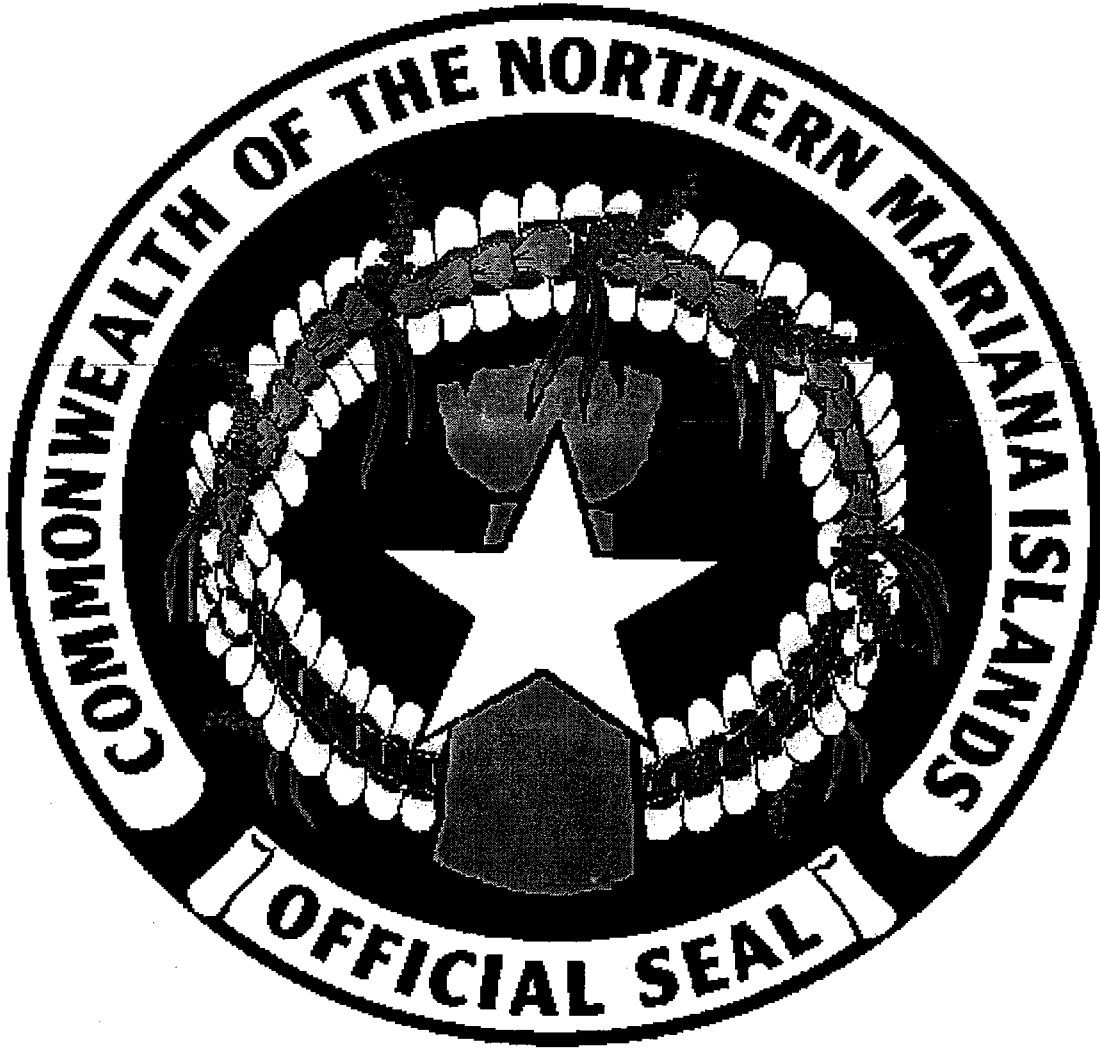


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



**COMMONWEALTH REGISTER
VOLUME 33
NUMBER 03
MARCH 23, 2011**

COMMONWEALTH REGISTER

VOLUME 33
NUMBER 03

MARCH 23, 2011

TABLE OF CONTENTS

PROPOSED REGULATIONS

| | |
|--|---------------|
| Public Notice of Proposed Rules and Regulations of Rota Casino Gaming Commission | 031439 |
| Notice of Proposed Amendments to the Physician Assistants Regulations Health Care Professions Licensing Board | 031449 |

LEGAL OPINIONS

| | |
|---|---------------|
| AG Opinion 2011-01 Constitutionality of Section 602 of Public Law 17-21 Office of the Attorney General | 031465 |
|---|---------------|

DIRECTIVES

| | |
|--|---------------|
| Directive No. 142 Executive Order 94-3, Development Advisory Council Office of the Governor | 031477 |
| Directive No. 143 Executive Order 94-3, Development Appeals Board Office of the Governor | 031478 |
| Directive No. 144 Executive Order 94-3, Board of Parole Office of the Governor | 031479 |
| Directive No. 145 Executive Order 94-3, Section 206(b) Office of the Governor | 031480 |
| Directive No. 146 Executive Order 9403, Section 303(a) Office of the Governor | 031481 |

| | |
|--|--------|
| Directive No. 147 Executive Order 94-3, Sections 204 and 308(d) Office of the Governor | 031482 |
| Directive No. 148 Issuance of Directive on Executive Order 94-3, Sections 501-522, Implementation of General Provisions Office of the Governor | 031483 |
| Directive No. 149 Issuance of Directive on Executive Order 94-3, Section 202, Establishment of a Planning Office in The Office of the Governor Office of the Governor | 031484 |
| Directive No. 150 Grant of Administrative Leave Office of the Governor | 031485 |
| Directive No. 151 Unauthorized Disclosure of Litigation Documents Office of the Governor | 031486 |
| Directive No. 152 Establishment of the Office of Drugs and Substance Abuse in the Office of the Governor under Executive Order 94-3, Section 215 Office of the Governor | 031487 |
| Directive No. 153 Implementation of Emergency Regulations Office of the Governor | 031488 |
| Directive No. 154 Amendment to Direction 140 – Procedures for Official Travel Office of the Governor | 031489 |
| Directive No. 155 Establishment of Office of Youth Affairs in the Office of the Governor, Executive Order 94-3, Section 203 Office of the Governor | 031492 |
| Directive No. 156 Authority of the Director of the Division of Public Lands Office of the Governor | 031493 |
| Directive No. 157 Acting and Temporary Resident Department Heads Office of the Governor | 031494 |

| | |
|--|---------------|
| Directive No. 158 Revised Directive 003 – Administrative Leave Policy Office of the Governor | 031495 |
| Directive No. 159 All Current and Future Project Proposals Within CNMI Office of the Governor | 031496 |
| Directive No. 160 Managers/Policy Makers Ownership Interest Exemption Office of the Governor | 031497 |



ROTA CASINO GAMING COMMISSION

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

POST OFFICE BOX 1547, ROTA, MP 96951

PHONE: 1.670.532.7242

EMAIL: rotacommission@gmail.com

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS OF ROTA CASINO GAMING COMMISSION

WHICH ARE AMENDMENTS TO THE ROTA CASINO GAMING
COMMISSION RULES AND REGULATIONS
Regulations Vo. 30 No. 12 pages 028995 to 029098

INTENDED ACTION TO ADOPT PROPOSED REGULATIONS: The Rota Gaming Commission, HEREBY INTENDS TO ADOPT the Proposed Regulations, which are attached herewith and fully incorporated herein, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The proposed amendment would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104 (a) or (b). (1 CMC § 9105(b)).

AUTHORITY: Pursuant to the Rota Casino Act of 2007, The Rota Casino Gaming Commission was established granting full authority to establish its rules and regulations necessary for the establishment and operation of the Commission.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

TERMS AND SUBSTANCE: The Rules and Regulations provide for the fee schedule for a casino license to operate. The amount depends on the years of casino license the applicant elects to purchase. The proposed amendment provides further incentives to a casino applicant who elects to purchase a casino license for an initial five (5) year license.

THE SUBJECT AND ISSUES INVOLVED: The specific subject and issues involve is the Rota Casino Rules and Regulation to include § 2-8.5 (c) (5) which will be to give an applicant option to purchase a five (5) year terms for a casino license at a lower price. This amendment is to provide incentives for casino applicants with long-term or permanent investments. (See attachment, Resolution No. 2010-01).

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and 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))

LAURA MARIA I. MANGLONA, Chairperson * ELPHREM S. TAIMANAO, Vice Chairman

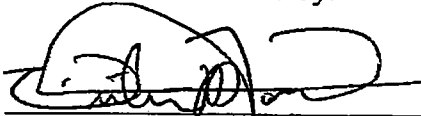
ABELINA T. MENDIOLA, Secretary * VICENTE M. ATALIG, Commissioner

ALFREDO O. ANTOLIN, JR., Executive Director

TO PROVIDE COMMENTS: Please submit any comments or suggestions with the subject line "Incentive for Long-term Casino Applicant" to the Executive Director, Mr. Alfredo Antolin, the Rota Casino Gaming Commission at the above address, phone number or fax number within thirty (30) days from the publication of this notice. Upon this adoption of the regulations, the Rota Casino Gaming Commission, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

I DECLARE under penalty of perjury that the above foregoing is true and correct and that this Declaration was executed on February 08, 2011 on Rota, Commonwealth of the Northern Mariana Islands.

Certified and Ordered by:



VICTORINO D.L.G. TORRES, Esq., Counsel
Rota Casino Gaming Commission

2/14/2011

Date

Received by:



ESTHER S. FLEMING
Governor's Special Assistant for
Administration

2/22/11

Date

Filed and
Recorded by:



ESTHER M. SAN NICOLAS
Commonwealth Register

2.23.11

Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC §9104(a)(30 (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, 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)).


EDWARD T. BUCKINGHAM, ESQ.
Attorney General, Northern Mariana Islands

2-23-11

Date

LAURA MARIA I. MANGLONA, Chairperson * ELPHEM S. TAJMANAO, Vice Chairman
ABELINA T. MENDIOLA, Secretary * VICENTE M. ATALIG, Commissioner
ALFREDO O. ANTOLIN, JR., Executive Director



ROTA CASINO GAMING COMMISSION
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
POST OFFICE BOX 1547, ROTA, MP 96951
PHONE: 1.670.532.7242 *EMAIL: email@rotacasino.com

NO. 2010-01

RESOLUTION

On this 8th day of February, 2011, before a duly organized and announced regular meeting held on Tatachog, Rota Commonwealth of the Northern Mariana Islands, the Commissioners for the Rota Gaming Casino Commission approved this resolution as follows:

WHEREAS, the Rota Casino Gaming Commission (hereinafter "RCGC") is authorized to established its own Rules and Regulations pursuant to Rota Casino Act of 2007.

WHEREAS, consistent with its authority to establish its own Rules and Regulations, the Commissioners declare the following amendment to the Rota Casino Gaming Commission, Rules and Regulation, to include the following:

§ 2-8.5 (c) (5)

A Casino Applicant who applies for a Casino license and has paid all necessary fees including investigation fees on or before 01 March 2013 and has elected to pay the \$400,000.00 initial 5 year term for Casino License shall have the option as follows:

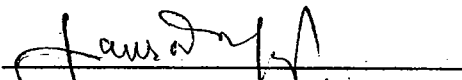
- a. Applicant may exercise its option for its second 5 year term for Casino license for \$450,000.00;
- b. Applicant may exercise its option for its third 5 year term for Casino license for \$450,000.00;
- c. Applicant may exercise its option for its fourth 5 year term for Casino license for \$500,000.00.

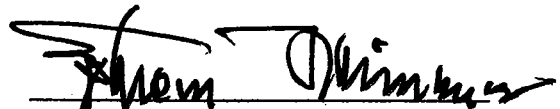
An applicant who elects to exercise any of the additional 5 year term must send a notice and full payment to the Rota Casino Gaming Commission at least three (3) months prior to the expiration of its Casino license. In light of the economic condition on the island of Rota, this provision is design to entice Casino investors to the island of Rota.

WHEREAS, the Rota Casino Gaming Commission hereby request and direct that this Notice be published in the Commonwealth Register.

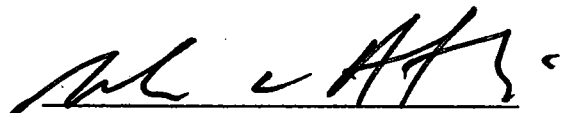
NOW THEREFORE, we the undersigned, as Commissioners of the Rota Casino Gaming Commission, pursuant to the Rota Casino Act of 2007, hereby set forth and unanimously approve Resolution Number 2010-01 as described above in the Island of Rota, Commonwealth of the Northern Mariana Islands on the date first written above.

COMMISSIONERS

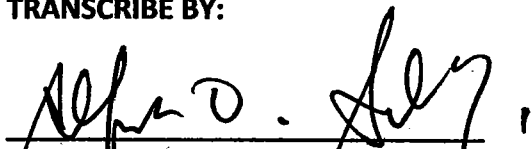

LAURA MARIA I. MANGLONA
Chairperson of the Commission

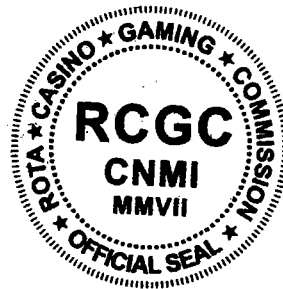

EPHREM S. TAIMANAO
Vice Chairman of the Commission


ABELINA T. MENDIONA
Secretary of the Commission


VICENTE M. ATALIG
Commissioner

TRANSCRIBE BY:


ALFREDO O. ANTOLIN, JR.
Executive Director



KUMISION HUEGUN SALÁPPI' LUTA

Post Office Box 1547, Luta, MP 96951

Telefon: 1.670.532.7242

EMAIL: rotacommission@gmail.com

NUTISIAN PUBLIKU PUT MAPROPONIN AREKLAMENTU YAN REGULASION SIHA GI KUMISION HUEGUN SALÁPPI' LUTA

NI AMENDASION PARA I AREKLAMENTU YAN REGULASION SIHA GI KUMISION HUEGUN SALÁPPI' LUTA

Regulasion siha Baluma 30 Numiru 12 Páhina 028995 asta i 029098

**I AKSION NI MA'INTENSIONA PARA U MA'ADÁPTA I MANMAPROPONI NA
REGULASION SIHA:** I Kumision Huegun Saláppi' Luta ha INTENSIONA GUINI NA PARA
U ADÁPTA i Manmaproponi na Regulasion siha, ni mañechittun guini yan mana'kabális
hálum, sigun gi manera siha gi Áktun i Administrative Procedures, 1 CMC § 9104(a). I
manmaproponi na amendasion para u ifektibu gi halum dies(10) dihas dispues di makumpli
i (1CMC §§ 9102 yan i 9104(a) pat (b). (1 CMC § 9105(b)).

ATURIDÁT: Sigun gi Áktun Huegun Saláppi' Luta gi 2007 I Kumisinin Huegun Saláppi'
Luta ma'istapblesi maná'i todú áturidát para u istapblesi i areklamento-ña yan regulasion
siha ni nisisáriu para i ma'istapblesin yan operasion gi Kumision.

IFEKTIBU NA FECHA: Sigun gi APA, 1 CMC § 9105(b), esti siha i manma'adápta na
regulasion siha manifektibu dies(10) dihas dispues di makumpli i APA, 1 CMC §§9102 yan
9104(a) pat (b), ni taiguini na klási, i dies(10) dihas dispues di publikasion esti gi halum i
Rihistran Commonwealth.

I SUSTANSIAN I PALÁBRA SIHA: I Areklamentu yan Regulasion siha ha pribiniyi para i
schedule i apas para i lisensian huegu ni para u maneha. I kantidá dipendi gi áñus i
lisensian huegu i aplikánti ha adyik ni para u fáhan. I maproponi ni ma'amenda ha pribiniyi
más rigálu para i aplikántin huegu ni ha adyik para u fáhan i lisensian huegu ni para i
primet singku(5)áñus na lisensia.

I ASUNTU SIHA NI MANTINETEKKA: I ispisifikáo na suhetu yan manera siha ni
mantinekka gi Areklamentu yan Regulasion siha gi Huegun Luta ni para u sáonáo
§ 2-8.5(c) (5) ni para u nina'i i aplikánti inadyik ni para u fáhan i singku(5) áñus na tema
para i lisensian huegu gi takpapa' na presiu. Esti na amendasion para u pribiniyi rigálu para
i aplikántin huegu siha gi anákku' na tema pat petmanienti na investments. (Atan i
chechettun, Resulasion Numiru 2010-01)

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Este i Manmaproponi na Regulasion siha debi na u mapupblika gi halum i Rihistran Commonwealth gi seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha)1 CMC § 9104(a) (1)) yan u mapega gi kumbinienti na lugat siha gi halum i civic center yan gi halum i ufinan gubetnamientu siha gi kada distritun senadot, parehu English yan lingguahin natibu. (1 CMC § 9104(a)(1))

PARA U MAPRIBINIYI OPIÑON SIHA: Na' hanagui pat osino intrega i opiñon-mu pat gi rayan suhetu "Rigalu para i Anakku' na tema para i Aplikantin Huegu" para i Direktot Eksakatibu as, Siñot Alfredo Antolin, gi Kumision Huegun Salappi' Luta gi sanhilu' na address, numirun tilfon pat numirun fax gi halum i trenta(30) dihas ginin i publikasion esti na nutisia. Gi adaptasion esti na regulasion siha, i Kumision Huegun Salappi' Luta, yanggin mamaisin para u macho'gui gi hayi gai intires na petsona, parehu ha' artis para i adaptasion pat gi halum gi trenta(30) dihas dispues, para u laknus tinigi' gi prinsipat na rason siha para yan kinentran i adaptasion, dinañañña'i guihi gi rason-ña ni para u ginebietna i kunsiderasion siha ni ha insisti kinentran i adaptasion-ña.

Hu Diklara gi papa' i penalty of perjury na i sigienti gi sanhilu' na magahit yan dinanchi yan esti na Diklarasion mafitma gi Fibreru 08, 2011 giya Luta, Commonwealth gi Sangkattan na Islas Marianas Siha.

Sinettiku yan Inetdin as:

VICTORINO DLG. TORRES, ESQ., Abugao
Kumision Huegun Salappi' Luta

Fecha

Rinisibi as:

ESTHER S. FLEMING
Ispisiat na Ayudanti Para I Atministrasion
Gubetnu

Fecha

Pine'lu yan Rinikot as:

ESTHER M. SAN NICOLAS
Rihistran Commonwealth

Fecha

Sigun i 1 CMC § 2153(e) (i Abugâdu Henerât ha apreba i regulasion siha ni para u macho'gui komu fotma) yan 1 CMC § 9104(a)(30) (minantieni ni inapreban i Abugâdu Henerât) i maproponin regulasion siha ni mañechittun guini man maribisa yan man ma'apreba komu fotman yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153(f) (pupublikasion areklamento yan regulasion siha).

EDWARD T. BUCKINGHAM, ESQ.
Abugâdu Henerât, Sangkattan na Islas Marianas

Fecha

LAURA MARIA I. MANGLONA, Kabisiyu * ELPHREM S. TAIMANAO, Sigundu Kabisiyu
ABELINA T. MENDIOLA, Sikritâria * VICENTE M. ATALIG, Kumisina
ALFEDO O. ANTOLIN, JR., Direktot Eksakatibu

Rota Casino Gaming Commission
Commonwealth Téel falúw kka falúwasch Efáng Marianas
Post Office Box 1547, Rota, MP 96950
Tilifoon: 1,670.532.7262
Email: rotacommission@gmail.com

**ARONGOL TOULAP REEL POMWOL ALLÉGH KKAAL
MELLÓL ROTA CASINO GAMING COMMISSION**

**IKKA AA SSIWEL NGÁLI ALLÉGHÚL ROTA CASINO GAMING
COMMISSION**

**Alléghúl kka Vo. 30 Numerool seigh me eww (12) peighil kka 028995
ngáli 029098**

MÁNGEMÁNGIL IGHA EBWE FILLÓÓY ALLÉGH KKAAL: Rota Gaming Commission, e tipeli ebwe fillóóy pomwol allégh kka e ighila me schéscheel ebwe aschulong aweewe yeel, bwele mwoghutul Administrative Procedure Act, 1 CMC Tálil kka 9102 me 9104 (e) me (b). (1 CMC Tálil 9105(b)).

BWÁNGIL: Sáangi Rota Casino Act llól 2007, Rota Casino Gaming Commission nge raa fasúl ngálleey bwángil ebwe fféer alléghúl kka e welepakk ngáli akkaté kkaal (establishment) me mwóghutughutul Commission.

SCHÉSCHÉÉL ATOL: Sáangi APA, 1 CMC Tálil 9105(b), allégh kka raa fillóóy ebwe kkamalló llól seigh (10) ráálil ngáre re tabweey ngáli APA, 1 CMC Tálil 9102 me 9104(a) me ngáre (b), bwele reel milleel, ebwe seigh ráálil igha schagh e akkatééló llól commonwealth Register.

AWEEWEL ME ÓUTOL: Eyoorátá allégh kkaal bwelle atol abwós (fee schedule) sáangi lisensial casino igha ebwe mwóghut faal, Llapal nge e dependi reel rághil lisensia iye schóóy tingór (applicant) e tipeli. Pomwol lliwel yeel nge e sóbwósóbw yaal ebwe amwascheliir schóóy tingór ikka re tipeli rebwe bweibwogh lisensial casino ye ebwe yoor limoow (5) ráághil.

KKAPASAL ME MEETA KKA EYOOR: Schéschéél kkapasal me aweewe kka teeté nge Alléghúl Rota Casino, ebwal toolong Tálil 2-8.5(e) (5) iye e ngálleer schóóy tingór rebwe mángi fischi ngáre rebwe bwughi

lisensial casino ye re fischálitiw llapal llól limoow ráagh. Lliwel yeel nge ebwe ayoorá incentive ngáliir schóoy tingórol lisensia ngáli long term me permanent investment. (Amweri attachment), Alléghuil No. 2010-01).

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol Allégh kkaal ebwe akktééló llól Commonwealth Register llól Tálil kaa rekke pomwoli me fillóoy allégh kka e ffé (1 CMC Tálil 9102(e)(1)) me appasch mellol civic kkaal me llol bwulasiyool gobenno kkaal me bwal llol senatorial district, e weewe schagh llól kkapasal Amerikkónu, Remeraalis me Refalúwasch. (1 CMC 9104(a)(1))

**LAURA MARIA I .MANGLONA, ASSAMWOOL*ELPHREM S. TAIMANAO, ARUUSCHEYIIL
SAMWOOL**

**ABELINA T. MENDIOLA, SAMWOOL*VICENTE M. ATALIG, COMMISSIONER
ALFREDO OL ANTALIN, JR, SAMWOOL**

REEL ISISILONG AGHIYEGH: Óutu ghal soong, ów isisilong ischil mángemáng fengál me kkapasal ye e yaal faal “Incentive for Long Casino Applicant” ng’li Saumwar Alfredo Antolin, Rota Casino Gaming Commission sáangi address ye weiláng, numerool tilifoon me numrool fax llól eliigh ráálil ngáre schagh raa atéew arong yeel. Bwelle igha raa fillóoy allégh yeel, Rota Casino Gaming Commission, ngáre eyoor schóoy tingór, e weewe schagh ngáre mmwal schagh igha fillóoy me llól eliigh ráálil, ebwe isisiwow eghús aweewel me aingingil igha re fillóoy, aschulong aweewe kka e fil mmwal rebwe fillóoy.

Alughulugh me tingór sáangi:

I AKKAPALÓ faal penalty of perjury bwe kkapas kka weilang nge e wel me ffat igha alughulugh yeel e fférló wóól Mááischigh 08, 2011 mewóól Luuta, Commonwealth Téél falúw kka falúwasch Efang Marianas.

VICTORINO DLG, TORRES, esq., Council
Rota Casinos Gaming Commission

Rál

Mwir sáangi: _____

ESTHER S. FLEMING
Sów Alillisil Sów Lemelem

Rál

Ammwel sáangi: _____
ESTHER M. SAN NICOLAS
Commonwealth Register

_____ Rál

Sáangi allégh ye 1 CMC Tálil 2153(a) (Alughulugh mereel AG reel allégh kkaal ebwe akkaté ighila) me 1 CMC Tálil 9104(a)(30) (bweibwogh alughulugh mereel AG) allégh kka aa alughulugh, ekke bwáári bwe aa ssiwel pomwol allégh kka weiláng, raa takkal amweri fischi me allégheló mereel CNMI Sów Bwungul Allegh Lapalap, me ebwe akkatééló (1 CMC Talil 2153(f) (akkatéél allégh kkaal)).

EDWARD T. BUCKINGHAM ESQ.
Sów Bwungul Allegh Lapalap

Rál

**LAURA MARIA I. MANGLONA, ASSAMWOOL* ELPHEM S. TAIMANAO, ARUSCHAYIL
SAMWOOL
ABELINA T. MENDIOLA, SAMWOOL* VICENTE M. ATALIG, COMMISSIONER
ALFREDO O. ANTALIN, JR., SAMWOOL**

**Commonwealth of the Northern Mariana Islands
HEALTH CARE PROFESSIONS LICENSING BOARD
P.O. Box 502078, #1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel No: (670)664-4809 Fax: (670)664-4814
Email: bpl@pticom.com**

**NOTICE OF PROPOSED AMENDMENTS TO THE
HEALTH CARE PROFESSIONS LICENSING BOARD
REGULATIONS FOR PHYSICIAN ASSISTANTS**

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Health Care Professions Licensing Board (HCPLB) intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC §9105(b)).

These Physician Assistants Regulations shall supersede the prior Medicine/Surgery Regulations published at Volume 21 (7/23/99) and adopted at Vol. 21 (12/15/99) of the Commonwealth Register.

AUTHORITY: The Health Care Professions Licensing Board has statutory power to promulgate and effect regulations pursuant to P.L. 15-105, Section 3, § 2206 (b), as amended.

THE TERMS AND SUBSTANCE: Regulation History: PL 15-105 (effective when approved by Governor Benigno R. Fitial, November 7, 2007), the "Health Care Professions Act of 2007," 3 CMC §§ 2201-36. The Act created a Health Care Professions Licensing Board, as an independent regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the act. See PL 15-105. 3 CMC § 2206(b), which empowers the Board to adopt rules and regulations consistent with the Act and necessary to carry out the Act's provisions, including define and describe the regulated professions and their practice. The physician assistant is one of the health care profession, out of 31 health care professions, under the power, jurisdiction and authority of the HCPLB. § 2212 of PL 15-105.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations shall supersede the prior regulations for physician assistants, Part 1200, § 140-50.1-1201 - 1270, NMIAC Title 140, published at Vol. 21 (7/23/99) and adopted at Vol. 21 (12/15/11) of the Commonwealth Register.

DIRECTIONS FOR FILING AND PUBLICATION: The Board is soliciting comments regarding these proposed amendments which must be received by the Board within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed amendments by contacting us at 664-4809 or by email at bpl@pticom.com or come by our office located at Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Written comments on these amendments should be drop off at our office or sent to the BPL, P.O. Box 502078, Saipan, MP 96950.

Submitted By: Janet McCullough, PhD.
Janet McCullough, PhD.
Chairwoman, HCPLB

3/23/11
Date

Received By: Esther S. Fleming
Esther S. Fleming
Special Assistant for Administration

3/23/11
Date

Filed and Recorded By: Esther M. San Nicolas
Esther M. San Nicolas
Commonwealth Register

03.23.11
Date

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 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).

Edward T. Buckingham
EDWARD T. BUCKINGHAM
Attorney General

3-23-11
Date

**Commonwealth gi Sangkattan na Islas Marianas Siha
KUETPUN PROFESIONÁT MANLISENSIAN INADAHIN HINEMLU'**

P.O. Box 502078, #1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
Tel. No.: (670) 664-4809 Fax No. : (670) 664-4814
e-mail: bpl@pticom.com

**NUTISIAN I MANMAPROPONI NA AMENDASION SIHA PARA I KUETPUN PROFESIONÁT
MANLISENSIA INADAHIN HINEMLU' REGULASION PARA I AYUDÁNTIN MEDIKU SIHA**

**I AKSION NI MA'INTENSIONA NA PARA U MA'ADÁPTA ESTI SIHA I MANMAPROPONI NA
REGULASION SIHA:** I Kuetpun Manlisenjian Profesionát Inadahin Hinemlu' Siha (HCPLB) ha intensiona
na para u adápta komu petmanenti na regulasion siha ni mañechettun i Manmaproponi na Regulasion
siha, sigun gi manera siha gi Áktun Administrative Procedure, 1 CMC § 9104 (a). I regulasion siha para
u ifektibu gi dies(10)dihas na tiempu dispues di makumplin i 1 CMC §§ 9102 yan 9104 (a) pat (b)
(1 CMC § 9105 (b)).


Esti i Ayudántin Mediku na Regulasion siha debi na u tinilaika ni i finene'na na Regulasion i
Medicine/Surgery siha ni mapublika gi Baluma 21 (7/23/99) yan ma'adápta gi Baluma 21 (12/15/99)
gi Rehistran Commonwealth.

ÁTURIDÁT: I Kuetpun Manlisenjian Profesionát Inadahin Hinemlu' gai fuetsa ni para u macho'gui yan u
huyung i regulasion siha sigun gi Lai Pupbliku 15-105,
Seksiona 3, § 2206 (b), komu ma'amenda.

I SUSTÁNSIAN I PALÁBRA SIHA: Historian Regulasion: Lai Pupbliku 15-105 (umifektibu gi anai
inaprueba ni Gubietnu as Benigno R. Fitial, gi Nubembri 7, 2007), i " Áktun Profesionát Inadahin
Hinemlu' gi 2007," 3 CMC §§ 2201- 36. I Áktu ni macho'gui ni Kuetpun Manlisenjian Profesionát siha,
komu guiguiya ha' na ahensian regulatory, sin u mapega gi Dipattamentu. I Kuetpu ha áturisa na para u
lisenjian i profesionát inadahin hinemlu' siha gi halum i Commonwealth, ma'estapblisa standards para
prugrãman edukasion siha, administer exams, yan para u disiplina i manmalisesensia siha ni para i
yumuyulang i áktu. Atan i Lai Pupbliku 15-105. 3 CMC § 2206 (b), ni numãna'i fuetsa siha i Kuetpu
ni para u ma'adápta i areklamentu yan regulasion siha ni kumunsisti yan i prubensjon i Áktu siha yan
nisisãriu na para u chuli' huyung i prinaktikan i Áktu. I Ayudántin Mediku unu gi ayudántin hinemlu' na
profesion, gi hiyung i 31 na profesion ayudántin hinemlu' siha, gi papa' fuetsa, jurisdiction yan áturidát
i HCPLB. § 2212 gi Lai Pupbliku 15-105.

SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: Esti na areklamentu yan regulasion siha dedi na u
tinilaika ni i finene'na na regulasion siha para i ayudántin mediku siha, Pãtti 1200, § 140-50.1 - 1270,
NMIAC Titulu 140, mapublika gi Baluma 21 (7/23/99) yan ma'adápta gi Baluma 21 (12/15/11) gi
Rehistran Commonwealth.

DIRIKSION PARA U MAPO'LU YAN MAPUPBLIKA: I Kuetpu mamamaisin infotmasion sigun gi esti i manmaproponi na amendasion siha ni debi na u marisibi ginin i Kuetpu gi halum i trenta (30) dihas na tiempu gi primet na publikasion esti na nutisia gi halum i Rehistran Commonwealth. Hâyi gai intires na petsona siña manggâgâo kopia siha ni manmaproponi na amendasion siha ya â'agang ham gi 664-4809 pat i email gi bpl@pticom.com pat fâttu gi ufisinan mâmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Tugi'i hâlum put esti na amendasion siha ya u machuli' guatu gi ufisinan mâmi pat na'hânâo para i BPL, P.O. Box 502078, Saipan, MP 96950.

Nina'hâlum as: 
Janet McCullough, PhD
Kabesityu, HCPLB

3/23/11
Fecha

Rinisibi as: 
Esther S. Fleming
Espisiât Na Ayudânti Para I Aministrasion

3/23/11
Fecha

Pine'lu Yan Rinikot as: 
Esther M. San Nicolas
Rehistran Commonwealth

03.23.11
Fecha

Sigun i 1 CMC § 2153 (e), (Inapruedan Abugâdu Henerât i regulasion siha ni para u macho'gui komu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inapruedan Abugâdu Henerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueda komu fotma yan suficiente ligât ginin i Abugâdun Henerât CNMI yan debi na u mapupblika, 1 CMC § 2153 (f) (publikasion areklamentu yan regulasion siha).


EDWARD T. BUCKINGHAM
Abugâdu Henerât

3-23-11
Fecha

Commonwealth Téél falúw kka falúwasch Efang Marianas
HEALTH CARE PROFESSIONS LICENSING BOARD

P.O. Box 502078, #1242 Pohnpei Court
Capitol Hill, Seipel, MP 96950
Tilifoon No: (670)664-4809 Fax: (670)664-4814
Email: bpl@pticom.com

ARONG REEL POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL
HEALTH CARE PROFESSIONS LICENSING BOARD REEL ALILLISIL
DOKKTO (PHYSICIAN ASSISTANTS)

MÁNGEMÁNGIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL Health Care Professions Licensing Board (HCPLB) schéschéél e tipeli ebwe fillóóy pomwol allégh kka e appasch, bwelle reel mwóghutul Administrative Procedure Act, 1 CMC Talil 9104 (a). Allégh kkaal ebwe kkamalló llól siegh (10) raalil ngáre schagh re tabweey ngáli alléghúl 1 CMC Tálil kka 9102 me 9104 (a) me (b) (1) CMC 59105 (b)).

Alléghúl Physician Assistants ebwe siweli mmwal alléghúl safey/ Alléghúl Surgery ye e akkaté llól Volume 21 (7/23/991 me fillóól llól vol. 21 (12/15/991 mellól Commonwealth Register.

BWANGIL: Health Care Professions Licensing Board nge eyoor bwángil ebwe akkaté allégh kkaal me ghitipwotchuw allégh kkaal bwelle reel Alléghúl Toulap ye 15-105, Talil 3, Tálil 2206 (b), iye aa ssiwel.

OUTOL ME KKAPASAL: Kkapasal Allegh: PL 15-105 (Schéschéél igha e allégheló mereel Governor Benigno R. Fitial, Aromwoy 7, 2007), “Health Care Professions Act llól 2007, “ 3 CMC Tálil 2201-36, Allégh yeel nge eyoora Health Care Professions Licensing Board, iye ebwe independent ammwelil agency yeel, mmwal rebwe atolongow llól Depattamento. Board (Mwiisch) nge re ngalleey bwangil ebwe ayoora lisensial health care professionals mellól Commonwealth, ayoora ammwelil ngáli educational programs, ayoora asóssot, me mwuttaar schóóy lisensia kka rese tabweey alléghúl Act yeel. Amweri PL 15-105. 3 CMC Talil 2206 (b), iye e ngalleey bwangil Mwiisch ebwe fillooy allegh kka e ghol fil ngali Act me mwóghutáágheli aweewel Act, ebwal toolong aweewel alléghúl professions me akkabwungul. Physician assistant nge eew ammwelil Health Care professions, sáangi eliigh me eew (31) health care professions, faal bwángil, yaal angaang HCFLB. Tálil 2212 llol PL 15-105.

KKAPASAL ME ÓUTOL KKA EYOOR: Allégh kkaal ebwe siweli mmwal alléghúl alillisil dokkto, Peigh 1200, \$ ebwughuw faigh, limeigh. 1-1201 – 1270, NMIAC Title 140, akkate llól vol. 21 (7/23/99) me fillooy llol vol. 21 (12/15/11) mellól Commonwealth Register.

AFALAFAL ME AMMWELIL AKKATE: Mwiisch nge ekke tittingór mángemáng reel pomwol lliwel yeel iye rebwe bwughi llól eliigh (30) ráálil akkatéél

arong yeel mellól Commonwealth Register. Schóókka re tipeli nge emmwel rebwe ffailong reel 664-4809 me ngáre email reel bpl@pticom.com me ngáre mweteti bwulasiyo Bldg. 1242, Pohnpei Ct., capitol hill, Seipeé. Ischil mángemáng reel lliwel kkaal ebwe atotoolong llól bwulasiyo me afanga ngáli HPL, P.O. Box 502078, Seipél, MP 96950.

Isaliyallong: Janet McCullough PhD
Janet McCullough, PHD
Assamwool, HCPLB

3/23/11
Rál

Mwir sáangi: Esther S. Fleming
Esther S. Fleming
Sow Alillisil Sow Lemelem

3/23/11
Rál

Ammwel sáangi: Esther N. San Nicolas
Esther N. San Nicolas
Commonwealth Register

03.23.11
Rál

Sáangi allégh ye 1 CMC Talil 2153 (e) (alughulugh mereel AG reel allegh kka ebwe akkate ighila) me 1 CMC Talil0104 (a) (3) (bwughi alughulugh mereel AG) pomwol allegh kka e appasch nge raa takkal amweri fischi allégheló mereel CNMI Sow Bwungul Allégh Lapalap me ebwe akkatééló, 1 CMC Tali 2153 (f) (akkateel allegh kkaal).

Edward T. Buckingham
EDWARD T. BUCKINGHAM
Sów Bwungul Allégh Lapalap

3-23-11
Rál

§ 140-50.3-004000 Part 4000. Physician Assistant.

These rules and regulations shall supersede the prior regulations for physician assistants, Part 1200, § 140-50.1-1201 – 1270, NMIAC Title 140, published at Vol. 21 (7/23/99) and adopted at Vol. 21 (12/15/11) of the Commonwealth Register.

§ 140-50.3-004001 Definitions.

(a) “ARC-PA” means the Accreditation Review Commission for the Education of Physician Assistants, or its successor.

(b) “Contact” for the supervision of a physician assistant means communication in person, or by electronic means, including radio, telephone, fax, computer, or other telecommunication device.

(c) “Continuing Medical Education (CME)” shall mean educational activities, which serve to maintain, develop, or increase the knowledge, skills, and professional performance, and relationships that a physician uses to provide services for patients, the public, or the profession. The content of CME is that body of knowledge and skills generally recognized and accepted by the medical profession as within the basic medical sciences, the discipline of clinical medicine, and the provision of health care to the public.

(d) “Controlled Substance” means a substance, typically a drug or its chemical precursor, described or authorized for classification in the U.S. Controlled Substance Act, 21 USC 812, et seq., and periodically classified under one of Schedules II, III, IV, or V by the U.S. Drug Enforcement Administration (DEA), as presently codified in 21 CFR 1308.

(e) “Doctor” including “Dr.,” “D.O.,” “MD” means a physician but does not otherwise mean a person granted the highest degree of a university, typically a Doctor of Philosophy, or “Ph.D.,” which is not intended to address the practice of medicine.

(f) “Impairment” means the inability of an applicant and/or licensee to practice medicine with reasonable skill and safety by reason of:

(1) Mental illness;

(2) Physical illness or condition, including, but not limited to, those illnesses or conditions that would adversely affect cognitive, motor or perceptive skills; or

(3) Habitual or excessive use or abuse of drugs defined by law as controlled substances, or alcohol or of other substances that impair ability.

(g) “Medex” means a physician assistant who has gained medical experience during military service and further training in a physician’s assistant program.

(h) “NCCPA” means the National Commission on Certification of Physician Assistants, an independent organization that was established to assure the competency of Physician Assistants, and which administers the PANCE, to graduates of accredited PA programs.

(i) “PA-C or PA-certified” is the title given to physician assistants who have taken and passed the PANCE and who maintain certification.

(j) “PANCE” means the Physician Assistant National Certifying Examination administered by the NCCPA.

(k) "Patient Encounter" is a record of an interaction between a patient and a healthcare provider.

(l) "Person" means a person real or legal, including a human being, and an artificial person, including government entity, non-governmental organization, association, corporation, limited liability company, limited liability partnership, partnership or sole proprietorship.

(m) "Physician Assistant" or "Physician's Assistant" or "Physician Associate" or "PA" means a health care professional trained in intensive physician assistant/associate education programs and who has been certified by the NCCPA to practice medicine with physician supervision.

(n) "Practice of Medicine" means:

(1) Holding out one's self to the public within the CNMI as being able to diagnose, treat, prescribe for, palliate, or prevent any human disease, ailment, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation, electricity, or any physical, mechanical, or other means whatsoever;

(2) Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure or any physical or mental disease, ailment, injury, condition, or defect of any person with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever;

(3) Using the title "Doctor," "Doctor of Medicine," "Doctor of Osteopathy," "Physician," "Surgeon," "Dr.," "M.D.," "D.O.," "PA," "Physician Assistant," "Physician Associate," or any word or abbreviation to indicate or induce others to believe that one is engaged in the practice of medicine as defined hereon;

(4) Performing any kind of surgical operation upon a human being.

(o) "State" includes a United States of America state, territory, tribal land, commonwealth, the District of Columbia, and any other U.S. jurisdiction other than the U.S. Government itself.

(p) "Supervising Physician" means the licensed physician who supervises a physician assistant.

(q) "Supervision" of a physician assistant means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant.

§ 140-50.3-004002 Requirements for Licensure.

(a) An applicant for licensure as a physician assistant must be at least twenty-one (21) years of age, is a U.S. citizen or a foreign national lawfully entitled to remain and work in the Commonwealth, and meets the following requirements:

(1) Applicant has at least a Bachelors Degree as a Physician Assistant or Physician Associate from a program accredited by the Accreditation Review

Commission for the Education of Physician Assistants (ARC-PA), or prior to 2001, either by the Committee on Allied Health Education and Accreditation of the American Medical Association or the Commission on Accreditation of Allied Health Education Programs; and

(2) Applicant passed the Physician Assistant National Certifying Examination (PANCE) administered by NCCPA, or other future national examinations; and

(3) Applicant provides evidence of current NCCPA certification; and/or

(4) Applicant possesses an active unrestricted license to practice as a physician assistant in another U.S. state or territory.

(5) The applicant shall be of good moral character and shall not have been convicted in any U.S. state or foreign jurisdiction of a crime of moral turpitude or a crime related to his/her practice as a physician assistant.

(b) In addition to the foregoing requirements, the Board may add the following requirements, in its discretion, and for good cause:

(1) Require additional proof that the person is competent to practice professionally;

(2) Require further examination;

(3) Require additional proof that the person is of an acceptable moral character; and/or

(4) Require that the person not be impaired by reason of substance abuse or debilitating physical or mental/emotional condition.

(c) A physician assistant license will be issued by the Board when the applicant meets the requirements set forth above. However, a physician assistant may not practice until a Practice Agreement has been filed and approved by the Board.

(d) Medex Exemption.

Individuals who were grand fathered in as a Medex under P.L. 3-30 (as amended) must comply with these regulations with the exception of taking and passing the NCCPA exam and shall be required to have 75% onsite supervision.

§ 140-50.3-004003 Licensure by Endorsement

(a) The Board may grant a license to a person to practice as a physician assistant without examination if:

(1) The person holds a valid unrestricted and active license to practice as a physician assistant in another U.S. state or territory or; and

(2) The person substantially complies with requirements for licensure in Section 4002 above.

(b) The Board may deny a license by endorsement to a person to practice as a physician assistant if the person has been the subject of an adverse action in which his/her license was suspended, revoked, placed on probation, condition or renewal denied.

§ 140-50.3-004004 Scope of Practice.

- (a) The physician assistant may only provide those medical services which:
- (1) He/she is competent to perform as determined by the supervising physician;
 - (2) Are consistent with his/her education, training and experience; and
 - (3) Are delegated in writing by the supervising physician responsible for the patients cared for by the physician assistant.
- (b) A supervising physician shall delegate to a physician assistant only those tasks or procedures consistent with the supervising physician's specialty or usual and customary practice.

§ 140-50.3-004005 Practice Agreement.

Licensee shall submit a Practice Agreement between himself/herself and the supervising physician(s), in a format provided by the Board, describing the manner and extent to which the physician assistant will practice and be supervised. The Board may approve, modify or reject the Practice Agreement as originally submitted. No licensed physician assistant may practice without a valid Practice Agreement on file with the Board. Practicing without an approved practice agreement shall be grounds for disciplinary action.

- (a) The practice agreement, at a minimum, shall:
- (1) Provide for:
 - (i) Physician consultation;
 - (ii) Collaboration;
 - (iii) Adequate means for direct communications between the parties; and
 - (iv) Referral and emergency coverage;
 - (2) Describe the physician assistant's scope of practice;
 - (3) List the settings that the physician assistant will be utilized, for example, a clinic, hospital, ambulatory center, patient home, emergency vehicle and other institutional setting;
 - (4) If applicable, a supervising physician shall list any specific restrictions to the physician assistant's prescriptive privilege;
 - (5) Provide for the supervising physician's review and signature of records, as follows:
 - (A) A minimum of 5% of all patient encounters by the physician assistant that did not require a controlled substance will be reviewed and signed within thirty (30) calendar days;
 - (B) A minimum of 10% of all patient encounters by the physician assistant where a controlled substance Schedule III-V was ordered,

prescribed, dispensed and/or administered must be reviewed and signed within thirty (30) calendar days;

(C) For physician assistants who have been authorized by the Board to order, prescribe, dispense and/or administer Schedule II controlled substances, a minimum of 15% of all patient encounters by the physician assistant that involved a Schedule II controlled substance must be reviewed and signed within seven (7) days; and

(D) The Board may require that up to 100% of all patient encounters by a physician assistant be reviewed and signed by a supervising physician.

(6) Describe the method by which a supervising physician will comply with the chart review requirements. The Board, may, at any time, request proof of compliance with this chart review requirement. Non-compliance may result in termination by the Board of a practice agreement;

(7) Identify the supervising physician's designated alternate supervising physician in his or her absence;

(8) Contain a statement substantially as follows: "The physician will direct and exercise supervision over the Physician Assistant in accordance with the CNMI HCPLB's regulations and recognizes that he or she retains full professional and legal responsibility for the performance of the Physician Assistant and the care and treatment of the patient."

(b) If a practice agreement allows for the ordering, prescribing, dispensing and/or administering of controlled substances, a copy of that practice agreement will be filed by the Board with all CNMI outpatient pharmacies and any applicable inpatient pharmacies.

(c) The supervising physician and the physician assistant shall notify the Board in writing within seven (7) days of the termination of the practice agreement.

(d) Any change to the approved practice agreement must be reviewed and approved by the Board prior to any change taking effect.

(e) At a minimum, a practice agreement shall be renewed every 2 years or at the time of license renewal, whichever is sooner.

§ 140-50.3-004006 Supervising Physician.

The supervising physician must comply with the following requirements in order to supervise a physician assistant:

(a) The supervising physician shall possess a current unrestricted license to practice medicine in the CNMI that is in good standing with the Board and a valid individual DEA registration.

(b) The supervising physician's primary place of practice is within the CNMI. At least 50% of his/her practice must be clinical. A supervising physician shall delegate to a physician assistant only those tasks or procedures consistent with the supervising physician's specialty or usual and customary practice;

- (c) The supervising physician will direct and exercise supervision over the physician assistant in accordance with these regulations and recognizes that he or she retains full professional and legal responsibility for the performance of the physician assistant and the care and treatment of the patient;
- (d) The supervising physician may permit the physician assistant to be utilized in any setting authorized by him or her including, but not limited to, clinics, hospitals, ambulatory centers, patient homes, and other institutional settings;
- (e) The supervising physician may permit the physician assistant to order, prescribe, administer and/or dispense medications and medical devices to the extent described in the written practice agreement and to the extent allowed under these regulations and approved by the Board;
- (f) The supervising physician shall provide adequate means for direct communication at all times between the physician assistant and him or her; that direct communication may occur through the use of technology which may include, but is not limited to, two-way radio, telephone, fax machine, internet, or other telecommunication device;
- (g) The supervising physician will personally review and sign the records of patients seen by the physician assistant as described in Section 4005, "Practice Agreement";
- (h) The supervising physician shall designate an alternate supervising physician in his or her absence. That alternate physician must satisfy all requirements of a primary supervising physician; and
- (i) A supervising physician shall petition the Board if s/he wishes to supervise more than two full-time physician assistants or the equivalent of two full-time physician assistants.

§ 140-50.3-004007 Special Provision: Prescription Privilege.

(a) The supervising physician may allow the physician assistant to order, prescribe, dispense, and/or administer medications and medical devices to the extent described in the written practice agreement and subject to the following requirements:

(1) A physician assistant can only order, prescribe, dispense and/or administer controlled substances if he/she holds a current DEA certificate that allows for those privileges. A copy of that certificate must be submitted to the Board before a practice agreement will be approved;

(2) A physician assistant can only order, prescribe, dispense and/or administer medications, including controlled substances, if authorized to do so by the supervising physician;

(2) In general, a supervising physician may only authorize the ordering, prescribing, dispensing and/or administration of Schedule III-V controlled substances and legend medications. A supervising physician must request, with the consent of the physician assistant, authorization from the Board to allow the physician assistant to order, prescribe, dispense and/or administer Schedule II controlled substances. Unless granted by the Board in an approved practice

agreement, a physician assistant shall not order, prescribe, dispense, and/or administer Schedule II controlled substances;

(4) A prescription for a controlled substance written by a physician assistant must have his/her DEA number clearly written on the prescription form;

(5) A physician assistant may prescribe no more than a 30-day supply of Schedule III-V medications. A physician assistant can only prescribe prescription refills if the prescription is co-signed by a supervising physician whose DEA number is clearly written on the prescription form;

(6) When applicable, a physician assistant may prescribe no more than a 7-day supply of Schedule II medications. A physician assistant can only prescribe prescription refills if the prescription is co-signed by a supervising physician whose DEA number is clearly written on the prescription form;

(7) A prescription for a controlled substance written by a physician assistant must be documented in that patient's chart and must include the name of the drug, dose, and route of administration, frequency, duration and quantity prescribed;

(8) Patient encounters by a physician assistant where a controlled substance or legend medication was ordered, prescribed, dispensed and/or administered must be reviewed and signed by a supervising physician as described in "Practice Agreement";

(9) A practice agreement allowing a physician assistant to order, prescribe, dispense and/or administer any controlled substance will be filed with all local outpatient pharmacies and with any applicable inpatient pharmacies; and

(10) The physician assistant shall comply with:

(A) All appropriate federal and CNMI laws and regulations; and

(B) The Regulations Governing the Importation, Storage, Sales, and Distribution of Drug and Pharmaceutical Products.

§ 140-50.3-004008 Application.

(a) An application for a license to practice as a physician assistant shall be made under oath on a form to be provided by the Board and shall be signed and sworn to under penalty of perjury by the applicant accompanied with the following information and documentations as are necessary to establish that the applicant possesses the qualifications as required in these regulations:

(1) The applicant's full name and all aliases or other names ever used, current address, date and place of birth and social security number;

(2) Applicant's 2x2 photograph taken within six (6) months with their signature on the bottom front;

(3) Applicant must pay the appropriate fees, including the application fee, which shall not be refunded;

(4) Applicant is to provide originals of all documents and credentials, or notarized or certified copies acceptable to the Board of such documents and credentials, including but not limited to:

(A) Diploma showing a degree of Physician Assistant or Physician Associate;

(B) Documents showing satisfactory proof that applicant has taken and passed the PANCE;

(C) Current NCCPA certification; and/or

(D) Documents showing proof that applicant is licensed to practice as a physician assistant in another jurisdiction; and

(E) Document showing proof of a current and valid DEA registration certificate, if required.

(5) Applicant to provide a list of all jurisdictions, U.S. or foreign, in which the applicant is licensed or has applied for a license to practice as a physician assistant;

(6) Applicant to provide a detailed educational history, including places, institutions, dates and program descriptions of all his or her education beginning with secondary schooling and including all college, pre-professional, professional, and professional postgraduate training;

(7) Applicant to provide a list of all jurisdictions, U.S. or foreign, in which the applicant has been denied licensure or voluntarily surrendered a license to practice as a physician assistant;

(8) Applicant to provide a list of all jurisdictions, U.S. or foreign, of all sanctions, judgments, awards, settlements or convictions against the applicant that would constitute grounds for disciplinary action under the Act or these regulations; and

(9) Applicant to provide, a report within sixty (60) days from the signature date of the application, from the National Practitioner Data Bank (NPDB).

(b) The burden of proof shall be upon the applicant to provide and verify to the Board's satisfaction the required information. The applicant shall be responsible for the cost of obtaining such information from recognized information services and data services.

§ 140-50.3-004009 Continuing Education.

(a) All physician assistants licensed to practice in the CNMI are required to complete fifty (50) CE hours during the 24 months prior to the expiration of their license as a prerequisite to the renewal of their biennial license.

(b) One hour of credit will be allowed for each clock hour of CE participation.

(c) Approved continuing education activities includes but is not limited to the following:

- (1) Activities designated as Category 1 by an organization accredited by the Accreditation Council on Continuing Medical Education (ACCME), the American Medical Association, or the Academy of Family Physicians; or
 - (2) CE's certified by the Maintenance of Proficiency (MainPro), which is a program of the College of Family Physicians of Canada; or
 - (3) DPH-certified CEs; or
 - (4) CE's certified by the NCCPA.
- (d) If a licensee fails to meet the CE requirements for renewal of license because of illness, military service, or other extenuating circumstances, the Board upon appropriate written explanation may grant an extension of time to complete same, on an individual basis.
- (e) It shall be the responsibility of the licensee to obtain documentation, satisfactory to the Board, from the organization or institution of his or her participation in the continuing education, and the number of credits earned.
- (f) Licensure renewal shall be denied to any licensee who fails to provide satisfactory evidence of completion of CE requirements, or who falsely certifies attendance at and/or completion of the CE as required herein.

§ 140-50.3-004010 Renewal.

- (a) All licenses issued by the Board expire every two years following issuance or renewal and becomes invalid after that date.
- (b) Each licensee shall be responsible for submitting a completed renewal application at least sixty (60) days before the expiration date. The Board shall send by mail, a notice to every person licensed hereunder giving the date of expiration and the fee and any additional requirement for the renewal thereof.
- (c) All licensees must submit satisfactory evidence of completion of CE requirements, as required under §4009 of these regulations and provide a copy of a current and valid DEA registration certificate, if required.
- (d) Physician Assistants shall maintain a current national certification with NCCPA and provide a valid copy of the certificate in order to renew their CNMI license.
- (e) A late fee of \$25.00 will be charged every 30 days after the expiration date.
- (f) Licenses which have expired for failure to renew on or before the date required may be reinstated within one year of the expiration date upon payment of the renewal and late fees for each calendar month until the renewal fee is paid. Each licensee whose license has expired and lapsed for more than one year by failure to renew must file a new application, meet present day requirements for licensure, and receive board approval.
- (g) A licensee whose license has been revoked, suspended, or placed on probation by the licensing authority of another U.S. state, Canada, or foreign jurisdiction, or who has voluntarily or involuntarily surrendered his or her license in consideration of the dismissal

or discontinuance of pending or threatened administrative or criminal charges, following the expiration date of his CNMI license, shall be deemed ineligible for renewal of his or her license to practice as a physician assistant in the CNMI.

§ 140-50.3-004011 Special Provision – Advertising and Identification to the Public.

(a) A PA shall at all times when on duty wear an ID badge stating their name and title of “Physician Assistant” or “PA”.

(b) A PA may not advertise or otherwise hold him/herself out in any manner, which implies that the PA is either a medical doctor or an independent practitioner.

(c) A PA may not advertise in any manner without the name(s) of the supervising physician.

§ 140-50.3-004012 Impaired Physician Assistants.

(a) The Board shall have the power to deny an application, refuse to renew or restore, suspend, revoke, place on probation or condition the license of any physician assistant whose mental or physical ability to practice as a physician assistant with reasonable skill and safety is impaired.

(b) By submission of an application for licensure, or renewal, an applicant shall be deemed to have given his or her consent to submit to mental or physical examination and/or chemical dependency evaluation, including the taking of tissue or fluid samples, as his or her own expense, as the Board may direct, and to waive all objections as to the admissibility or disclosure of such information and related findings, reports, or recommendations in an administrative or judicial proceeding. If a licensee or applicant fails to submit to an examination or evaluation when properly directed to do so by the Board, unless failure was due to circumstances deemed beyond the licensee’s control, the Board shall be permitted to enter a final order upon proper notice, hearing and proof of refusal.

(c) If the Board finds, after examination and hearing, that the applicant or licensee is impaired, he/she shall be subject to the following:

(1) Direct the applicant or licensee to submit to care, counseling or treatment, at his or her own expense, acceptable to the Board; and

(2) Deny the application, suspend, place on probation or condition the license for the duration of the impairment; or

(3) Revoke the license.

(d) Any licensee or applicant who is prohibited from practicing as a physician assistant under this section shall, at reasonable intervals, be afforded an opportunity to demonstrate to the satisfaction of the Board that he or she can resume or begin to practice as a physician assistant with reasonable skill and safety. A license shall not be reinstated, however, without the payment of all applicable fees and the fulfillment of all requirements as if the applicant had not been prohibited.



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

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Civil Division

Tel: (670) 664-2341
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Passport Office

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Fax: (670) 664-4764

**Domestic Violence
Intervention Center**

Tel: (670) 664-4883/4
Fax: (670) 234-4589

AG Opinion 2011-01

To : Governor
Lt. Governor
President of the Senate
Members of the Legislature

From : Attorney General

Subject : Constitutionality of Section 602 of Public Law 17-21

I. INTRODUCTORY STATEMENT

The CNMI Office of the Attorney General hereby submits that Section 602 of Public Law 17-21, as currently drafted, conflicts in part with both the CNMI Constitution and existing statutes. Specifically, it is the opinion of this Office that, by precluding the Executive Branch from filling vacancies that develop after the enactment of an annual appropriation, the proposed law allows the Legislature to lower the cap on the number of persons that “may be employed by each branch, department, agency, authority and public corporation of the Commonwealth to which public funds are appropriated” without passage of a new appropriations bill, and is an impermissible delegation of a constitutionally required duty. Since CNMI Const. Art. X, Sec. 7 specifically states that the Legislature may only set a new cap on persons employed by governmental entities through the passage of a new appropriations bill, Section 602 is not in concert with the Commonwealth’s Constitution.

As stated Section 602 not only conflicts with our Constitution, but with a host of Commonwealth statutes enacted since in the aftermath of the Second Constitutional Convention in 1985. Each of these conflicts is discussed, in detail, in this Opinion.

II. QUESTIONS PRESENTED:

1. Under current law in the Commonwealth of the Northern Mariana Islands (hereinafter the "Commonwealth"), if a position within the Executive Branch becomes vacant, must the position remain vacant until and unless new approval action is received from the Legislature? This question has three aspects: If a position authorized by the Commonwealth's budget becomes vacant, must legislative approval be sought in order to fill it?
2. If a Department desires to increase the number of its FTE positions beyond those authorized in a budget, must legislative approval be sought prior to filling a position?
3. What impact, if any, does the constitutional "separation of powers" doctrine have in the process for filling vacant positions defined in Public Law ("PL") 17-21, the FY 2011 Appropriations ACT?

III. SHORT ANSWERS

1. No legislative approval is required for the Governor, or, by delegation, a department head, to fill a vacant position where that position has been authorized in the Commonwealth's budget provided that the position is filled within 180 days of a vacancy occurring.
2. Legislative approval is required where the total number of authorized positions is increased above that established in a budget
3. Section 602 of PL 17-21 encroaches upon the constitutional power of the Executive Branch by requiring that any existing vacant position within the executive Branch be approved by the legislature before being filled.

IV. ANALYSIS

ANALYTICAL APPROACH

The Office of the Attorney General submits that the constitutional impediment to the proposed statute is paramount. Nevertheless, it is important to note that the proposed statute also conflicts with existing law. A conflict between statutes is generally not sufficient to defeat enforcement of a new statute. Nevertheless, the Office of the Attorney General believes that it is important to highlight these conflicts in its opinion.

Specifically, there is apparent confusion between existing statutory provisions and language in PL 17-21 over the definition of the abbreviated term "FTE." For instance, 1 CMC § 8135 defines the abbreviated term "FTE" as "Full Time Employee" (emphasis added).¹ PL 17-21 defines the abbreviated term "FTE" as "Full Time Equivalent" (emphasis added). In this analysis, these terms will first be defined and then analyzed in the context of the separation of powers doctrine, the "Full Time Equivalent" staffing model. This rationale will then be applied to PL 17-21, section 602.

a. DEFINITION OF TERMS

When interpreting a statute, the Supreme Court of the Commonwealth has stated that statutory language must be given its plain meaning. Office of the Attorney Gen. v. Sagun, 1999 MP 19 (1999). A statutory provision is ambiguous when its words are capable of more than one meaning or used in two different contexts within a single statutory scheme. *Id.*

"Full Time Equivalent" or "FTE" (as related to a "position")

"Full Time Equivalent" or "FTE" all refer to the maximum number of persons that may be employed in an organization with a maximum number of positions. These terms are used to describe a funded position equivalent to one-full time employee. Diaz v. San Jose Unified Sch. Dist., 633 F.Supp. 808, fn. 2 (N.D.Cal. 1985). In a budget scenario, "FTE" is determined as the number of total hours worked divided by the

¹ Note that the bill that created 1 CMC §8135, section 413 of PL 5-31, does not define the term "FTE".

maximum number of compensable hours in a work year. For example, if the work year were defined as being 2,080 hours, then one (1) employee occupying a paid full-time job for the entire year would account for one (1) FTE. Two employees working half time, or for 1,040 hours each for the entire year, would also account for one (1) FTE between the two of them.

Therefore, one “position” under a “Full Time Equivalent” scheme *does not mean* that a single individual fills a single position. Instead, the term is tied to a budgetary calculation or maximum number of positions designed to allow management flexibility in utilizing employees up to the budgeted maximum. This approach is different from having a set number of positions filled with an equal number of employees in each position. Hence, as suggested above, two or more people could account for one “Full Time Equivalent” position depending upon the budget allocation and number of people who fill this position. Since financial budgeting in the Commonwealth is based on “Full Time Equivalent” calculations, rather than one (1) person filling one (1) position at a time, this definition will be used in this Opinion to avoid confusion over the meaning of the abbreviated term “FTE” since this is the definition used in PL 17-21.

“FTE Vacancies”

Under Black’s Law Dictionary (9th ed. 2009), the term “vacant” means “empty” or “unoccupied” such as in a “vacant” office. Under Commonwealth statute (although not under the Commonwealth Constitution, as will be discussed later) , if a FTE position becomes vacant, meaning that one or more persons would no longer fill the FTE position, the FTE position is eliminated after it has been vacant for 180 days. 1 CMC § 8135. From a budgetary perspective, the funding allocation for that position, once it has been eliminated six months after being vacated and not filled, reverts to the General Fund. Simply put, under the authority of this statute, where a person, who has been working in a FTE position, leaves the position, the head of the department with the budget allocation responsibility for the position has 180 days to fill the position before it is eliminated. This allows the appropriations for the full personnel costs associated with the filling of vacant positions to remain available for the 180-day period.

“Critical” or “Essential” Positions

There is no current legislation defining what are “critical” or “emergency” positions and, as such, the Governor has defined them according to law. Since there was no legislative definition available on September 30, 2010, at the end of Fiscal Year 2010, the Governor invoked his authority under the Constitution to determine which government services and related positions were deemed essential in Fiscal Year 2011. See Executive Order 2010-11 and later Orders.

Art. III, Section 9(a) of the Constitution does not state which government services are “essential” other than indicating that such services are “as provided by law.” Because no legislative action had been taken to define services and/or positions deemed to be “essential” Commonwealth services, the Governor identified them under his emergency powers during the period following October 1, 2010. See Executive Order 2010-11 and later Orders.

“Vacancy” (in the context of FTE)

As explained above, the term “FTE” stands for “Full Time Equivalent.” A vacancy in that context does not mean that a full-time position has not been filled. For instance, assume for purposes of this analysis that a particular agency is authorized 10.0 FTE. Assume further that for the first six (6) months of the year, nine (9) people are working full-time for the agency.

Does this mean that the agency has one (1) vacant position? No. During the first six months, applying an FTE utilization model, the utilization of 4.5 FTE has occurred (Nine (9) positions working 0.5 year = 4.5 FTE). This means that the agency would have 5.5 FTE remaining for the rest of the year. In this scenario, the agency might continue the nine (9) people working full-time for the rest of the year but could also hire two (2) additional employees on a full-time basis for 6 months thus accounting for one (1) FTE between them for the remainder of the year. In this case, there would be 9.0 FTE from the employees that worked full-time for one year and 1.0 FTE from the two (2) employees working at the rate of 0.5 FTE each for half a year. In this example, the agency would, accordingly, have utilized all 10.0 FTE for the year and thus there would be no vacancy.

The history of the Commonwealth’s state budget process shows consistent utilization of FTE under the “Full Time Equivalent” model

rather than as a "Full Time Employee" (one-person-in-one-position model).

In conclusion, given the budget and management processes used in the Commonwealth; the designation of positions as being FTE; the fact that employees resign, retire or are terminated simply means that the term "vacancy" has no practical utility. The term only gains utility when an agency makes an explicit administrative decision to leave a position unfilled for more than six months or to obtain FTEs in excess of their budget authority.

Thus, if a current employee leaves, the FTE position is not vacant for at least a six-month period.

Accordingly, if an agency determines that a FTE position will be unfilled for the budget year or for more than 180 days, that position would be eliminated from the agency's budget allocation due to the requirements of 1 CMC § 8135. If the agency decides, at a later date, to reverse that position and seeks to utilize the position or to increase the number of FTEs over what it is authorized, then the agency would, per the statute, have to seek legislative approval. However, no legislative approval would be required to fill FTE vacancies that have been authorized in the budget within the first 180-day period.

This is all, however, somewhat academic. As can be seen below, the 180 day limit is constitutionally problematic if no subsequent budget is enacted. It is therefore important to recognize that, by utilizing the Full Time Equivalent paradigm, no position is ever vacant until the end of the fiscal year, as the hiring authority could theoretically hire 365 employees to work one day on the last day of the fiscal year.

b. SEPARATION OF POWERS

Article III of the Constitution of the Commonwealth vests executive powers in the Governor to enforce laws and spend appropriated budgets in providing public services. See Camacho v. Civil Service Commission, 666 F.2d 1257 (9th Cir. 1982). The Governor also has the responsibility to appoint Executive Branch department heads with the advice and consent of the Senate. See Article III, Commonwealth Constitution. Department heads have, as the senior executives responsible for their respective departments, the authority to hire employees, administer budgets, etc. The power to approve hiring for positions in the executive branch that become vacant is an executive function and one that the

Legislature may not perform. See Camacho at 1263. Any statute that purports to confer upon a legislative body the ability to restrict the function of the executive usurps the executive function and contravenes the well-established separation of powers doctrine. “Without constitutional power, [a legislature] cannot add to its authority.” Mafnas v. Camacho, Civ. No. 80-0012 (D.N.M.I. Oct. 21, 1980) (Opinion at 5).

The separation of powers doctrine is anchored in section 203 of the Commonwealth’s Covenant. “The Covenant under which the Commonwealth was chartered demonstrates that, unlike the states, the Commonwealth is bound by the doctrine of separation of powers.” Camacho at 1263; see also Covenant at § 203. As such, it is undisputed that the constitutional doctrine of the separation of powers applies in the Commonwealth. Sablan v. Tenorio, 4 N.M.I. 351 (1996) (“The separation of powers concept came into being to safeguard the independence of each branch of government and protect it from domination and interference by others.”)

Under a separation of powers doctrine, each branch of government is co-equal. Mafnas, Opinion at 8. The doctrine “safeguards the independence of each branch of government and protects it from domination and interference by others.” Sablan at 363. Illustrative of this is the Alaska Supreme Court’s opinion in Bradner v. Hammond, 553 P.2d 1 (1976), which states that governmental powers “will not be inferred in the absence of an express constitutional provision.” Bradner at 7. The Alaska court further stated, “To hold otherwise would emasculate the restraints engendered by the doctrine of separation of powers and result in potentially serious encroachments upon the executive by the legislative branch.” *Id.*

Section 602 of Public Law No. 17-21 pertains to the hiring restriction in place given the current conditions of the CNMI. The section reads:

Section 602. Hiring Restriction.

(a) As long as work hours and wages are reduced, no vacancies shall be filled except for critical and emergency positions; provided that until a law is passed defining critical and emergency positions, said critical and emergency positions must be approved by joint approval of the legislature.

(b) In order to reduce the size of the Government, except for the Public School System...., any FTE (full-time equivalent) that becomes vacant shall be eliminated. The renewal of the contract for an existing employee shall not be considered a vacant position. If a new position or vacant position is necessary to be filled to protect the health, safety and welfare of the public, the expenditure authority may request the Legislature to establish a new FTE by joint resolution.

The conflict between this statute and the CNMI Constitution is illustrated by both a plain reading of Article X, Section 7 of the CNMI Constitution, and a review of the history of its debate at the Second Constitutional Convention in 1985. The pertinent section of the CNMI Constitution reads as follows:

Section 7: Government Employment. In the annual appropriations acts, the legislature shall establish ceilings on the number of persons that may be employed by each branch, department, agency, authority and public corporation of the Commonwealth to which public funds are appropriated. Except upon specific approval by joint resolution of the legislature, no public funds may be expended for personnel in excess of the ceilings so established.

CNMI Const. Art. X, Sec. 7. As stated, Section 7 gives the legislature express authority, when submitting a budget bill to the Governor, to propose a cap the number that “may be employed by each branch, department, agency, authority and public corporation of the Commonwealth to which public funds are appropriated.” *Id.* This Section does not grant the Legislature the authority to prohibit the Executive Branch from filling positions that have been vacated since the passage of the previous “annual appropriations act . . .” *Id.* Since Section 602, if enacted, would allow the Legislature (and in effect, private persons who chose to leave government service) to reduce the cap on persons employed by the government in the absence of a new appropriations act, Section 602 directly conflicts with the CNMI Constitution.

In short, the Legislature may, at the time of the passage of an annual appropriation, submit new or supplemental appropriation bills that take any of the following actions: increase the cap on persons employed by each branch, etc.; reduce that cap; or, keep it identical to that set in the previous annual appropriation. Also, pursuant to Article X, the Legislature may, by joint resolution, expend public funds “for personnel in excess of the ceiling . . . established” by the previous budget bill. However, nothing in this section contemplates a reduction in FTE.²

As an aside, Section 602 potentially cedes authority to private citizens to determine the size of the government. Specifically, any private citizen who chooses to leave a particular branch of the CNMI government would, in effect, be unilaterally capping the size of the department they left as “one less than it used to be.” Under Section 602, the Executive would be at the mercy of individual citizens to maintain the strength of specified agencies and departments.

It is true that a private citizen may, under some circumstances, seek to compel the government to take certain actions. For example, CNMI Const. Art. X Sec. 9, permits **individual taxpayers** to “bring an action against the government or one of its instrumentalities in order to enjoin the expenditure of public funds for other than public purposes or for a breach of fiduciary duty . . .” *Id.* See also CNMI Const. Section 4 (b), which notes that for the purpose of reapportionment and redistricting, “(u)pon the petition of any person qualified to vote, the Commonwealth appeals court . . . has original and exclusive jurisdiction to review a plan and to amend it to comply with the requirements of this Constitution or to establish a plan if the governor has failed to act within the time provided.” *Id.* Tellingly, Article X itself contains a specific grant of authority to individuals in a certain context. Specifically “If the legislature fails to adopt or adhere to the plan, any person may bring an action to require the government to reallocate its expenditures in accordance with a deficit reduction plan.” Such is not the case with FTE limits.

The Constitution does not permit individual persons to compel the Executive to raise or lower the size of governmental agencies. Thus while it is clear that the framers were confident conferring legislative power in individuals in certain circumstances, lowering the FTE limit was not one such circumstance. Accordingly, reducing FTE limits may only be done

upon enactment of a new budget bill, and not by any combination of individuals who chose to leave government service.

Under Public Law 17-21, the legislature has acted to impose itself into an area outside of its constitutional limitations by requiring that the Executive Branch obtain approval from the legislature in order to fill “vacant” positions. PL 17-21 § 602(b). Thus, if a FTE position becomes vacant, instead of having 180 days to fill the position, as authorized by 1 CMC § 8135, (which is itself suspect per the above analysis), PL 17-21 demands that a department head or the Governor first obtain approval from the legislature in order to fill it. Thus, the process provided for in Section 602 of PL 17-21 amounts to an automatic termination of the position once it becomes “vacant” without the benefit of the passage of a 180-day period provided for in 1 CMC § 8135 before the position is eliminated, but for the fact that the positions, due to the FTE definition, cannot be “vacant” until the fiscal year has passed.

It is the view of this Office that the automatic nature of the effect of Section 602 on budgets, positions, management discretion and executive powers is beyond the authority of the Legislature. What amounts to an attempted automatic elimination of a vacant position also conflicts with the Commonwealth’s well-established statutory scheme in this area. See 1 CMC § 8135. Such a limitation on the Executive Branch works as an arbitrary exclusion from the powers of the executive office and thus impermissibly interferes with the separation of powers doctrine. See for example Walker v. Baker, 196 S.W.2d 324 (Tex. 1946). Under the separation of powers doctrine, neither branch of government “can enlarge, restrict or destroy the powers of any one of them except as the power to do so may be given by the Constitution.” *Id.* at 328.

Based on the requirement of separation of powers, it is the view of this Office that Section 602 of PL 17-21, which purports to add a requirement for legislative approval before a vacant position can be filled, amounts to an unconstitutional limitation on the executive’s discretion in the management of Executive Branch personnel and thus conflicts with the separation of powers doctrine.

Under the rationale of Camacho, *supra* at 1263, in passing Section 602 of PL 17-21, the legislature overreached its constitutional mandate by encroaching upon the executive authority of the Governor and Executive Branch. The United States Supreme Court has held that a legislative body subject to the separation of powers doctrine acts unconstitutionally when it seeks to implement or execute the laws it

enacts, a function reserved for the executive branch. Bowsher v. Synar, 478 US 714 (1986).

c. PUBLIC LAW 17-21, SECTION 602 IS UNCONSTITUTIONAL IN PART

Even if it were permissible for the Legislature to place additional restrictions on the Executive's ability to fill vacant positions, Section 602(a) would still be unconstitutional. This is because this section infringes upon the Executive Branch's authority to fill critical and emergency positions. As discussed above, the Governor has exercised his constitutional power by defining which positions are "essential" or "critical" in the absence of a legislative definition. See Executive Order 2010-11 and later Orders. Therefore, the Governor retains this authority and function until the legislature passes a law that defines the essential services of the government.

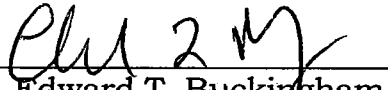
d. CONCLUSION

The power to hire, manage and/or terminate Executive Branch employees is an Executive Branch function. Any legislative involvement in that process must be specifically granted by the Commonwealth's Constitution as is the case with the Senate's 'advice and consent' responsibilities for Department Heads, the Attorney General, etc. However, section 602 of PL 17-21 purports to give to the legislature the power to approve the creation of and hiring of employees for any position in the Executive Branch that has become vacant. This power has not been given to the legislature in the Constitution.

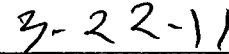
We find that Sections 11 and 14 of Article III of the Constitution set the maximum (rather than the minimum) parameters of the legislature's power and that power is limited to the confirmation of executive appointments, not to all employee positions that may become vacant.

Applying this strict criterion, we conclude that the legislature is without authority to enact a statute that requires, in every situation where a personnel vacancy occurs, legislative approval in order to fill such positions. The approval power sought by the legislature is akin to the 'advice and consent' power given to the Senate, but more far reaching. Such an approval process, as contemplated by PL 17-21, is in contravention of the separation of powers doctrine implicit in § 203 of the

Covenant, and is beyond the "advice and consent" authority delegated to the Senate by the Constitution. It is also well outside of the parameters set by 1 CMC § 8135 as to the filling of vacant positions in government agencies. As such, PL 17-21, Section 602(a) and (b), violate the separation of powers doctrine in the Commonwealth and are subject to constitutional challenge.



Edward T. Buckingham
Attorney General



Date

DIRECTIVE

DATE: NOV 29 1994
No. 142

TO : Secretary of Lands and Natural Resources
Secretary of Public Works

FROM : Governor

SUBJ. : Executive Order 94-3, Development Advisory Council

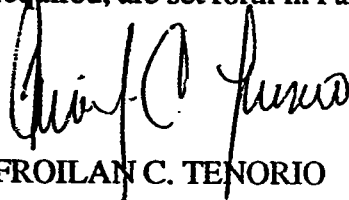
This is to inform you that, in accordance with Executive Order 94-3, Section 402 of Reorganization Plan No. 2 of 1994, effective immediately, there is hereby established a Development Advisory Council consisting of nine members, including five from Saipan, two from Rota, and two from Tinian. Members of the Council shall be appointed by and serve at the pleasure of the Governor. Appointments to the Board will be forthcoming shortly.

The Council is allocated to the Department of Lands and Natural Resources for purposes of administration and coordination.

The Development Advisory Council shall advise the Governor, the head of any agency involved in the development process, the Development Appeals Board (including the Board of Zoning Appeals when that Board is active) the Zoning Board of Rota, the mayors, the Legislature, and the respective legislative delegations regarding the effect of government policies and actions on private sector development in the Commonwealth. The Council may comment upon or intervene in any application for or hearing, appeal, or other proceeding concerning any permit or approval required for development.

To the extent that the Zoning Advisory Council has not fully disbanded, as required by 2 CMC §7223(d), it is abolished and its records, property, facilities, equipment, and supplies transferred to the Development Advisory Council.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503-505.



FROILAN C. TENORIO

DIRECTIVEDATE: NOV 29 1994
No. 143

TO : Secretary of Lands and Natural Resources
Secretary of Public Works

FROM : Governor

SUBJ. : Executive Order 94-3, Development Appeals Board

This is to inform you that, in accordance with Executive Order 94-3, Section 401 of Reorganization Plan No. 2 of 1994, effective immediately, there is hereby established a Development Appeals Board consisting of nine members, including five from Saipan, two from Rota, and two from Tinian. Not more than three of the members from Saipan, and not more than five members of the entire Board shall be associated with a single political party. Members of the Board shall be appointed by the Governor with the advice and consent of the Senate for terms of two years, except that of the members first appointed, five shall serve for one year and four shall serve for two years, as the Governor shall determine. The members of the Board shall be compensated at the rate established pursuant to 1 CMC §8247.

The Development Appeals Board shall hear appeals of adverse decisions of agencies and instrumentalities regarding permits and other approval for private sector development. Decisions of the Development Appeals Board shall be subject to judicial review pursuant to the provisions of 1 CMC §9112, except that the court shall act upon such review within 60 days after the written record of the proceedings is made available to the court.

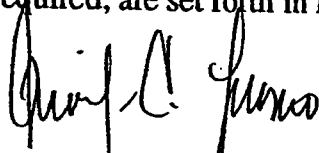
The Board may, subject to appropriations, hire employees under Civil Service procedures or contract for professional services to assist it in carrying out its duties. The Board may, by agreement, utilize the services of employees of other agencies of the government on a reimbursable or non-reimbursable basis.

The functions of the Governor regarding historic preservation appeals pursuant to 2 CMC §4831(c) are transferred to the Development Appeals Board. Decisions of the Development Review Board relating to historic preservation, shall, in lieu of the procedure set forth in such section, be subject to judicial review as provided in subsection (h) of this section.

The Coastal Resources Appeals Board and the Building Safety Code Review Board are abolished and their functions transferred to the Development Appeals Board.

In accord with the provisions of Section 401 of the Reorganization Plan, the Development Appeals Board shall also serve as the Zoning Appeals Board.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503-505.



FROILAN C. TENORIO

DIRECTIVE

DATE: NOV 29 1994
No. 144

TO : Special Assistant for Administration
Chair, Board of Parole
Members, Board of Parole

FROM : Governor

SUBJ. : Executive Order 94-3, Board of Parole

This is to inform you that, in accordance with Executive Order 94-3, Section 213 of Reorganization Plan No. 2 of 1994, effective immediately, the Board of Parole is allocated to the Office of the Special Assistant for Administration, Office of the Governor, for purposes of administration and coordination. Board members shall be appointed by the Governor with the advice and consent of the Senate.

Subsection (a) of 6 CMC §4205, relative to probation, is repealed and succeeding subsections redesignated accordingly.

1 CMC §4207 is amended to direct the Special Assistant for Administration to provide staff support to the Board of Parole, including a Probation Officer who shall have the power to arrest persons under the jurisdiction of the Board. The existing staff of the Board is transferred to the Office of the Special Assistant for Administration.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part V of the Executive Order, Sections 503-505.



FROILAN C. TENORIO

DIRECTIVE

DATE: NOV 29 1994
No. 145

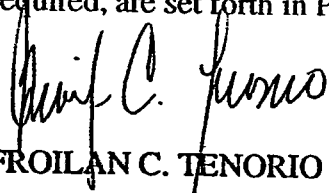
TO : Secretary of Lands and Natural Resources
Members, Coastal Advisory Council

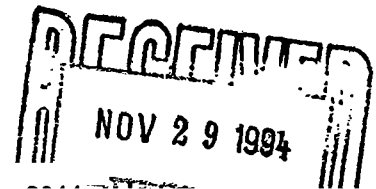
FROM : Governor

SUBJ. : Executive Order 94-3, Section 206(b)

This is to inform you that, in accordance with Executive Order 94-3, Section 206(b) of Re-organization Plan No. 2 of 1994, effective immediately, the Coastal Advisory Council is abolished and its functions transferred to the Development Advisory Council established by Section 402 of the Plan.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503-505.


FROILAN C. TENORIO



DIRECTIVE

DATE: NOV 29 ~~1994~~
No. 146

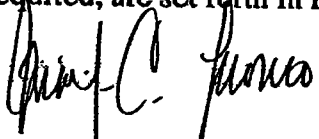
TO : Administrator, Criminal Justice Planning Agency
Commissioner of Public Safety
Members, CJPA Youth Advisory Council
Members, Council for the Improvement of the Criminal Justice System

FROM : Governor

SUBJ. : Executive Order 94-3, Section 303(a)

This is to inform you that, in accordance with Executive Order 94-3, Section 303 (a) of Re-organization Plan No. 2 of 1994, effective immediately, the Criminal Justice Planning Agency, the CJPA Youth Advisory Council, and the Council for the Improvement of the Criminal Justice System are allocated to the Department of Public Safety for purposes of coordination and administration.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503-505.



FROILAN C. TENORIO

DIRECTIVE

DATE: NOV 29 1994
No. 147

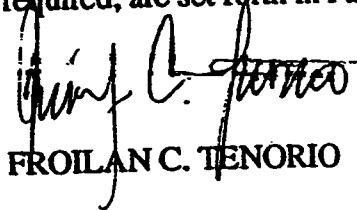
TO : Resident Executive for Indigenous Affairs
Executive Assistant for Carolinian Affairs
Members, Chamorro-Carolinian Language Policy Commission

FROM : Governor

SUBJ. : Executive Order 94-3, Sections 204 and 308(d)

This is to inform you that, in accordance with Executive Order 94-3, Sections 204 and 308(d) of Re-organization Plan No. 2 of 1994, effective immediately, the Office of Indigenous Affairs, the Office of Carolinian Affairs, and the Chamorro Carolinian Language Policy Commission are transferred to the Department of Community and Cultural Affairs for the purpose of coordination.

The procedures for transferring authority, funds, records, property and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503-505.



FROILAN C. TENORIO

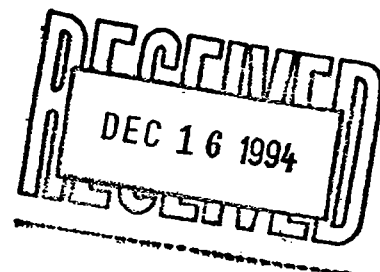
DIRECTIVE

DATE: DEC 16 1994
No. 148

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Issuance of Directive on Executive Order 94-3,
Sections 501 - 511, Implementation of General
Provisions

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, effective immediately, Sections 501-511 (which set forth the general provisions of the Executive Order) are hereby implemented. Sections 501-11 are effective retroactively to the extent that they have been referred to and incorporated into previously issued directives.


FROILAN C. TENORIO



DIRECTIVE

DATE: DEC 16 1994
No. 149

TO : Secretary of Lands and Natural Resources & SAMB

FROM : Governor

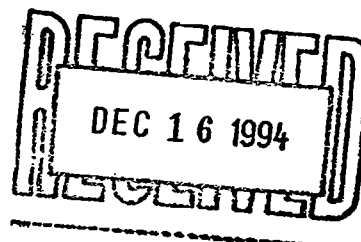
SUBJ. : Issuance of Directive on Executive Order 94-3, Section 202, Establishment of a Planning Office in the Office of the Governor

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2 of 1994, Section 202, effective immediately, there is established within the Office of the Governor a Planning Office, headed by a Special Assistant for Planning ("SAP"), who shall be appointed by and serve at the pleasure of the Governor. The planning functions of the Special Assistant for Management and Budget ("SAMB"), other than those related to land use planning, are transferred to the SAP. The functions of the SAMB relating to land use planning are transferred to the Secretary of Lands and Natural Resources.

Procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503, 504, and 505.



FROILAN C. TENORIO

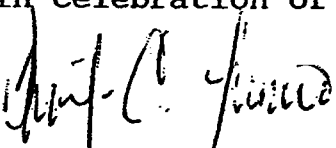


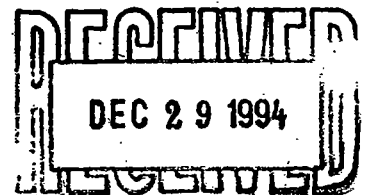
DIRECTIVE

DATE: DEC 28 1994
No. 150

TO : All Executive Branch Activity and Agency Heads
FROM : Governor
SUBJ. : Grant of Administrative Leave

This is to inform you that, in accordance with Personnel Service Rules and Regulations Part VII G.1, effective December 30, 1994 at 12:30 p.m., all Executive Branch government employees providing non-essential services are to be granted administrative leave for the balance of the work day. This grant of administrative leave is granted both in appreciation of the work performed by government employees during this calendar year and in celebration of the upcoming New Year.


FROILAN C. TENORIO



DIRECTIVE

DATE: JAN 18 2015
No. 151

TO : All Executive Branch Agency and Department Heads
FROM : Governor
SUBJ. : Unauthorized Disclosure of Litigation Documents

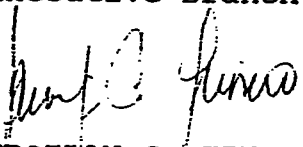
The Attorney General's Office has informed me that Executive Branch employees have released documents (without such documents being first reviewed by the Attorney General's Office) directly to opposing parties or their legal counsel in connection with lawsuits filed against the Commonwealth.

Under the CNMI Constitution, the Attorney General is charged with providing legal advice to all Executive Branch departments and representing the Commonwealth in all legal matters. In order for the Attorney General to effectively carry out his constitutionally mandated duty, it is imperative that no document pertaining to any lawsuit filed either against the Commonwealth, or by the Commonwealth, be disclosed to either an opposing party or the opposing party's legal counsel without such document first being reviewed by, and approved for disclosure by, the Attorney General.

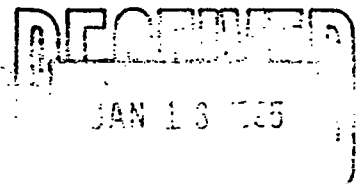
If there is any question or doubt as to whether a document should or can be disclosed, please contact the Attorney General's Office for advice.

Any employee found to have willfully and knowingly violated this directive shall be subject to immediate discipline including termination of employment.

This directive shall be conspicuously posted for notice in all Executive Branch offices.



FROILAN C. TENORIO



DIRECTIVE

DATE: JAN 16 1995
No. 152

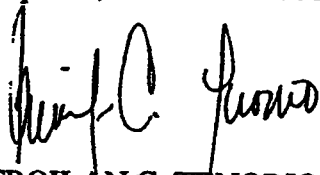
TO : Secretaries of Health, Finance, Community & Cultural Affairs,
Commissioner of Public Safety

FROM : Governor

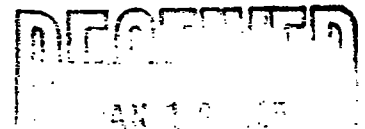
SUBJECT : Establishment of the Office of Drugs and Substance Abuse in the Office
of the Governor under Executive Order 94-3, Section 215

This is to inform you that, in accordance with Executive Order 94-3, Reorganization Plan No. 2, Section 215, effective immediately, there is established within the Office of the Office the Office of Drugs and Substance Abuse, headed by a Special Assistant for Drugs and Substance Abuse ("SADSA"), who shall be appointed by and serve at the pleasure of the Governor. The Office of Drugs and Substance Abuse shall coordinate all activities of the Commonwealth Government relating to drugs and substance abuse, including education, prevention, interdiction, enforcement, treatment, and rehabilitation. Additionally, the office shall also coordinate with private and voluntary organizations, religious groups, businesses, health care practitioners (including practitioners of traditional medicine), and other persons or groups in the Commonwealth expressing an interest in controlling drugs and combating substance abuse.

Procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Section 503, 504, and 505.



FROILAN C. TENORIO



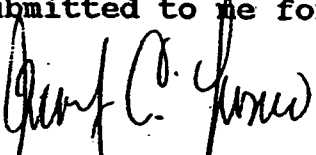
DIRECTIVEDATE: ~~JAN~~ 18 1995
No. 153

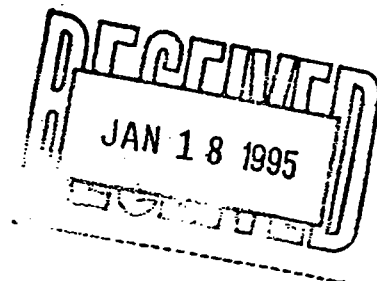
TO : All Executive Branch Agency and Department Heads
FROM : Governor
SUBJ. : Implementation of Emergency Regulations

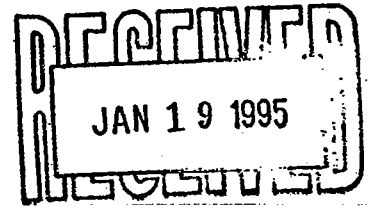
I am concerned over the extent and regularity that departments, boards, agencies and commissions have implemented emergency regulations. The CNMI "Administrative Procedures Act" provides that emergency regulations should only be submitted when an agency finds "that the public interest so requires, or that imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice ..." 1 CMC §9104(b).

Emergency regulations should only be required and implemented in extreme, unusual or limited circumstances. Departments, boards, agencies and commissions should not assist in the creation of an emergency simply by procrastinating or delaying the publication (and eventual implementation) of duly proposed regulations that are subject to public comment.

Therefore, effective immediately, each proposed emergency regulation shall fully describe the origin and scope of the emergency and the necessity for immediate implementation. Furthermore, all proposed emergency regulations must first be submitted to my legal counsel for review prior to their being submitted to me for my consideration and signature.


FROILAN C. TENORIO



DIRECTIVEDATE : JAN 19 1995
NO. 154

TO : ALL DEPARTMENT AND ACTIVITY HEADS

FROM : GOVERNOR

SUBJECT : AMENDMENT TO DIRECTIVE 140-PROCEDURES FOR OFFICIAL TRAVEL

In order to attain a more consistent, effective, and efficient travel operation, I have included herein the new procedures for all official travel. I am urging that all department and activity heads inform, and more importantly, educate your employees of these new changes and requirements which will become effective on November 14, 1994. They are as follows:

TRAVEL AUTHORIZATIONS (TAs)

All TA's are to be submitted to the Travel Section in the Office of the Special Assistant for Administration (SAA). As previously mentioned in my memorandum dated February 22, 1994, the Travel Section is responsible for arranging ALL travel reservations and for purchasing of airline tickets (a few exceptions are set forth in the memorandum). In addition, the following conditions shall be followed:

1. All TA forms must be fully completed and submitted to the Travel Section along with all supporting documents including, but not limited to, programs, itinerary, agenda, pertaining to the purpose of travel. Departments, agencies and allocated units are advised to fully screen and finalize TA's before they are submitted to the Travel Section. The TA's must include the social security number of the traveler.
2. Any type of fee associated with the purpose of travel should be included on the TA; for example, registration fee for a conference, training, seminar, car rental and land transportation.
3. Any TA that is requested for travelers whose destination requires a flight of five (5) hours or more (point to point), one way, may be accommodated by the government in flying Business Class or other comparable class. TAs requested for travelers whose destination requires less than five (5) hours will be provided with Economy Class or other comparable class.
4. Any TA that is requested for travel beyond the CNMI, as opposed to inter-island, must be submitted three to four weeks in advance. Any inter-island TA must be submitted one week in advance. The Travel Section and/or the Department of Finance will not be responsible for rushing the processing of any TA in order to meet the travel date.
5. After -the-fact TA requests must be submitted, with justification, to the Governor for review and approval.
6. Outstanding Travel Advance A Traveler with outstanding travel advance shall not be authorized an additional travel advance, unless a travel voucher has been submitted clearing all previous travel advances or the traveler was required to travel within two (2) weeks or less

from the last travel performed.

PER DIEM

The amount of per diem allocated for individual travelers varies by destination, and is calculated based on the following fixed scale:

| | |
|--|---------------|
| a. Within the CNMI | \$ 85.00/day |
| b. Guam | \$ 175.00/day |
| c. U. S. Mainland (excluding Hawaii, California, New York, and Washington, D. C. | \$ 200.00/day |
| d. Hawaii, California, New York, and Washington, D. C. | \$ 250.00/day |
| e. Far East and Southeast Asia | \$ 200.00/day |
| f. Japan (all locations) | \$ 275.00/day |
| g. F. S. M., Palau, and Marshalls | \$ 150.00/day |

Per diem rates for regions not shown herein will be calculated based on the previously established rates.

GOVERNMENT TRAVEL REQUESTS (GTRs)

GTRs will no longer be picked up at the Department of Finance by the traveler or the department/agency. The authority to issue GTRs is hereby transferred to the SAA. A traveler or department/agency will then pick up a ticket at the Travel Section, SAA.

In addition, the following changes have been made on the GTR forms:

1. GTRs will indicate the remarks, "Tickets cannot be Reissued or Rerouted". Once the tickets are issued to the traveler or the department/agency, **NO** changes can be made.
2. GTRs will clearly indicate that any Upgrading of Class assignment will be at the travelers expense, not the governments.
3. The last statement of Condition #1 on the present GTR will be deleted because it provides a loophole for the flexibility of change in the GTR.
4. All GTR forms will indicate the name of the Carrier or Travel Agent tendered to. This will ensure that all Travel Agencies on the island are equally patronized by the government.

TRAVEL VOUCHERS (TVs)

As stated in CNMI-FN-206-76, the filing of a Travel Voucher is mandatory when funds for per diem and other expenses, honorarium, travel allowance have been obligated on a TA. I emphasize that, for a more effective compliance with this rule, department and activity heads will also be held accountable in the filing of TVs by their employees. Therefore, travelers should be aware that it is their responsibility to prepare and submit TVs, complete with social security number, within 15 days after the completion of their travel.

In cases where a travel advance was issued to the traveler, a traveler's non-filing of a TV, within the 15 days grace period, will result in the issuance of a notice to the traveler by the Finance Department. A travelers failure to file a TV within 10 days after the 15 days grace period will authorize the Finance Department to make a payroll deduction on that certain individual. Please be aware that this notice is also indicated in the Travel Advance forms.

In addition, aside from all the information and documents presently required on TVs, any

programs, itinerary, or agenda pertaining to the travel, and all boarding passes acquired during the travel, as well as a trip report by memo shall be included in the TV. All travel vouchers must contain the signature of your appointing authority.

UNUSED TICKETS

If your trip is cancelled after a TV is prepared, fill out the Traveler Information portion of the TV. In the Itinerary section of the TV, please print "Trip was cancelled". If you received a travel advance check but did not cash it, write the word "VOID" in large letters across the face of the check and attach it with the TA to the voucher. If you have an unused GTR, write "CANCELLED" across the face of it and submit it with a TV. If you have any unused airline tickets, turn them in with the original TA and the TV to the Department of Finance, Finance & Accounting Division. **DO NOT WRITE ON THE TICKETS.** All unused tickets must be accompanied by a report justifying the trip cancellation.

LOST/STOLEN TICKETS

It is the responsibility of the traveler and the department/agency for the security of the ticket once issued by the Travel Section. The traveler is responsible for informing the Travel Section/SAA of the lost/stolen ticket. Any fees involved in the retrieving process is at the expense of the traveler.

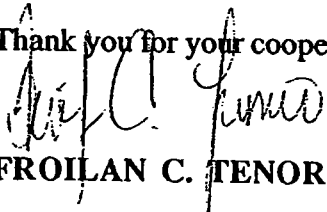
After verification of lost/stolen tickets, a Journal Voucher to the account for the lost ticket will be made by the Department of Finance, and a new GTR will be issued for the procurement of another ticket.

NORTHWEST AIRLINES TRAVEL

Discussions with Northwest Airlines have resulted in the successful negotiation of a discount fare for all travel on official business. This discounted fare will result in substantial savings for the Government. As a result of the agreement entered into with Northwest, the Government must coordinate its travel arrangement. Therefore, each Government traveler must clear through the Travel Section/SAA all reservations and issuance of travel tickets. You will not contact a travel agency to make travel arrangements. We are continuing discussions with Continental Micronesia and United Airlines.

It is very important for the viability of this improved travel operation that we work together in adhering to these new procedures. The Lt. Governor and I believe that, once they are put into practice, the government will be providing a more cost effective and efficient travel operation.

Thank you for your cooperation,



FROILAN C. TENORIO

DIRECTIVE

DATE: JAN 19 1995
No. 155

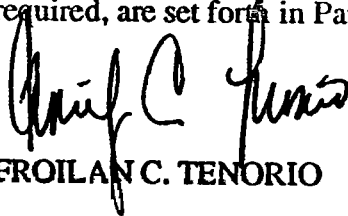
TO : All Department and Activity Heads

FROM : Governor

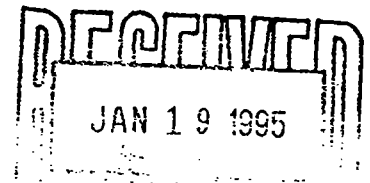
SUBJ. : Establishment of Office of Youth Affairs in the Office of the Governor -
Executive Order 94-3, Section 203

This is to inform you that, in accordance with Executive Order 94-3, Re-organization Plan No. 2, Section 203, effective immediately, there is established within the Office of the Governor the Office of Youth Affairs, headed by a Special Assistant for Youth, who shall be appointed by and serve at the pleasure of the Governor. The Youth Affairs Office shall coordinate all activities of the Commonwealth Government programs and activities for youth.

Procedures for transferring authority, funds, records, property, and personnel, should this be required, are set forth in Part 5 of the Executive Order, Sections 503-5.



FROILAN C. TENORIO



DIRECTIVEDATE: JAN 19 1995
No. 156

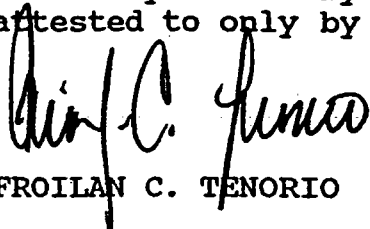
TO : Secretary of Lands and Natural Resources
FROM : Governor
SUBJ. : Authority of the Director of the Division of Public Lands

This directive is intended to clarify the authority of the Director of the Division of Public Lands. The underlying need for this clarification is to ensure that all matters and issues falling under the auspices of the Division of Public Lands (e.g. land exchanges, homesteads, and lease agreements) are handled by one governmental entity in a consistent and uniform manner.

Therefore, effective immediately, all requests for land exchanges, homesteads and lease agreements shall be handled by and originate in the Division of Public Lands, Saipan. All documents pertaining to such public land matters shall be standardized and, in no event, without my written approval, shall a private party be authorized to substitute their own document in place of the standardized government form.

Furthermore, in order to assure consistency of compliance and enforcement of all DPL regulations, policies and procedures, all personnel assigned to DPL's offices on Tinian and Rota shall report directly to the Director of DPL, Saipan.

Also, effective immediately, no lease agreement, land exchange agreement, village homestead permit or agricultural homestead permit (or subsequently issued quit claim deed for those permits), may be entered into solely by the Department of Lands and Natural Resources. Subsequent to the Department approving those agreements, permits and deeds, those documents must be routed by DPL to my Office for review. My approval shall be attested to only by my signature.



FROILAN C. TENORIO

cc: Director of the Division of Public Lands
Rota Administrator, DPL
Tinian Administrator, DPL

DIRECTIVEDATE: MAR 17 1995
No. 157

TO : All Secretaries; All Resident Department Heads
FROM : Governor
SUBJ. : Acting and Temporary Resident Department Heads

There have occasionally been disputes over who is the proper resident department head ("RDH") when the resident department head is absent, or when the position is standing empty. These disputes arise because Amendment 25 is not entirely clear, and also because there is not always a clear "chain of command" in the Resident Department.

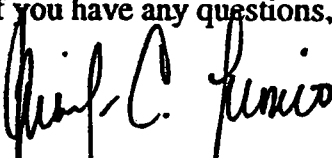
~~As you may know, there is presently a lawsuit pending on these issues. We hope that the Court will give us firm and clear guidelines. Until then, please follow these procedures.~~

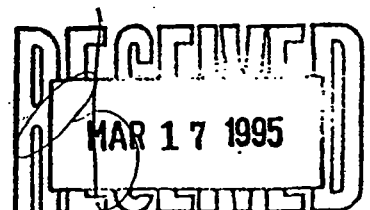
Temporary RDH. The Secretary should designate a person to stand in as temporary RDH when the RDH is on leave, off island, or otherwise incapacitated. The temporary RDH does not receive extra salary when he acts as RDH, but he does have the full authority of the RDH until the RDH returns.

Acting RDH. If the RDH position is empty because the RDH has died, quit, been fired, or for some other reason, the mayor may appoint a new RDH by consulting with the secretary and sending the name to the Municipal Council. Once the mayor does this, the mayor's appointee is the Acting RDH. He receives the normal RDH salary and exercises the full authority.

If the mayor does not appoint an Acting RDH, the Secretary must designate a temporary RDH to hold down the position until the Mayor makes an appointment. Since this person is temporary, he does not get the RDH's salary, but he exercises the authority of the RDH until the mayor puts in an Acting RDH.

If you have any questions, please contact this office.


FROILAN C. TENORIO



DIRECTIVE

~~DATE: MAR 20 1995~~
No. 158

TO : All Department and Activity Heads
FROM : Governor
SUBJ. : Revised Directive 003 - Administrative Leave Policy

As has been the policy almost since the beginning of the Commonwealth Government, I am delegating the authority to grant or deny Administrative Leave to the department and activity heads.

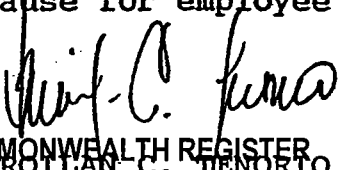
The circumstances justifying the grant of administrative leave are set forth in Part VII.A4.G of the Personnel Service System Rules and Regulations ("PSSR&R") and Part I.8.I of the Excepted Service Personnel Regulations - both sets of regulations were promulgated by the Civil Service Commission.

Attendance at board and commission meetings by employees who are members is critical and, therefore, department and activity heads are asked to give favorable consideration to granting requests for Administrative Leave to attend such meetings.

Extremely careful review should be given to all requests which give as justification a civic or social need for the employee's services.

Although I encourage department and activity heads to grant "leave" to employees attending to family emergencies, paid Administrative Leave may not be granted for such purposes. Under the regulations promulgated by the Civil Service Commission, an employee attending to a family emergency (e.g. caring for a sick relative) can either request "leave without pay" pursuant to Part VII.A5 of the PSSR&R, or use accrued annual leave.

Administrative Leave requests should be in writing and the approval/disapproval should also be in writing, with a copy to the appropriate timekeeper. All requests/approvals/disapprovals should contain the employee's name, beginning and ending dates and times involved, and adequate justification. In granting Administrative Leave, department and activity heads should consult with the employee's immediate supervisor before making a final decision. Any decision should be based on the adequacy of the justification, the convenience of the office in releasing the employee, and the past performance and attendance of the employee. Department and activity heads are cautioned to use this discretion wisely and judiciously. Inequities in granting Administrative Leave can be cause for employee grievances and low moral.



DIRECTIVE

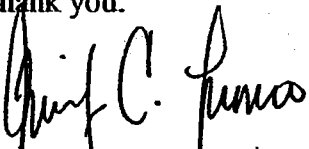
DATE: MAR 22 1995
No. 159

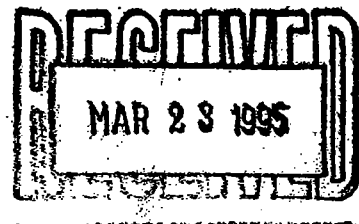
TO : All Department and Activity Heads
FROM : Governor
SUBJ. : All Current and Future Project Proposals Within CNMI

Effective immediately, all agencies involved in current and future construction projects and land use planning shall responsibly inform, and submit documents to, the office of the Special Assistant for Planning for discussion and coordination purposes.

Please advise all appropriate persons within your agency of this directive. If you have any questions, please let me know.

Thank you.


FROILAN C. TENORIO



DIRECTIVE

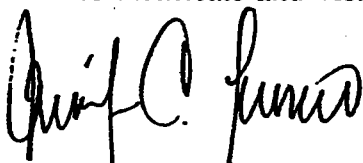
DATE: MAR 29 1995
NO. 160

TO : Secretary of Commerce

FROM : Governor

SUBJECT : Managers/Policy Makers Ownership Interest Exemption

I hereby authorize the Secretary of the Department of Commerce, in conjunction with the Foreign Investment Review Committee, and on a case by case basis consistent with the Foreign Investment Policy of the Commonwealth of the Northern Mariana Islands, to grant exemptions to the requirement of an ownership interest in a Commonwealth Corporation for Managers and Policy Makers applying for either a 90-day business certificate and visa or a 2-year term business certificate and visa.



FROILAN C. TENORIO

cc: Secretary of Labor & Immigration
Attorney General