



GOVERNMENT OF GUAM

CIVIL SERVICE COMMISSION

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490 Chalan Palasyo, Agana Heights
P.O. Box 3156 Agana, Guam 96932
Tel: 475-1300/01 Fax: 477-3301



**CIVIL SERVICE COMMISSION
RESOLUTION NO. 99-010**

**RELATIVE TO THE ADOPTION AND RATIFICATION
OF THE GUAM MEMORIAL HOSPITAL AUTHORITY'S
DRUG FREE WORKPLACE PROGRAM (DFWP) POLICY
AND ADMINISTRATIVE PROCEDURE MANUAL**

WHEREAS, the Civil Service Commission is vested with rule making authority pursuant to §4105, §4106, and other statutes; and

WHEREAS, Governor Carl T.C. Gutierrez and Lieutenant Governor Madeleine Z. Bordallo are committed to establishing a drug free workplace program in the government of Guam; and

WHEREAS, the Guam Memorial Hospital Authority Board of Trustees has submitted the Drug Free Workplace Program (DWFP) Policy for the Commission's review and approval; and

WHEREAS, the Civil Service Commission has reviewed the DFWP Policy in consultation with the Guam Memorial Hospital Authority and its legal counsel, Attorney Frederick J. Horecky; and

WHEREAS, the Civil Service Commission believes that the DFWP Policy is necessary for the safe and efficient operation of the government of Guam; and

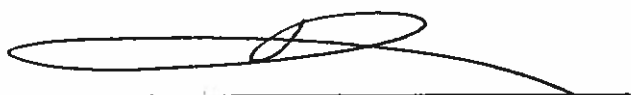
WHEREAS, the Guam Memorial Hospital Authority Drug Free Workplace Program Policy was heard by the Civil Service Commission on 25 May 1999;

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NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RESOLVED, that the Guam Memorial Hospital Authority's Drug Free Workplace Program Policy is hereby approved, effective **25 May 1999**.

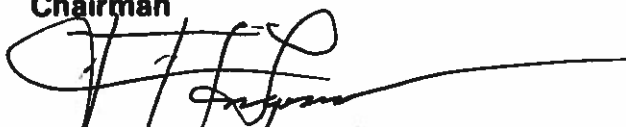
DULY ADOPTED AND RATIFIED THIS THIS 22ND DAY OF JUNE 1999.



RICHARD J. UNTALAN
Chairman



MANUEL R. PINAUI
Vice-Chairman



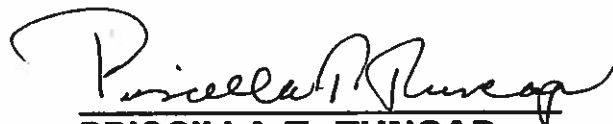
JOAQUIN T. ANGOCO
Commissioner



JULIA R. CRUZ
Commissioner



ZENON J. BELANGER, JR.
Commissioner



PRISCILLA T. TUNCAP
Commissioner



JOHN V. GERBER
Commissioner

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KRISTINA L. BAIRD, Of Counsel

June 22, 1999

VIA: HAND DELIVERY

Mr. Eloy P. Hara
Executive Director
CIVIL SERVICE COMMISSION
490 Chalan Palasyo
Agana Heights, Guam 96919

Re: **GMHA Drug Free Workplace Policy**
Opinion of No Conflict of Interest Concerning In-house Laboratory Use

Dear Mr. Hara:

Based upon review of applicable conflict of interest statutes and case law definitions, we are of the opinion that there is no conflict of interest for Guam Memorial Hospital Authority ("GMHA") to use its medical laboratory for drug testing of GMHA applicants and employees not working in Medical Laboratory positions. This opinion is respectfully submitted by the undersigned Attorney for GMHA in support of the amended GMHA Drug Free Workplace Policy and Procedures ("DFWP") submitted to the Civil Service Commission on May 18, 1999.

Conflict of interest problems are typically associated with resolving differing concerns between the public's interests and the private pecuniary interests of the individual or government organization concerned. As to the DFWP, there is no potential gain by GMHA adverse to the public

interest; GMHA's use of its own medical laboratory will serve to reduce the spending of government money while promoting a drug free workplace environment. Thus, GMHA's use of its own medical laboratory will promote the public interest rather than cause any conflict of interest concerns.

The current trend for government agencies and companies who have drug free workplace programs is to use on-site drug testing of their employees. As with the GMHA Drug Free Workplace Policy, the accepted practice is for in-house employees who have been appropriately trained and certified to perform the on-site drug testing. This trend is largely due to improvements in technology which have produced on-site drug and alcohol tests with accuracy levels comparable to laboratory tests. Other contributing factors are the advantages of on-site testing, including the immediacy of the test results and significantly reduced costs for the tests. On-site drug testing has been approved and implemented by the American Probation and Parole Association Drug Testing Guidelines. On-site testing has become so popular within government agencies and companies that there now exists an advocacy and resource center for on-site drug testing, "The National On-site Testing Association" (NOTA).

The growing acceptance and use of on-site testing should lend further support for GMHA's use of its own medical laboratory for drug testing of employees and applicants. For the reasons stated, there is no conflict of interest for GMHA to rely upon its medical laboratory for drug testing of GMHA applicants and employees not working in medical laboratory positions. Strict confidentiality and privacy provisions in medical records and physician-patient privilege laws, as well as drug testing laws, address concerns regarding test results.

If you need any further reference materials, an excellent resource book regarding on-site testing and other drug testing issues is Drug Testing Law, Technology and Practice, by David G. Evans. Please feel free to contact the undersigned should you have any further questions or concerns.

Sincerely,



DAVID W. HOPKINS