    | 31                         |

| Section<br>12 | Term of License                                               | Page<br>32<br>32<br>32 |
|---------------|---------------------------------------------------------------|------------------------|
| 13            | Requirements for Extension of License                         | 33                     |
| 14            | Supplemental Application/Substantive Application Modification | 34                     |
| 15            | Performance/Surety Bond                                       | 35<br>35               |
| 16            | Filing of Complaints                                          | 35                     |
| 17            | Suspension or Revocation of License                           | 36<br>38               |
| 18            | Student Records                                               | 39                     |
| 19            | Accreditation Status                                          | 39                     |
| 20            | Hold Harmless 20.01 Indemnity                                 | 40<br>40               |
| 21            | Investigation                                                 | <b>4</b> 1             |

# LICENSING OF POSTSECONDARY EDUCATIONAL INSTITUTIONS TO OPERATE IN THE CNMI

#### 001 Constitutional and Statutory Authority

The CNMI Constitution, Article XV, Section 2(a) establishes that the Board of Regents "shall formulate policy relating to the higher education needs of the Commonwealth of the Northern Mariana Islands" (CNMI).

3 CMC § 1316(k) authorizes the Board of Regents "to serve as the official coordination agency of the Commonwealth for all postsecondary education within the Commonwealth, with power to license, limit, and otherwise regulate any postsecondary educational activities offered by any public or private agency".

Therefore, in accordance with its constitutional and statutory mandates, the Board of Regents sets forth the following policies, regulations, and procedures regarding the licensing of postsecondary educational institutions to operate in the CNMI.

#### 002 Definitions

- (a) "Board" shall mean the Board of Regents (BOR), which is the official coordinating agency for all postsecondary educational activities in the Commonwealth of the Northern Mariana Islands.
- (b) "License" shall mean the granting of permission, by the Board Regents, for a postsecondary educational institution to operate in the CNMI for a period to be determined by the BOR.

- (c) "Provisional License" shall mean the initial granting of permission, by the Board of Regents, for a postsecondary educational institution to operate in the CNMI for a period of one year, during which time outstanding requirements for obtaining a license must be met:
  - (i) provided that if the applicant states it will begin registering and providing classes for students, the applicant be in all respects qualified, capable, and have all necessary personnel, facilities, support staff, and other resources to provide the quality of academic and other services stated in the catalog and curriculum, and be so certified by the BOR; and,
  - (ii) provided that no tuition, room and board, registration, or other fees and costs be collected from any student until the applicant meets (c)(i). The applicant may conduct public awareness activities and recruitment activities subject to (c)(ii).
- (d) "Postsecondary institution" shall mean a public or nonpublic (not-for- profit or for-profit) postsecondary educational institution offering courses or programs beyond high school leading to a certificate or a degree. This includes, but is not limited to, vocational organizations e.g. "Saipan Institute of Jet Engine Maintenance". This may also include, but is not limited to, institutions which use terms such as "School" in their title e.g. "Saipan Business School".
- (e) "College" shall mean an institution of higher education offering instruction and granting degrees, a bachelor's degree after a four-year course of study, or an associate degree after a two-year course of study, in any of several specialized courses in some academic area, profession, or occupation.

- (f) "University" shall mean a postsecondary educational institution with one or more undergraduate colleges, together with a program of graduate studies and a number of professional schools, and authorized to confer various degrees, as the bachelor's, master's, and doctor's.
- (g) "Out-of-state institution" shall mean any college, university, community college, technical institute, or the equivalent that awards a certificate, an associate or higher degree and is controlled by a public or private body organized outside the CNMI.
- (h) "Distance education" shall mean that there is physical separation of the instructor and student. The means of communication can be in many forms including, but not limited to, paper correspondence, video, audio, teleconference, Internet or any combination thereof.
- (i) "Catalog" shall mean a published accurate document which includes but is not limited to, the Mission and Philosophy statements of the applicant institution; a detailed list with appropriate description of each degree, certificate, or certification offered along with details of each course to be taught; a description of the institution facilities and services, academic support services; details of application processes and costs for services to be provided; a list of teaching faculty with appropriate titles and qualifications information, and a list of administrative and other support personnel with their titles and qualifications; how students are to be graded; and other information commonly found in a U.S. postsecondary institution.
- (j) "Course" shall mean a college-level course offered for credit with specific curriculum, educational objectives, course requirements; and; the appropriate accompanying academic, faculty, and other educational support services.

- (k) "Certificate or degree program" shall mean a sequence or combination of courses which, upon satisfactory completion thereof, leads to the award of an educational certificate, diploma, or degree.
- (I) "Physical presence in the Northern Mariana Islands" shall be evidenced by securing all legal permits and documents required for operating in the CNMI and showing proof of arrangements for use of physical facilities which will house the institution, including its educational activities.

#### 003 Required License

A license is required for any postsecondary education provider, except as provided for under **004**, that:

- (a) offers or conducts one or more courses or certificate/degree programs; or
- (b) offers or conducts training toward a vocational end; or
- (c) offers an educational credential, and whose required length of study is one semester or more.

A license is also required for any out-of-state institution (including any distance education provider) that has a physical presence in the Northern Mariana Islands, except as provided for under Section **004(f)**.

#### 004 Exclusions

The license requirements laid out herein shall not apply to:

- (a) offering of a short course in which instruction for the segment takes no more than twenty classroom hours;
- (b) offering of courses or programs on a military installation solely for military personnel or civilians employed on such installation;
- (c) offering of courses or programs towards professional certification, taught by instructors who are professionally certified in their respective field, by a nationally or internationally recognized body, including but not limited to, dive instruction, sky-diving instruction, driving school, fire-arms training, CPR certification, and first aid instruction.
- (d) training that is exclusively for self-improvement or personal or professional enrichment and is non-vocational and not for credit toward a certificate or degree;
- (e) training that is offered free to certain select groups of students, such as closed enrollment classes for a company's or government employees and arranged through private contracts; or
- (f) offering, by an accredited out-of-state institution, of one or more courses or programs in partnership with a college in the CNMI that has been licensed by the Board of Regents.

#### 005 Declaration of Intent

Any institution of higher education planning to offer any credit-bearing course or degree program in the Northern Mariana Islands, except as provided for under Section **004**, shall inform the Board of Regents of such intent by letter. This declaration of intent shall at the minimum include the following:

- (a) proposed name of the institution planning to deliver such educational offerings;
- (b) brief description of the scope of the institution's proposed educational offerings; date the institution plans to begin instruction;
- (c) names, telephone numbers, and addresses of principal contact persons/organizations for use by the Board for communication purposes during the application phase;
- (d) date the institution expects to submit its application with accompanying required documentation;
- (e) a certified financial statement of the planned institution, and,
- (f) a detailed description of the proposed facilities in which academic, administrative, housing, and other student and institution services will take place, including a detailed description of the proposed library.

#### 006 License Application

Prior to offering any credit-bearing course or degree program at the postsecondary level in the Northern Mariana Islands, except as provided for under Section **004**, the institution shall apply to the Board of Regents for, and receive, a license to operate in the CNMI.

006.01 Application Process. The application materials may be obtained from the Office of the Board of Regents on Saipan.

The application/licensing process includes:

- (a) submitting the application to the Office of the Board according to established deadlines.
- (b) securing required official documents, certifications and bond(s),
- (c) paying all applicable fees, and (d) meeting all requirements laid out in Sections 005 and 007.

All applications are reviewed in a three-tier process, first by Board staff, second by a Committee designated by the Board, and finally by the Board of Regents. Final approval of the application by the Board is required BEFORE the applicant may begin:

- (a) officially registering students into the proposed institution;
- (b) collecting any costs or fees related to attendance from any students who have been preliminarily registered;
- (c) collecting or causing to be collected of any recruitment or related fees from students from applicant officials or their agents either directly or indirectly;
- (d) bringing students from outside the CNMI into the CNMI; and,
- (e) conducting marketing or recruitment activities in or outside of the Commonwealth of the Northern Mariana Islands (CNMI).

The application must be submitted according to established deadlines to be considered at one of the Board's quarterly meetings. Applicants may contact the Office of the Board to obtain a current list of filing deadlines.

The Program Committee of the Board will not commence its review of the application until the applicant submits all required documentation to the Office of the Board, as certified by the Board or their designee. Such certification shall be not later than two months prior to a regularly scheduled Board meeting in January, April, July, or October.

Should such deadline not be met, the application review will not commence; and, the applicant may not begin operations including but not limited to, official registration of students, collection of costs and fees from potential students, or bringing potential students into the CNMI, until prior to the next quarterly meeting and shall be in accordance with the schedule laid out in the License Application Process and Timeline.

The Board shall make a determination regarding the application at its quarterly meeting applicable for the date of submission of the application.

#### 006.02 Application Fee

A nonrefundable application fee to cover administrative costs shall be submitted to the Board with each application. Resubmission of the application following its withdrawal by an applicant requires an additional application fee. Refer to Section **014** of these policies.

The nonrefundable fees are established as follows:

- (a) \$10,000 for credit bearing course offerings of degree programs or the like (refer to Section **002** Definitions);
- (b) \$5,000 for programs of 40 hours or more, but less than degree

requirements, of Training courses and/or Certification of Completion programs or the like; and,

(c) \$2,500 for programs of 20 hours or more of Training courses/ or Certification of Completion programs or the like.

#### 006.02.01 Exclusion.

In the event that the Board denies the applicant a license, the Board may, at the time of the denial, determine that the application fee may be waived for resubmission of an application, in whole or in part, provided that the resubmission occurs within three months of the date of denial.

#### 007 License Requirements

In order to obtain a license to operate as a postsecondary educational institution in the CNMI, an entity must meet the following requirements:

- (a) Appropriate and adequate physical institutional facilities in the CNMI necessary to carry out their stated Mission, programs and services;
- (b) Defined mission, suitable purposes, and identified target population;
- (c) Institutional governing capacity;
- (d) Financial stability and integrity;
- (e) Educational programs of acceptable quality, content, and length;
- (f) Quality teaching faculty;

- (g) Sufficient library, learning, and other educational resources;
- (h) Adequate support services and resources; and,
- (i) Adequate administrative services and resources.

All of these criteria but not limited to, **002 Definitions** including **002(i)**, must be detailed in a printed catalog provided to the Board of Regents with the application, provided to each potential student prior to registration, and available to the public.

#### 007.01 Physical Presence in the CNMI

- (A) Evaluation criteria:
  - (i) The institution has the required legal documents to operate in the CNMI;
  - (ii) The institution has sufficient and adequate facilities to serve its educational purposes.
- (B) Required documentation and verification:
  - 1. Sole Proprietorship:
    - (i) CNMI Business License
    - ii) CNMI Taxpayer ID Number and tax clearance certification from the CNMI Department of Revenue and Taxation;
    - (iii) Identification and description of physical facilities to be used by the institution, with designation of principal use of each facility

or portion of facility (e.g., administrative, instructional, library);

- (iv) Copies of the deed, lease, and/or rental agreements, the length of which shall be for a minimum of three years, for all property, buildings and other facilities to be used by the applicant to provide academic and support services described in the Letter of Intent, Application, and Catalog;
- (v) Once licensed the licensee must notify the BOR when there is a material change in a rental, lease, or other agreement which affects the buildings, facilities, or contractual support for the institution within 5 working days of such change to include but not be limited to e.g. a rental or lease agreement being terminated for whatever reason (refer to Sections **016** and **017**);
- (vi) Any change which in the opinion of the BOR or its designee affects adversely the ability of the licensee to provide educational and/or support services required under the license shall be required to be rectified, to the satisfaction of the BOR within 5 working days of the adverse situation. Failure to do so may result in suspension of the license by the BOR (refer to Sections **016** and **017**);
- (vii) A site visit by the Program Committee or their designee to compare what is described in the applicant submission documents for licensure, with actual physical and related institution facilities; and,
- (viii) A prescreening background check shall be conducted of applicants to include but not be limited to criminal record, credit report, and reference reviews and checks.

#### 2. Partnership:

- (i) CNMI Business License:
- (ii) CNMI Taxpayer ID Number and tax clearance certification from the CNMI Department of Revenue and Taxation:
- (iii) Partnership Agreement;
- (iv) Identification and description of physical facilities to be used by the institution, with designation of principal use of each facility or portion of facility (e.g., administrative, instructional, library);
- (v) Copies of the deed, lease, and/or rental agreements, the length of which shall be for a minimum of three years, for all property, buildings and other facilities to be used by the applicant to provide academic and support services described in the Letter of Intent. Application, and Catalog;
- (vi) Once licensed the licensee must notify the BOR when there is a material change in a rental, lease, or other agreement which affects the buildings, facilities, or contractual support for the institution within 5 working days of such change to include but not be limited to e.g. a rental or lease agreement being terminated for whatever reason;
- (vii) Any change which in the opinion of the BOR or its designee affects adversely the ability of the licensee to provide educational and/or support services required under the license shall be required to be rectified, to the satisfaction of the BOR within 5 working days

of the adverse situation. Failure to do so may result in suspension of the license by the BOR (refer to Sections **016** and **017**);

- (viii) A site visit by the Program Committee or their designee will compare what is described in the applicant submission documents for licensure, with actual physical and related institution facilities; and.
- (ix) A prescreening background check shall be conducted of applicants to include but not be limited to criminal record, credit report, and reference reviews and checks.

#### 3. Corporation:

- (i) CNMI Business License;
- (ii) CNMI Incorporation documents certified by the Registrar of Corporations if incorporated in the CNMI;
- (iii) CNMI certificate of authority from the Registrar of Corporations if a foreign corporation;
- (iv) Corporate Articles and By-laws;
- (v) CNMI Taxpayer ID Number and tax clearance certification from the CNMI Department of Revenue and Taxation;
- (vi) Identification and description of physical facilities to be used by the institution, with designation of principal use of each facility or portion of facility (e.g. administrative, instructional, library);

- (vii) Copies of the deed, lease, and/or rental agreements, the length of which shall be for a minimum of three years, for all property, buildings and other facilities to be used by the applicant to provide academic and support services described in the Letter of Intent, Application, and Catalog;
- (viii) Once licensed the licensee must notify the BOR when there is a material change in a rental, lease, or other agreement which affects the buildings, facilities, or contractual support for the institution within 5 working days of such change to include but not be limited to e.g. a rental or lease agreement being terminated for whatever reason;
- (ix) Any change which in the opinion of the BOR or its designee affects adversely the ability of the licensee to provide educational and/or support services required under the license shall be required to be rectified, to the satisfaction of the BOR within 5 working days of the adverse situation. Failure to do so may result in suspension of the license by the BOR (refer to Sections **016** and **017**);
- (x) A site visit by the Program Committee or their designee to compare what is described in the applicant submission documents for licensure, with actual physical and related institution facilities; and,
- (xi) A prescreening background check shall be conducted of applicants to include but not be limited to criminal record, credit report, and reference reviews and checks, including background checks of the stockholders, directors, and officers of the corporation.

- 4. Limited Liability Company (LLC):
  - (i) CNMI Business License;
  - (ii) CNMI Incorporation documents certified by the Registrar of Corporations if incorporated in the CNMI and if one or more members of the LLC are corporations;
  - (iii) CNMI certificate of authority from the Registrar of Corporations if a foreign corporation and if one or more members of the LLC are corporations;
  - (iv) The Partnership Agreement or Limited Partnership Agreement if one or more members of the LLC are partners;
  - (v) LLC Articles of Organization, and Operating Agreement, if any;
  - (vi) CNMI Taxpayer ID Number and tax clearance certification from the CNMI Department of Revenue and Taxation;
  - (vii) Identification and description of physical facilities to be used by the institution, with designation of principal use of each facility or portion of facility (e.g. administrative, instructional, library);
  - (viii) Copies of the deed, lease, and/or rental agreements, the length of which shall be for a minimum of three years, for all property, buildings and other facilities to be used by the applicant to provide academic and support services described in the Letter of Intent, Application, and Catalog;
  - (ix) Once licensed the licensee must notify the BOR when there is a material change in a rental, lease, or other agreement which affects

the buildings, facilities, or contractual support for the institution within 5 working days of such change to include but not be limited to e.g. a rental or lease agreement being terminated for whatever reason;

- (x) Any change which in the opinion of the BOR or its designee affects adversely the ability of the licensee to provide educational and/or support services required under the license shall be required to be rectified, to the satisfaction of the BOR within 5 working days of the adverse situation. Failure to do so may result in suspension of the license by the BOR (refer to Sections **016** and **017**);
- (xi) A site visit by the Program Committee or their designee to compare what is described in the applicant submission documents for licensure, with actual physical and related institution facilities; and,
- (xii) A prescreening background check shall be conducted of applicants to include but not be limited to criminal record, credit report, and reference reviews and checks, including background checks of the stockholders, directors, and officers of the LLC.

## 007.01.001 Ancillary agreements and contracts

In the case of 1, 2, 3, or 4, above the applicant, prior to registering students, <u>must have</u> signed contracts, which must include but are not limited to educational facilities, faculty, student, and other support services which must include but is not limited to: (a) Facilities and maintenance and cleaning of dorms; (b) Utilities and communication services including phone and Internet; and (c) administrative staff.

# 007.02 Defined Mission, Suitable Purposes, and Identified Target Population

## (A) Evaluation criteria:

- (i) The institution has a clearly defined mission appropriate for a postsecondary educational institution and for its intended constituency;
- (ii)The institution's purposes are suitable to the public interest of the CNMI; and,
- (iii) The institution's target population is identified.

## (B) Required documentation:

- (i) Statement of mission for the institution;
- (ii) List of purposes for the institution; and
- (iii) Description of the population to be served by the institution.

## 007.03 Institutional Governing Capacity

## (A) Evaluation criteria:

- (i) The institution has a governing entity whose responsibilities are clearly stated;
- (ii) Among the governing entity's responsibilities are those that ensure institutional integrity and that the institution is engaged in activities designed to carry out its stated mission and purposes;
- (iii) The governing entity is sufficient in size and composition to meet its stated responsibilities;

- (iv) The institution has a Chief Executive Officer with defined responsibilities and sufficient qualifications to meet those responsibilities;
- (v) The institution has an organizational structure sufficient to manage its affairs.

## (B) Required documentation:

- (i) Governing entity articles and by-laws (for a corporation) and statement of board responsibilities;
- (ii) Biographical information for members of the governing entity of educational institution and business owners, which shall include academic achievements and previous experience appropriate for a member, and also including the primary home address of each member and country of residence; in the case where a member's domicile or primary residence is not in the CNMI, a statement as to how the member(s) will effectively meet their governing, oversight, and guidance responsibilities; and,
- (iii) Biographical information and responsibility of the Chief Executive Officer of the institution, including academic achievement and educational experience, as well as documentation of domicile in the CNMI:
  - (a) In the case where degrees are awarded by a non U.S. postsecondary institution(s) of higher education documentation must be provided as to the degree awarding credentials and authority of the non U.S. institution; and,

(b) Table of organization, including names and biographical information of those who will fill the positions.

# 007.04 Financial Stability and Integrity

## (A) Evaluation criteria:

- (i) The institution's proposed budgets, financial resources, and funding base are adequate to support its mission, purposes, and programs; and,
- (ii) The institution ensures its financial integrity by making provision for timely and regular external fiscal audits of (a) its financial records, and (b) its financial management system.

# (B) Required documentation:

- (i) A thorough Business Plan which covers all aspects of the institution and its operations, which might use as its outline the sections of this application, especially parts **007 007.90**;
- (ii) A Financial Statement of the entity under which this application is submitted, compiled and signed by a U.S. Certified Public Accountant;
- (iii) Proposed line item budgets for the first three years of operation which provide details of anticipated revenues and expenditures;
- (iv) Documentation of any external foundation or other financial support, reviewed by the CPA in the Financial Statement;
- (v) Documentation of funding base, reviewed by the CPA in the Financial Statement;

- (vi) Description of plans for timely and regular annual fiscal audits of the institution's financial records and financial management system to be conducted by a U.S. Certified Public Accountant (CPA);
- (vii) Copies of corporate/institution bank statements from an FDIC bank doing business within the CNMI;
- (viii) Proof of performance/surety bond from a company or corporation legally established to provide such services in the CNMI, in an amount equal to 25% of the total tuition and fees, including room and board charges, and return plane fare for all students officially registered by the institution. See **Section 015** of this Policy:
  - (a) In lieu of a surety bond, an amount in cash equal to the 25% requirement placed in a Trust Account with an FDIC bank located in the CNMI, the principle of which cannot be withdrawn without 30 days prior notice to the BOR;
  - (b) A combination of a performance/surety bond and cash placed in a Trust Account with an FDIC bank located in the CNMI shall be equal to 25% of the total tuition and fees, and other charges as provided by Section **007.04** (B) (viii);
  - (c) When a performance/surety bond is canceled for any reason whatsoever, the licensee must notify the BOR within five working days of such cancellation or termination; the licensee shall then have 10 working days to either obtain a replacement performance/surety bond from a company authorized to provide such an instrument in the CNMI or establish a cash Trust Account or a combination:

- (d) Failure to meet these requirements are grounds for suspension of the license or other action by the BOR, including revocation of the license.
- (ix) A written guarantee that the applicant institution shall NOT collect tuition and fees from students while OUTSIDE of the CNMI, but only collect applicable tuition and other fees outlined in the institution catalog from students physically within the CNMI.

The institution may require a Promissory Note be signed by the student when registered outside of the CNMI but only after, and so long as, the institution license granted by the BOR is legally in force;

- (x) A written guarantee that all of the tuition and other fees collected from registered students be deposited in an FDIC bank within the CNMI; and,
- (xi) The BOR will monitor compliance through the annual audit requirement, and review of bank statements required under this application and the license requirements.

# 007.05 Educational Programs of Acceptable Quality, Content, and Length

## (A) Evaluation criteria:

- (i) The institution has policies that specify the requirements and qualifications for students entering (a) the institution and (b) its certificate and degree programs;
- (ii) The institution's catalog clearly describes its certificate and

degree programs, including expected student learning outcomes, and specifies the requirements to be met for the award of each certificate and degree offered, including general education courses and academic standards which shall include but not be limited to class attendance, behavior, due process and grading standards policies;

- (iii) The institution's instructional program offerings are (a) consistent with its mission and (b) are of sufficient depth, breadth, and rigor to provide the knowledge and skills expected of program graduates and to merit award of the proposed certificate or degree;
- (iv) The institution's degree programs include a defined education component of the breadth and depth appropriate for a postsecondary degree;
- (v) The institution's catalog contains course descriptions and prerequisites, when appropriate, for all offered courses;
- (vi) The institution has stated criteria for awarding academic credits;
- (vii) Generally accepted standards for hours of instruction per academic credit awarded are manifested in the institution's proposed class schedule;
- (viii) The proposed class schedule identifies, for each class, hours of classroom/ laboratory instruction, and credits to be awarded;
- (ix) If course or program offerings are affiliated with a U.S. accredited institution, the quality of such offerings is adequate to meet the needs of the courses or programs offered in the CNMI;

- (x) Appropriate and accurate student and staff recruitment information, public awareness materials including written advertisements; and,
- (xi) A procedure to survey students to determine their evaluation of the quality of instruction, facilities, and institutional activities.

## (B) Required documentation and verification:

- (i) Statement of requirements for student admission into the institution;
- (ii) Statement of requirements for student admission into a specific program of study;
- (iii) Names of certificates and degrees, with expected student learning outcomes for each;
- (iv) Specific requirements for each certificate and degree offered (e.g. required courses, including general education requirements, and academic standards);
- (v) Catalog as defined in Section **002(i)** must be printed and provided to the Board of Regents and to each potential student prior to registration, and made available to the public;
- (vi) A Student Handbook or other similar document detailing student rights, due process, institution policies which affect students, expected behavior, disciplinary and student grievance procedures and other policies commonly found in student handbooks;
- (vii) A copy of the curriculum for each course to be taught listed in the catalog, or schedule of courses to be taught each semester (or quarter) must be provided to the BOR prior to the course being taught,

this shall include but not be limited to goals, objectives, content, activities, teaching methods, materials, and other support services needed e.g. library and reference, research facilities, laboratory or other appropriate hands-on items;

- (viii) Statement of criteria for awarding of credits;
- (ix) A schedule of classes for the first semester of operation;
- (x) Appropriate academic, vocational and/or other facilities which may include but not limited to housing, library, are fully equipped with appropriate collateral equipment, including but not limited to books, supplies, and materials;
- (xi) A site visit by the Program Committee or their designee to the institution facilities, including library, housing, or other support facilities identified by the applicant to determine that these facilities are ready for occupancy and use in all respects as described and required in the application, the license, and the catalog; and, in compliance with all applicable local and Federal health, safety, and other requirements set forth in CNMI and Federal regulations;
- (xii) Copies of all public recruitment materials, ads, pamphlets, information about the institution provided to students and personnel which describe the institution facilities, courses of study, costs and fees and other related information;
- (xiii) A copy of the Student Survey designed to evaluate institutional instruction, facilities, and support services, and copies of student survey results at the end of each academic year; and,

(xiv) A copy of all documents which students are required to sign, including but not limited to, applications, promissory notes, student awareness of rules and regulations documents, promises by the institution and/or student; and a detailed schedule of all institutional charges, tuition and fees, and deposit requirements; a statement of a schedule of refunds of all institutional charges, tuition and fees, and deposits in accordance with the institutions refund policy; and, a statement of the institution's financial aid policy including but not limited to financial aid available to students and associated conditions.

## 007.06 Quality Teaching Faculty

- (A) Evaluation criteria:
  - (i) The institution's teaching faculty is sufficient in number and qualifications to support the institution's educational programs;
  - (ii) The institution's teaching faculty are qualified to teach those courses which they are assigned to teach;
  - (iii) The appropriate number of qualified teaching faculty or instructors and support services professionals, such as but not limited to librarian and counselor, have been hired, through contracts which must be provided to the BOR, prior to collection of student tuition and fees for each semester;
  - (iv) The institution has a clear statement of faculty responsibilities; and,
  - (v) Faculty evaluation of the institution.
- (B) Required documentation:

- (i) Roster of full time and part time faculty, including degrees, qualifications, and experience;
- (ii) In the case where degrees are awarded by a non U.S. postsecondary institution(s) of higher education or U.S. institutions not accredited by a nationally recognized accrediting authority, documentation must be provided as to the degree awarding credentials and authority of the non U.S. and/or non accredited institution;
- (iii) A copy of the contract for each faculty and student support services personnel e.g., librarian, technical instructor, counselor must be made available for review by the BOR or their designee;
- (iv) Statement of faculty responsibilities;
- (v) Schedule of classes, which identifies the faculty responsible for each class;
- (vi) A Personnel Policies Handbook, or similar document shall be provided to the BOR or its designee, which clearly states policies with respect to hiring, due process, grievance procedures, disciplinary procedures and other issues commonly found in personnel policies; and,
- (vii) A copy of a Faculty Evaluation Survey in which faculty and support services personnel are asked to evaluate institutional policies, academic and instruction programs, student services, facilities and related issues, and a copy of the survey results at the end of each academic year.

## 007.07 Sufficient Library and Learning Resources

## (A) Evaluation criteria:

- (i) The institution's library and learning resources are sufficient in breadth, depth, and quantity to support the courses and instructional programs offered at the institution and to meet the needs of students enrolled in such courses and/or programs;
- (ii) The institution shall have the capacity to provide professionally trained and competent library, research, and/or reference personnel to serve the needs of the students as stated in the Mission and in their program and curriculum descriptions

## (B) Required documentation and verification:

- (i) Description and quantity of library holdings and learning resources including but not limited to, number and titles of books by category, periodicals, reference books, instruction technology equipment including multimedia equipment e.g. computers, power point, microfilm;
- (ii) Copies of agreements for access to external learning resources including but not limited to appropriate library, reference, and research resources;
- (iii) A plan to expand, update and improve library holdings and support services; and,
- (iv) A site visit by the Program Committee or its designee to determine if the materials, equipment and supplies identified as being available to support student academic, vocations, and/or professional instruction, and faculty and student reference, research, and resource needs are in place and operation prior to the beginning of registering students, collection of student tuition and fees, and the beginning of

course/class instruction.

## 007.08 Adequate Student Support Services

## (A) Evaluation criteria:

- (i) Support services for students are adequate and appropriate for meeting the needs of students and are consistent with student characteristics and the institution's mission; and,
- (ii) The institution has a clear description of (a) how it will maintain student records and (b) how students may obtain academic records if the institution closes.

## (B) Required documentation and verification:

- (i) Title and job description of non-instructional personnel whose responsibilities are to provide student support;
- (ii) Description of how student records will be maintained;
- (iii) Description of how students may obtain academic records if the institution closes; and,
- (iv) A site visit to by the Program Committee or its designee to review and evaluate the student support services identified by the institution in its application and supporting documents.

## 007.09 Adequate Administrative Services

(A) Evaluation criteria:

(i) The institution has sufficient staff with appropriate qualifications and experience to provide the administrative services necessary to support the institution's mission and educational programs.

## (B) Required documentation:

- (i) Title and job description of administrative personnel; and,
- (ii) Names and biographical information of administrative staff, proposed (and so identified) current or proposed (and so identified).

#### 008 Need for Additional Information

It is in the applicant's best interest to provide as much relevant information as possible to enable the Board of Regents to make a decision regarding the applicant's eligibility to establish and operate an institution of higher education within the CNMI.

The Board of Regents reserves the right to ask the applicant for any additional information it deems necessary for it to make a determination in authorizing the applicant to operate as a postsecondary educational institution in the CNMI.

#### 009 Notification of Decision

The Board's staff shall issue notification of the Board's decision regarding the applicant's application by telephone within two working days following the Board's decision regarding the application.

The license authorizing the applicant to operate a postsecondary educational institution within the CNMI will be sent to the applicant by registered mail within five working days following the Board's decision.

In the event that an applicant is denied a license, a letter stating the reasons for such denial shall be sent to the applicant by registered mail within ten working days following the Board's decision.

#### 010 Reconsideration

Should its application be denied by the Board, an applicant has the right to file for reconsideration when:

- (A) such applicant can show that the Board's staff or others
  - (i) have misrepresented its application in whole or in part;
  - (ii) acted in excess of the prescribed requirements; or
  - (i) did not observe procedures prescribed herein
- (B). and such applicant can show that it complied with all of the requirements prescribed herein.

#### 010.01 Procedure.

- (A) A request for reconsideration must be made to the Chairperson of the Board no later than 20 days after the applicant's receipt of the letter from the Board stating the reasons for the denial of a license.
- (B) The Chairperson shall appoint a special committee of not less than three Board members to review such request.
- (C) The committee shall consider the request and make recommendations to the Board within 10 working days after appointment.
- (D) The Board shall make a decision regarding the request for reconsideration no later than 20 days after the Chairperson of the Board has received the committee's recommendation, and the applicant shall be informed about the decision by registered mail within ten working days following the decision.

- (E) Should the Board grant the request for reconsideration, the applicant shall have 20 days to submit its written argument on why the license should be granted.
- (F) The Board shall make its final decision within 20 days of applicant's written submission.

## 010.02 Institution Operations Prior to License Approval.

Under NO circumstances may the applicant market, recruit, register, collect fees and tuition or other costs from prospective students prior to receiving notice of the approval of the license application, AND until all conditions contained in the license approval are met and approved in writing by the BOR.

#### 011 Provisional License

The Board of Regents recognizes that when an entity applies for a license to establish a postsecondary educational institution in the CNMI or for a license to establish an extension of an out-of-state institution of higher education in the CNMI, some requirements may not be fully met at the time of the application. The Board, by majority vote, may grant a Provisional License for a period to be determined by the BOR so that such remaining requirements may be met.

(A) A statement from the Board shall accompany the Provisional License and shall specify those requirements which have not been met, along with a timeline for meeting the requirements. Documentation showing how the institution has subsequently met such requirements, and a non-fundable fee of \$1,500.00 to cover administrative costs, must be submitted to the Board not less

than three months from the date the Provisional License is approved with conditions.

(B) Under no circumstances shall students be registered, tuition and fees collected, students brought to the CNMI, or instructional operations commenced until the provisional licensee has received written approval to begin such activities either in the Provisional License or in follow up approval after the applicant has met any conditions required by the BOR.

#### 012 Term of License

### 012.01 Non-Accredited Institutions

For those postsecondary educational institutions operating in the CNMI which are not accredited by an accrediting body recognized by a U.S. government agency, the term of the license shall be for a period not to exceed three years. The license may be extended for additional periods, determined by the BOR based upon licensee performance, provided that the institution meets those requirements specified in Section 013; and, all documentation and evaluation criteria stated in policies Sections 007 - 007.09. The Provisional License described in Section 011 shall count as one of the operational years for purposes of this section.

#### 012.02 Accredited Institutions

When a postsecondary educational institution operating in the CNMI becomes accredited by an accrediting body recognized by a U.S. government agency, the term of the license shall be for the duration of its accreditation period. The term for each extension of the license shall coincide with the institution's reaffirmation of accreditation.

## 013 Requirements for Extension of License

Three months prior to the expiration of the institution's license, the institution shall submit to the Office of the Board a report certifying continued compliance with the requirements specified in Sections **007** and **013** and **014** as appropriate; and, a nonrefundable Renewal fee of \$5,000.

The report shall contain a statement describing how the institution continues to meet each of the nine requirements.

The report shall also update its business plan, plans for improved programs and services, notify the BOR of any material changes anticipated in the future, including but not limited to, copies of student and faculty surveys, and copies of rental and lease agreements for facilities and services.

The report shall also certify compliance with an additional license requirement, Operational Status, the evaluation criterion being that the institution is operational, with students enrolled in its courses and actively pursuing its degree programs. Documentation related to this requirement is to be included in the report and shall consist of, but not limited to the following: Number of students enrolled in the institution each instructional term of each year during the current term of its license to operate. The names of degrees the institution awarded during the current term of its license to operate and the number of students awarded each degree each year.

The president and the chair of the governing entity shall sign the report submitted for an extension of its license.

The Program Committee or its designee shall review and evaluate the report and conduct a site visit which will include inspection of

facilities, meetings with students, faculty, and administrative and support services personal. Based upon the results of the Report review and site visit, the Program Committee or its designee shall then make a recommendation to the full BOR with respect to a request by the institution for a new or extended license.

## 014 Supplemental Application/Substantive Application Modification

In the case where a licensee, or provisional licensee, has been granted by the BOR the applicant having met all of the conditions in these policies, makes a substantive change defined below, a nonrefundable fee of \$1,000.00 to cover administrative costs shall accompany the notification of supplemental information and/or substantive change to an existing license.

A Supplemental Application shall be required to be submitted 30 calendar days prior to a substantive change, or when the changes makes meeting this deadline impossible, within five days of the change. Matters that are considered to be "Substantive" include but is not limited to:

- (A) A change in the name of the institution.
- (B) A change in the principal location, or an addition of a facility at another location of the institution of either direct or support facilities.
- (C) A change in ownership or governance of an institution.
- (D) Proposed changes, additions or deletions, of degree programs or course offerings.
- (E) Establishment of an additional instructional site away from the main campus.

(F) Action by an accrediting agency which results in an institution being placed in a probationary status for more than six months, or which results in the loss of the institution's accreditation.

## 015 Performance/Surety Bond

The applicant shall obtain a performance/surety bond, in an amount equal to 25% of the total tuition, fees and other student costs, and the cost of return airfare for each student, or a cash amount placed in a Trust Account as provided by Section 007.04 (B)(viii). Failure to meet these requirements are grounds for suspension of the license by the BOR, including revocation of the license.

**015.01 Exemption.** For those applicants who can demonstrate through such means as a CPA audit that the institution's income from tuition and fees is less than \$10,000 per annum, the performance/surety bond shall be \$10,000.

## 016 Filing of Complaints

When any person, persons, agency, or institution desires to file a formal complaint regarding an institution's violation of any part of the licensing policy or any part of the licensing condition, with such complaint possibly resulting in the suspension or revocation of the license of an institution as provided for in Section **017**, the following procedures shall apply:

- 1. All complaints must be presented in writing, be signed by the complainant, and detail the nature and particulars of the complaint;
- 2. The Board shall inform the concerned institution and shall provide a copy of the complaint;

3. The concerned institution shall have the right to respond to the complaint, providing it does so within 20 days after receiving notification of such a complaint.

The Board may initiate its own complaint, at its discretion, that relates to institutional violation of the requirements laid out in Section **007** and elsewhere in these policies or to conditions leading to possible suspension or revocation of an institution's license to operate a postsecondary educational institution in the CNMI as laid out in Section **017**. The Board will comply with the procedure stated herein.

## 017 Suspension or Revocation of License

The license issued to an institution is granted based upon the conditions laid out in the required documentation submitted with the License Application. Non-adherence to such conditions shall be cause for suspension or revocation of the institution's license to operate a postsecondary educational institution within the CNMI, at the discretion of the BOR.

Anyone of the following shall be cause for suspension or revocation of an institution's license to operate in the CNMI:

- (1) Misrepresentation in the documentation submitted with the License Application; or
- (2) Failure on the part of the institution to maintain the standards and conditions set forth by the institution in its License Application; or
- (3) Failure to operate in accordance with its stated mission and purposes;

- 5. Within 5 working days of the review team's submission of its written report to the Program Committee, the Program Committee shall consider the review team's report and determine its own recommendation to be made to the Board. The Program Committee shall provide the affected institution a copy of its recommendation, with supporting justification;
- 6. Within 10 working days after the Program Committee has determined its recommendation, the Board shall hold a session to make a final decision regarding the revocation or suspension of the institution's license to operate. The affected institution shall be notified of the Board session and shall be provided an opportunity to present its position regarding the action to be taken;
- 7. The Board shall meet in Executive Session to make its final decision regarding the institution and shall notify the institution of its decision by registered mail within 5 working days following the Executive Session.

## 017.01 Emergency Suspension

The Chairperson of the BOR, based upon documented evidence of gross serious problems within the licensed institution identified in Section **017**, which present an immediate concern for the welfare of the students and/or staff of the licensee, may issue a Temporary Suspension of License and Operations letter to the chief operations officer or person immediately exercising administrative authority over the institution. The Letter is to be delivered by hand and a receipt obtained.

The Letter must state exactly what serious problems have caused the suspension, provide copies of documentation or other evidence which led

- (4) Failure to maintain a performance/surety bond or Trust Account, or combination thereof:
- (5) Failure to meet financial obligations; and,
- (6) Failure to maintain facilities, personnel, and/or services as required and stated in its approve application for the license.

When the Board determines that a complaint, filed as provided for under Section **016**, may warrant suspension or termination of the institution's license to operate in the CNMI, the following procedures, including those in Section **009**, shall apply:

- 1. The Board Chair shall notify the affected institution of the possible suspension or revocation of its operating license and the reasons for such determination;
- 2. The Board chair shall appoint a Review Team of not less than three members to conduct a review of the institution relative to the complaint, with such review to take place not more than 15 working days after appointment of the Review Team. The institution shall be given written notification of the institutional review, with such notification stating the purpose of the review, the names of the review team members, and the dates during which the review will be conducted;
- 3. The Review Team shall review institutional documents and interview faculty, staff, and students relative to the complaint;
- 4. Within 5 working days after completion of the institutional review, the Review Team shall submit to the Program Committee of the Board a written report containing the results of its findings and its recommended action;

to the issuance of the Letter and provide the institution 3 working days in which to provide adequate evidence for the Chairperson to rescind the Letter or take other action.

The Chairperson shall notify all BOR members of its action on the same day the Temporary Suspension of License and Operations letter is delivered to the licensee.

If the institution disputes the problem or problems cited for suspending operations then the timelines stated in Section **017** shall begin. However, unless compelling evidence to the contrary exists, the suspension shall remain in force during the Section **017** process.

#### 018 Student Records

The institution shall make adequate provision for the maintenance of all academic records, financial aid information, and other student records in original document or hard copy in a permanent form, for example, original paper copy or compact disc.

The Board will not be responsible for student records if an institution decides to close. A closing institution is expected to make arrangements with another college or university or with the CNMI archives to preserve student records, and to inform the Board about such arrangements. Prior to closure, the institution shall attempt to notify every current and past student by mail about the closure, where the academic records are being stored, and how students can access those records. The same information shall be placed in advertisements in all local newspapers for a period of not less than one week.

To the extent possible and practical, a copy of a student's academic record should also be forwarded to the individual student.

#### 019 Accreditation Status

The CNMI Board of Regents is not an accrediting body. Therefore, the Board's issuance of a license to establish an institution of higher education in the CNMI does not constitute accreditation of the institution. Within three years, all institutions receiving a license are expected to seek accreditation from the Western Association of Schools and Colleges or from some other appropriate accrediting body recognized by a U.S. government agency; and, the BOR may at its discretion require the licensee to do so.

#### 020 Hold Harmless

The Applicant will Hold Harmless the Board of Regents (BOR), its staff, consultants, and other personnel from any liability whatsoever resulting from the assessment of the material provided to the BOR for purposes of deciding whether or not to issue a license to the Applicant for purposes of operating a postsecondary educational institution in the CNMI. This provision will, in no way, derogate from, detract or limit the immunity of Northern Marianas College, the Board of Regents, its staff, consultants, and other personnel under law.

## 020.01 Indemnity

The Applicant upon being licensed by the BOR will indemnify, defend and hold harmless the BOR, its staff, consultants, and other personnel from and against any and all claims, demands, liabilities, damages, losses, costs and expenses, including without limitation, reasonable attorneys' fees in connection with any claim, action, or proceeding brought by any third party resulting from or arising out of any breach by the licensee for any reason whatsoever.

# 021 Investigation

Nothing in this Licensing Policy shall affect the ability of the Division of Immigration to investigate and/or determine whether a licensed institution is in compliance with Immigration Regulation 706(H) concerning foreign student attendance.

# Commonwealth of the Northern Mariana Islands Commonwealth Board of Nurse Examiners

Rosa M. Tudela, Chair Commonwealth Board of Nurse Examiners, PO Box 501458 Building No. 1336, Capitol Hill, Saipan MP 96950

> tel 670.664.4810/4812; fax:670.664.4813 saipannbn@pticom.com

# PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS OF THE COMMONWEALTH BOARD OF NURSE EXAMINERS

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Board of Nurse Examiners ("Board"), intends to adopt as permanent rules and regulations the attached Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The Board intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Rules and Regulations would become effective 10 days after adoption. (1 CMC § 9105(b)) They would appear in the Northern Mariana Islands Administrative Code ("NMIAC"), Chapter 140-60.

AUTHORITY: The Board is empowered by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction, including its internal affairs. PL 14-62, the "Nurse Practice Act of 2003" ("The Act"), 3 CMC §§ 2301 - 19, and specifically, the Act, §§ 2306 (b) and (c).

### THE TERMS AND SUBSTANCE:

The Rules and Regulations provide the basic framework for the Board to meet and deliberate and give notice. They also provide for basic procedures, including disciplinary procedures. They recite the Board's powers and duties, a conflict of interest policy, and procedures for internal administration. They also provide clear legal authority for the Board to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's Open Meetings Act, 1 CMC § 9901, et seq. Typically one or more Board members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Rules and Regulations define the virtual meeting and set out the requirements for public participation.

These Rules and Regulations are the first of the Board's Rules and Regulations. These create Rules and Regulations Part 001 through Part 0600. Many of the sections are reserved, with no content presently.

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these rules and regulations. The Rules and

Page 1 of 3

#### Regulations:

- 1. Address the internal administration of the Board and its procedures for making decisions.
- Provide that the Board's office will be determined and made known by the Board.
- Prohibit conflicts of interest.
- 4. Provide that the Board will publish its schedule of regular meetings.
- 5. Provide procedures for the Board to conduct its meetings when one or more of the Board members is not physically present. This is necessary because of complexities of the travel schedules of the Board members, and the difficulties of travel in bad weather. The Rules and Regulations allow one or more of the members to call in to the announced meeting place, a practice common in the business world.
- 6. Provide procedures that conform to the CNMI's Open Meetings Act to insure that any member of the public may attend a Board meeting and hear and view everything that every Board member can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Board members are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Board members see and hear.
- 7. Provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin Boards - one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.
- 8. Provide for the Board's litigation procedures, including discipline of professionals.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)) TO PROVIDE COMMENTS: Send or deliver your comments to Board Chair Rosa M. Tudela at the above address, fax or email address, with the subject line "New CBNE Regs". Comments are due 30 days after this notice is published in the Commonwealth Register. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed Rules and Regulations approved by the Board on March 30, 2006, and

Submitted by:

Rosa M. Tudela

Chair, Board of Nursing Examiners

Received by:

Governor's Spesial Assistant for Administration

Filed and Recorded by:

Commonwealth Registra

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed Rules and Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

MATTHEW T. GREGORY,

**Attorney General** 

0 NOPR CBNE Meetings Apr 2006.wpd

# Commonwealth I Sankattan Siha Na Islas Marianas Kuetpon I Man Eksaminan Emfetmera / Emfetmeru gi Commonwealth Rosa M. Tudela, Kabiseya

Kuetpon I Man Eksaminan Emfetmera / Emfetmeru gi Commonwealth, P.O. Box 501458 Building Numiru 1336, gi Capitol Hill, giya Saipan MP 96950

Numirun Tilifon: 664-4810/4810; fax: 670-664-4813 saipannbn@pticom.com

# NOTISIAN PUPBLIKU POT I MAN MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA

GI KUETPON I MAN EKSAMINAN EMFETMERA / EMFETMERU GI COMMONWEALTH

MA'INTENSIONA NA AKSION PARA U MA'ADOPTA ESTE MAN MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth I Sankattan Siha Na Islas Marianas, gi Kuetpon I Man Eksaminan Emfetmera / Emfetmeru gi Commonwealth (I Kuetpo), a intensiosiona para u adopta petmanente I areklamento yan regulasion siha ni man che'che'ton, sigun para I manehan I Akton I Areklamenton I Atministradot, 1 CMC Seksiona 9104 (a). I Kuetpo a intensiona para u adopta petmanente, ya este na momento man nånå'i' trenta (30) diha siha na notisia pot I intension-niha. (ld.) I Areklamento yan Regulasion siha siempre efektibu dies diha siha despues di I inadoptasion. (1 CMC Seksiona 9105 (b)) Siempre umannok gi hålom I Kodigun Atministradot I Commonwealth I Sankattan Siha Na Islas Marianas ("NMIAC"), Kapitulu 140-60.

ATURIDÅT: I Kuetpo ma'aturisa ni I Lehislatura para u ma'adopta I areklamento yan regulasion siha ni tineteka eyu na asunto siha pot I aturidåt-ña I Kuetpo, a enklusu I asunton intetnu siha. Lai Pupbliku 14-62, I "Akton Praktikan Emfetmera / Emfetmeru gi 2003" ("I Akto"), 3 CMC Seksiona 2301-19, yan spesifikåtmente. I Akto, Seksiona 2306 (b) yan (c).

REGULASION YAN I SUSTÅNSIAN-NIHA: I Areklamento yan Regulasion siha a probeniyi fondamento para I Kuetpo pot para u fan danña ya u maditetmina ya u malaknos notisia. Maprobeniyi lokkue maolek na areklamento, a enklusu areklamenton disiplinårio siha. Masåsångan I aturidåt yan I che'cho' I Kuetpo, I areklamenton conflict of interest, yan I manehan I atministrasion intetnu. Lokkue maprobeniniyi klåru na aturidåt ligåt para I kuetpo ni para u fan danña "konfiriensian tilifon (virtually), kini u fan dinña petsonåt, kontat di u fan ali'e' yan I pumalu gi I ma'anunsia na lugåt ni para u fan a'li'e', papa I Akton I Mababan Dinaña CNMI, 1 CMC Seksiona 9901, et seq. Tipikåtmente uno pat mås na membrun I Kuetpo siña u atiende I konfiriensian tilifon, ni I speaker phone gi I madesigna na kuåtton dinaña. I Areklamento yan Regulasion siha madefina I konfiriensian tilifon yan I nisisidåt para I patisipåon I pupbliku.

Este na Areklamento yan Regulasion siha man fine'nina gi Areklamento yan Regulasion I Kuetpo siha. Ma'establesi este na Areklamento yan Regulasion siha gi Påtte 001 esta Påtte 0600. Meggai gi seksiona siha man mapolu, sin I sinaguan-niha gi prisente.

I PUNTO YAN ASUNTO SIHA NI TINETEKA: Man indipendente, lao ti man achule', I rason siha para I ma'establesi este na areklamento yan regulasion siha. I Areklamento yan Regulasion siha:

- 1. a mensiosiona I atministrasion I kuetpo intetnu yan I areklamenton-niha yanggen para u mafatinas disision-niha.
- 2. Probeniyi na I Ofisinan I Kuetpo siempre maditetmina ya u matungo' ni I Kuetpo.
- 3. a prohibi I conflict of interest
- 4. Probeniyi na I kuetpo siempre a pupblika I siñålan I regulåt na dinaña.
- 5. Probeniyi areklamento para I kuetpo para u makondukta I dinaña yanggen unopat mås na membrun I kuetpo ti man gaige petsonåt. Nisisårio este pot rason I tiempon I hinanåo siha masiñåla para I membru siha, yan ti kumbiene I hinanåo pot rason I båban I tiempo. I Areklamento yan Regulasion siha a sesedi uno pat mås na membru siña u fan ågang hålom gi I ma'anunsia na lugåt dinaña, I mapraktika na kinalamten gi tano I bisnis.
- 6. Probeniyi areklamento na u konfotma I Akton I Mababan Dinaña gi CNMI parau asigura na maseha håyi na Membru gi pupbliku siña u atiende I Dinaña I Kuetpo ya u hungok ya u ina todu I Membrun I Kuetpo ni ma huhungok yan ma'i'ina, solu guaha ni dinespensan I Akto para I sesion eksekatibu yan palu ni man aplikåtble na lai ni tineteka konfidensiåt pat matiriåt proprietary. Yanggen uno pat mås na membrun I kuetpo man a'akuentusi gi tilifon, I petsona (siha) ni ma'atietiende debi di u gai' tilifon osino debi di u hungok håfa masåsångan gi speaker phone gi hålom I kuåtto. Yanggen mana guaha dinaña ginen I internet, I mu'atietiende I dinaña debi di u gai' computer pot para u mahungok yan mali'e' håfa I membrun I kuetpo mahuhungok yan malili'e'.
- 7. Probeniyi <u>computer</u> pot para u guaha dinaña kontra I <u>computer</u> anai siña u la'âtman. Parehu ha' este yan I <u>bulletin board</u> gi <u>computer</u> un taotao munahalom mensåhe, ottro na petsona gi despues, guaha na biåhi tinaka ha'âne siha osino ora siha, ya sigi makontinua etsaki ti a'annok esta I <u>text-based</u> interchange.

8. Probeniyi para I areklamenton I litigasion I kuetpo, a enklulusu areklun I profesionåt siha.

DIREKSION YANGGEN U MAPOLU YA MAPUPBLIKA: Este Man Mapropone na Areklamento yan Regulasion siha debi di u mapupblika gi Rehistran I Commonwealth gi hålom I seksionan I man mapropone yan I man nuebu na inadoptasion regulasion (1 CMC Seksiona 9102 (a)(1)) ya debi di u mapolu I notisia gi man kombeniente na lugåt siha hålom I sentron sibet siha yan gi Ofisinan I gubietnamento gi kada distritun senadot, parehu ha' yan I Engles yan I prinsipåt na lengguahe siha. (1 CMC Seksiona 9104 (a) (1)).

YANGGEN PARA U GUAHA OPINION SIHA: Hanågue' pat chule' guatto I opinion siha para as Rosa M. Tudela I Kabiseyan I Kuetpo gi I mamensiona na address gi sanhilo', <u>fax</u> osino <u>email</u>, ya un titilu ni <u>"New CBNE Regs"</u>. I opinion siha man uttimo trenta diha siha despues di mapupblika esta na notisia gi Rehistran I Commonwealth. Pot fabot na hålom I infotmasion, opinion yan kuestion siha. (1 CMC Seksiona 9104 (a) (2)).

I Man Mapropone na Areklamento yan Regulasion siha man ma'aprueba ni I Kuetpo gi Måtso 30, 2006 yan

Manahålom as: NosaM. Judela, W Fecha: 4/24/06

Kabiseyan, I Kuetpon I Man Eksaminan Emfetmera / Emfetmeru

Marisibe' as: Fecha: 5/09/06

Espisiat Na Ayudante Para I Atministrasion I Gubietno

Mapolu' yan
Marikot as:

| Della Our | Fecha: 5/11/6 |
| BERNADITA B. DELla CRUZ |
| Registran I Commonwealth

Sigun I lai 1 CMC Seskiona 2153 (e) ( I inaprueban I regulasion siha para u ma'establesi pot para u fotma yan ligåt) yan 1 CMC Seksiona 9104 (a)(3) (debi di u ma'aprueba ni Abugådu Heneråt) I man mapropone na Areklamento yan Regulasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan ligåt sufisiente ginen I Abugådu Heneråt I CNMI ya debi di u mapupblika (1 CMC Seksiona 2153 (f) (pupblikasion I areklamento yan regulasion siha)).

| Mafecha gi este mina | john | na ha'åne gi _ | May | , 2006. |
|----------------------|------|----------------|-----|---------|
| _                    |      |                |     |         |

MATTHEW T. GREGORY Abugådu Heneråt

# Commonwealth Téél Falúw kka falúwasch Marianas Rosa M. Tudela, Chair Commonwealth Board of Nurse Examiners, PO Box 501458 Building No. 1336, Capitol Hill, Seipél MP 96950

Tilifoon: (670) 664-4810/4812; fax: (670) 664-4813

# ARONGOL TOULAP REEL ALLÉGH KKAAL MELLÓL COMMONWEALTH MWIISCHIL NURSE EXAMINERS

MÁNGEMÁNGIL EBWE FILLÓÓY POMWOL ALLÉGH KKAAL: Commonwealth Téél Falúw kka Falúwasch Marianas, <u>Commonwealth Mwiischil Nurse Examiners</u> Mwiisch ("Board"), e mángi bwe ebwe schéschéél fillóóy allégh kkaal reel pomwol allégh kka e appasch, bwelle mwóghutul <u>Administrative Procedure Act</u>, 1 CMC Tálil 9104(a). Schóóy mwiisch nge re mángi rebwe schéschéél fillóóy, me akkatééwow llól eliigh (30) ráál. (Id.) Allégh kkaal ebwe bwááwow meellól Northern Mariana Islands <u>Administrative Code</u> ("NMIAC"), Chapter 140-60.

BWÁNGIL: Schóóy Allégh (Legislature) nge re tipeli bwe Mwiisch (Board) rebwe fillóóy allégh kkaal me sángi mwóghutul mwiisch (board) iye eyoor bwángil, ebwal toolong <u>internal affairs</u>. PL 14-62, Mille "Nurse Practice Act Ilól 2003" ("Allégh milleel"), 3 CMC tálil kka 2301-19, me schééschéél, Alléghúgh kka, tálil 2306 (b) me (c).

ÓUTOL ME KKAPASAL: Allégh kkaal nge e ayoora yaar angaang mwiisch (board) igha rebwe aschuschu fengál me awewee fengál me isisiwow arong. Rebwal ayoora mwóghutul, ebwal toolong mwóghutul disciplinary procedures. Re féérú bwángir Mwiisch me angaangal, allégh ye fitighogho, me mwóghutul internal administration. Re bwal ayoora legal authority ngaliir Mwissch (board) igha rebwe aschuschu "virtually" mmwal igha u ipighil lo, ngáre schagh akkáschay aramas re ló tabweey mwiisch ighila re isaali ye. Faal CNMI's Open Meeting Act, 1 CMC Tálil 9901, et seq. Eyoor igha escháy me ngáre fitimal schóóy Mwiisch rebwe Tittilap llól tilifoon, fengál me speaker phone igha rebwe fili leliyel mwiisch (conference). Allégh kkaal nge ekke bwáári virtual meeting me ayoora tittingór kkaal bwelle alillisil Toulap.

Allégh kkaal nge mmwal yaar allégh Mwiisch (Board). Milikkaal nge e atotoowow allégh kka Peigh 001 mwete ngáli P 0600. Soghul tálil kkaal nge mil isiis ghatch, iye esóór kkapasal ighila.

AWEWEEL ME KKAPASAL: Eyoor milikka e <u>independent</u>, nge e ghil fengál, awewee igha ebwe akkatééwow allégh kkaal.

Allégh kkaal:

- 1. Abwáári <u>internal administration</u> mellól <u>Board</u> me mwóghutul igha ubwe féér mángemáng.
- 2. Bwulasiyool Board nge ebwe alúghúlúgh me ebwe akkaté mereel Board.
- 3. Esóóbw yoor fitighogho
- 4. Board nge ebwe akkaté ótol mwiisch kkaal.
- 5. Ayoora bwángir <u>Board</u> reel rebwe ayoora mwiisch ngáre escháy me ngáre fitimal membrool mwiisch iye schéschéél ese ipighil lo. É welepakk bweigha ebwe eyoor fitighoghool yaar board fááráágh, me weires le fááráágh ótol rál nggów. Sángi Allégh kkaal nge emmwel bwe escháy me iyo meleir membro ebwe faffailong bwe ebwe ira leliyel mwiisch, iye raa fasúl yáyááli mellól <u>business</u>.
- 6. Ayoora mwóghut ye CNMI ebwe alúghúlúgh reel Open Meeting
- 7. igha ebwe affat bwe inammo iyo meleir membrool Toulap nge ebwe tabweey mwiisch (Board Meeting) bwe ebwe rongorong me amweri alongal meeta kka membrool mwiisch re rongorong me ghuley, ngáre schagh eyoor alléghúl akkayúúló ngáli executive sessions me akkááw allégh kka efisch iye e molomol me ngáre peirágh kka e welepakk. Ngáre escháy me re ssogh board members kka rekke Tittilap llól tilifoon, aramas kka re toolong nge rebwe yááyá sángi tilifoon me emmwel rebwe rongorong sángi speaker phone mellól kkwóto. Ngáre mwiisch (meeting) e toowow mellól internet, schóókka relo nge ebwe yoor yaar access ngáli computer be rebwe weri me rongorong meeta kka membrool mwiisch (board) re rongorong me weri.
- 8. Ayoor <u>computer access</u> igha ebwe <u>computized meetings</u> kka e lálááy. Milikkaal nge e weewee schagh me <u>computer bulletin Boards</u>-escháy aramas e ayoor ammataf (message), escháy e apalawal mwirilóól, faal akkááw e ghula erál me ngare e ghula ora mwirilóól, me sóbwósóbwólóm, ngáre schagh <u>text-based</u> e ssiwel iwe aa schéschéél akkayúúló.
- 9. Ayoora alléghúúr Board kkaal, ebwal toolong aweweel professionals.

AFALAFAL REEL AISIS GHATCH ME AKKATÉÉL: Pomwol Allégh kkaal nge ebwe akkatéétlong Commonwealth Register llól Talil ye re pomwoli me fillóól kka e ffé (1 CMC Talil 9102 (a)(1) me ammataf ebwe appasch llól civil center ye efisch iye llól Bwulasiyool Gobenno kkaal sángi senatorial district, llól ii me ruwoow Amerikkonu me mellól principal vernacular. (1 CMC Tálil 9104(a)(1).

ISISILONGOL MÁNGEMÁNG: Afanga me ngáre bwughilló vóómw mángemáng reel Board Chair Rosa M. Tudela, address imwu elo weiláng, sángi kkapasal line ye "New CBNE Regs" Aghiyegh ebwe atotoolong ótol eliigh (30) ráálil mwiril schagh yaal ammataf yeel isisilong llól Commonwealth Register. Isisilong yóómw Data, mángemángúmw me aweweel. (1 CMC Talil 9104 (a)(2))

Pomwol Allégh kkaal ebwe alúghúlúgh sángiir Board ótol Maailap (March) 30, 2006, me

Isaliyallong:

Mosa M. Tudela, Rosa M. Tudela

4/26/06

Assamwoolul, Board of Nursing Examiners

Mwir sángi:

Ammwel sángi:

Sów Alillisil Sów Lemelem

5/09/06 Rái

Commonwealth Register

Sángi Allégh ye 1 CMC tálil 2153(e) (alúghúlúghúl AF reel allégh ebwe akkateeló me 1 CMC Tálil 9104 (a)(3) (bweibwogh alúghúlúgh mereel AG) pomwol Allégh kka e appasch nge raa takkal amweri me alléghéló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkaté (1 CMC Talil 2153(f) (akkateeló allégh kkaal)).

Ráálil ye 10th 1161 May ,2006.

Sów Bungul Allégh Lapalap

#### Commonwealth of the Northern Mariana Islands

### Northern Mariana Islands Administrative Code Title 140 Department of Public Health

### Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and Regulations

Chapter Authority: PL 14-62, as amended.

Regulation History: The Nurse Practice Act of 2003, PL 14-62, ("the Nurse Practice Act" or "the Act") was codified at 3 CMC §§ 2301 - 19. The Act, §§ 2306 (b) and (c) empower the Board to adopt rules for the administration and enforcement of the statute and to protect the public health, safety, and welfare.

[Comment on numbering outline format: The hierarchy /outline is as follows, from top to bottom: Title; Chapter; Part 001-900; Section 101-999; subsection (a); paragraph (1); subparagraph (i); sub-subparagraph (A). The numbering for the title and chapter shall follow the format of the Northern Mariana Islands Administrative Code ("NMIAC"). Citations are to PL 14-62, as amended.]

### **Table of Contents**

| Chap | oter 140-60 - | Comm   | onwealth Board of Nurse Examiners Rules and Regulations | Page 1 of 11 |
|------|---------------|--------|---------------------------------------------------------|--------------|
| Part | 001 G         | eneral | Provisions                                              | Page 2 of 11 |
|      | Section 0     | 001    | Currency of these rules or regulations                  | Page 2 of 11 |
|      | Section (     | 002    | History                                                 | Page 2 of 11 |
|      | Section 0     | 003    | Numbering of resolutions and other acts                 | Page 2 of 11 |
|      | Section (     | 004    | Office                                                  | Page 3 of 11 |
|      | Section (     | 005    | Organization and officers                               | Page 3 of 11 |
|      | Section (     | 006    | Appointments, vacancies and removal from office.        | Page 3 of 11 |
|      | Section (     | 007    | Oath                                                    | Page 3 of 1  |
|      | Section (     | 800    | Definitions                                             | Page 3 of 1  |
|      | Section (     | 009    | Additional definitions.                                 | Page 4 of 1  |
|      | Section (     | 010    | Record keeping                                          | Page 4 of 1  |
|      | Section (     | 011    | Seal                                                    | Page 4 of 1  |
|      | Section (     | 012    | Committees                                              | Page 4 of 1  |
|      | Section (     | 013    | Operations, staff and contractors.                      | Page 5 of 1  |
|      | Section (     | 014    | Advisory Committees                                     | Page 6 of 1  |
|      | Section (     | 015    | Conflict of Interest.                                   | Page 6 of 1  |

| Part | 00100   | Adminis | stration and Conduct of Meetings                                                       | Page 6 of 11 |
|------|---------|---------|----------------------------------------------------------------------------------------|--------------|
|      | Section | 001     | Business meetings                                                                      | Page 6 of 11 |
|      | Section | 002     | Executive session                                                                      | Page 7 of 11 |
|      | Section | 003     | Notice                                                                                 | Page 7 of 11 |
|      | Section | 004     | Robert's Rules of Order                                                                | Page 7 of 11 |
|      | Section | 005     | Reserved                                                                               | Page 7 of 11 |
|      | Section | 006     | Reserved                                                                               | Page 7 of 11 |
|      | Section | 007     | Public Meetings                                                                        | Page 7 of 11 |
| Part | 00600   |         | ures for disciplinary actions, violations of law and other matters (per 3 CMC § 2314(d |              |
|      | Section |         | Policy on Board procedures.                                                            |              |
|      | Section |         | Practice and procedures.                                                               |              |
|      | Section |         | Other practice and procedure.                                                          |              |
|      | Section | 003     | Other practice and procedure                                                           | raye il oi i |

[Comment: The Table of Contents is not part of the rule or regulation, but is placed here for the convenience of the reader.]

### Part 001 General Provisions

Section 001 Currency of these rules or regulations.

These rules or regulations are current through the May, 2006, CNMI Register Volume 28 No. 05.

### Section 002 History.

- (a) History is not part of the operative language of the Rules or Regulations, and is included by the Board for the convenience of the reader.
- (b) The Board shall attempt to publish a brief history with each change to these rules or regulations, identifying date and Commonwealth Register citation for the change.
- (c) The history is: Nurse Practice Act of 2003 Act passed and signed by Governor Juan N. Babauta, March 31, 2005, effective 90 days later, on June 30, 2005. Proposed Rules or regulations adopted by resolution of the Board of Nurse Examiners on March 30, 2006. Proposed rules or regulations were published in the Commonwealth Register, Vol. 28, No.04 (4/2006). Final rules or regulations were promulgated by publication in the Commonwealth Register Vol. 28, No. 06 (6/2006) or 07 (7.2006).

Section 003 Numbering of resolutions and other acts.

Page 2 of 11

May 19, 2006

- (a) Resolutions shall be signed by the Secretary, Chair or Acting Chair and numbered to indicate year, month and successive number of resolutions in the month, and shall indicate briefly their subject matter. For example: "Res. 2006-10-04 (Budget)".
- Other actions of the Board shall be similarly identified. For example: "Personnel Policy (b) Amendment 2006-03-01 (Travel)".

#### Section 004 Office

The Board shall designate the location of its principal office, of any testing centers, and may establish branch offices in other locations.

#### Section 005 Organization and officers.

- The officers shall be a Chair and a Vice-Chair/Secretary, pursuant to 3 CMC § 2306(d). (a) Additional officers may be a Secretary, Treasurer, or Secretary-Treasurer.
- The Chair and the Vice-Chair shall be elected at the January meeting of the Board, pursuant to 3 (b) CMC § 2306(d). Other officers, if any, shall be elected at the same meeting.
- All officers, as between themselves and the Board, shall have such authority, and perform such (c) duties, as may be provided by or pursuant to resolution or order of the Board, or, in the absence thereof, as may be determined from these rules or regulations.
- The officers shall assume the duties of their respective offices as soon as they have been elected. (d)
- (e) The officers of the Board shall continue in office until their successors are elected and qualify.
- (f) The Chair shall preside at all meetings of the board, and in the event of his/her absence or inability to act, the Vice-Chair shall preside. Other duties of the officers shall be such as the Board may prescribe.

#### Section 006 Appointments, vacancies and removal from office.

- Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in (a) the same capacity as the person being replaced.
- The Board shall remove from the Board any member who has become unqualified to serve. (b)
- The Board shall recommend to the Governor, after hearing, the removal of any member of the (c) Board for neglect of duty or other just cause.

#### Section 007 Oath.

- The Board shall adopt an oath of office. (a)
- (b) Within 30 days after his/her appointment, each member of the Board shall take and subscribe to an oath of office administered by a suitable public official and shall file a signed copy of the same with the Board.
- The Executive Director shall take and sign an oath of office, administered by the Chair of the (c) Board or other suitable public official.

#### Section 008 **Definitions**

COMMONWEALTH REGISTER

For the purposes of this Chapter, and the administration and/or interpretation of the Nurse Practice Act of 2003, the following terms shall be defined as set forth in Public Law 14-62, § 2304, as amended:

- (a) Advanced practice registered nurse, and nursing;
- (b) Board;
- (c) Certified nursing assistant;
- (d) Certified technician;
- (e) Continuing education;
- (f) Graduate nurse;
- (g) License;
- (h) Licensed practical/vocational nurse
- (i) Other board
- (j) Practice of nursing;
- (k) Prescriptive/dispensing authority;
- (I) Professional nurse;
- (m) Practice of nursing as a "registered nurse";

### Section 009 Additional definitions.

For the purposes of this Chapter, and the administration and/or interpretation of the Nurse Practice Act, the following definitions shall apply:

- (a) "Nurse Practice Act. "Nurse Practice Act" as used in these rules or regulations means PL 14-62, as amended, and codified.
- (b) "Electronic means" includes telephone, video-conference, electronic-telecommunicationsmediated written, aural and/or video means, including, but not limited to, mediated through the internet, and/or email.
- (c) "Firm" shall also mean a sole proprietorship, a corporation, a partnership, or a limited liability company.
- (d) "Include" or "including" shall be read as though followed by "but not limited to".
- (e) "Person" includes individual, partnership, firm, association, government entity, limited liability company, or corporation, unless otherwise provided by law.
- (f) "Virtual" or "Virtually" when used with respect to a meeting means by electronic means that provide for real-time communication to and from the participants in such a manner that each participant can hear and/or read the comments of each other participant.
- (g) In construing these rules or regulations, the singular shall also mean the plural, the masculine the feminine, and conversely.

### Section 010 Record keeping.

- (a) The Board shall keep records of all proceedings and actions by and before the Board and before its committees.
- (b) In any proceeding in court, civil or criminal, copies of those records certified as correct by the executive officer of the Board or the Secretary, and under seal of the Board, shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

### Section 011 Seal.

The Board shall have a seal and shall provide for its use.

Section 012 Committees.

**COMMONWEALTH REGISTER** 

May 19, 2006

- An Executive Committee, consisting of the Chair, Vice-Chair, and the Secretary and/or the (a) Treasurer shall have the power to act on behalf of the Board between Board meetings as follows:
  - In emergencies; (1)
  - (2) Where Board action is required on a ministerial act and convenience requires that the action be taken: and
  - Other actions where Board action is required but it is unreasonable to schedule and (3) conduct a Board meeting:
  - Provided that no such action shall violate the open meetings act, the Open Government (4) Act of 1992, 1 CMC § 9901-18.
  - Exception: The Executive Committee shall not have any power or authority as to the (5) following:
    - (i) The adoption, amendment or repeal of these rules or regulations.
    - The amendment or repeal of any resolution or decision of the Board. (ii)
    - Vacating or discharging Board members. (iii)
  - The Executive Committee shall meet from time to time, as the Chair requires. (6)
  - The meetings of the Executive Committee may be conducted virtually, and shall be (7)noticed to the Board with instructions on how to attend a meeting, if virtual.
  - Any Board member shall have the right to attend a meeting of the Executive Committee. (8)
- Standing Committees. The Board, or the Chair with the Board's subsequent approval, may (b) determine and create such standing committees as it believes reasonable or necessary; and it shall determine the duties and responsibilities of each standing committee.
- Special Committees. The Board or the Chair, respectively, may determine and create such (c) special committees as they believe reasonable or necessary.
- Operations, staff and contractors. Section 013
  - The Board may enter into such contracts, leases, licenses, and other agreements as it may (a) determine necessary for the conduct of its affairs.
  - The Board may employ such staff, agents and contractors, except as provided otherwise (b) specifically by statute or in these rules or regulations, to assist in the performance of its duties, and pay salaries, costs and expenses.
  - (c) The Board may appoint an executive officer as its chief operating officer.
    - Such person may be an employee or a contractor. (1)
    - If such person is given the position of "Executive Director", that person shall meet the (2) qualifications of the Nurse Practice Act, including those set out in § 2306(e)(12).
    - Such person shall serve ex officio on all committees, without vote. (3)
    - Such person shall attend the meetings of the Board and may attend committee meetings, (4) and shall make recommendations to the Board.
    - Except as otherwise provided by law, the Board may furnish a bond for the executive (5)

Page 5 of 11

officer and other staff, the cost of which bond shall be paid from the Board's funds.

(d) The Board may collect, receive and disburse funds as provided by law, and may delegate such functions to its executive officer.

### Section 014 Advisory Committees.

The Board may, for the purpose of obtaining technical expertise and public input, appoint advisory committees of non-Board-members to provide advice and assistance related to the Board's functions. Such committees shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report findings and/or make recommendations from any investigation, deliberation or hearing.

### Section 015 Conflict of Interest.

- (a) No member of the Board, or any business in which a Board member or her/his immediate family serves as staff, officer, owner or director, or by contract represents, shall transact any pecuniary business of any kind with the Board, unless the following preconditions are met:
  - (1) Notification to all Members in advance, in writing, or by oral notification to the Members in a meeting at which the notification is transcribed and placed in the minutes of the Board, of his/her potential business or personal interest in the transaction; and
  - (2) The Member abstains from Board vote regarding the transaction; and
  - (3) The vote of each Member is recorded.
- (b) Loans to Officers and Members Prohibited.
  - (1) No loans shall be made by the Board to its Members or to members of their immediate families.
  - (2) The Members who vote for, or assent to, the making of a loan to a Member, and any officer of officers participating in the making of such loan, shall be jointly and severally liable to the Board for the amount of such loan until the repayment thereof, and their action shall not be subject to indemnification.
  - (3) Exception: The following undertaken on behalf of, or for the benefit of, the Board shall not be a loan within the meaning of these rules or regulations:
    - (i) An advance to participate in a conference, meeting or other event.;
    - (ii) An advance for a filing with a government agency or membership organization; or

May 19, 2006

(iii) An advance made pursuant to an indemnification.

### Part 00100 Administration and Conduct of Meetings

### Section 001 Business meetings.

- (a) The Board shall conduct its affairs at its meetings.
- (b) All meetings of the board shall be open and public, as provided by law.
- (c) Quorum. The quorum for a meeting shall be four (4) members, as required by 3 CMC § 2306(d).

Page 6 of 11

- (d) Notice to the members of regular meetings shall be given at least seven days in advance by the Chair or, upon the Board's designation, by the Chair, Acting Chair or executive officer.
- (e) Notice of meetings may be waived in writing either before or after the meeting by unanimous consent of all members.
- (f) The Board shall meet at the call of the Chair or the executive officer, but not less than twice each year.
- (g) Any two members of the Board may call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

#### Section 002 Executive session.

- (a) The Board may hold executive sessions as provided by law.
- (b) Specifically, and without limitation, the Board may deliberate in executive session:
  - on the decision to be reached upon the evidence introduced in a quasi-judicial proceeding;
  - (2) on personnel matters;
  - (3) on litigation or other legal matters;
  - on matters put out for bid or quotation for which confidentiality is required;
  - (5) on matters related to individual tests; and
  - (6) to prepare, approve, grade, or administer examinations.

#### Section 003 Notice.

- (a) Notice to the Members shall be given in any way, including virtually, reasonably calculated to give actual notice. When other notice may not be given, notice shall be given by US Postal Service, first class mail, and shall be deemed given when mailed.
- (b) Notice to the public shall be given as provided by statute.

### Section 004 Robert's Rules of Order.

Meetings of the Members shall be conducted according to Robert's Rules of Order, most recent revision, unless:

- (a) otherwise specified in these Rules or Regulations, or otherwise by law; or
- (b) the rules of order are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.

### Section 005 Reserved

Section 006 Reserved

### Section 007 Public Meetings

- (a) In general.
  - (1) The Board shall act at its meetings, or as otherwise provided in these Rules or Regulations.
  - (2) The Board shall make provision for the virtual attendance of Members, if a Member so

requests.

- (3)Meetings shall be noticed as required by law.
- A copy of meeting materials distributed to the Members shall be available to any person (4) for review at the meeting site, except for materials subject to confidentiality or privilege as permitted or required by law.
- Time. The time for the regular meetings of the Board shall be set by the Board each year and (b) published, except as otherwise permitted or provided by law.
- Location. (c)
  - Meetings shall be held at such place as the Chair may determine unless otherwise (1) provided by the Board, and the location shall be properly noticed to the public.
  - The Board may meet virtually, and any Member may attend a meeting virtually. (2)
  - When the Board meets virtually, access to the virtual meeting shall be freely given (3)through the noticed site so that any person attending shall have the same access to the meeting as each attending Member at the site. Typically this will include use of a speaker phone for a conference call meeting.
  - Votes of Members may be received by electronic means and announced at a meeting. (4)
- (d) Regular Meetings.
  - Regular meetings shall be held as determined by the Board's Rules or Regulations and (1) as additionally determined by the Board.
  - Pursuant to 3 CMC § 2306(d), the Board shall meet annually in January. (2)
- Special Meetings. Special meetings may be held from time to time, and shall be duly noticed by (e) the Board.
- Executive Session. Ordinarily the Board's meetings shall be open to the public. The Board may (f) meet privately, in Executive Session, for the following purposes:
  - (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or contractors;
  - To discuss pending or potential litigation or investigations; (2)
  - (3) To discuss aspects of the Board's business affairs that are confidential and/or proprietary
  - To address a matter that may give rise to a conflict of interest, or an appearance of a (4) conflict, in the absence of the Member(s) related thereto; and
  - To address other matters permitted by law. (5)
- Virtual discussions. (g)

COMMONWEALTH REGISTER

- The Board may discuss a matter virtually over time, as well as in real time, provided that (1) access to the virtual discussion shall be freely given so that a person seeking to review the discussion as it happens shall have substantially the same access to the discussion as each participating Member.
- Typically such a discussion shall be by electronic bulletin board open to the view of the (2) public.
- (3) Such discussion shall be noticed according to these Rules or Regulations and shall comply with CNMI law regarding open meetings.
- The Board shall arrange for a person, upon request, the reasonable use of a publicly-(4) available computer with internet access in order to allow review of the discussion.
- Accessibility. The Board shall comply with the accessibility requirements required by law and (h)

may, upon a person's request accommodate other special needs relating to sight, sound, language or location.

(This part is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and PL 14-62 § 2306(c),(d), and (e)(10) (powers of the Board as to rules and maintaining records of proceedings.)

Part 00600 Procedures for disciplinary actions, violations of law and other matters (per 3 CMC § 2314(d))

- Section 001 Policy on Board procedures. The following constitute the Board's statement of policy on its procedures:
  - (a) The Board wishes to emphasize that the purpose of our procedures is fairness. That means if one party to a case wishes to tell us something on the law or the facts applicable to the case, ALL parties must be given a copy of the communication or participate in it, if the communication is to be in-person.
  - (b) Settlements and informal resolutions are encouraged.
  - (c) As to the law, the Board urges parties to provide us with well-supported, reasoned submissions. If a party believes that we should, or should not, do something, or decide something, we encourage providing us with clearly reasoned materials supported by the authority of statutory and regulatory language and case law.
  - (d) As to facts, the Administrative Procedure Act generally requires us to decide our cases "on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative, and substantial evidence" (1 CMC sec. 9109(I)). We generally follow the CNMI Rules of Evidence, except when a proceeding is clearly not the formal type requiring reliance on court-type evidence. We also follow the dictates of the CNMI Administrative Procedure Act, 1 CMC sec. 9101 et seq., and commonly accepted authority on the "relaxed" nature of the application of rules of evidence in administrative proceedings.
  - (e) In general, the Board intends to follow the ethics rules found in the Code of Judicial Conduct for the Commonwealth Judiciary to the extent they are relevant to the Board's proceedings. These are reported by the Law Revision Board at <a href="www.cnmilaw.org">www.cnmilaw.org</a>. The Board does not, and will not, engage in ex parte communications on issues which we must decide. These are typically issues of fact and of law.

### Section 002 Practice and procedures.

- (a) NOTICE: A person charged with a violation of the Nurse Practice Act, or otherwise subject to discipline, shall be given written notice and an opportunity for a hearing. When the nature of the matter permits, a person shall be given an opportunity for an informal pre-hearing conference with the Board's staff.
- (b) GENERAL STATEMENT. If there is doubt as to a procedure or practice to follow, parties shall follow the CNMI Rules of Civil Procedure and the CNMI Rules of Practice for the courts, subject to the Board's or the hearing officer's relaxation of the more formal aspects of such rules.
- (c) REPRESENTATION OF A PARTY.
  - (1) A natural person may represent her/himself and must sign each and every submission to the Board as "true subject to the penalties of perjury".

Page 9 of 11

**VOLUME 28 NUMBER 05** 

- (2) Agencies, corporations and other non-natural-persons shall be represented by an attorney. The Board, or its hearing officer, on good cause shown, may relax the requirement an entity other than a natural person must be represented by an attorney.
- (3) An attorney shall file an appearance and include her/his contact information, including email, and CNMI Bar number. Attorneys or the party that they represent must sign each of the submissions.
- (d) DUE DATE. The due date means 4:30 p.m. on the indicated date. The Board's offices close at 4:30 p.m. If a due date falls on an official CNMI holiday or on a weekend or other date when the Board's offices are closed all day long, the next CNMI government work day is the due date. Electronic filings are due by 11:59 p.m. of the due date.
- (e) ELECTRONIC FILINGS. An electronic filing is a filing by email or fax. The Board encourages email filings. The Board will accept attached files in .doc, .wpd, .rtf, and related formats, and requests all persons so filing to maintain up-to-date versions of anti-virus software and appropriate protective patches to their software.
- (f) FILED. Filed means both: (1) physically delivered to the Board's offices or mailed with postmark by the due date AND (2) with a copy provided electronically to the Board. The time the document is emailed or physically mailed, whichever is earlier, is the filing time. (This definition gives a party a time advantage for email filings.)
- (g) SERVED OR SERVICE. Service of documents on parties to Board proceedings who are entitled to service, and/or others identified in an order or official service list, shall be accomplished in the same manner as the filing.
  - (1) Thus, if a document is only filed in hard copy, the filing party is required only to provide it in hard copy to others.
  - (2) If a document is filed electronically, the filing party must provide it concurrently to the other parties in the same electronic format, unless another party waives such service.
  - (3) Since all parties must still file a hard copy, a filing party must also mail or otherwise deliver a hard copy to other parties. But the Board intends that timely service may be accomplished upon the electronic filing.
- (h) MANNER OF SERVICE or MANNER SERVED means at least one of the following measures to assure receipt:
  - (1) Hard copy: Mailed by first class mail, postage prepaid, United States Postal Service mail to the person's previously communicated address, or by USPS or commercial overnight mail.
  - (2) Fax: Faxed to the person's previously communicated fax number/address, with a report of the transaction produced by the sending fax machine.
  - (3) Emailing means sending from the writer's computer system to another computer(s) on the internet and is typically evidenced by an electronic time stamp. Emailing is accomplished to the receiving person's previously communicated email address, with an instruction to generate "return receipt" email, and, if a receipt is generated and received, saved by the sender.
- (i) CERTIFICATE OF SERVICE. A person submitting or otherwise filing a document with the Board in a proceeding shall file a certificate of service attesting to the provision of a copy of the

Page 10 of 11

document to each other party. The certificate of service shall state substantially as follows, filling in the appropriate blanks: "I [name and identification], provided a copy of the following document/s to the following people or parties by doing the following on the following date:

- (1) date:
- (2) document/s:
- (3) method of service:
- (4) addressee/s and/or number:
- (5) 'Signed under the penalties of perjury'."

### Section 003 Other practice and procedure.

- (a) The specific statements and requirements of the Board's opinions and orders, rules, regulations and guidelines control over the following general statements.
- (b) In general, the Commonwealth Rules of Civil Procedure shall apply to the Board's proceedings. These are reported by the Law Revision Commission at <a href="https://www.cnmilaw.org.">www.cnmilaw.org.</a>
- In general, the Commonwealth Rules of Evidence shall apply to the Board's evidentiary proceedings, consistent with principles of administrative law for the "relaxed" receipt of reliable, probative and substantial evidence in order to make just determinations. These rules are reported by the Law Revision Commission at <a href="https://www.cnmilaw.org">www.cnmilaw.org</a>.
- (d) In general, counsel practicing before the Board should conduct themselves according to the Commonwealth Rules of Practice and the Commonwealth Disciplinary Rules and Procedure.

0 Nursing Bd Regs Proposed 0603.wpd

### **PUBLIC NOTICE**

# PROPOSED REGULATIONS FOR THE CONTROL OF STRAY AND FERAL DOGS ON THE ISLANDS OF TINIAN AND AGUIGUAN

The Mayor of Tinian and Aguiguan, pursuant to authority granted by Tinian Local Law No. 12-1, hereby gives public notice of his intention to promulgate regulations that will govern the control of stray and feral dogs on the Island of Tinian and Aguiguan.

All interested persons may examine the proposed regulations and submit written comments, positions, or statements for or against the proposed regulations, to Mr. John E. Untalan, Chief Executive Officer of the Office of the Mayor of Tinian and Aguiguan, PO Box 59, Tinian MP 96952, no later than thirty (30) calendar days following the publication of this Notice.

Dated this 1/4 day of may, 2006, at Tinian, Northern Mariana Islands.

Jose P. San Nicolas
Mayor of Tinian & Aguiguan

Pursuant to 1 CMC section 2153, as amended by Public Law 10-50, the proposed regulations, copies of which are attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

MATTEW T. GREGORY CNMI Attorney General

Filed by:

Commonwealth Registrar

5.15.06

May 19, 2006

Special Assistant for Administration

# PROPOSED REGULATIONS FOR THE CONTROL OF STRAY AND FERAL DOGS ON THE ISLANDS OF TINIAN AND AGUIGUAN

Citation of

Statutory Authority:

The Mayor of Tinian proposes to promulgate regulations that will govern the licensing, control and humane disposal of sick and/or unclaimed dogs on the islands of Tinian and Aguiguan. These regulations are promulgated pursuant to Tinian Local Law No. 12-1.

Short Statement of Goals and Objectives:

Stray dogs on the island of Tinian pose a health problem and in some cases are a danger to residents and visitors. Stray dogs that suffer from malnutrition and disease are unsightly and a negative influence on the tourism industry. Humane considerations demand that such animals be dealt within a proper manner. The proposed regulations shall establish a licensing requirement to insure the protection of dogs that are kept as pets and properly cared for as well as provide funding for the caging and disposal of stray, feral and unwanted dogs.

For further information, you may contact:

Mr. John E. Untalan, Chief Executive Officer Office of the Mayor of Tinian and Aguiguan at 433-1800/09.

Citation to Related of Affected Statutes: NMI Constitution, Article 10, Section 6; 1 CMC S 1402 and Tinian Local Law No. 12-1

### **NUTISIAN PUBLIKU**

## MA PROPONE NA REGULASION POT PARA U ATAHA I MAN SUETTAO YAN MALAMANA SIHA NA GALAGO GI HALOM ISLAN TINIAN YAN AGUIGUAN

I Mayot Tinian yan Aguiguan, sigun gi autoridad gi halom iTinian Local Law No., 12-1 ha-laknos este na notisian pupbliku pot i intension para ufamatinas regulasion anai para u ma-ataha i suettao yan malamana siha na galago gi halom i islan Tinian yan Aguiguan.

Todu siha man interesante na petsonas sina ma-examina i mapropone na regulasion ya u mana-halom tinigi na komento, posision, osino stetmento gi fabot pat contra gi este i ma-propone na regulasion, para guato gi as Senot Juan E. Untalan, Chief Executive Officer gi Ofisinan i Mayot Tinian yan Aguiguan, P.O. Box 59, Tinian MP 96952.

| Mafecha gi _  | 1142        | _ na dia gi | mayo | 2006, giya |
|---------------|-------------|-------------|------|------------|
| Tinian, Sanka | tan na Isla | s Marianas. | 0    |            |

Jose P. San Nicolas Mayot Tinian yan Aguiguan

## MA-PROPONE NA REGULASION POT PARA U MA-ATAHA I SUETTAO YAN MALAMANA SIHA NA GALAGO GI HALOM ISLAND TINIAN YAN AGUIGUAN

I ginanagao gi Lai autoridad:

I Mayot Tinian yan Aguiguan ha-propone na para Unaguaha regulasion anai para u ma-lisensia, ma-ataha yan uma disposa malango yan taya duenon i galago siha gi halom island Tinian yan Aguiguan. Este na regulasion manma fa'lai sigun gi Tinian Local Law No. 12-1.

Kadada na stetmento Pot i para-makumple Yan para-ufatoigue

Man suettao siha na galago gi halom i islan Tinian mana guaguaha piniligro gi hinemlo yan gi nos kuantos biahe mana-guaguaha piniligro gi hinemlo yan gi nos kuantos biahe mana-guaguaha piniligro gi residente yan bisita siha. Man suettao siha na galago ni manmasoksok pot tinahong nengkano niha yan chetnot ni makakatga manna\masa\ ni chatpa'go para turista na industria. Gi kabales na considerasion, debe na este siha na ga\ga\ ufan ma-trata gi pare-hu na manera. I ma-propone na regulasion para una-guaha areklo ni para u ma-lisensia kosa ke ma-asigura i proteksion i galago siha ni manma adahe kumo peneksai yan para u na-guahaye fondo para u fan makolat yan u fan ma-disposa todo suettao, malamana yan ti manmanisisita siha na galago.

Pot mas infotmasion, Sina-ha un agan si:

Senot Juan E. Untalan, Chief Executive Officer, Ofisinan Mayot Tinian yan Aguiguan gi telefon 433-1800/1809.

I ginagagao na Sigun gi fina-lai:

NMI Constitution, Article 10, Section 66, ICMCS140 and Tinian Local Law No. 12-1.

Ofisinan Abugao Henerat.

Ma apreba ginen as:

MATTHEW T. GREGORY
Abugadu Henerat i CNMI

Pinelo as:

BERNADITA B. DELACRUZ
Reghistran i Commonwealth

Marisibe as:

Fecha

Fecha

Fecha

Fecha

Fecha

Espisiat na Ayudante Para i Administrasion

Sigun i lai 1 CMC seksiona 2153, i ma propone na regulasion, i kopia siha ni man checheton, esta man ma ina ya man ma apreba pot para ma fotma yan sufisiente gi

# PROPOSED REGULATIONS FOR THE CONTROL OF STRAY AND FERAL DOGS ON THE ISLANDS OF TINIAN AND AGUIGUAN

### Section 1. Authority.

These regulations are promulgated by the Mayor of Tinian and Aguiguan pursuant to the authority granted by Tinian Local Law 12-1.

### Section 2. Purpose.

These regulations are intended to provide a process to license properly owned and cared for dogs that are kept as pets on the islands of Tinian and Aguiguan; to control and cull feral dogs that may be damaging to the environment, dangerous to persons or to endangered species or a

public nuisance on the islands of Tinian and Aguiguan; to cage stray unlicensed and/or feral dogs and to establish a humane manner of disposal of those dogs which remain unclaimed.

### Section 3. Definitions.

- (a) Dog: Means any animal of the genus Canis.
- (b) Stray dog: Means any unlicensed dog.
- (c) Feral dog: Means dogs that have become wild, have no license or home and who primarily live off the land or in populated areas from garbage and handouts.
- (d) License: Means a visible tag on a collar affixed to a dog's neck and acquired from DLNR upon proper application and payment.
- (e) Humane disposal: Means any method of euthanasia of a dog that is painless and lacking in cruelty.
- (f) Cage or Caging: Means the control of unlicensed dogs by placing in a cage or other place of confinement.

### Section 4. Licensing.

All dogs that are kept, as pets by any persons or persons on the islands of Tinian and Aguiguan shall be licensed by DLNR. Such license may be acquired from the office of DLNR on Tinian upon filling out an application that shall include the name, breed and/or description of the dog, including name, sex, and color, the name of the dog's owner and

the mailing address and telephone number, if any, as well as the dog and owner's physical location on the island. DLNR shall issue a metal tag which shall have stamped on it the name of the dog and it's owner and the telephone number, if any, of the owner. If no telephone, the tag shall have the owner's mailing address stamped thereupon. Such tags shall be affixed to the dog by means of a collar on the dog's neck. The fee for such license shall be \$7.50, paid either by check, money order or cash. If check or money order, it shall be made out to the Tinian Municipal Treasurer. The license shall be renewed annually, twelve (12) months from date of issue. The annual renewal fee shall be \$5.00.

### Section 5. Caging and Manner of Claiming Unlicensed Dogs.

All dogs, not licensed within three (3) months of the date of execution of these regulations shall be captured by DLNR, caged and held at an appropriate location. The dog's description and the place of capture shall be prominently posted at the caging location for five (5) calendar days. If a person wishes to claim any such caged dog within that period, they may do so upon paying the licensing fee and otherwise complying with these regulations. DLNR shall feed and water caged dogs in a proper and healthful manner.

# Section 6. <u>Disposal of Unclaimed Dogs.</u>

All dogs which remain unclaimed shall be disposed of by DLNR in a humane manner approved by PAWS or by the Human Society of America.

### Section 7. Disposition of Fees.

All monies collected for licensing by DLNR shall be transmitted to the Tinian Municipal Treasurer who shall maintain such funds in a separate account and shall be appropriated and used solely for the expenses associated with these regulations by DLNR. Such funds shall be available without fiscal year limitation.

### Section 8. Severability.

If any provision of these regulations is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

### **PUBLIC NOTICE**

# AMENDED PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE GROUP HEALTH INSURANCE PROGRAM

The Board of Trustees of the NMI Retirement Fund, pursuant to its authority under 1 CMC §8424, hereby gives notice to the general public and particularly members of the CNMI Group Health Insurance Program of the amended proposed amendments to the Rules and Regulations Governing the Group Health Insurance as published in the Commonwealth Register as Emergency Regulations in Volume 25, No. 4, at 20083-20105 (effective April 30, 2003), as Proposed Amendments in Volume 25, No. 6, at 20632-20648 (July 15, 2003), as Adopted as Amended in Volume 25, No. 7, at 20964-21050 (effective September 1, 2003), and as Proposed Amendments in Volume 28, No. 4, at 025589-025605 (April 17, 2006). These amended proposed amendments would repromulgate the proposed amendments as published in the Commonwealth Register Volume 28, No. 4, at 025589-025605 on April 17, 2006, and would further revise the proposed language to clarify enrollment option for Annuitant under Section 3.04 -Retiring Employees and Section 4.06 - Rules for Persons Retiring from Government Employment; revise language to clarify enrollment option under Section 3.05 – Retirees and Their Dependents; delete redundant language under Section 4.01(B)(3) - Category Examples; further modify the Chart (summary of covered benefits) under Section 5.02 to exclude daily maximums allowing for an overall 80/20 benefit coverage (on and offisland) for Hospital, ICU, and Skilled Nursing Room & Board and Ambulance Service, and revise language to reflect changes under Section 7.01(A), (B), and (C); eliminate limitation on Allergy Testing & Treatment, and revise language to reflect change under Section 5.04(14); clarify age limitation for Annual Physical Exams, and revise language to reflect change under Sections 5.04(7)(a) and 7.02; eliminate vasectomies and tubal ligations under Birth Control / Contraception, and revise language to reflect change under Section 5.04(3)(d); eliminate Family Planning Services from the summary of benefits chart only, and revise language under Section 5.04(7)(b) to include vasectomies and tubal ligations with a limit of one surgical procedure per lifetime; remove Substance Abuse from Exclusions and include under Mental Health Services. and revise language to reflect change under Sections 5.04(2)(k), 7.06, and 8.01(G)(2)(t2); eliminate maximum limitation on Sleep Study and instead replace with one complete study per lifetime, and revise language to reflect change under Section 7.07 - Sleep Disorder Limitations; clarify age limitation and number of check-ups for Well Child Care, and revise language to reflect changes under Section 5.04(7)(e). These amended proposed amendments would further add language under Section 10.15 regarding increase of premium rates from time to time by promulgating increase pursuant to the Administrative Procedures Act, and augment its current Drug Formulary by including the Preferred Choice Formulary of PharmaCare.

The Board is soliciting comments regarding these amended proposed amendments to the rules and regulations in accordance with 1 CMC §9104(a). Copies of these amended proposed amendments may be obtained at any of the NMI Retirement Fund offices on Saipan, Tinian and Rota. Written comments should be submitted to the Administrator, NMI Retirement Fund, P.O. Box 501247 CK, Saipan, MP 96950-1247. Comments must be received by the Fund within 30 days of the date this notice is published in the Commonwealth Register.

| JOSPEH C. REYES Chairman, Board of Trustees NMI Retirement Fund | KARL T. REYES Administrator, NMI Retirement Fund                                                                                                   |
|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Reviewed for Legal Sufficiency by Le                            | gal Counsel for the NMI Retirement Fund:                                                                                                           |
| • • • • • • • • • • • • • • • • • • • •                         | o the rules and regulations attached hereto have<br>in and legal sufficiency by the Legal Counsel for                                              |
| JAMES E. HOLLMAN<br>Legal Counsel, NMI Retirement Fund          | Date: 05/04/06                                                                                                                                     |
| amendments attached hereto have bee                             | rney General:  1 CMC §9104(a)(3), the amended proposed en reviewed and approved as to form and legal eneral and shall be published pursuant to his |
| MATTHEW T. GREGORY<br>Attorney General                          | _                                                                                                                                                  |
| Filed by:  Date: 5-19.00                                        | BERNADITA B. DELA CRUZ Commonwealth Register (Secretary                                                                                            |
| Received at the Governor's Office by:  Date: 4 1910 0           | ESTHER/SJFLEMING Special Assistant to the Governor for Administration                                                                              |

## NUTISIA PARA I PUPBLIKU PUT I MA AMENDA NA PRINIPONE SIHA NA AMENDASION PARA I AREKLAMENTO YAN REGULASION NI GINIBEBIETNA PUT I PRUGRAMAN GROUP HEALTH INSURANCE

I Board of Trustees i NMI Retirement Fund sigun gi aturidat i Board gi papa 1 CMC §8324, ginen este ha infofotma i pupbliku henerat yan patikulatmente ayu siha na membru qi prugraman i Group Health Insurance pot i ma amenda na prinipone siha na amendasion para i areklamento yan regulasion ni ginibebietna put i prugraman Group Health Insurance, ni ma pupblika gi Rehistran Commonwealth kumu Emergency Regulations di Baluma 25. Numiru 4, di pahina 20083-20105 (efektibu di Abrit 30, 2003), kumu Mapropone Siha na Amendasion gi Baluma 25, Numiru 6, gi pahina 20632-20648 (Julio 15, 2003), kumu ma Adoptan I Mapropone Siha na Amendasion gi Baluma 25, Numiru 7, gi pahina 20964-21050 (efektibu gi Septembre 1, 2003), yan i Mapropone Siha na Amendasion gi Baluma 28, Numiru 4, gi pahina 205589-025605 (Abrit 17, 2006). Este siha na inamendan prinipone siha na amendasion para hu agon propone ayu mapropone siha na amendasion ni ma pupblika qi Rehistran Commonwealth gi Baluma 28, Numiru 4, gi pahina 205589-025605 gi Abrit 17, 2006, van lokue para hu rebisa i mapropone siha na lenguahi para hu na' mas klaru pot i option enrollment para Annuitant gi papa Seksion 3.04 (Retiring Employees) yan Seksion 4.06 (Rules for Persons Retiring from Government Employment); para hu rebisa i lenguahi para hu na' mas klaru pot option enrollment gi papa Seksion 3.05 (Retirees and Their Dependents); para mana' suha i dupble na lenguagi gi papa Seksion 4.01(B)(3) (Category Examples), para hu mas modifika i Chart (Summary of Covered Benefits) gi papa Seksion 5.02 para hu mana' suha i daily maximum yan hu mana' 80/20 na beneficio (para on yan off-island) para Huspitat, ICU, yan Skilled Nursing Room & Board yan setbision Ambulance, yan ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 7.01(A), (B), yan (C); para hu mana' suha i limitation pot Allergy Testing & Treatment, van ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 5.04(14); para hu mana' mas klaru i age limitation para i Annual Physical Exams, yan ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 5.04(7)(a) yan 7.02; para hu mana' suha i vasectomies van tubal ligations gi papa Birth Control / Contraception, van ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 5.04(3)(d); para hu mana' suha i Setbision Family Planning ginen i Summary of Benefits Chart only, yan ma rebisa i lenguahi gi papa Seksion 5.04(7)(b) para hu mana' halom i vasectomies yan tubal ligations yan i limit para uno na surgical procedure gi linala; para hu mana' suha i Substance Abuse ginen i Exclusions va hu mana' halom van i setbision Mental Health. yan ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 5.04(2)(k), 7.06, yan 8.01(G)(2)(t2); para hu mana' suha i maximum limitation gi bandan setbisio pot maestudian maigu (Sleep Study) ya para hu mana' halom i uno na complete study per lifetime, yan ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 7.07 (Sleep Disorder Limitations); yan gi uttimu para hu mana' mas klaru i age limitation yan kuanto biahi sinia ma check-up gi papa Well Child Care, yan ma rebisa i lenguahi para hu maya' yan este na amendasion gi papa Seksion 5.04(7)(e). Este siha na inamendan prinipone siha na amendasion mas mana' halom lenguahi gi papa Seksion 10.15 pot i mahatsan' premiu gi futura yan i mapupblikan i hinatsan premiu sigun gi lai kumu i Administrative Procedures Act, yan gi mas uttimu para hu ma' subplimento i bandan ammot siha kumu i *Drug Formulary* ya mana' halom lokue ayu siha na ammot ni gaige gi Preferred Choice Formulary ginen PharmaCare.

I Board ha sosoyo hayi malago para u fana'halom komentu rekomendasion pot i inamenda na prinipone siha na amendasion gi Areklamento yan Regulasion sigun gi 1 CMC §9104(a). Kopian este na inamenda na prinipone siha na amendasion sinia manmachule gi maseha amanu siha na ofisinan NMI Retirement Fund giya Saipan, Tinian, yan Luta. Todo manmatugi na komentu debi na u ma submite guato gi ofisinan i Administradot i NMI Retirement Fund, gi P.O. Box 501247 CK, Saipan, MP 96950-1247. Todo komentu debi na marisibi nu i Fund gi halom trenta (30) dias desde i pupblikasion este na nutisia gi halom i Rehistran Commonwealth.

Mafecha guine na dia i mina' 4th gi Mayo 2006.

JOSEPH C. REYES

Chairman, Board of Trustees

**NMI** Retirement Fund

KARL T. REYES

Administrator NMI Retirement Fund

### Rinibisa yan Settefikasion i Abugado Para i NMI Retirement Fund:

I ma amenda na prinipone siha na amendasion gi areklamento yan regulasion ni chechetton guine, esta manmaeksaminan maolek yan manma apreba nu i Abugadon i NMI Retirement Fund.

JAMES E. HOLLMAN

Abugadon i NMI Retirement Fund

Date: 01/04/00

### Settefikasion i Ofisinan Abugadon Henerat CNMI:

Sigun gi 1 CMC §2153 yan 1 CMC §9104(a)(3), i areklamento yan regulasion siha ni chechetton guine esta manma rebisa yan ma apreba ginen i Ofisinan Abugadon Henerat CNMI ya u ma pupblika sigun gi aturidat i Abugadon Henerat gi papa 1 CMC §2153(f).

Mafecha guine na dia i mina'  $\ell^q$  gi Mayo 2006.

MATTHEW T. GREGORY

COMMONWEALTH REGISTER

Abugadon Henerat

Fecha:

| State | Stat

### **ARTICLE 2 – DEFINITIONS**

- 2.07. "Child" means a Subscriber's unmarried
  - a. natural Child;
  - b. legally adopted Child or Child placed for adoption;
  - c. stepchild living with the Subscriber in a normal parent/Child relationship;

<del>Of</del>

- d. Child under his or her court appointed legal guardianship;
- so long as such Child is under the age of 18 and primarily supported by the Subscriber. However, coverage may be available for a Child over 18 years if the Child meets the exception in Article 3, Section 3.02. If a court of competent jurisdiction has ordered that the Subscriber provide health insurance coverage for such Child, the Child need not be primarily supported by the Subscriber.
- 3.04. Retiring Employees. An Employee who was enrolled in the Program on the day immediately preceding his or her date of retirement is eligible to continue enrollment in this Program for himself or herself, as a Retiree, and to continue the enrollment of any Dependents who were enrolled as of the last day of the Employee's employment. However, an active Employee who was not enrolled in the prior Program (effective June 1, 2002) on the day immediately preceding his or her date of retirement are ineligible to enroll. However, an Annuitant only has a one-time option to enroll, and the Annuitant who fails to do so, will be forever ineligible for enrollment of the Annuitant and any Dependents of the Annuitant.
- 3.05. **Retirees and Their Dependents in Prior Program.** A Retiree and his or her Dependents are eligible to enroll in the Program if they
  - a. <u>were enrolled in a Prior Program on the Effective Date of this have exercised their one-time option to enroll in the Program; and</u>
  - b. had no break in coverage under the any Prior enrollment Program between the Effective Date of this Program and the Effective Date of coverage under this Program. (maintained status in the Program after one-time election of coverage). However, an Annuitant only has a one-time option to enroll, and the Annuitant who fails to do so, will be forever ineligible for enrollment.
- 3.15. <u>Coverage of Spouses. Eligibility of current Spouse only. No Subscriber may enroll a Spouse unless currently legally married.</u>

### **ARTICLE 4 - ENROLLMENT**

<u>2</u>

### **Enrollment Options and Categories.**

- Α. Options for coverage available under the Plan are is as follows:
  - High Option 80/20 coverage. 1. The Plan pays 80% of Eligible Charges, and the Enrollee pays 20%.
  - Low Option 70/30 coverage. The Plan pays 70% of Eligible Charges and the Enrollee pays 30%.
- B. Enrollment Ccategories of coverage.
  - 1. Available category and code option selections:
    - a. Self Only, High Option Single, Enrollment Code No. 1
    - b. Self Plus One, High Option Couple, Enrollment Code No.
    - C. Self Plus Four, High Option Family, Enrollment Code No.
  - <u>3</u> d. Self Plus Five Plus, High Option
    - e. Self Only, Low Option
    - f. Self Plus One, Low Option
    - g. Self Plus Four, Low Option
    - h. Self Plus Five Plus, Low Option
  - 2. Category explanations:
    - "Self Only Single" refers to the Subscriber only. Only one a. Enrollee may be covered under this category of the Plan.
    - b. "Self Plus One Couple" refers to a Subscriber with one (1) Dependent. The Dependent may be a Spouse or eligible Child, but a maximum of two (2) total Enrollees (including the Subscriber) may be covered under this category of the Plan.
    - "Self Plus Four Family" refers to a Subscriber with up to C. two (2) or more Dependents. The Dependents may be a Spouse and eligible Children or all eligible Children, but a maximum of five (5) total Enrollees (including the Subscriber) may be covered under this category of the Plan.

d. "Self Plus Five Plus" refers to a Subscriber with five (5) or more Dependents. The Dependents may be a Spouse and eligible Children or all eligible Children, but this category must be selected in order to cover six (6) or more Enrollees (including the Subscriber) in the Plan.

### 3. Category Examples:

| Self Only<br>Single      | Employee only                                                                                                                                        | 1 total Enrollee                                                                                                                               |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Self Plus One<br>Couple  | Employee + Spouse  OR  Employee + eligible Child                                                                                                     | 2 total Enrollees  OR  2 total Enrollees                                                                                                       |
| Self Plus Four<br>Family | Employee + Spouse + <del>up to 3</del> <u>1 or</u> <u>more</u> eligible Children  OR  Employee + <del>up to</del> 2 <u>or more</u> eligible Children | Up to 5 total Enrollees No limit to the number of eligible Enrollees  OR  Up to 5 total Enrollees No limit to the number of eligible Enrollees |
| Self Plus Five<br>Plus   | Employee + Spouse + 4 or more eligible Children  OR  Employee + 5 or more eligible Children                                                          | No limit to the number of eligible Enrollees  OR  No limit to the number of eligible Enrollees                                                 |

4.06. Rules for Persons Retiring from Government Employment. Enrollment in the Program may be continued for an Employee who retires from Government employment and who was an Enrollee in the Program on the day before his or her date of retirement, by filing an Application Form prescribed by the Administrator whether to continue or discontinue enrollment for both Retiree and his/her Dependents and acknowledging that he or she understands the consequences as specified in this Article for discontinuing enrollment. The

Retiree's election to continue enrollment shall be effective to continue enrollment of his/her Dependents enrolled as of the date of the Retiree's dates of retirement. However, an Employee who was not enrolled in the prior Program (effective June 1, 2002) on the day immediately preceding his or her date of retirement are ineligible to enroll. However, an Annuitant only has a one-time option to enroll, and the Annuitant who fails to do so, will be forever ineligible for enrollment of the Annuitant and any Dependents of the Annuitant.

### **ARTICLE 5 – BENEFITS**

5.02. Chart. The chart below is a summary of the Plan's Covered Benefits. Enrollees should not rely only on this outline. Enrollees must review this entire Plan Document to fully understand the Covered Benefits including the limitations, maximums and exclusions that are detailed in Articles 6, 7 and 8 of this Plan Document.

### **SUMMARY OF COVERED BENEFITS**

|                                                                                                                                                                                                              | HIGH C<br>ENROLLMEN<br>AN                            | T CODES 1, 2     | LOW OPT                    | ION PLAN       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------|----------------------------|----------------|
| Annual Maximum Per Enrollee (Plan Year is 1/1/xx-12/31/xx)                                                                                                                                                   | \$100,000                                            |                  | \$ <del>50,000</del>       |                |
| Lifetime Maximum per Enrollee                                                                                                                                                                                | \$500                                                | ),000            | <del>\$250,000</del>       |                |
| Out-Of-Pocket Maximums per Enrollee  HIGH OPTION - 20% of the first \$20,000 per  Enrollee per year, then Plan pays 100%  LOW OPTION - 30% of the first \$20,000 per  Enrollee per year, then Plan pays 100% | \$4,000                                              |                  | <del>\$6,000</del>         |                |
| Out-Of-Pocket Maximums per Family (by                                                                                                                                                                        | Self Only Single - \$4,000                           |                  | Self Only-\$6,000          |                |
| Coverage Category)                                                                                                                                                                                           | Self Plus One Couple - \$8,000                       |                  | Self Plus One - \$12,000   |                |
|                                                                                                                                                                                                              | Self Plus Four F                                     | amily - \$12,000 | Self Plus Four - \$18,000  |                |
|                                                                                                                                                                                                              | Self Plus Five Plus - \$16,000   Self Plus Five Plus |                  | <del>Plus - \$24,000</del> |                |
| FACILITY SERVICES                                                                                                                                                                                            | ON-ISLAND                                            | OFF-ISLAND       | ON-ISLAND                  | OFF-ISLAND     |
| Hospital Room & Board: Including semi-private room and board                                                                                                                                                 | 80% w/ Max:<br>\$300/day                             | 80%              | 70% w/ Max:<br>\$250/day   | <del>70%</del> |
| ICU Room & Board                                                                                                                                                                                             | 80% w/ Max:<br>\$900/day                             | 80%              | 70% w/ Max:<br>\$750/day   | <del>70%</del> |
| Skilled Nursing Room & Board                                                                                                                                                                                 | 80% w/ Max:<br>\$150/day                             | 80%              | 70% w/ Max:<br>\$125/day   | <del>70%</del> |
|                                                                                                                                                                                                              | 60 Day Max per Year 30 Day Max Per                   |                  | x Per Year                 |                |
| Other in-patient and out-patient hospital charges such as operating room, drugs, x-ray, laboratory, and medical supplies                                                                                     | 80                                                   | 0%               | 70%                        |                |

| PRESCRIPTION DRUG SERVICES                                                                                                                                                                                                                                    |                          |                   |                                                                                                                                                                                                                                                                                                                                                                                                        |               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Prescription Drugs  • All covered generic medications are preferred and covered at 20% coinsurance for participating Providers, 30% for non-participating Providers.  • Non-formulary Brand medications require a 50% member coinsurance amount               |                          |                   | on prescribed: ce for generic, co for name brand rence in cost deric and name sed by a evider or 30% generic, 30% name brand plus n cost between nd name brand Non Participating 0% coinsurance nulary brand spensed by a Non-Participating day supply from a 90 day supply mail order Rx a pharmacy Incorporate will be the mail order rate). Certain y have a 30 day and may not be 00 day supply or |               |
| COVERED SERVICES                                                                                                                                                                                                                                              | ON-ISLAND                | OFF-ISLAND        |                                                                                                                                                                                                                                                                                                                                                                                                        | OFF-ISLAND    |
| Allergy Testing & Treatment <u>one series per</u>                                                                                                                                                                                                             | 80                       | )%                |                                                                                                                                                                                                                                                                                                                                                                                                        | )%            |
| Ambulance: Surface only                                                                                                                                                                                                                                       | Max of \$150<br>per trip | 80%               | Max of \$150                                                                                                                                                                                                                                                                                                                                                                                           | 70%           |
| Annual Physical Exams: Including chest x-ray, BP check, cholesterol screening (>25yrs), mammogram, PAP smear, vision & hearing screening. Max. of \$150 per enrollee per year (age 18 and above).                                                             | 80%                      |                   |                                                                                                                                                                                                                                                                                                                                                                                                        | )%            |
| Birth Control / Contraception – <u>Vasectomies</u> , tubal ligations, and birth control devices.                                                                                                                                                              | 80                       | 0%                | 70                                                                                                                                                                                                                                                                                                                                                                                                     | <del>)%</del> |
| Blood and Blood Products                                                                                                                                                                                                                                      | 80                       | )%                | 70                                                                                                                                                                                                                                                                                                                                                                                                     | <del>)%</del> |
| Dental Work & Oral Surgery due to accident or injury only, including: fractures of jaw or facial bones, congenital anomalies, stones in salivary ducts, impacted teeth, problems with oro-facial muscle attachments, & other surgery on tissues of the mouth. | 80                       | 0%                |                                                                                                                                                                                                                                                                                                                                                                                                        | <del>)%</del> |
| Durable Medical Equipment: wheelchairs, crutches, walkers, suction machines, hospital beds, commodes, O <sub>2</sub> , O <sub>2</sub> accessories,                                                                                                            | 80                       | )%                | 70                                                                                                                                                                                                                                                                                                                                                                                                     | <b>3</b> %    |
| respirators and braces (e.g. leg, arm or back).                                                                                                                                                                                                               |                          |                   | 70                                                                                                                                                                                                                                                                                                                                                                                                     | 20/           |
| Family Planning Services. Limited to one                                                                                                                                                                                                                      | 80                       | <del>)%</del>     | <del>/</del> 4                                                                                                                                                                                                                                                                                                                                                                                         | <del>)%</del> |
| Family Planning Services. Limited to one session per lifetime.  Hearing Aids: one two (2) device(s) per ear every 5 years, maximum allowable is \$750 per device.                                                                                             |                          | <u>19%</u><br>19% | <u> </u>                                                                                                                                                                                                                                                                                                                                                                                               | 0%            |
| Family Planning Services. Limited to one session per lifetime.  Hearing Aids: one two (2) device(s) per ear every 5 years, maximum allowable is \$750 per                                                                                                     | 80                       |                   | 70                                                                                                                                                                                                                                                                                                                                                                                                     |               |

|                                                        |         | ···                                                                  |                                       |  |
|--------------------------------------------------------|---------|----------------------------------------------------------------------|---------------------------------------|--|
| Maternity Care: Including physician's care of          |         |                                                                      |                                       |  |
| mother before, during and after delivery (1            |         | 80%                                                                  | <del>70%</del>                        |  |
| postpartum visit), physician's hospital care of        |         |                                                                      |                                       |  |
| mother and newborn)                                    |         | <del></del>                                                          |                                       |  |
| Mental Health / Substance Abuse Services:              |         |                                                                      |                                       |  |
| Inpatient: Includes Professional services related      |         | 80%                                                                  | <del>70%</del>                        |  |
| to inpatient care.                                     |         |                                                                      |                                       |  |
| Outpatient: Includes Professional services             | Max     | kimum of \$1,000 per year                                            | Maximum of \$1,000 per year           |  |
| related to outpatient care.                            |         | ~ <del></del>                                                        |                                       |  |
| Newborn Nursery Services for days in which the         |         |                                                                      |                                       |  |
| mother & newborn are both confined. All other          |         | 80%                                                                  | <del>70%</del>                        |  |
| expenses, newborn must be enrolled within 30           | ı       |                                                                      |                                       |  |
| days from birth.                                       |         | - · · · · · · · · · · · · · · · · · · ·                              |                                       |  |
| Organ Transplants: Cornea, Heart, Heart-Lung,          |         |                                                                      |                                       |  |
| Kidney, Kidney-Pancreas, Lung, Pancreas, Bone          |         | 80%                                                                  | <del>70%</del>                        |  |
| Marrow, as specified in Plan, and Liver, as            |         |                                                                      |                                       |  |
| specified in Plan.                                     |         |                                                                      |                                       |  |
| Physical Therapy / Occupational Therapy /              |         |                                                                      |                                       |  |
| Chiropractic Care. Maximum of \$25 per visit &         |         | 80%                                                                  | <del>70%</del>                        |  |
| 15 visits per enrollee per year.                       |         |                                                                      |                                       |  |
| Physician Office Visits.                               |         | 80%                                                                  | 70%                                   |  |
| Prosthetic Devices (other than dental).                |         | 80%                                                                  | 70%                                   |  |
| Sleep Study: Maximum 2 per lifetime                    |         |                                                                      |                                       |  |
| 1 <sup>st</sup> Visit                                  |         | 80%                                                                  | <del>70%</del>                        |  |
| 2 <sup>nd</sup> Visit One (1) complete study per       |         | <u>50%</u>                                                           | <del>50%</del>                        |  |
| lifetime                                               |         |                                                                      |                                       |  |
| Smoking Cessation Counseling (one series per           |         | 80%                                                                  | 70%                                   |  |
| lifetime).                                             |         |                                                                      |                                       |  |
| Speech Therapy.                                        |         | 80%                                                                  | 70%                                   |  |
| Well Child Care up from Age 0-18 to age 5:             |         |                                                                      |                                       |  |
| Including routine immunizations & screenings for       |         | 80%                                                                  | <del>70%</del>                        |  |
| anemia, TB, hearing and vision problems.               |         |                                                                      |                                       |  |
| EXCLUSIONS - NOT COVERED UNDER THE PL                  | AN      | <del></del>                                                          |                                       |  |
| Abortions (elective)                                   |         | Orthopedic Shoes, Insoles &                                          | other supportive devices              |  |
| Acupuncture                                            |         | Palliative Treatment                                                 |                                       |  |
| Air Ambulance                                          |         | Personal comfort and conver                                          |                                       |  |
| Air conditioners, humidifiers, de-humidifiers & purifi | iers    |                                                                      | ning or continuing employment,        |  |
|                                                        |         | insurance, gov't. licensing, or                                      |                                       |  |
| Biofeedback                                            |         | Physical Therapy except as s                                         | specified above                       |  |
| Chiropractic Care except where specified above         |         | Private Duty Nursing                                                 |                                       |  |
| Circumcision, routine or ritual                        |         | Rehabilitation therapy except                                        | as specified in Plan                  |  |
| Consultation with Provider via phone, fax or e-mail    |         | Rest Cures                                                           |                                       |  |
| Contact lenses, eyeglasses, and refractive surgery     |         | Rest Homes, sanitariums, & other non-hospitals or non-SNF            |                                       |  |
| Cosmetic Surgery and other cosmetic services           |         | Reversal of Voluntary Sterilization                                  |                                       |  |
| Custodial, Domiciliary and Convalescent Care, inc      | cluding | Substance Abuse professional and facility services                   |                                       |  |
| nutritional supplements                                |         |                                                                      |                                       |  |
| Dental work or oral surgery, including endodontion     | c (root | Suicide Attempts & related in                                        | juries                                |  |
| canal) & periodontic services                          | 1       |                                                                      |                                       |  |
| Donor Services                                         |         |                                                                      | ss resulting from natural disaster or |  |
|                                                        |         | act of War                                                           |                                       |  |
| Drugs and Medicines for which a prescription           | is not  |                                                                      |                                       |  |
| required under U.S. federal law                        |         | from racing or speed testing a motor vehicle                         |                                       |  |
| Exercise Equipment, vitamins, steroids and r           | nuscle  | Services for an injury sustained because of a criminal act by        |                                       |  |
| stimulation devices                                    |         | the Enrollee including DUI b                                         | y the Enrollee                        |  |
| Experimental or investigative services                 |         | Services for an intentionally self-induced illness or self-inflicted |                                       |  |
|                                                        |         | injury, while the Enrollee was                                       | sane or insane                        |  |
| Fertility / Infertility Services                       |         | Services or supplies for                                             | or treatment or diagnosis of          |  |
|                                                        |         | Temporomandibular Joint (1                                           | MJ) disorders or other conditions     |  |
|                                                        |         | involving joints or muscles re                                       | lated to TMJ.                         |  |
| Foot reflexology except as related to diabetic condi   | itions  | Services rendered by an im                                           | mediate relative or member of the     |  |
|                                                        |         | Enrollee's household.                                                |                                       |  |
| Gastric Bypass                                         |         | Sexual dysfunction services                                          |                                       |  |
|                                                        |         | ·                                                                    |                                       |  |

Proposed Amendments to the Rules and Regulations Governing the Government Group Health Insurance Program – April 2006 (as Amended May 2006)

| Growth Hormone Therapy                               | Telephone calls by doctors                                                                                                       |  |  |
|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|--|--|
| Heat Lamp Treatments (except as related to Maternity |                                                                                                                                  |  |  |
| Services)                                            |                                                                                                                                  |  |  |
| Hospice Care                                         | Transportation of remains of deceased                                                                                            |  |  |
| Implants, supplies and drugs for cosmetic purposes   | Transportation other than ground ambulance service                                                                               |  |  |
| Liposuction                                          | Transsexual services                                                                                                             |  |  |
| Living Expenses                                      | Treatment of baldness and hair loss                                                                                              |  |  |
| Massage Treatments                                   | Tuberculosis                                                                                                                     |  |  |
| Maternity Care for non-Spouse Dependent              | Weight Control Programs or drugs, food products, supplements or services for weight reduction, even if prescribed by a physician |  |  |
| Military Service-Connected Injuries or disabilities  | Workers' Compensation related services                                                                                           |  |  |
| Occupational Therapy except where specified above    |                                                                                                                                  |  |  |

All services are subject to "Medical Necessity" and in most cases MUST be ordered by a licensed Physician.

- 5.04. Other Benefits. Subject to the definitions, limitations, maximums and exclusions of the Program, Eligible Charges for the following Services, in or out of a Hospital, are Allowable Expenses:
  - 2. Surgical and Medical Services.
    - k. Mental Health <u>/ Substance Abuse</u> Services. Services of a licensed psychiatrist or psychologist for treatment of mental, psychoneurotic or personality disorders <u>and substance abuse as it relates to alcohol, drug or intoxicating substance abuse, dependence or addition</u>. If Services are provided by a psychologist, such Services must be in accordance with a referral and specific instructions as to treatment type and duration by a Doctor of Medicine (M.D.).

Inpatient mental health <u>/ substance abuse</u> Services for room and board and other inpatient diagnostic and laboratory Services shall be covered by the Plan on the same basis as other inpatient Hospital and medical and surgical benefits and subject to the same limitations, except as otherwise stated herein.

- 3. Outpatient Services.
  - d. **Birth Control/Contraception.** <u>Vasectomies, tubal ligations, and</u> Prescription contraceptives <u>and birth control devices</u>.
- 6. **Maternity Services.** 
  - a. Prenatal Care. Standard prenatal care, as recommended by The American College of Obstetricians and Gynecologists, and the ensuing childbirth or miscarriage, and any medical conditions relating thereto. Diagnostic tests, including genetic screening, related to the unborn Child are eligible for payment or

reimbursement only when Medically Necessary and ordered by a Doctor or Physician.

### 7. Preventive Care Services.

- a. Annual Physical Check-Up (Exam). One (1) annual physical exam per Enrollee (age 18 and above), except as excluded in Article 8, including, but not necessarily limited to one:
- b. Family Planning. <u>Limited to Qone</u> (1) <u>family planning counseling</u> <u>session</u>; <u>surgical procedure for tubal ligation or vasectomy</u> per lifetime.
- e. **Well-Child Care.** Well-Child care program through age five (5) 0-18, including immunizations for DPT, typhoid, cholera, polio, small pox, mumps, measles, rubella, hepatitis, influenza, whooping cough, typhus, tetanus, chicken pox and any other immunizations required by the laws of the jurisdiction in which the Child is domiciled, and screening for anemia, tuberculosis, and hearing and vision problems.

Subject to the Plan's Schedule of Benefits, covered well-Child care visits are limited to three (3) seven (7) routine well-baby visits during the first twelve (12) months of a Child's life, two (2) visits during the second (next) twelve (12) months, and one (1) annual visit during ages three (3), four (4) and five (5) two (2) through eighteen (18).

14. Allergy Testing and Treatment. Allergy testing and treatment is limited to one series of tests per calendar year allowable as services are rendered per CPT Codes with no maximum, restriction or time period for such services. Allergy treatment and Medication is covered on the same basis as other medical conditions under the Plan

### **ARTICLE 6 - COINSURANCE AND CO-PAYMENTS**

- 6.03. Except as otherwise specifically provided in Article 7, Enrollees in the "High Option-Plan" must pay a Coinsurance amount of 20% of Eligible Charges for all Covered Benefits specified in Article 5, Section 5.02.
- 6.04. Except as otherwise specifically provided in Article 7, Enrollees in the "Low Option Plan" must pay a Coinsurance amount of 30% of Eligible Charges for all Covered Benefits specified in Article 5, Section 5.02.

### ARTICLE 7 - LIMITATIONS AND MAXIMUMS

7.01. Inpatient Limitations.

- A. On-island Hospital Room and Board. The "High Option Plan" limits to \$300 per day, and the "Low Option Plan" limits to \$250 per day, the maximum amounts the Program will pay 80% of the appropriate hospital rate billed for room and board and general nursing care while an Enrollee is confined in an On-island Hospital, unless the Enrollee is confined in a Hospital intensive care unit.
- B. On-island Intensive Care Room and Board. The "High Option Plan" limits to \$900 per day, and the "Low Option Plan" limits to \$750 per day, the maximum amounts the Program will pay 80% of the appropriate hospital rate billed for room and board and general nursing care while an Enrollee is confined in an On-island Hospital intensive care unit.
- C. On-island Skilled Nursing Facility Room and Board. The "High Option Plan" limits to \$150 per day for of 60 days, and the "Low Option Plan" limits to \$125 per day for 30 days, the maximum per Plan Year the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in an On-island Skilled Nursing Facility.
- 7.02. **Physical Exam Limitation.** The maximum amount the Program will pay for physical exams is limited to \$150 per Enrollee (age 18 and above) per Plan Year.
- 7.06. Mental Health / Substance Abuse Limitations. Both the High Option Plan and Low Option The Plan have has a limit of \$1000.00 per Enrollee per Plan Year as the maximum amount the Program will pay for Doctors' and/or psychologists' Services in connection with inpatient or outpatient treatment of Mental or Nervous Disorders and substance abuse. No mental health / substance abuse Services shall be eligible for reimbursement hereunder unless
  - i. the Enrollee has a Nervous or Mental Disorder classified as such in the current (at the time of diagnosis) version of the Diagnostic and Statistical Manual of the American Psychiatric Association; and
  - ii. the Services are provided under an individualized treatment plan approved by a Physician, psychologist, clinical social worker or advanced practice registered nurse.
  - iii. Epilepsy, senility, mental retardation or other developmental disabilities do not in and of themselves constitute a Mental Disorder.
- 7.07. Sleep Disorder Limitations. Upon Physician referral, the Plan will pay for a maximum of two (2), one-night visits, one (1) complete study per lifetime, per Enrollee, to a licensed and/or approved sleep center, for diagnosis and/or treatment of a sleep disorder.

- A. The High Option Plan will cover the first such visit at eighty percent (80%), with the Enrollee paying the twenty percent (20%) Coinsurance.
- B. The Low Option Plan will cover the first such visit at seventy percent (70%), with the Enrollee paying the thirty percent (30%) Coinsurance.
- C.B. Both the High Option The Plan and the Low Option Plan will cover fifty percent (50%) of a second visit, with the Enrollee paying fifty percent (50%) Coinsurance for the second visit.
- D.CB. The maximum dollar benefit the Plan will pay in any case is \$2,000.00, per Enrollee, per visit.

### 7.08. Family Out-Of-Pocket Maximums.

- A. The family Out-Of-Pocket Maximum is the total aggregate maximum amount that a Subscriber must pay in Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.02, incurred during a Plan Year for all Enrollees in that Subscriber's family unit combined. Once a family's Out-Of-Pocket Maximum is reached, all Enrollees in such family will be considered to have reached their Coinsurance maximum, and the Program will pay 100% of Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.02, up to the Annual and Lifetime Maximums.
- B. For Enrollees in the "High Option Plan", the family Out-Of-Pocket Maximums per category are defined in Article 5, Section 5.02.
- C. For Enrollees in the "Low Option Plan", the family Out-Of-Pocket Maximums per category are defined in Article 5. Section 5.02.

### 7.09. Annual Maximums.

The total benefits provided to an Enrollee under this Plan shall not, under any circumstances, exceed \$50,000 or \$100,000, Annually, depending on the Option chosen. The maximum shall apply to any and all benefits provided an Enrollee in the aggregate during the Plan Year under this Plan, whether such Enrollee derives such benefits as an Enrollee or as a Dependent or whether there is any interruption in the continuity of his or her coverage under this Plan.

- A. Under the "High Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during a Plan Year is \$100,000.
- B. Under the "Low Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during a Plan Year is \$50,000.

Once the Program has paid out the total amount of the Annual Maximum Ç₿. for an Enrollee, the Enrollee will not be entitled to coverage under the Program for the remainder of that Plan Year.

## 7.10. Lifetime Maximums.

The total benefits provided to an Enrollee under this Plan shall not exceed \$250,000 or \$500,000, Lifetime, depending on the Option chosen. maximum shall apply to any and all benefits provided an Enrollee in the aggregate during his or her lifetime under this Plan, whether such Enrollee derives such benefits as an Enrollee or as a Dependent or whether there is any interruption in the continuity of his or her coverage under this Plan.

- Under the "High Option Plan", the Lifetime Maximum that the Program will Α. pay is \$500,000 per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during the Enrollee's lifetime.
- Under the "Low Option Plan", the Lifetime Maximum that the Program will pay is \$250,000 per Enrollee for all Covered Benefits, specified in Article 5. Sections 5.04:1 through 11 (combined), incurred during the Enrollee's lifetime.
- C.B. If an Enrollee terminates the Program and later re-enrolls, his or her Lifetime Maximum will be that amount remaining as of the last day the Enrollee was enrolled in the Program, including all reductions for payments of Covered Benefits, specified in Article 5, Section 5.02 under Facility Services, Prescription Drug Services and for Physician office visits under Covered Services (combined), which were incurred prior to the date of termination and paid either before or after such date.
- D.C. Once the Program has paid out the total amount of the Lifetime Maximum for an Enrollee, the Enrollee will not under any circumstances be entitled to coverage or indemnification under the Program for the remainder of his or her life.

#### **ARTICLE 8 -- EXCLUSIONS**

- 8.01. The limitations and exclusions provided under this Article shall be in addition to any limitations and exclusions provided elsewhere in this Plan.
  - G. The following charges and Services are not Covered Benefits under the Program. The fact that a Service may be Medically Necessary or that a Doctor may prescribe, recommend or approve a Service does not, of itself, make the charge for such Service an Allowable Expense under the Program, even though the Service is not specifically listed as an exclusion.

## 2. Services.

t2. Substance Abuse Services. Any Service related to alcohol,

Drug or intoxicating substance abuse, dependence or
addiction. Hospital, treatment facility, Medication,
counseling and other related charges for these Services are
also excluded.

## **ARTICLE 10 - PREMIUMS**

10.15. The Chart below details the bi-weekly Contributions required from Subscribers and the Government, and the total Premium, beginning on the Effective Date of this Plan Document, which Effective Date is April 23, 2003 July 1, 2006. Beginning with the partial Plan Year that commences April 23, 2003 July 1, 2006, the Government Contribution and total Premium for each category and option of coverage shall be as follows (see next page).

Unless determined otherwise by actuarial study and recommendation, the Government Contribution to Premiums shall increase by five percent (5%) annually, each such increase to become effective at the beginning of the Plan Year, with the first such increase being effective in January 2003. The automatic increases shall continue annually until such time the Government's Contribution is equal to the Subscriber's Contribution.

Contribution Rates
Rates Effective April 23, 2003 July 1, 2006

| Type of<br>Enrollment                      | Enrollment<br>Code<br>Number | Contribution<br>Distribution                                        | Retiree<br>Semi-monthly Cost                                                | Active<br>Bi-weekly Cost                                                       |
|--------------------------------------------|------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Self Only<br>High Option<br>Single         | 201<br>1                     | Government Contribution<br>Subscriber Contribution<br>Total Premium | \$12.67 <u>\$14.68</u><br>\$40.85 <u>\$41.32</u><br>\$53.52 <u>\$56.00</u>  | \$11.70 <u>\$13.55</u><br>\$37.71 <u>\$51.45</u><br>\$49.41 <u>\$65.00</u>     |
| Self Plus<br>One<br>High Option<br>Couple  | <del>202</del><br><b>2</b>   | Government Contribution<br>Subscriber Contribution<br>Total Premium | \$22.93 <b>\$26.55</b><br>\$73.93 <b>\$83.45</b><br>\$96.86 <b>\$110.00</b> | \$21.17_ <b>\$24.51</b><br>\$68.24_ <b>\$90.49</b><br>\$89.41_ <b>\$115.00</b> |
| Self Plus<br>Four High<br>Option<br>Family | 203<br>3                     | Government Contribution<br>Subscriber Contribution<br>Total Premium | \$ 33.21_\$50.48<br>\$ 107.00 \$139.52<br>\$140.21_\$190.00                 | \$ 30.66 \$46.60<br>\$ 98.76 \$133.40<br>\$129.42 \$180.00                     |

| · · · · · · · · · · · · · · · · · · · |                 | <del></del>                                                         | <del></del>                             |                                         |
|---------------------------------------|-----------------|---------------------------------------------------------------------|-----------------------------------------|-----------------------------------------|
| Self Plus<br>Five Plus<br>High Option | <del>20</del> 4 | Government Contribution Subscriber Contribution Total Premium       | \$ <u>43.62</u><br>\$140.06<br>\$183.68 | \$ <u>40.26</u><br>\$129.28<br>\$169.54 |
| Self Only<br>Low Option               | 205             | Government Contribution Subscriber Contribution Total Premium       | \$ 7.96<br>\$25.70<br>\$33.66           | \$-7.35<br>\$23.72<br>\$31.07           |
| Self Plus<br>One<br>Low Option        | <del>20</del> 6 | Government Contribution<br>Subscriber Contribution<br>Total Premium | \$13.54<br>\$43.78<br>\$57.32           | \$12.50<br>\$40.41<br>\$52.91           |
| Self Plus<br>Four<br>Low Option       | <del>207</del>  | Government Contribution Subscriber Contribution Total Premium       | \$19.11<br>\$61.86<br>\$80.97           | \$17.64<br>\$57.10<br>\$74.74           |
| Self Plus<br>Five Plus<br>Low Option  | <del>208</del>  | Government Contribution Subscriber Contribution Total Premium       | \$-24.69<br>\$-79.94<br>\$104.63        | \$22.79<br>\$73.78<br>\$96.57           |

Enrollees' premium rates may vary from time to time. In the event an increase in premiums is necessary, the Board of Trustees of the NMI Retirement Fund will promulgate this increase in the Commonwealth Register pursuant to the Administrative Procedures Act.

## ARTICLE 15 – CHANGING BENEFITS AND ENROLLMENT

15.01. The benefit options under the Program are the "High Option Plan" or the "Low Option Plan" is "80/20". The enrollment options under the Program are "self only single", "self plus one couple", "family plus four" or "family plus five plus".

The following table summarizes some basic rules for changing benefit or enrollment options:

(SEE CHART ON NEXT PAGE)

## **CHART ON CHANGING ENROLLMENT OPTIONS / BENEFITS**

| Events which permit enrollment or change in enrollment                                               | Changes permitted by Subscriber or prospective Subscriber |                                                              |                                                       |                                                      | Time during which an application form must be filed with the Administrator |                                                                 |                                  |                            |                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------------|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                      | From not enrolled to ENROLLED                             | From<br>SELF only<br>SINGLE to<br>Self Plus<br>One<br>Couple | From<br>SELF only<br>SINGLE to<br>Plus Four<br>Family | From<br>SELF only<br>to Plus<br>Five Plus            | From Plus Four OR Plus Five Plus Family to SELF only SINGLE                | From Plus Four or Plus Five Plus Family to Self Plus One Couple | From Plus Four to Plus Five Plus | From one OPTION to another |                                                                                                                                                                               |
| Open Season                                                                                          | YES                                                       | YES                                                          | YES                                                   | YES                                                  | YES                                                                        | YES                                                             | YES                              | ¥ES                        | November of each<br>year or as<br>otherwise<br>specified by the<br>Administrator.                                                                                             |
| Acquisition of<br>Spouse or<br>Child                                                                 | NO (unless<br>special<br>enrollment<br>permitted)         | YES                                                          | YES                                                   | YES                                                  | NO                                                                         | NO                                                              | NO                               | Ю                          | Within 30 days of acquisition (or according to HIPAA rules for special enrollment)                                                                                            |
| Loss of other coverage                                                                               | NO<br>(Unless<br>special<br>enrollment<br>permitted)      | YES                                                          | YES                                                   | YES                                                  | N/A                                                                        | N/A                                                             | N/A                              | N/A                        | According to HIPAA rules of special enrollment.                                                                                                                               |
| Divorce, legal separation, annulment, death of a Spouse or Child, a Child's loss of Dependent Status | NO<br>(Unless<br>special<br>enrollment<br>permitted)      | NO<br>(Unless<br>special<br>enrollment<br>permitted)         | NO<br>(Unless<br>special<br>enrollment<br>permitted)  | NO<br>(Unless<br>special<br>enrollment<br>permitted) | YES                                                                        | YES                                                             | YES                              | Ю                          | Within 30 days of event (or according to HIPAA rules for special enrollment)                                                                                                  |
| Change in status from Spouse to Survivor of former Retiree                                           | YES                                                       | YES                                                          | YES                                                   | YES                                                  | YES                                                                        | YES                                                             | ¥ES                              | NO                         | Within 30 days of (a) the date the Administrator approves the Survivor's application for survivor annuity benefits, or (b) the original effective date of this Plan Document. |

The chart in 15.01 above is a summary of some basic rules for changing benefit or enrollment options and is not an all inclusive listing of all possible situations. Subscribers should not rely only on this chart, but must also review this entire Plan Document, including Article 3 on eligibility and Article 4 on enrollment to fully understand these rules.

Group Health and Life Insurance Trust Fund

## DRUG FORMULARY

## Effective April 23, 2003 July 1, 2006

This list is designed to serve as a reference guide and assist in the selection of cost effective pharmaceutical products. The formulary is not intended to be a substitute for your clinical knowledge and judgment. In all cases, the prescriber is expected to select appropriate drug therapy for the individual patient and provide high quality healthcare. Preferred Brand Medications are listed below. All covered generic medications are preferred and covered at 20% coinsurance for participating providers, 30% for non-participating providers. Brand medications that have a generic equivalent are covered at 20% coinsurance for participating providers, 30% for non-participating providers with the member also absorbing the cost difference between the brand and generic alternative. Non-formulary Brand medications require a 50% member coinsurance amount.

| NON-FORMULARY | FORMULARY ALTERNATIVE(S)        |
|---------------|---------------------------------|
| A/T/S         | <b>Erythromycin</b>             |
| ACCUTANE      | <u>Amnesteem</u>                |
|               | <u>Claravis</u>                 |
|               | <u>Isotretinoin</u>             |
|               | <u>Sotret</u>                   |
| ACEON         | ACCUPRIL                        |
|               | ALTACE                          |
|               | <u>Benazepril</u>               |
|               | <u>Captopril</u>                |
|               | <u>Enalapril</u>                |
|               | <u>Lisinopril</u>               |
|               | <u>Quinapril</u>                |
| ACIPHEX       | <u>Omeprazole</u>               |
|               | PREVACID                        |
|               | PROTONIX                        |
| ACTIGALL      | <u>Ursodiol</u>                 |
| ACUFLEX       | APAP W/ Codeine                 |
| ACULAR LS     | ALOMIDE                         |
|               | <u>Dexamethasone</u>            |
|               | <u>Fluorometholone</u>          |
|               | LIVOSTIN                        |
|               | PATANOL                         |
|               | <u>Prednisolone</u>             |
| ADALAM GG     | ZADITOR                         |
| ADALAT CC     | Nifedipine CC                   |
| ADDERALL      | Amphetamine / Dextroamphetamine |
| ADOXA / PAK   | <u>Doxycycline</u>              |

| NON-FORMULARY             | FORMULARY ALTERNATIVE(S) |
|---------------------------|--------------------------|
| ADVANCE DIABETIC SUPPLIES | ACCU-CHEK / SIMPLICITY   |
|                           | CHEMSTRIP BG             |
|                           | FASTTAKE                 |
|                           | ONE TOUCH / ULTRA        |
|                           | SURE STEP / PRO          |
| AERO OTIC HC              | Acetasol HC              |
| AEROBID / M               | AZMACORT                 |
|                           | FLOVENT / HFA            |
|                           | PULMICORT                |
| ALAMAST                   | ALOMIDE                  |
|                           | LIVOSTIN                 |
|                           | PATANOL                  |
|                           | ZADITOR                  |
| ALBALON                   | Naphazoline              |
| ALCORTIN                  | Hydrocortisone Valerate  |
| ALDACTAZIDE 25/25mg       | Spironolactone / HCTZ    |
| ALDACTONE                 | Spironolactone           |
| ALESSE                    | Aviane                   |
|                           | Lessina                  |
|                           | Levora                   |
|                           | NORDETTE                 |
|                           | Portia                   |
| ALINIA                    | Metronidazote            |
| ALOCRIL                   | ALOMIDE                  |
|                           | LIVOSTIN                 |
|                           | PATANOL                  |
|                           | ZADITOR                  |
| ALTOPREV                  | LIPITOR                  |
|                           | Lovastatin               |
|                           | VYTORIN                  |
| AMERGE                    | IMITREX                  |
|                           | MAXALT / MLT             |
|                           | ZOMIG / ZMT              |
| AMEVIVE                   | DOVONEX                  |
|                           | TAZORAC                  |
| ANAMANTLE HC              | Hydrocortisone           |
|                           | Lidocaine                |
| ANAPROX / DS              | ARTHROTEC                |
|                           | Etodolac                 |
|                           | Flurbiprofen             |
|                           | Nabumetone               |
|                           | <u>Naproxen</u>          |
|                           | Oxaprozin                |

| NON-FORMULARY        | FORMULARY ALTERNATIVE(S)         |
|----------------------|----------------------------------|
| ANASPAZ              | <u>Dicyclomine</u>               |
|                      | <u>Glycopyrrolate</u>            |
|                      | <u>Hyoscyamine</u>               |
|                      | PRO-BANTHINE                     |
| ANCOBON              | DIFLUCAN                         |
|                      | <u>Fluconazole</u>               |
|                      | <u>Griseofulvin</u>              |
|                      | <u>Ultramicrosize</u>            |
|                      | <u>Itraconazole</u>              |
|                      | <u>Ketoconazole</u>              |
|                      | LAMISIL                          |
|                      | Nystatin                         |
|                      | SPORANOX                         |
| ANDROID              | ANDRODERM                        |
| <u>Miritore</u>      | ANDROGEL                         |
|                      | TESTIM                           |
| ANSAID               | ARTHROTEC                        |
| ANDAID               | Etodolac                         |
|                      | Flurbiprofen                     |
|                      | Nabumetone                       |
|                      | <del></del>                      |
|                      | Naproxen                         |
| A COURTON A          | Oxaprozin                        |
| ASCENSIA             | ACCU-CHEK / SIMPLICITY           |
|                      | CHEMSTRIP BG                     |
|                      | FASTTAKE<br>ONE TOUCH ( III TO A |
|                      | ONE TOUCH / ULTRA                |
| A TO A COM           | SURE STEP / PRO                  |
| ATLAST               | ACCU-CHEK / SIMPLICITY           |
|                      | CHEMSTRIP BG                     |
|                      | FASTTAKE                         |
|                      | ONE TOUCH / ULTRA                |
|                      | SURE STEP / PRO                  |
| ATACAND/HCT          | COZAAR                           |
|                      | DIOVAN / HCT                     |
|                      | HYZAAR                           |
| ATARAX               | <u>Hydroxyzine HC1</u>           |
| ATIVAN               | <u>Lorazepam</u>                 |
| ATROVENT NASAL SPRAY | <u>Ipratropium Nasal Spray</u>   |
| AVALIDE              | DIOVAN HCT                       |
|                      | HYZAAR                           |
| AVAPRO               | COZAAR                           |
|                      | DIOVAN                           |
| AVAR GEL             | DIFFERIN                         |
| 1111 COLL            | Sulfacetamide Sodium / Sulfur    |
|                      | Tretinoin                        |
|                      | <u> Tremoni</u>                  |

| NON-FORMULARY          | FORMULARY ALTERNATIVE(S)   |
|------------------------|----------------------------|
| AVELOX / ABC           | <u>Ciprofloxacin</u>       |
|                        | <u>LEVAQUIN</u>            |
| AVENTYL                | <u>Nortriptyline</u>       |
| AVINZA                 | ACTIQ                      |
|                        | Hydrocodone / APAP         |
|                        | <u>Hydromorphone</u>       |
|                        | MS CONTIN                  |
|                        | MSIR                       |
|                        | Oxycodone / APAP           |
|                        | OXYCONTIN                  |
| AXERT                  | IMITREX                    |
| <u>A COLOR</u>         | MAXALT / MLT               |
|                        | ZOMIG / ZMT                |
| AXID                   | Cimetidine                 |
| <u>117115</u>          | Ranitidine                 |
| AYGESTIN               | AVITA                      |
| ATTEMA                 | BENZACLIN                  |
|                        | Clindamycin                |
|                        | DIFFERIN                   |
|                        | <b>Erythromycin</b>        |
|                        | RETIN-A MICRO              |
|                        | TAZORAC                    |
|                        | Tretinoin                  |
| B-D TEST STRIPS        | ACCU-CHEK / SIMPLICITY     |
| <u>b-b fest strics</u> | CHEMSTRIP BG               |
|                        | FASTTAKE                   |
|                        | ONE TOUCH / ULTRA          |
|                        | SURE STEP / PRO            |
| B-D ULTRA FINE         | ONE TOUCH / ULTRASOFT      |
| <u>B-D CEIRCIAGE</u>   | SOFTCLIX                   |
|                        | SOFT TOUCH                 |
| BACTRIM / DS           | SMZ-TMP / DS               |
| BARACLUDE              | EPIVIR HBV                 |
| BENADRYL               | <u>Diphenhydramine</u>     |
| BENICAR / HCT          | COZAAR                     |
| DENICAR/TICI           | DIOVAN / HCT               |
|                        | HYZAAR                     |
| DENTYI                 | Dicyclomine                |
| BENTYL                 | Glycopyrrolate             |
|                        | Hyoscyamine                |
|                        | PRO-BANTHINE               |
| DENIZANGVCINI / DAIZ   | BENZACLIN                  |
| BENZAMYCIN / PAK       |                            |
| }                      | DUAC Englishmonnia Rangovi |
|                        | Erythromycin-Benzoyl       |

| NON-FORMULARY     | FORMULARY ALTERNATIVE(S)    |
|-------------------|-----------------------------|
| BETAGAN           | ALPHAGAN P                  |
|                   | <u>AZOPT</u>                |
|                   | <u>Betaxolol</u>            |
|                   | <u>Brimonidine</u>          |
|                   | <u>Levobunolol</u>          |
|                   | <u>LUMIGAN</u>              |
|                   | <u>Timolol / XE</u>         |
|                   | <u>XALATAN</u>              |
| BETAPACE          | <u>Sotalol</u>              |
| BIO-THROID        | <u>Levothroid</u>           |
|                   | <u>Levothyroxine</u>        |
|                   | <u>LEVOXYL</u>              |
|                   | SYNTHROID                   |
|                   | <u>UNITHROID</u>            |
| BLEPH-10          | <u>Sodium Sulfacetamide</u> |
| BONIVA            | ACTONEL                     |
|                   | <u>FOSAMAX</u>              |
| BRAVELLE          | FOLLISTIM AQ                |
|                   | GONAL-F                     |
|                   | REPRONEX                    |
| BREVICON          | <u>Necon</u>                |
|                   | <u>Nortrel</u>              |
| BUSPAR            | <u>Buspirone</u>            |
| CALAFOL RX        | GLUTOFAC ZX                 |
|                   | Nu-Iron-V                   |
|                   | VITAFOL                     |
| CALAN / SR        | <u>Verapamil / SR</u>       |
| CAMPRAL           | ANTABUSE                    |
| CANTIL            | <u>Dicyclomine</u>          |
|                   | <u>Glycopyrrolate</u>       |
|                   | <u>Hyoscyamine</u>          |
|                   | PRO-BANTHINE                |
| CAPITAL W-CODEINE | APAP W/ Codeine             |
| CAPOTEN           | ACCUPRIL                    |
|                   | ALTACE                      |
|                   | <u>Benazepril</u>           |
|                   | <u>Captopril</u>            |
|                   | <u>Enalapril</u>            |
|                   | <u>Lisinopril</u>           |
|                   | <u>Quinapril</u>            |
| CAPOZIDE          | <u>ACCURETIC</u>            |
|                   | Beazepril / HCTZ            |
|                   | Captopril / HCTZ            |
|                   | Enalapril / HCTZ            |
|                   | Lisinopril / HCTZ           |
|                   | <u>Ouinaretic</u>           |

| NON-FORMULARY          | FORMULARY ALTERNATIVE(S) |
|------------------------|--------------------------|
| CARAFATE TABS          | <u>Sucralfate</u>        |
| CARDENE / SR           | Felodipine ER            |
|                        | <u>Nifedipine</u>        |
|                        | NORVASC                  |
|                        | PLENDIL                  |
|                        | VERELAN PM               |
| CARDURA                | Doxazosin                |
| CATAFLAM               | ARTHROTEC                |
|                        | Diclofenac Potassium     |
|                        | Etodolac                 |
|                        | Nabumetone               |
|                        | <u>Oxaprozin</u>         |
| CATAPRES               | Clonidine                |
| CECLOR                 | Cefadroxil               |
|                        | <u>Cefpodoxime</u>       |
|                        | Cefuroxime               |
|                        | CEFZIL                   |
|                        | <u>Cephalexin</u>        |
|                        | <u>Cephradine</u>        |
|                        | OMNICEF                  |
|                        | VANTIN                   |
| CEDAX                  | <u>Cefadroxil</u>        |
|                        | <u>Cefpodoxime</u>       |
|                        | <u>Cefuroxime</u>        |
|                        | CEFZIL                   |
|                        | <u>Cephalexin</u>        |
|                        | <u>Cephradine</u>        |
|                        | OMNICEF                  |
|                        | VANTIN                   |
| CEFTIN TABS            | Cefuroxime               |
| CENESTIN               | Estropipate              |
|                        | PREMARIN                 |
| CENOGEN ULTRA          | NATALCARE                |
| CENTANY                | Mupirocin                |
| CEREFOLIN              | V-C Forte                |
|                        | VICON FORTE              |
| CHROMAGEN / FA / FORTE | Ferotrinsic              |
|                        | Foltrin                  |
|                        | TRINSICON                |
| CIALIS                 | CAVERJECT                |
| <u> </u>               | EDEX                     |
|                        | VIAGRA                   |
| CILOXAN                | Ofloxacin                |
| <u>VILOZUII</u>        | VIGAMOX                  |
| CIPRO / XR             | Ciprofloxacin            |
| CHRU/AN                | <u>Cibrotioxacin</u>     |

| NON-FORMULARY             | FORMULARY ALTERNATIVE(S)             |
|---------------------------|--------------------------------------|
| CIPRO HC OTIC             | Acetic Acid / HC Otic                |
|                           | CIPRODEX                             |
|                           | FLOXIN OTIC                          |
|                           | Neomycin / Polymyxin / HC Otic       |
| CLARINEX / D              | ALLEGRA / D                          |
|                           | ZYRTEC / D                           |
| CLENIA                    | DIFFERIN                             |
|                           | Sulfacetamide Sodium / Sulfur        |
|                           | Tretinoin                            |
| CLEOCIN CAPS 150mg, 300mg | Clindamycin                          |
| CLEOCIN-T                 | Clindanycin Phosphate                |
|                           | FINACEA                              |
|                           | METROCREAM                           |
|                           | METROGEL                             |
|                           | METROLOTION                          |
|                           | Metronidazole                        |
|                           | Sodium Sulfacetamide / Sulfur        |
| CLINDAGEL                 | Clindamycin Phosphate                |
|                           | FINACEA                              |
|                           | METROCREAM                           |
|                           | METROGEL                             |
|                           | METROLOTION                          |
|                           | <u>Metronidazole</u>                 |
|                           | Sodium Sulfacetamide / Sulfur        |
| CLINDESSE                 | CLEOCIN VAGINAL CREAM                |
|                           | Clindamax                            |
| CLINDETS                  | Clindamycin Phosphate                |
|                           | FINACEA                              |
|                           | <u>METROCREAM</u>                    |
|                           | METROGEL                             |
|                           | <u>METROLOTION</u>                   |
|                           | <u>Metronidazole</u>                 |
|                           | <u>Sodium Sulfacetamide / Sulfur</u> |
| CLINORIL                  | <u>ARTHROTEC</u>                     |
|                           | <u>Etodolac</u>                      |
|                           | <u>Nabumetone</u>                    |
|                           | <u>Oxaprozin</u>                     |
|                           | <u>Sulindac</u>                      |
| CLOBEX                    | <u>Clobetasol Propionate</u>         |
| CLOMID                    | <u>Clomiphene</u>                    |
| COGNEX                    | ARICEPT                              |
|                           | EXELON                               |
|                           | <u>NAMENDA</u>                       |
|                           | REMINYL                              |
| COLY-MYCIN M              | TOBI                                 |
|                           | <u>Tobramycin</u>                    |

| NON-FORMULARY            | FORMULARY ALTERNATIVE(S)               |
|--------------------------|----------------------------------------|
| COLY-MYCIN S             | Acetic Acid / HC Otic                  |
|                          | CIPRODEX                               |
|                          | FLOXIN OTIC                            |
|                          | Neomycin / Ploymyxin / HC Otic         |
| COLYTE / FLAVORED        | PEG 3350 / Electrolytes                |
| COMBUNOX                 | Oxycodone / APAP                       |
|                          | Oxycodone / ASA                        |
| COMPAZINE                | <u>Prochlorperazine</u>                |
| CONCERTA                 | METADATE CD                            |
|                          | METADATE ER                            |
|                          | METHYLIN ER                            |
|                          | <u>Methylphenidate ER</u>              |
|                          | <u>RITALIN LA</u>                      |
| CORTANE-B-OTIC           | Acetic Acid / HC Otic                  |
|                          | <u>CIPRODEX</u>                        |
|                          | FLOXIN OTIC                            |
|                          | Neomycin / Polymyxin / HC Otic         |
| <u>CORTISPORIN OINT.</u> | Bacitracin / Polymyxin / Neomycin / HC |
| CORTISPORIN / TC OTIC    | Acetic Acid / HC Otic                  |
|                          | CIPRODEX                               |
|                          | FLOXIN OTIC                            |
| 20207                    | Neomycin / Polymyxin / HC Otic         |
| COSOPT                   | ALPHAGAN P                             |
|                          | AZOPT                                  |
|                          | <u>Betaxolol</u>                       |
|                          | <u>Brimonidine</u>                     |
|                          | <u>Levobunolol</u>                     |
|                          | LUMIGAN<br>Timolol / XE                |
|                          | XALATAN                                |
| COVEDA US                | Diltiazem                              |
| <u>COVERA-HS</u>         | Felodipine ER                          |
|                          | NORVASC                                |
|                          | PLENDIL                                |
|                          | VERELAN PM                             |
| CRESTOR                  | LIPITOR                                |
|                          | Lovastatin                             |
|                          | VYTORIN                                |
| CUTIVATE                 | ACLOVATE                               |
|                          | Alclometasone                          |
|                          | Betamethasone Valerate                 |
|                          | ELOCON                                 |
|                          | Fluocinolone                           |
|                          | <u>Acetonide</u>                       |
|                          | Fluticasone                            |
|                          | Hydrocortisone Valerate                |

Proposed Amendments to the Rules and Regulations Governing the Government Group Health Insurance Program – April 2006 (as Amended May 2006)

| Insurance Program – April 2006 (as Amended M |                                               |
|----------------------------------------------|-----------------------------------------------|
|                                              | <u>Mometasone Furoate</u>                     |
|                                              | <u>Triamcinolone Acetonide</u>                |
| CYMBALTA                                     | EFFEXOR / XR                                  |
| CYSTOSPAZ / M                                | <u>Dicyclomine</u>                            |
| , <del>20 </del>                             | <u>Glycopyrrolate</u>                         |
|                                              | <u>Hyscyamine</u>                             |
|                                              | PRO-BANTHINE                                  |
| CYTOTEC                                      | Misoprostol                                   |
| D.H.E. 45                                    | ERGOMAR                                       |
|                                              | Isometheptene / APAP /                        |
|                                              | <u>Dichloralphenazone</u>                     |
|                                              | MIGRANAL                                      |
| DARVOCET A500 / DARVOCET-N 100               | Propoxyphene / APAP                           |
|                                              | Propoxyphene-N                                |
|                                              | <u>Acetaminophen</u>                          |
| DARVON / DARVON COMPOUND                     | Propoxyphene HC1                              |
|                                              | Propoxyphene / APAP                           |
| DAYPRO                                       | Oxaprozin                                     |
| DELATESTRYL                                  | ANDRODERM                                     |
|                                              | ANDROGEL                                      |
|                                              | TESTIM                                        |
| DELTASONE                                    | Prednisone                                    |
| DEMADEX                                      | Torsemide                                     |
| DEMEROL                                      | Meperidine HC1                                |
| DEMULEN                                      | Cesia                                         |
|                                              | CYCLESSA                                      |
|                                              | ESTROSTEP Fe                                  |
|                                              | Necon                                         |
|                                              | NORDETTE                                      |
|                                              | Portia                                        |
|                                              | Trivora                                       |
|                                              | <u>Velivet</u>                                |
|                                              | YASMIN                                        |
|                                              | Zovia                                         |
| DEPO-SUBO PROVERA                            | <u>Leuprolide</u>                             |
|                                              | LUPRON / DEPOT                                |
| DEPO-TESTOSTERONE                            | ANDRODERM                                     |
|                                              | ANDROGEL                                      |
|                                              | TESTIM                                        |
| DESOGEN                                      | Apri                                          |
|                                              | Solia                                         |
| DESOWEN                                      | <u>Desonide</u>                               |
| DESYREL                                      | Trazodone                                     |
| DEXACIDIN                                    | Neomycin / Polymyxin / Dexamethasone          |
| DEVYCIDIN                                    | Medityetti / 1 otyittyatti / Deaditettiasotte |

| NON-FORMULARY      | FORMULARY ALTERNATIVE(S)       |
|--------------------|--------------------------------|
| DIABETA            | ACTOS                          |
|                    | <u>AMARYL</u>                  |
|                    | AVANDAMET                      |
|                    | AVANDIA                        |
|                    | <u>Glipizide / ER</u>          |
|                    | GLUCOTROL XL                   |
|                    | CLUCOVANCE                     |
|                    | <u>Glyburide</u>               |
|                    | Glyburide / Metformin          |
|                    | <u>Metformin / ER</u>          |
| <u>DIDRONEL</u>    | ACTONEL                        |
|                    | FOSAMAX                        |
| <u>DILACOR XR</u>  | <u>Diltiazem XR</u>            |
| <u>DIPROSONE</u>   | <u>Betamethasone</u>           |
|                    | <u>Dipropionate</u>            |
| <u>DISPERMOX</u>   | <u>Amox / K Clavulanate</u>    |
|                    | <u>Amoxicillin</u>             |
|                    | Ampicillin                     |
|                    | AUGMENTIN / ES / XR            |
|                    | <u>Dicloxacillin</u>           |
| <u>DITROPAN</u>    | DETROL / LA                    |
|                    | DITROPAN XL                    |
|                    | Oxybutynin Chloride            |
|                    | OXYTROL                        |
| DIURIL             | <u>Chlorothiazide</u>          |
| DOLOBID 500mg      | <u>Diflunisal</u>              |
| <u>DOMEBORO</u>    | Acetic Acid / HC Otic          |
|                    | CIPRODEX                       |
|                    | FLOXIN OTIC                    |
|                    | Neomycin / Polymyxin / HC Otic |
| DOSTINEX           | <u>Bromocriptine</u>           |
|                    | <u>Pergolide</u>               |
| <u>DUONEB</u>      | ATROVENT                       |
|                    | COMBIVENT                      |
|                    | <u>Ipratropium</u>             |
|                    | SPIRIVA HANDIHALER             |
| DURATUSS / GP / HD | Guaifenesin / Pseudoephedrine  |
|                    | Guaifenesin / Phenylephrine    |
| <u>DURICEF</u>     | <u>Cefadroxil</u>              |
|                    | <u>Cefuroxime</u>              |
|                    | CEFZIL                         |
|                    | <u>Cephalexin</u>              |
|                    | OMNICEF                        |
| DYAZIDE            | <u>Triamterene / HCTZ</u>      |

| NON-FORMULARY  | FORMULARY ALTERNATIVE(S)            |  |
|----------------|-------------------------------------|--|
| DYNABAC        | BIAXIN/XL                           |  |
|                | Erythromycin                        |  |
|                | ZITHROMAX                           |  |
| EC-NAPROSYN    | ARTHROTEC                           |  |
|                | Etodolac                            |  |
|                | Nabumetone                          |  |
|                | Naproxen                            |  |
|                | Oxaprozin                           |  |
| ECONOPRED PLUS | Prednisolone Acetate                |  |
| EDECRIN        | Bumetanide                          |  |
| <u> </u>       | Torsemide                           |  |
| ELAVIL         | Amitriptyline                       |  |
| ELDEPRYL       | Selegiline                          |  |
| ELESTAT        | ALOMIDE                             |  |
|                | LIVOSTIN                            |  |
|                | PATANOL                             |  |
|                | ZADITOR                             |  |
| EMADINE        | ALOMIDE                             |  |
|                | LIVOSTIN                            |  |
|                | PATANOL                             |  |
|                | ZADITOR                             |  |
| ENABLEX        | DETROL / LA                         |  |
|                | <u>DITROPAN XL</u>                  |  |
|                | <u>Oxybutynin</u>                   |  |
|                | <u>OXYTROL</u>                      |  |
| ENTEX ER / PSE | Guaifenesin / Pseudoephedrine       |  |
| ENTOCORT EC    | <u>Prednisone</u>                   |  |
|                | <u>Prednisolone</u>                 |  |
| <u>EQUETRO</u> | <u>Carbamazepine</u>                |  |
|                | CARBATROL                           |  |
| <u></u>        | TEGRETOL / XR                       |  |
| ERTACZO        | <u>Ciclopirox</u>                   |  |
|                | <u>Econazole</u>                    |  |
|                | <u>Ketoconazole</u>                 |  |
|                | LOPROX                              |  |
|                | OXISTAT                             |  |
| <u>ERYC</u>    | <u>Erythromycin</u>                 |  |
| ERYCETTE       | <u>Erythromycin</u>                 |  |
| ERYGEL         | <u>Erythromycin</u>                 |  |
| <u>ESGIC</u>   | <u>Butalbital / APAP / Caffeine</u> |  |
| ESTINYL        | PREMARIN                            |  |
| ESTRACE TABS   | <u>Estradiol</u>                    |  |

| NON-FORMULARY                  | FORMULARY ALTERNATIVE(S)               |  |
|--------------------------------|----------------------------------------|--|
| ESTRASORB                      | ALORA                                  |  |
| <u>ESTRASOND</u>               | CLIMARA                                |  |
|                                | ESCLIM                                 |  |
|                                | ESTRADERM                              |  |
|                                | Estradiol Estradiol                    |  |
|                                |                                        |  |
| Town o offi                    | VIVELLE / DOT                          |  |
| <b>ESTROGEL</b>                | ALORA                                  |  |
|                                | CLIMARA                                |  |
|                                | ESCLIM                                 |  |
|                                | ESTRADERM                              |  |
|                                | Estradiol                              |  |
| EVOCLIN                        | <u>Clindamycin</u>                     |  |
|                                | <u>Erythromycin</u>                    |  |
| EXACTECH / RSG                 | ACCU-CHEK / SIMPLICITY                 |  |
|                                | CHEMSTRIP BG                           |  |
|                                | <u>FASTTAKE</u>                        |  |
|                                | ONE TOUCH / ULTRA                      |  |
|                                | SURE STEP / PRO                        |  |
| FACTIVE                        | <u>Ciprofloxacin</u>                   |  |
|                                | LEVAOUIN                               |  |
| FAMVIR                         | Acyclovir                              |  |
| ·                              | VALTREX                                |  |
| FELDENE                        | ARTHROTEC                              |  |
|                                | Etodolac                               |  |
|                                | Nabumetone                             |  |
|                                | Oxaprozin                              |  |
|                                | Piroxicam                              |  |
| FEMTABS                        | VICON FORTE                            |  |
| FERTINEX                       | FOLLISTIM AQ                           |  |
| FERTINEX                       | GONAL-F                                |  |
|                                | REPRONEX                               |  |
| FIORICET / FIORICET W/ CODEINE | Butalbital / APAP / Caffeine           |  |
| FIORICET / FIORICET W/ CODEINE | Butalbital / APAP / Caffeine / Codeine |  |
| FIORINAL / FIORINAL W/ CODEINE | ASA / Caffeine / Butalbital            |  |
| FIORINAL / FIORINAL W/ CODEINE |                                        |  |
| EIDGE DROCEGERDONE MC / VCC    | Butal / ASA / CAFF / COD               |  |
| FIRST-PROGESTERONE MC / VGS    | PROCHIEVE 4%                           |  |
|                                | PROMETRIUM                             |  |
| FIRST-TESTOSTERONE MC          | ANDROGEN                               |  |
|                                | ANDROGEL                               |  |
|                                | TESTIM                                 |  |
| FLAGYL 250mg, 500mg            | <u>Metronidazole</u>                   |  |
| FLEXERIL                       | Cyclobenzaprine HC1                    |  |
| FLEXTRA-650                    | <u>PERCOGESIC</u>                      |  |
|                                | <u>Phenyltoloxamine / APAP</u>         |  |
| FLORINEF                       | <u>Fludrocortisone</u>                 |  |

| NON-FORMULARY              | FORMULARY ALTERNATIVE(S)               |  |
|----------------------------|----------------------------------------|--|
| FLORONE                    | Clobetasol Propionate                  |  |
|                            | DIPROLENE / AF                         |  |
|                            | Halobetasol Propionate                 |  |
|                            | ULTRAVATE                              |  |
| FLOXIN ORAL                | Ciprofloxacin                          |  |
|                            | LEVAOUN                                |  |
| FML LIQUIFILM              | Fluorometholone                        |  |
| FOCALIN                    | ADDERALL XR                            |  |
|                            | <u>Amphetamine / Dextroamphetamine</u> |  |
|                            | METADATE CD                            |  |
|                            | METADATE ER                            |  |
|                            | METHYLIN ER                            |  |
|                            | <u>Methylphenidate ER</u>              |  |
|                            | <u>RITALIN LA</u>                      |  |
| FOLPACE RX                 | GLUTOFAC ZX                            |  |
|                            | <u>Nu-Iron-V</u>                       |  |
|                            | <u>VITAFOL</u>                         |  |
| <u>FORTAMET</u>            | <u>Metformin ER</u>                    |  |
| <u>FOSRENOL</u>            | <u>RENAGEL</u>                         |  |
|                            | <u>SENSIPAR</u>                        |  |
| FREESTYLE                  | ACCU-CHEK / SIMPLICITY                 |  |
|                            | CHEMSTRIP BG                           |  |
|                            | <u>FASTTAKE</u>                        |  |
|                            | ONE TOUCH / ULTRA                      |  |
|                            | SURE STEP / PRO                        |  |
| FROVA                      | <u>IMITREX</u>                         |  |
|                            | MAXALT/MLT                             |  |
| CARARONE                   | ZOMIG / ZMT                            |  |
| GABARONE                   | <u>Gabapentin</u>                      |  |
| GANIRELIX ACETATE          | NEURONTIN                              |  |
| GEODON GEODON              | CETROTIDE                              |  |
| GEODON                     | ABILIFY                                |  |
|                            | <u>Clozapine</u><br>CLOZARIL           |  |
|                            | FAZACLO                                |  |
|                            | RISPERDAL                              |  |
|                            | SEROQUEL                               |  |
|                            | ZYPREXA                                |  |
| GLUCOMETER / DEX / ELITE / | ACCU-CHEK/SIMPLICITY                   |  |
| ENCORE                     | CHEMSTRIP BG                           |  |
|                            | FASTTAKE                               |  |
|                            | ONE TOUCH / ULTRA                      |  |
|                            | SURE STEP / PRO                        |  |
| GLUCOPHAGE / XR 500mg      | Metformin / ER                         |  |
|                            | ATACONO CHILITY LAKE                   |  |

| NON-FORMULARY       | FORMULARY ALTERNATIVE(S)      |
|---------------------|-------------------------------|
| GLUCOSOURCE LANCETS | ONE TOUCH / ULTRASOFT         |
|                     | SOFTCLIX                      |
|                     | SOFT TOUCH                    |
| GLUCOTROL           | <u>Glipizide</u>              |
| GLYNASE / PRESTAB   | <u>ACTOS</u>                  |
|                     | AMARYL                        |
|                     | <u>AVANDAMET</u>              |
|                     | <u>AVANDIA</u>                |
|                     | <u>Glipizide / ER</u>         |
|                     | GLUCOTROL XL                  |
|                     | <u>GLUCOVANCE</u>             |
|                     | <u>Glyburide</u>              |
|                     | <u>Glyburide / Micronized</u> |
|                     | <u>Metformin / ER</u>         |
| GOLYTELY            | PEG 3350 / Electrolytes       |



# Commonwealth of the Northern Mariana Islands OFFICE OF THE GOVERNOR Division of Environmental Quality



P.O. Box 501304 C.K., Saipan, MP 96950-1304 Tels.: (670) 664-8500 /01 Fax: (670) 664-8540

# NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO UNDERGROUND STORAGE TANK REGULATIONS

I, Frank M. Rabauliman, Director of the Division of Environmental Quality (DEQ), Office of the Governor, Commonwealth of the Northern Mariana Islands (CNMI), which is promulgating the amended Underground Storage Tank Regulations published in the Commonwealth Register, Volume 27, Number 11, December 30, 2005, at pages 25341 through and including 25352, by signature below hereby certify that as published such amended rules are true, complete, and correct copy of the Underground Storage Tank Regulations previously proposed by DEQ which, after the expiration of appropriate time for public comment, have been adopted. By signature below, I hereby certify that the amended Underground Storage Tank Regulations attached hereto and published herewith, are a true, correct, and complete copy of the amended Underground Storage Tank Regulations adopted by DEQ. I further request and direct that this Notice and Certification of Adoption be published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 19<sup>th</sup> day of April, 2006 at Saipan, Commonwealth of the Northern Mariana Islands.

Frank M. Rabauliman

Division of Environmental Quality

### AMENDED SECTION 8.11 OF THE CNMI UNDERGROUND STORAGE TANK REGULATIONS

- 8.11 Underground storage tank location requirements
- 8.11.1 Island of Saipan Groundwater Management Zones (From Section 25 of the CNMI Well Drilling and Well Operations Regulations as Amended)
  - (a) Island of Saipan Class I and Class II Groundwater Management Zone UST System
    Restrictions: No new USTs shall be permitted for installation or operation in Saipan's Class
    I or Class II Groundwater Management Zones.
  - (b) Island of Saipan Class III Groundwater Management Zone Restrictions.

Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells for new USTs:

|     |                          | Wellhead Setback Requirement |              |
|-----|--------------------------|------------------------------|--------------|
| (1) | Boundary of UST facility | Upgradient                   | Downgradient |
|     |                          | 500 feet                     | 500 feet     |

- (2) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under Section 14.1 and Section 15.1 of the CNMI Amendments to Well Drilling and Well Operations Regulations.
- (c) There shall be no tanks installed after the effective date of these regulation in the following locations:
  - (1) Within a wetland or within five hundred (500) feet of a wetland boundary; or
  - (2) Within five hundred (500) feet of surface waters bodies, such as a reservoir, spring, or cave, from which public drinking water supply is collected; or
  - (3) Within five hundred (500) feet of inland waters;
  - (4) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark) or navigable waters; or
  - (5) Within tidal or storm-wave water inundation areas; or
  - (6) Any area determined as unsuitable by the Chief Director of DEQ.

- (d) The Director of DEQ may, on a site specific basis, waive the requirements of Part 8.11.1 (a)-(c) for the replacement of an existing permitted UST if it can be demonstrated to the Director's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
  - (1) The particular conditions which make compliance with Parts 8.11.1 (a)-(c) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
  - (2) With the exception of Part 8.11, the project design shall fully meet all the requirements of these regulations, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in Parts 8.11.1 (a)-(c). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
  - When granting a waiver to the requirements in Parts 8.11.1 (a)-(c), the (3)Director of DEQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

## 8.11.2 Islands of Tinian and Rota - CNMI Groundwater Recharge Zones

Until such time as the DEQ promulgates Groundwater Management Zones for the islands (a) of Tinian and Rota, the existing Groundwater Recharge Zone Categories (Primary, Secondary, and Brackish) as defined in CNMI Water Quality Standards 2004 shall be used to determine acceptable locations for placement of new USTs.

To determine the Groundwater Recharge Zone in the location of the proposed UST placement, the applicant must provide a determination of the underlying geology, aquifer characteristics, groundwater quality, location and proximity of all nearby wells, and current and potential future use of the underlying groundwater for public water supply based on a review of available information including United States Geological Survey (USGS) maps and reports, Commonwealth Utility Corporation (CUC) well field maps, and nearby well drilling records. DEQ may assist the applicant in making such determination where sufficient information exists. The applicant may provide a determination on the basis of a professional hydrogeologist.

- (1) Primary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet one or more of the following Primary Groundwater Recharge Zone criteria:
  - (i) Areas contributing surface infiltration to a geologic formation that is

saturated with fresh groundwater that is not in contact with seawater (i.e. "Perched" groundwater) and is capable of transmitting quantities of fresh water in sufficient quantity to sustain a public water supply well;

- (ii) Areas that can reasonably be considered, on the basis of maps provided by USGS or CUC, to be within active or future public water supply well fields:
- (iii) Areas contributing surface infiltration to a geologic formation that discharges to a known spring or stream that currently is or is capable of transmitting quantities of fresh water in sufficient quantity to be used as a public water supply.
- (2)Secondary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet the Secondary Groundwater Recharge Zone criteria:

Secondary groundwater recharge zones are defined as areas designated as contributing surface infiltration to a geologic formation that is saturated with ground water less than 500 parts per million total dissolved solids, and currently or are capable of transmitting quantities of water in sufficient quantities to sustain a public water supply well; or areas with groundwater surface elevation equal to or greater than 1 foot as mapped by the USGS.

(3)Brackish Groundwater Recharge Zone. New USTs may be installed and operated in areas which are determined to meet the Brackish Groundwater Recharge Zone criteria provided they are in compliance with 8.11.2.(b) and 8.11.2(c) below.

Brackish groundwater recharge zones are defined as areas contributing surface water infiltration to a geologic formation that is saturated with greater than 500 parts per million total dissolved solids; or areas with groundwater surface elevation less than 1 foot as mapped by USGS.

- (b) New USTs must meet the following wellhead setbacks:
  - (1)Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells:

Wellhead Setback Requirement (2) Boundary of UST facility Upgradient Downgradient 500 feet 500 feet

(3) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be

reduced as allowed under Section 14.1 and Section 15.1 of the CNMI Amendments to Well Drilling and Well Operations Regulations.

- (c) No UST systems shall be installed after the effective date of these regulation in the following locations:
  - (1) Within a wetland or within five hundred (500) feet of a wetland boundary; or
  - (2) Within five hundred (500) feet of surface waters bodies, such as a reservoir or cave, from which public drinking water supply is collected; or
  - (3) Within five hundred (500) feet of inland waters; or
  - (4) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark); or
  - (5) Within tidal or storm water inundation areas; or
  - (6) Any area as determined unsuitable by the Director of DEQ.
- (d) The Director of DEQ may, on a site specific basis, waive the requirements of Part 8.12.1 (a)-(c) for the replacement of existing permitted USTs if it can be demonstrated to the Director's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
  - (1) The particular conditions which make compliance with Parts 8.12.1 (a-c) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
  - (2) With the exception of Part 8.12, the project design shall fully meet all the requirements of these regulations, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in Parts 8.12.1 (a)-(c). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
  - (3) When granting a waiver to the requirements in Parts 8.12.1 (a)-(c), the Director of DEQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

## AMENDED SECTION 8.11 OF THE CNMI UNDERGROUND STORAGE TANK REGULATIONS SHOWING CHANGES

- 8.11 <u>Underground storage tank location requirements</u>
- 8.11.1 Island of Saipan Groundwater Management Zones (From Section 25 of the CNMI Well Drilling and Well Operations Regulations as Amended)
  - (a) <u>Island of Saipan Class I and Class II Groundwater Management Zone UST System</u>

    Restrictions: No new USTs shall be permitted for installation or operation in Saipan's

    Class I or Class II Groundwater Management Zones.
  - (b) Island of Saipan Class III Groundwater Management Zone Restrictions.

Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells for new USTs:

(1) Boundary of UST facility Wellhead Setback Requirement
Upgradient
500 feet

Wellhead Setback Requirement
Upgradient
500 feet

- (2) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under Section 14.1 and Section 15.1 of the CNMI Amendments to Well Drilling and Well Operations Regulations.
- `<u>8.11</u> (c) There shall be no tanks installed after the effective date of these regulation in the following locations:
  - (1) Within a wetland or within five hundred (500) feet of a wetland boundary; or
  - (b) Within five hundred (500) feet of a private or municipal well; or
  - (2) Within five hundred (500) feet of surface waters bodies, such as a reservoir, spring, or cave, from which public drinking water supply is collected; or
  - (d) Within five hundred (500) feet of inland waters;
  - (4) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark) or navigable waters; or
  - (5) Within tidal or storm wave water inundation areas; or

- (6) Any area determined as unsuitable by the Chief Director of DEQ.
- (d) The Director of DEQ may, on a site specific basis, waive the requirements of Part 8.11.1 (a)-(c) for the replacement of an existing permitted UST if it can be demonstrated to the Director's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
  - (1) The particular conditions which make compliance with Parts 8.11.1
    (a)-(c) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
  - With the exception of Part 8.11, the project design shall fully meet all the requirements of these regulations, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in Parts 8.11.1 (a)-(c). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
  - (3) When granting a waiver to the requirements in Parts 8.11.1 (a)-(c), the Director of DEQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

## 8.11.2 Islands of Tinian and Rota - CNMI Groundwater Recharge Zones

(a) Until such time as the DEQ promulgates Groundwater Management Zones for the islands of Tinian and Rota, the existing Groundwater Recharge Zone Categories
(Primary, Secondary, and Brackish) as defined in CNMI Water Quality Standards 2004 shall be used to determine acceptable locations for placement of new USTs.

To determine the Groundwater Recharge Zone in the location of the proposed UST placement, the applicant must provide a determination of the underlying geology, aquifer characteristics, groundwater quality, location and proximity of all nearby wells, and current and potential future use of the underlying groundwater for public water supply based on a review of available information including United States Geological Survey (USGS) maps and reports, Commonwealth Utility Corporation (CUC) well field maps, and nearby well drilling records. DEQ may assist the applicant in making such determination where sufficient information exists. The applicant may provide a determination on the basis of a professional hydrogeologist.

(1) Primary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet one or more of the

## following Primary Groundwater Recharge Zone criteria:

- (i) Areas contributing surface infiltration to a geologic formation that is saturated with fresh groundwater that is not in contact with seawater (i.e. "Perched" groundwater) and is capable of transmitting quantities of fresh water in sufficient quantity to sustain a public water supply well;
- (ii) Areas that can reasonably be considered, on the basis of maps provided by USGS or CUC, to be within active or future public water supply well fields;
- (iii) Areas contributing surface infiltration to a geologic formation that discharges to a known spring or stream that currently is or is capable of transmitting quantities of fresh water in sufficient quantity to be used as a public water supply.
- (2) Secondary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet the Secondary Groundwater Recharge Zone criteria:

Secondary groundwater recharge zones are defined as areas designated as contributing surface infiltration to a geologic formation that is saturated with ground water less than 500 parts per million total dissolved solids, and currently or are capable of transmitting quantities of water in sufficient quantities to sustain a public water supply well; or areas with groundwater surface elevation equal to or greater than 1 foot as mapped by the USGS.

Brackish Groundwater Recharge Zone. New USTs may be installed and <u>(3)</u> operated in areas which are determined to meet the Brackish Groundwater Recharge Zone criteria provided they are in compliance with 8.11.2.(b) and 8.11.2(c) below.

Brackish groundwater recharge zones are defined as areas contributing surface water infiltration to a geologic formation that is saturated with greater than 500 parts per million total dissolved solids; or areas with groundwater surface elevation less than 1 foot as mapped by USGS.

- (b) New USTs must meet the following wellhead setbacks:
  - (1) Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells:

Wellhead Setback Requirement (2) **Boundary of UST facility** Upgradient Downgradient 500 feet 500 feet

- (3) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under Section 14.1 and Section 15.1 of the CNMI Amendments to Well Drilling and Well Operations Regulations.
- (c) No UST systems shall be installed after the effective date of these regulation in the following locations:
  - (1) Within a wetland or within five hundred (500) feet of a wetland boundary; or
  - (2) Within five hundred (500) feet of surface waters bodies, such as a reservoir or cave, from which public drinking water supply is collected; or
  - (3) Within five hundred (500) feet of inland waters; or
  - (4) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark); or
  - (5) Within tidal or storm water inundation areas; or
  - (6) Any area as determined unsuitable by the Director of DEQ.
- (d) The Director of DEQ may, on a site specific basis, waive the requirements of Part 8.12.1 (a)-(c) for the replacement of existing permitted USTs if it can be demonstrated to the Director's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
  - (1) The particular conditions which make compliance with Parts 8.12.1 (a-c) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
  - (2) With the exception of Part 8.12, the project design shall fully meet all the requirements of these regulations, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in Parts 8.12.1 (a)-(c). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).

When granting a waiver to the requirements in Parts 8.12.1 (a)-(c), the Director of DEQ may impose additional conditions necessary to assure adequate protection of human health and the environment. (3)

May 19, 2006



## SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE (SHEFA)

Office of the Mayor Municipality of Saipan

### BOARD MEMBERS

Felicidad T. Ogumoro

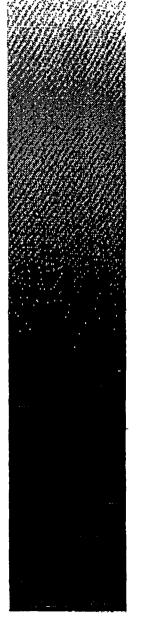
Jose C. Leon Guerrero

Howard I. Macaranas

Max "Timmo" Olopal

Perry P. Tenorlo

Mayor Juan Borja Tudela (ex-officie)



## NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED RULES AND

REGULATIONS FOR THE SAIPAN HIGHER EDUCTION FINANCIAL ASSISTANCE (SHEFA)

I, Felicidad T. Ogumoro, Chairperson of the Board of Saipan Higher Education Financial Assistance (SHEFA), which is promulgating the rules and regulations of the Saipan Higher Education Financial Assistance pursuant to Saipan Local Law 13-21 for the Municipality of Saipan within the Office of the Mayor of Saipan, published in the Commonwealth Register Volume 27, Number 10 on November 25, 2005 at pages 025248 to 025251, by signature below hereby certify that the rules and regulations published therein are true, complete and correct copy of the Rules and Regulations regarding the Saipan Higher Education Financial Assistance (SHEFA) as previously proposed by the Board of Saipan Higher Education Financial Assistance for the Municipality of Saipan within the Office of the Mayor of Saipan, which, after the expiration of appropriate time for public comment, have already been adopted without modification or amendment. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 27<sup>th</sup> day of January 2006, in Saipan, Commonwealth of the Northern Mariana Islands.

Felicidad T. Ogumoro

Chairperson

Saipan Higher Education Financial Assistance