

TITLE 17

HEALTH AND WELFARE

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CHAPTER 1 DEPARTMENT OF HEALTH SERVICES

Section

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§1-101. Duties of Director of the Department of Health Services. — The Director of the Department of Health Services, either personally or by his duly authorized representatives, shall maintain and improve health and sanitary conditions, minimize and control communicable disease, establish standards of medical and dental care and practice, encourage scientific investigation in the field of health, supervise and administer all government-owned hospitals, sanitarium, clinics, dispensaries, and such other medical and dental facilities as are or may be established throughout the state of Pohnpei.

Source: TTC §611 (1966); 63 TTC §2 (1970); 63 TTC §2 (1980)

§1-102. Promulgation of health regulations. — The Director of the Department of Health Services shall, subject to the approval of the Governor, have powers to make such regulations as he deems necessary for the public health and safety respecting:

(1) Nuisances, foul and noxious odors, gases or vapors, water in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease within the state of Pohnpei, and on board any vessel;

- (2) Adulteration and misbranding of food, drugs or milk;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, construction projects, excavations, pools, water courses, areas, and alleys;
- (4) Privy vaults and cesspools and other means of human excreta disposal;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial, or the opening, removing or disturbing, after due interment, of any receptacle, coffin or container holding human remains or a dead human body or a part thereof, and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where food or beverages are canned or bottled for public consumption or sale; PROVIDED, that nothing contained in this section shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, maternity homes, convalescent homes, children's boarding homes, and old folks' homes;
- (11) Hotels, rooming houses, lodging houses, apartment houses, and tenements;
- (12) Laboratories;
- (13) Quarantine of communicable disease and inspection;
- (14) Poisons, air-conditioning and ventilating, and fumigation;
- (15) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation or entertainment;
- (16) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle or place where any food, drug or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale or offered for human consumption or use;
- (17) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug or cosmetic;
- (18) Devices, including their components, parts, and accessories, intended:
 - (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in man, or
 - (b) To affect the structure or any function of the body of man;
- (19) Sources of ionizing radiation and radiation protection;
- (20) Medical examination, vaccination, revaccination, and immunization of school children; and
- (21) Disinsectization of aircraft entering or within the state of Pohnpei as may be necessary to prevent the introduction, transportation or spread of disease or the introduction or spread of any insect or other vector of significance to health.

Source: TTC §612 (1966); 63 TTC §3 (1970); P.L. No. 5-2 §2; 63 TTC §3 (1980)

§1-103. Certificates, permits and licenses. — The Director of the Department of Health Services may require such certificates, permits or licenses as he may deem necessary and adequate to regulate the conditions or businesses referred to in §1-102 of this chapter.

Source: TTC §612 (1966); 63 TTC §3 (1970); P.L. No. 5-2 §2; 63 TTC §3 (1980)

§1-104. Vital statistics. —

- (1) The Department of Health Services shall be responsible for:
- (a) The prompt collection of vital statistical information concerning all births and deaths occurring in the state of Pohnpei;
 - (b) Preparing forms and issuing instructions necessary for uniform registration of births and deaths;
 - (c) Filing a copy of the certificate of such birth or death with the Clerk of the Pohnpei Supreme Court; and
 - (d) Compiling, analyzing, and publishing vital statistics concerning births and deaths, and such other general welfare of the inhabitants of the state of Pohnpei.
- (2) Other departments, as designated by the Governor, shall cooperate with and assist the Department of Health Services in performing these functions.
- (3) The Clerk of the Supreme Court shall register births and deaths by recording and indexing each birth and death certificate filed in his office in accordance with the regulations provided for in this chapter.

Source: TTC §624 (1966); 63 TTC §51 (1970); 63 TTC §51 (1980)

§1-105. Autopsies. — Autopsies and post-mortem examinations may be performed by a physician as a means of revealing or clarifying the cause of death, provided each examination does not violate local custom, and provided written consent is secured from the nearest responsible relative. In the case of a death under conditions suggesting poisoning, violence or unusual circumstances, where the cause and manner of death cannot otherwise be satisfactorily ascertained, an autopsy shall be performed if practicable, whenever recommended by the Director of the Department of Health Services or the Attorney General and approved by the Governor.

Source: TTC §623 (1966); 63 TTC §52 (1970); 63 TTC §52 (1980)

§1-106. Training. — The Department of Health Services, in cooperation with the Department of Education, shall conduct or supervise continuing educational programs in the field of public health including pre-service and in-service training.

Source: TTC §616 (1966); 63 TTC §151 (1970); 63 TTC §151 (1980)

§1-107. Licensing; standards; required. — The Director of Health Services shall establish standards for licensing persons to practice medicine, surgery, dentistry, nursing and other related services. All persons are prohibited from practicing medicine, dentistry or other healing arts, except the practice of native traditional healing arts and except in an apprentice capacity under approved supervision, unless duly licensed or certified by the Governor, in accordance with standards established pursuant to this section. No public health regulation shall be promulgated nor any standard adopted which shall deprive any person duly licensed under this section from practicing medicine, surgery, dentistry, nursing and other related services except for cause under §1-109 of this chapter.

Source: TTC §613 (1966); 63 TTC §152 (1970); 63 TTC §152 (1980)

§1-108. Same; records. — A permanent record of each license, issued in accordance with §1-107 of this chapter shall be maintained by the Department of Health Services.

Source: TTC §614 (1966); 63 TTC §153 (1970); 63 TTC §153 (1980)

§1-109. Same; revocation or suspension. — Any license issued pursuant to §§1-106 – 1-111 may be revoked or suspended for cause by the Director of Health Services after due notice to the licensee, in writing, of the charge or charges that have been made, and the time and place where evidence in

support of the same will be heard; PROVIDED, that the licensee shall have had the opportunity to present evidence and be heard in his own defense.

Source: TTC §615 (1966); 63 TTC §154 (1970); 63 TTC §154 (1980)

§1-110. Payment of fees for services. — Individual or group fees shall be paid for all medical and dental services provided by the government of the state of Pohnpei in accordance with schedules and regulations recommended by the Director of Health Services and approved by the Governor, except for such services as the Governor determines shall be free in order to best serve the public interest; PROVIDED, that no one in need of medical care shall be denied such care because of inability to pay all or any part of any fee established, and PROVIDED FURTHER, that there shall be no distinction in treatment or care based upon nonpayment or the amount of payment.

Source: TTC §617 (1966); 63 TTC §155 (1970); 63 TTC §155 (1980)

§1-111. Penalties for violation of §§1-106 – 1-111. — A person who violates any of the provisions of §§1-106 – 1-111 or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fine hundred dollars, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: TTC §625 (1966); 63 TTC §156 (1970); 63 TTC §156 (1980)

CHAPTER 2
PUBLIC HOSPITAL CORPORATION [PENDING, *see* 17 PC 2-121]

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§2-101. Corporation established. — There is hereby established in and for Pohnpei a public corporation to be known as the Pohnpei Public Hospital Corporation, hereinafter referred to as the “Corporation.”

Source: S.L. No. 4L-65-98 §1, pending

§2-102. Responsibilities and duties of the Corporation. — The Corporation is vested with the following responsibilities and duties:

(1) To provide medical services to the people of Pohnpei through the operation of a system of publicly owned hospitals and dispensaries;

(2) To operate within the public hospitals and dispensaries controlled by the Corporation both in-patient and out-patient services, as well as ambulatory services to and from said hospitals and dispensaries;

(3) To manage the medical referral program for patients referred abroad from the hospitals controlled by the Corporation;

(4) To operate pharmaceutical services in conjunction with its operation of the public hospitals and dispensaries and to charge consumers for the use or purchase thereof, such charges to be incorporated into the schedule of fees established by the Corporation;

(5) To operate and manage the public hospitals and dispensaries controlled by the Corporation on the basis of commercially accepted practices, treating all users of the Corporation’s services on equitable terms in accordance with its published fees and requiring all users to pay for services rendered; PROVIDED that the Corporation shall provide medical services to indigent persons at reduced fees upon a showing to the Corporation by that person that he or she is incapable of paying the regular fees so established for the service rendered; PROVIDED FURTHER that, to the extent practicable, in such instances the Corporation shall require payment in-kind for the services rendered, such as the delivery of local foods or fish to the hospital kitchens or work in or around the hospital or dispensary facilities;

(6) To accept patients on a referral basis from the other jurisdictions in the region based upon an agreement for payment to the Corporation of costs for services rendered. To the extent practicable, the Corporation shall undertake to enter agreements with the Federated States of Micronesia National

Government to cover the costs of referral to the public hospitals controlled by the Corporation, which, in turn, will require indemnification from the jurisdiction concerned;

(7) To expand and improve upon medical services offered at the public hospitals and dispensaries controlled by the Corporation, and where practicable and necessary, to construct and operate new hospital facilities and dispensaries in densely populated or remote areas that are now beyond ready access to existing public hospital or dispensary facilities;

(8) To cooperate with the Department of Health Services in the conduct of public health education programs and clinics and in the operation of their special outreach programs;

(9) To establish, publish and implement, upon prior public notice and hearing, by majority vote of at least five members of the Board of Directors of the Corporation and with the approval of the Governor, a structure of fees for medical services rendered by the Corporation and for medical referrals abroad calculated to ensure that, to the extent practicable, adequate and equitable charges are imposed for services and that the fee structure promotes increased use of public medical services; PROVIDED that the Pohnpei Government and the FSM Government shall bear the cost of medical services rendered to the indigent to the extent that in-kind services received in lieu of fees are not sufficient to cover the costs of services rendered; PROVIDED FURTHER that nothing in this subsection shall prevent the Corporation from using subsidies received from governmental, international or private sources to reduce the overall fees charged to users of public hospitals and dispensaries controlled by the Corporation or to provide services for the indigent. In the establishment of fees provided hereunder, the Corporation may set interest charges, require security deposits, impose monetary penalties, and establish policies and procedures to ensure the timely payment and collection of Corporation charges;

(10) In lieu of or in conjunction with the fee schedules provided in Subsection (9) of this section, cooperate with the Pohnpei Health Care Plan to establish a system of periodic health services payments entitling enrollees in the Health Care Plan to levels of medical and dental care provided by the system;

(11) To acquire and maintain from the revenues and grants received by the Corporation a program of liability insurance on all medical facilities and equipment controlled by the Corporation and malpractice insurance on all medical practitioners under the management or supervision of the Corporation; PROVIDED that if such insurance is not available or is prohibitively expensive, as determined by the Board of Directors of the Corporation with the concurrence of the Governor, then the Corporation shall establish and maintain a special fund to satisfy judgments or settlements on tort claims brought against the Corporation for its operations under this chapter; and

(12) To invest all surplus revenues of the Corporation in the expansion and improvement of medical services in Pohnpei.

Source: S.L. No. 4L-65-98 §2, pending

§2-103. Legal characteristics and capacity of the Corporation. — In performing the responsibilities and duties authorized by this chapter and other laws of this state, the Corporation shall have the characteristics of a public corporation and the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt and amend bylaws and other rules, regulations and directives governing the conduct of its business and the exercise of its powers granted to or imposed on it by law. No bylaw, rule or regulation other than that covering the internal operation of the Corporation shall be adopted without a public hearing;

(3) To sue and be sued in its corporate name; PROVIDED that satisfaction of judgments or the settlement of claims on tort actions against the Corporation and/or its employees operating within the scope of their employment may only be paid out of insurance held by the Corporation or the special fund created by the Corporation pursuant to §2-102(11), and not out of the other assets or operating

capital of the Corporation, and for these purposes the doctrine of sovereign immunity is maintained for this public corporation to the extent not expressly waived by Pohnpei public law; PROVIDED FURTHER that nothing in this subsection shall prevent the Legislature from making direct appropriations into the special fund for the purpose of assisting the Corporation in the satisfaction of judgments on such tort actions or settlement of tort claims brought against the Corporation;

(4) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease or otherwise dispose of such property;

(5) To acquire and take over, in any lawful manner, the business, property, assets, and liabilities of any public entity of the Pohnpei Government to the extent of its provision of public medical services;

(6) To borrow or raise any sum or sums of money and to issue corporate bonds on such security and upon such terms as may be deemed, from time to time, necessary for the expansion and improvement of public medical services;

(7) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Corporation deems appropriate; and

(8) To do all such things as may be incidental to or conducive to the fulfillment of the responsibilities and duties of the Corporation.

Source: S.L. No. 4L-65-98 §3, pending

§2-104. Debts and obligations of the Corporation. — Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be the debts or obligations of the Pohnpei Government, nor shall the Pohnpei Government be responsible for any such debts or obligations.

Source: S.L. No. 4L-65-98 §4, pending

§2-105. Tax liability. — The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations or activities imposed by the Pohnpei Government or local governments and, to the extent allowable, by the Federated States of Micronesia Government. Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation, and the Corporation shall be liable for employers' contributions to existing social security systems in the manner provided by law.

Source: S.L. No. 4L-65-98 §5, pending

§2-106. Composition of the Board: vacancies: removal. — All powers vested in the Corporation shall be exercised by the Board, which shall consist of seven members, called directors, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify; PROVIDED that the Governor, in his initial appointments, shall designate four of his appointees to serve for an initial term of two years each. All vacancies occurring on the Board shall be filled by the Governor, with the advice and consent of the Legislature, but only for the unexpired term of the director whose vacancy is being filled. A director may be removed from the Board for cause by the Governor or by two-thirds majority of the remaining members of the Board.

Source: S.L. No. 4L-65-98 §6, pending

§2-107. Meetings of the Board. — Within 15 days after the confirmation of the initial Board, the Governor shall call an organizational meeting. Annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet once a month and shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Source: S.L. No. 4L-65-98 §7, pending

§2-108. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. Any four members of the Board shall constitute a quorum, and, unless a greater majority is otherwise provided in this chapter or in the bylaws of the Corporation, a concurrence of four members shall be necessary for any official action taken by the Board. No vacancy in membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. The directors of the Corporation shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board. Directors shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded when actually performing functions of the Board at the direction of the Chairman, except that those members who are state government officers and employees shall receive, instead, their regular salaries while so performing functions of the Board.

Source: S.L. No. 4L-65-98 §8, pending

§2-109. Appointment of hospital administrator; compensation; removal; and vacancies. —

(1) The Board shall appoint a hospital administrator for a term set by the Board, not to exceed four years. Hospital administrators may be reappointed.

(2) Compensation for the hospital administrator shall be fixed by the Board.

(3) The Board may remove the hospital administrator for reasonable cause and upon a majority vote of at least five members.

(4) During any period when the position of hospital administrator is vacant, the position shall be temporarily filled from within the organization, pursuant to this chapter and the bylaws of the Corporation.

Source: S.L. No. 4L-65-98 §9, pending

§2-110. Powers and duties of the hospital administrator. — The hospital administrator shall be the chief executive officer of the Corporation, who shall have full charge and control of the operation and maintenance of all medical facilities and other real and personal property controlled by the Corporation, and construction of any facilities, and necessary work on vehicles, vessels, and equipment controlled by or required to be rebuilt or repaired by the Corporation. The hospital administrator shall have the following powers:

(1) To ensure that all medical fees imposed by the Corporation are charged and collected;

(2) To attend all meetings of the Board and to submit a general report on the affairs of the Corporation;

(3) To keep the Board advised on the needs of the Corporation;

(4) To approve demands for payment of obligations within the purpose and amounts authorized by the Board;

(5) To prepare or cause to be prepared all plans and specifications for the construction and repair of facilities, vehicles, vessels, and equipment operated by the Corporation;

(6) To devote his entire time to the business of the Corporation; to select and appoint the employees of the Corporation except as otherwise provided in this chapter; to plan, organize, coordinate, and control the services of such employees in the exercise of the powers of the Corporation under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Corporation, to contract with independent contractors, as persons, organizations or corporations, to provide such services; PROVIDED, HOWEVER, that any contract which delegates the management or any major function of any facility operated by the Corporation to another entity shall require an affirmative vote of five members of the Board; PROVIDED FURTHER that any such management contract may not exceed a term of two years, inclusive of renewals;

(7) To cause to be published, within 60 days after the end of each fiscal year, a financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Corporation on the last day thereof, which publication shall be made in the manner provided by the Board; and

(8) To perform such other and additional duties as the Board may require.

Source: S.L. No. 4L-65-98 §10, pending

§2-111. Appointment of comptroller and general counsel: duties of each. — The hospital administrator, upon approval of the Board, shall also appoint a comptroller and a general counsel, both of whom shall serve at the pleasure of the hospital administrator and whose duties and compensation shall be fixed by the Board. Such officers may be full-time employees of the Corporation, shared with Pohnpei Government agencies, or be placed on retainer from the private sector. The hospital administrator may appoint one or more assistants to any such office.

(1) The comptrollers shall have custody of all monies of the Corporation and shall pay out such money only in accordance with the direction of the Board and as provided in the annual budget of the Corporation. The Board shall appoint an agent as its trustee for payment of bonds issued by it and for such related purposes as the Board may provide.

(2) The general counsel shall advise the Board and the hospital administrator in all legal matters to which the Corporation is a party or in which the Corporation is legally interested, and may represent the Corporation before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, boards and governmental agencies of Pohnpei, the Federated States of Micronesia, and the United States of America.

(3) The Corporation may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Corporation, or it may appoint such attorney or attorneys as it may deem necessary, and it shall provide payment of all legal services rendered. All official documents, contracts, bonds and other instruments in writing shall be approved as to form and legality by the general counsel for the Corporation. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 4L-65-98 §11, pending

§2-112. Contract-letting by the Board. — The purchase of all supplies and materials and the construction of all works, when the expenditure exceeds \$5,000, shall be let, by contract, to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and re-advertise at its discretion.

(1) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies may be purchased at a lower price in the open market, the Board may authorize, upon written notice to the Governor with documentation as to the reasons for its decision, such purchase without further observance of the provisions requiring contracts, bids or notices.

(2) In case of major public calamity, or whenever it is in the compelling interest of public safety and of immediate necessity to keep public medical services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the public medical services operational or in a safe condition following written notification to the Governor and the Legislature of such determination and, upon written notice to the Governor with documentation as to the reasons for its decision, authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(3) No director shall have any financial interest, direct or indirect, in any contract awarded by the Board. The provision shall not apply to contracts awarded to a corporation in which such director owns less than five percent (5%) of the entire capital stock or in which he does not hold any office or employment. The Board shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 4L-65-98 §12, pending

§2-113. Accounting and reporting. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted shall require that:

(1) The Board employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Corporation, copies of any such reports to be furnished to the Governor and the Pohnpei Legislature; and

(2) The Board report to the Governor and Legislature on the affairs of the Corporation. It shall present an annual report within 60 days after the end of each fiscal year and, if requested by the Governor or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

Source: S.L. No. 4L-65-98 §13, pending

§2-114. Budget preparation. — The hospital administrator shall prepare, in advance of each fiscal year and under the supervision of the Board, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Pohnpei Government. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: S.L. No. 4L-65-98 §14, pending

§2-115. Supplemental budget requests. — To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Legislature and, to the extent approved by the Governor, grants from sources outside of Pohnpei of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the public medical services in Pohnpei.

Source: S.L. No. 4L-65-98 §15, pending

§2-116. Corporation finances: fund established. —

(1) There is hereby established a fund that shall be known as the “Pohnpei Public Hospital Corporation Fund,” which shall be maintained separate and apart from other funds of the state by the Corporation, and independent records and accounts shall be maintained in connection therewith, and a full accounting of all uses of this fund shall be included in the annual report of the Corporation as required by §2-113.

(2) All monies received by the Corporation from whatever source derived shall be deposited in said fund, or in such other funds as may be established, pursuant to this chapter, in bank accounts to the extent required by law by the government of the Federated States of Micronesia or of the United States of America.

(3) All expenditures, except as otherwise provided by law, shall be made from the fund herein established.

(4) There is hereby authorized for appropriation from such funds of the Pohnpei Treasury such sums to be determined annually in the Comprehensive Budget Act, or so much thereof as may be necessary, for the purpose of supplementing the assets of the fund established by this section. All such appropriations shall be deposited in the Pohnpei Public Hospital Corporation Fund established under the authorization of this section and shall remain available until fully expended.

Source: S.L. No. 4L-65-98 §16, pending

§2-117. Employee rights and responsibilities. — The Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and

other disciplinary rules for employees of the Corporation. Employees of the Corporation shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers' compensation insurance available to Pohnpei Government employees. The Corporation shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 4L-65-98 §17, pending

§2-118. Preference. — The Board shall employ qualified legal residents of Pohnpei State, whenever practicable. However, the Board shall have, as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern, and convenient services and facilities for the improvement of public medical services within Pohnpei.

Source: S.L. No. 4L-65-98 §18, pending

§2-119. Government assistance to the Corporation in carrying out its functions. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and the subsequent operation and maintenance of the public medical services system, the Federated States of Micronesia or Pohnpei State or any agency or political subdivision of such, if the chief executive of the respective political jurisdiction or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them, and if the intended action is consistent with the laws of the respective jurisdiction, may:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Corporation;

(2) Incur expenses on behalf of the Corporation, subject to reimbursement under such terms and conditions as may be agreed upon with the Corporation;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers and obligations of the Corporation;

(4) Lend or advance, grant or contribute funds to the Corporation, and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Corporation upon such terms and conditions as may be agreed upon.

Source: S.L. No. 4L-65-98 §19, pending

§2-120. Role of the Department of Health Services. — The Department of Health Services shall constantly and continuously monitor all activities of the Corporation and shall promptly take action or report to appropriate agencies any infraction of the Corporation in the conduct of its operations under this chapter, or of any deviation from the standards of medical practice established by law or regulation, or of any departure from the standards of medical ethics commonly held in the professional and technical fields of medical service.

Source: S.L. No. 4L-65-98 §20, pending

§2-121. Transition. —

(1) Not sooner than 15 working days nor more than 45 working days following the enactment into law of the financing plan for the implementation of the essential level of medical coverage for every qualified resident of the state under the Pohnpei Health Care Plan as called for in §4-155, the Governor shall submit the nominees for the first Board of Directors of the Pohnpei Public Hospital Corporation.

(2) Not later than 120 days following the appointment of the seventh member of the initial Board of Directors of the Corporation, the Board shall present to the Governor a request for his approval for

the assumption of the responsibilities and duties of the Corporation as specified by §2-102. Said request shall:

- (a) Include a detailed accounting of all properties and all financial, staffing and material requirements that will be met by the Board in assuming control of the Pohnpei Hospital and such other medical and dental establishments and services that are to be transferred to the Corporation under this chapter;
- (b) Include a file on all arrangements and contracts entered into with the Pohnpei Health Care Plan for the provisions of services for enrollees thereunder;
- (c) Include a listing of all fees and charges to be implemented by the Corporation, not otherwise covered by the Pohnpei Health Care Plan; and
- (d) Specify a date upon which the Corporation shall assume the responsibilities and duties of the Corporation as prescribed by §2-102.

(3) The Governor shall conduct a thorough review of the request presented pursuant to Subsection (2) of this section, and shall seek the counsel and advice of the Department of Health Services and the Pohnpei Health Care Plan in the conduct of said review. Upon a finding that the Corporation's request is in order and that the Corporation is capable of assuming its responsibilities and duties on the date so specified, the Governor shall so issue an order to that effect, authorizing the Corporation to commence business on the date so specified. In the event that the Governor, in his discretion, shall find that the request is not in order or that the Corporation will not be capable of assuming its responsibilities and duties by the date so specified, he may return the request to the Corporation with his recommendation for revision thereof.

(4) Within 30 days following the issuance of the order specified in Subsection (3) of this section, the Governor and the Pohnpei Public Lands Trust Board of Trustees shall prepare documents of transfer to the Corporation of the facilities and grounds of the Pohnpei Public Hospital and public dispensaries within the state, along with all equipment and supplies therefor, and along with that portion of the Pohnpei Government appropriations allocated to the operation of said hospital and dispensaries and the referral of patients abroad, to be effective on such dates as are identified in the approved request as provided in Subsection (3) of this section and on terms that are mutually agreed upon by the Governor, the Pohnpei Public Lands Trust Board of Trustees, and the Board of the Corporation.

(5) Upon the completion of the requirements of Subsections (1) through (4) of this section, the Corporation shall immediately commence operations of the public hospitals and dispensaries of this state as provided under the terms of this chapter.

(6) The Corporation shall offer continuing employment to all employees of said hospital and dispensaries who continue to perform satisfactorily at levels no less than that they received from the Department and with recognition of their seniority with the government in personnel plans established by the Corporation for a period of not less than two years. Notwithstanding the transfer of said employees to the Corporation under the terms of this subsection, such transferred employees shall remain eligible for early retirement under the terms and conditions of the special early retirement plan, established by S.L. No. 4L-38-97, for the duration of said program and pursuant to an agreement between the Corporation, as executed by the Board, and the state government, as executed by the Governor; PROVIDED that the state government shall remain responsible for the financial costs for the repayment of the ADB loan associated therewith; PROVIDED FURTHER that the government may place reasonable restrictions on eligibility and quotas for inclusion in the plan of employees transferred to the Corporation commensurate with the restrictions and quotas of the overall state program.

(7) All deeds, bonds, agreements, instruments, and working arrangements existing immediately before the commencement of this chapter affecting any of the undertakings which are transferred to the Corporation by the government shall continue in full force and effect against or in favor of the

Corporation. Any proceedings or cause of action pending or existing immediately before the commencement of this chapter by or against the government or any person acting on behalf of the government in respect to any such transferred undertakings may be continued or enforced by or against the Corporation.

Source: S.L. No. 4L-65-98 §21, pending

Note: S.L. No. 4L-65-98 §22 severability provision has been omitted.

HEALTH & WELFARE

CHAPTER 3 HEALTH SERVICES ADVISORY COUNCIL

Section

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3-102 Purposes of Council
3-103 Definitions
3-104 Membership of Council
3-105 Meetings of Council

3-106 Duties of Council
3-107 Administrative assistance
3-108 Compensation; authorization for appropriation; administration

§3-101. Establishment of Council. — There is hereby established a Pohnpei Health Services Advisory Council.

Source: S.L. No. 1L-45-85 §1, 10/29/85

§3-102. Purposes of Council. — The purposes of the Council are as follows:

- (1) To evaluate the quality of the services rendered to the public by the Department of Health Services and make appropriate recommendations relative thereto;
- (2) To review the existing health policies and advise the Director of the Department of Health Services of any changes recommended thereto; and
- (3) To review the annual budget of the Department of Health Services before submission to the Governor of Pohnpei.

Source: S.L. No. 1L-45-85 §2, 10/29/85

§3-103. Definitions. — As used in this chapter, unless the context otherwise requires:

- (1) “Consumers” means individuals who utilize the state health service system, but who are not providers of health care.
- (2) “Providers” means individuals deriving their livelihood from the health services sectors.

Source: S.L. No. 1L-45-85 §3, 10/29/85

§3-104. Membership of Council. — The Council shall be composed of five members; two members shall be providers and three shall be consumers. All appointments shall be made by the Governor with the advice and consent of the Legislature. In addition, the Director of the Department of Health Services shall serve as an ex-officio member without the right to vote. Members of the Council shall be appointed for a period of two years and may be reappointed; PROVIDED that the Governor shall in his initial nominations to the Legislature designate three of the five members to serve an initial term of one year each. If a vacancy is created in the Council by death, resignation or for any other reason, such vacancy shall be filled in like manner as the original appointment for the remainder of the term. Three unexcused absences of a member from any duly called meeting of the Council automatically creates a vacancy of that member’s seat on the Council. Excuses may be granted solely by the Chairman or a duly designated representative, and shall only be granted for death or serious illness in the family of the member, for travel outside of commuting distance of the meeting or for such other reasons as the Council may, by its rules, so determine.

Source: S.L. No. 1L-45-85 §4, 10/29/85

§3-105. Meetings of Council. — The Council shall meet at the call of the Chairman elected at the first meeting, or at the call of three or more members. The Director of the Department of Health Services shall call the first meeting within 15 days after the initial confirmation of all the membership of the Council. Meetings shall be conducted according to such rules as the Council may establish;

PROVIDED that three members shall constitute a quorum and a majority vote of the quorum shall be sufficient to carry on any business before the Council.

Source: S.L. No. 1L-45-85 §5, 10/29/85

§3-106. Duties of Council. — In order to accomplish the purposes stated in §3-102, the Council shall perform the following duties:

(1) Consider matters brought before it with regard to health services in Pohnpei, and undertake such inquiries as are required or appropriate in order for it to formulate policy recommendations in regard thereto;

(2) Forward all policy recommendations to appropriate governmental agencies and offices deemed by the Council to be in the best interest of the people of Pohnpei;

(3) Review all financial reports and the annual budget of the Department of Health Services as required by §3-102; and

(4) Recommend legislation required for the improvement of the delivery of health programs and services.

Source: S.L. No. 1L-45-85 §6, 10/29/85

§3-107. Administrative assistance. — The Director of the Department of Health Services shall provide to the Council clerical and other support services that may be required by the Council.

Source: S.L. No. 1L-45-85 §7, 10/29/85

§3-108. Compensation; authorization for appropriation; administration. —

(1) Expenditures for travel and per diem of Council members and personnel shall not exceed standard Pohnpei Government rates. Compensation shall be paid to members who are not employees of the Pohnpei Government for attending a duly called meeting of the Council at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded. Pohnpei Government employees who are members of the Council shall be granted administrative leave while attending Council meetings or performing other official business for the Council.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of financing the operations and related activities of the Council.

(3) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purposes stated in Subsection (2) of this section. The Governor shall submit a complete financial report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: S.L. No. 1L-45-85 §8, 10/29/85; S.L. No. 1L-71-86 §4-15, 4/1/86

Note: S.L. No. 1L-71-86 §4-16 appropriation, §§4-17 & 4-18 superseding and §4-19 temporary provisions have been omitted.

CHAPTER 4 HEALTH CARE PLAN

Section

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§4-101. Short title. — This chapter is known and may be cited as the “Pohnpei Health Care Act of 1993.”

Source: S.L. No. 3L-39-93 §1-1, 7/29/93

§4-102. Purpose. — The purpose of this chapter is to improve the provision and quality of health services to residents of the state of Pohnpei, to establish a financial system to provide universal coverage of an essential level of health care for all eligible enrollees, and to create a means for collection of health care premiums for additional coverage. This chapter establishes a means to control the costs, improve the quality, and assure the availability of medically necessary services of health care providers within and outside of Pohnpei.

Source: S.L. No. 3L-39-93 §1-2, 7/29/93

§4-103. Plan established. — The Pohnpei Health Care Plan is hereby established as a public corporation under the laws of Pohnpei.

Source: S.L. No. 3L-39-93 §1-3, 7/29/93

§4-104. Definitions. — As used in this chapter:

(1) “Board” means the Board of Trustees of the Pohnpei Health Care Plan.

(2) “Bylaws” means the bylaws of the Pohnpei Health Care Plan, in effect from time to time.

(3) “Dependent” means the spouse and child(ren) of an enrollee for additional coverage under this chapter, including stepchildren and adopted children, who are unmarried and under 19 years of age, and handicapped dependent children who are physically or mentally incapable of earning a living; any student under 21 years of age who is unmarried and a full-time student within Pohnpei and who is primarily supported by his or her enrollee parents; and unemployed dependent parents who are members of the enrollee’s household, are over the age of 60 years, and are citizens of Pohnpei residing in Pohnpei.

(4) “Employee” means any individual who has been employed for wages or salaries for services from an employer as defined in Subsection (5) of this section for at least 15 working days and who regularly provides such services to the employer for 20 hours or more each week.

(5) “Employer” means any person as defined in Subsection (10) of this section who employs the services of others and pays them wages or salaries, or a person who is self-employed, that is, a person who earns money for labor or goods.

(6) “Enrollee” means any individual eligible to receive benefits under this chapter; PROVIDED that an enrollee may be eligible for only the essential level of benefits, or may be eligible for additional levels of benefits as provided for in this chapter and such regulations as may be issued pursuant hereto.

(7) “Executive Director” means the Executive Director of the Pohnpei Health Care Plan.

(8) “Fund” means the trust fund to be established by the Board pursuant to §4-142.

(9) “Off-island health care facility” means any facility providing covered services as defined in §4-127 that is located outside of Pohnpei and that is determined by the Board to be a qualified provider as defined in §4-129.

(10) “Person” includes any individual, trust, estate, partnership, corporation, association, joint stock company, bank, insurance company, credit union, cooperative or other entity or group, including any government, whether local or foreign, or any agency or instrumentality thereof.

(11) “Plan” means the Pohnpei Health Care Plan.

(12) “Provider” means any person furnishing any covered service as defined in §4-127.

(13) “Referral” means a referral of an enrollee to an out-of-state health care facility granted pursuant to §4-125.

(14) “Regulation” means the regulations adopted by the Board and approved by the Governor for the administration of the Plan.

(15) “Resident” means any citizen of Pohnpei for whom Pohnpei is his principal residence, or any noncitizen who has established an ongoing physical presence in Pohnpei and whose presence is sanctioned by law and is not merely transitory in nature.

(16) “State” or “Pohnpei” means the state of Pohnpei.

(17) “Third-party administrator” means the individual or firm within or outside of Pohnpei that contracts to perform administrative services in the operation of the Plan.

Source: S.L. No. 3L-39-93 §1-4, 7/29/93

§4-105. Board of Trustees. —

(1) The governing and administrative powers of the Plan shall be vested in a Board of Trustees, which Board shall consist of five voting members and the Executive Director, who shall serve as an ex-officio, nonvoting member of the Board.

(2) The Governor shall appoint the five voting members of the Board, with the advice and consent of the Pohnpei Legislature, and may remove each such member in case of incompetency, neglect of duty or malfeasance in office. The Board shall be composed of members experienced in financing, health care administration, medical practice, health care development or health care improvement. Within five years following the first organizational meeting of the Board, the Board shall submit to the Governor and the Legislature draft legislation to provide for the periodic popular selection of Board members by citizen enrollees of the Plan.

Source: S.L. No. 3L-39-93 §2-1, 7/29/93

§4-106. Organizational meeting. — The first meeting of the Board shall be held not later than 45 days after appointments of all five voting members of the Board have become effective.

Source: S.L. No. 3L-39-93 §2-2, 7/29/93

§4-107. Terms of office and reappointment. — Of the voting Board members initially appointed, one shall serve for a term of one year, two shall serve for a term of two years, and two shall serve for a term of three years, all as determined by the drawing of lots at the organizational meeting. A member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term. Each Board member shall hold office until his successor is appointed and qualified. Board members shall be eligible for reappointment.

Source: S.L. No. 3L-39-93 §2-3, 7/29/93

§4-108. Vacancies. — Vacancies in the membership of the Board shall be filled in the same manner as the original appointment. A vacancy exists in the case of death, resignation or removal of any Board member.

Source: S.L. No. 3L-39-93 §2-4, 7/29/93

§4-109. Removal. — In addition to the removal of a Board member pursuant to §4-105, any Board member may be removed from office on such grounds as specified in §4-105 by the affirmative vote of four voting Board members.

Source: S.L. No. 3L-39-93 §2-5, 7/29/93

§4-110. Meetings. —

(1) Regular meetings of the Board shall be held quarterly at such times, at such places, and upon such notice as shall be provided in the bylaws.

(2) Special meetings of the Board shall be called by the Chairman or by any three Board members at such places and upon such notice as provided in the bylaws.

(3) Members of the Board or of any committee of the Board may participate in and act at any meeting of the Board or a committee through the use of a conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence, in person, at the meeting of the person or persons so participating.

(4) Full and accurate minutes of all Board meetings shall be kept in such manner as shall be provided in the bylaws.

Source: S.L. No. 3L-39-93 §2-6, 7/29/93

§4-111. Quorum. — Three voting Board members shall constitute a quorum and the action of three voting Board members present at any meeting is valid as a corporate act.

Source: S.L. No. 3L-39-93 §2-7, 7/29/93

§4-112. Deadlock. — In the event that the voting members of the Board are evenly divided concerning an action or decision of the Board, the Executive Director shall vote on the action or decision.

Source: S.L. No. 3L-39-93 §2-8, 7/29/93

§4-113. Election of Chairman. — The Board shall elect from among its members a Chairman who will convene and preside over meetings of the Board. The Chairman shall perform such other duties as may be prescribed by the bylaws or from time to time assigned by the Board. The Chairman shall serve for a term of one year and shall not be eligible for consecutive one-year terms as Chairman.

Source: S.L. No. 3L-39-93 §2-9, 7/29/93

§4-114. Election of Vice-Chairman. — The Board shall elect from among its members a Vice-Chairman, who shall, in the absence of the Chairman, perform the duties of the Chairman. The Vice-Chairman shall serve for a term of one year and shall not be eligible for consecutive one-year terms as Vice-Chairman.

Source: S.L. No. 3L-39-93 §2-10, 7/29/93

§4-115. Compensation of Board members. — Board members who are employees of the Pohnpei Government or of any other cooperating entity shall serve without compensation paid by the Plan, but may continue to receive their regular salaries. Board members who are not employees of the Pohnpei Government or of any other cooperating entities shall be entitled to compensation at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing the functions of the Board, at the direction of the Chairman. Board members shall be entitled to payment for travel expenses necessarily incurred when serving the Plan away from their places of residence at rates not to exceed that accorded to Pohnpei Government employees.

Source: S.L. No. 3L-39-93 §2-11, 7/29/93; S.L. No. 4L-25-96 §11, 7/1/97

§4-116. Exclusion from employment. — No Board member, other than the Executive Director, shall be an employee of the Plan during his term of office as a Board member or for one year thereafter.

Source: S.L. No. 3L-39-93 §2-12, 7/29/93

§4-117. Bylaws. — The Board shall adopt, amend or repeal such bylaws as are necessary to provide for the management of the business of the Plan, the organization, meetings, and procedures of the Board, the duties of officers, and employees and the preparation and submission of required reports.

Source: S.L. No. 3L-39-93 §2-13, 7/29/93

§4-118. Personnel and procurement. —

(1) Officers and employees of the Plan shall be exempt from the Public Service System Act, Title 9 Chapter 2, and the state's compensation plan, Title 9 Chapter 4 Subchapter II; PROVIDED that, within 120 days following its first organizational meeting, the Board shall provide in the bylaws of the Plan a complete personnel system for the recruitment, management, and compensation of officers and employees of the Plan.

(2) The Plan shall be subject to state procurement and contracting laws until such time that the Board has established and maintains in its bylaws a contracting and procurement code certified by the Director of the Department of Treasury and Administration to be sufficient to meet United States of America standards for state and local government administration of federal grants.

(3) The personnel and procurement systems established by the Board may provide for reasonable preferences for the employment of qualified citizens of this state and procurement for businesses resident within the state; PROVIDED, HOWEVER, that the systems shall have as their primary

objective in employment and procurement the fulfillment of the purposes for which the Plan has been established.

Source: S.L. No. 3L-39-93 §2-14, 7/29/93

§4-119. Officers. —

(1) The Board shall select an executive director for the Plan who shall serve at the pleasure of the Board.

(2) The Executive Director shall administer the Plan and manage the day-to-day operations of the Plan, in accordance with policies, procedures, rules, regulations, standards, and criteria established by the Board. The Executive Director shall also perform such other duties as may be set forth in this chapter, the bylaws or by the Board. Except as provided in §4-112, the Executive Director shall serve as an ex-officio, non-voting member of the Board.

(3) The Executive Director of the Plan shall have a minimum of five years experience in the health finance or health administration profession.

(4) The Executive Director may, with approval of the Board, delegate to other officers or employees of the Plan, or to a third-party administrator, any of the duties or functions of the Executive Director.

Source: S.L. No. 3L-39-93 §2-15, 7/29/93

§4-120. Corporate powers. — In addition to any other authority granted under this chapter, the Plan shall have the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To sue and be sued in its corporate name;

(3) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease or otherwise dispose of such property;

(4) To take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds, foreign and domestic, and to sell or otherwise alienate the same;

(5) To acquire and take over in any lawful manner the business, property, goodwill, and liabilities of any entity, including debts, liabilities and obligations incurred prior to the time of acquisition;

(6) To make contracts and incur liabilities, and to borrow or raise any sum or sums of money and issue corporate bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of the Plan;

(7) To lend money for its corporate purposes, and to invest or reinvest its funds;

(8) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as it may deem appropriate, subject to this chapter;

(9) To conduct its business, carry on its operations, have offices, and exercise the powers granted herein in any locality of the state, in the Federated States of Micronesia or in any foreign country; PROVIDED that its principal office shall be in the state of Pohnpei; and

(10) To do all such other things as may be deemed incidental or conducive to the fulfillment of the responsibilities of the Plan.

Source: S.L. No. 3L-39-93 §2-16, 7/29/93

§4-121. Regulations. — The Board shall, with the approval of the Governor, adopt, amend or repeal regulations for the administration of the Plan pursuant to the procedures for adoption of regulations as set out in the Administrative Procedures Act, Title 8 Chapter 1, or its successor. Such regulations shall determine, among other things, assessments for universal coverage, premium amounts, professional service standards, and standards and procedures for referrals, collections, disbursement, and appeals

from determinations made in the implementation of the Plan. The regulations shall further provide for specific notice to enrollees and opportunity to be heard for termination of benefits under the Plan, and shall provide for specific procedures for administrative review and decision on actions taken by the Plan consistent with §4-148.

Source: S.L. No. 3L-39-93 §2-17, 7/29/93

§4-122. Basic eligibility. — Every resident of Pohnpei shall be enrolled in and shall be eligible to receive benefits as provided under this chapter, except that unemployed noncitizens residing in the state who are not dependents of enrollees are not eligible, except as provided in §4-123.

Source: S.L. No. 3L-39-93 §3-1, 7/29/93

§4-123. Agreements for eligibility of others. — The Board is authorized to enter into agreements with the national government, international organizations or other entities to extend the benefits of this chapter to persons within Pohnpei not otherwise eligible therefor. The Board, in entering into such agreements, shall be subject to other state laws, regulations, and agreed-upon practices regarding negotiating agreements with non-state entities.

Source: S.L. No. 3L-39-93 §3-2, 7/29/93

§4-124. Payment for services. —

(1) The Plan shall pay the benefit amount for any covered service that is furnished to an enrollee by a qualified provider outside of Pohnpei if such covered service is authorized in a referral granted under §4-125.

(2) The Board may, by regulation, establish and implement a program for payments of benefit amounts by the Plan for covered services furnished to enrollees by qualified providers within Pohnpei and for assessment and collection of additional premiums.

(3) The Board, by regulation, shall establish and implement a program for payments of benefit amounts by the Plan for covered services rendered by the qualified providers to enrollees of the Plan who are outside of Pohnpei.

Source: S.L. No. 3L-39-93 §4-1, 7/29/93

§4-125. Medical referral committee. —

(1) The Pohnpei Department of Health Services shall establish a medical referral committee that shall be composed of, at a minimum, three physicians or medical officers who regularly practice in Pohnpei. The Department may appoint to its medical referral committee additional members with such qualifications as it deems appropriate.

(2) Except as provided in Subsection (5) of this section, referrals must be authorized by the Pohnpei medical referral committee. The Pohnpei medical referral committee shall consider, as soon as possible, a written request made by an enrollee's attending physician or medical officer and shall determine whether a referral of the enrollee to an out-of-state health care facility is necessary or appropriate for the diagnosis or treatment of, or rehabilitation following injury or illness or for health maintenance. The medical referral committee shall determine in writing:

- (a) Whether it recommends a referral;
- (b) Where covered services are to be provided;
- (c) What covered services are necessary or appropriate for the enrollee to receive at such facility; and
- (d) The projected length of stay.

(3) All recommendations by a medical referral committee or other authorizations for referral as provided under this section which will result in financial obligations against the Plan must be approved by the Executive Director in accordance with §4-127 before any financial obligation may be incurred against the Plan for any out-of-state expenses.

(4) The Board shall, in consultation with the Director of the Pohnpei Department of Health Services, by regulation, establish standards and procedures for payment of referrals costs, and lists of eligible services and permissible charges that may be imposed against the Plan. Such standards, and procedures and lists shall assure that all referrals services and costs charged to the Plan are consistent with the purposes and the objectives of the Plan.

(5) The Director of the Department of Health Services shall, by regulation, provide for alternate means for the authorization of medical referrals in the event of serious and immediate medical emergencies involving situations in which the medical referral committee is unable to meet for the purposes prescribed in Subsection (2) of this section.

Source: S.L. No. 3L-39-93 §4-2, 7/29/93

§4-126. Supervision. — The Board, by regulation, shall establish policies and procedures to supervise provision of covered services at health care facilities.

Source: S.L. No. 3L-39-93 §4-3, 7/29/93

§4-127. Covered services. — Covered services are:

- (1) Professional services of physicians, dentists, and other health practitioners;
- (2) Direct services of health institutions;
- (3) Support services derived from the use of pharmaceuticals, devices, appliances, and other equipment, that the Board, by regulation, determines are eligible for payment by the Plan;
- (4) Essential air and sea transportation and ambulatory service to the point of treatment for approved referrals among the islands of Pohnpei State and from the state to out-of-state centers of care;
- (5) The requisite costs of essential medical attendees and organ donors and of reasonable lodging for out-patient care when authorized by the Plan as provided in its regulations issued pursuant to §4-121; and
- (6) Preventative health care programs sponsored by the Plan on its own initiative or in conjunction with the Pohnpei Department of Health Services.

Source: S.L. No. 3L-39-93 §4-4, 7/29/93

§4-128. Benefit amounts. — Benefit amounts are the amounts that the Board, by regulation, determines are eligible to be paid by the Plan. Said regulations may provide for reasonable amounts of co-payments to be paid by enrollees or other sources for covered services.

Source: S.L. No. 3L-39-93 §4-5, 7/29/93

§4-129. Qualified providers. — A qualified provider is a person furnishing any covered service who the Board, by regulation, determines meets the generally accepted standards of the profession or who is licensed in Pohnpei. The Board shall maintain a list of qualified providers.

Source: S.L. No. 3L-39-93 §4-6, 7/29/93

§4-130. Universal coverage. — The Board, by regulation, shall provide for an essential level of health coverage to be financed in accordance with §§4-154 through 4-159, which coverage shall extend to all eligible enrollees.

Source: S.L. No. 3L-39-93 §4-7, 7/29/93

§4-131. Optional benefits. — The Board, by regulation, may provide for and offer to enrollees additional benefits, either in the form of covered services in addition to those defined pursuant to §4-127 or higher benefit amounts than those set pursuant to §4-128, and shall provide for payment of additional premiums by or on behalf of enrollees for such benefits. Notwithstanding the foregoing

language of this section, the Board shall establish and maintain at least one level of optional coverage available to enrollees and their dependents and prescribe the benefits and premiums pertaining thereto.

Source: S.L. No. 3L-39-93 §4-8, 7/29/93

§4-132. Other coverage. — The obligations of the Plan to make payment for benefits under this chapter is secondary to the obligation of any other individual or entity to make payment for the same service. The Board, by regulation, shall establish policies and procedures for the coordination of benefits provided by this chapter and any other sources, which policies and procedures shall establish the secondary nature of benefits under this chapter. Any overpayments of benefits made under this chapter may be recovered by the Plan from any person to or for whom the payment was made or from any company or organization that is obligated to pay for such services.

Source: S.L. No. 3L-39-93 §4-9, 7/29/93

§4-133. Claims procedures. — The Board, by regulation, shall establish policies and procedures for the identification of enrollees by providers, filing of claims, and disbursement of payment for covered services.

Source: S.L. No. 3L-39-93 §4-10, 7/29/93

§4-134. Assessment and premium amounts. —

(1) By regulation, the Board shall assess the requisite amounts and sources for universal coverage for essential care in accordance with state law, and shall determine the premium amounts to be charged by the Plan for additional levels of coverage. The aggregate of all universal coverage payments and premium amounts, along with other sources of income for the Plan, shall be sufficient to pay all costs of benefits under the Plan, the costs of administering the Plan, and reasonable reserves for uncollectible debts to the Plan and unexpected demands on the Plan for payment and other purposes.

(2) The Board, in its regulations establishing premium amounts, may prescribe differing amounts for enrollees who have no dependents and for enrollees with differing numbers of dependents.

(3) The Board, by regulation, may establish additional classifications for enrollees for whom different premiums will be determined, based on one or more of the following:

(a) Covered services for which the enrollee is eligible or is likely to use;

(b) Location;

(c) Risk of or exposure to injury or illness; or

(d) Other factors normally considered by the health and hospitalization programs and the health maintenance organization industry in the determination of premiums.

Source: S.L. No. 3L-39-93 §5-1, 7/29/93

§4-135. Billed amounts. —

(1) The Board by regulation may, subject to §4-137, establish classifications for the portion of the premium amounts to be billed to an enrollee, employer, state government, national government or other entity or person. Such classifications shall be based on one or more of the following:

(a) Payments on behalf of the enrollees or employers by a state government of the Federated States of Micronesia, the national government, the government of the United States of America or any other source;

(b) Time of payment; and

(c) Any other factor reasonably related to the purposes of this chapter.

(2) The Plan shall bill the amounts determined under this section.

Source: S.L. No. 3L-39-93 §5-2, 7/29/93

§4-136. Responsibility for benefit offerings. —

(1) All employers shall offer to their employees the opportunity to accept first level optional coverage as prescribed by §4-131.

(2) Employers may, at their discretion, offer to their employees additional coverage beyond the first level of optional coverage.

(3) Notwithstanding Subsections (1) and (2) of this section, enrollees who are not employed and enrollees desiring additional coverage beyond the first level when it is not offered by the employer may attain such coverage by making full payment of the premium to the Plan in the manner prescribed by §4-137(4).

Source: S.L. No. 3L-39-93 §5-3, 7/29/93

§4-137. Liability for premium payment. —

(1) An employer of an enrollee, with respect to whom a premium amount is billed, shall be responsible for payment of one-half of such premium amount. The employer may, by written agreement filed with the Plan, assume responsibility to pay more than one-half of the premium amount.

(2) The employer shall collect the balance of the premium by deducting and withholding such amount from the enrollee's compensation with respect to pay periods as specified by the Board's regulation. Every employer required to deduct and withhold a premium amount shall be liable for the payment of such amount as well as the employer's share of the premium amount and shall pay such premium amounts to the Plan with reports or returns as specified by the Board by regulation.

(3) The Board, by regulation, shall establish policies and procedures to equitably allocate the employer's portion of the premium amount among employers if an enrollee is employed by more than one employer during a premium payment period.

(4) Any person required to pay a premium amount for whom a collection procedure is not otherwise provided in this chapter or the regulations shall pay such premium amount to the Plan with such report or returns as specified by the Board.

Source: S.L. No. 3L-39-93 §5-4, 7/29/93

§4-138. Supplemental revenues. — The Plan shall seek appropriations from the Pohnpei Legislature, the National Congress, and from other sources, for such additional revenues as it is reasonably anticipated will be necessary to compensate for any reduction of the total amount of assessments and premiums collected or that are otherwise deemed to be beneficial to the financial status of this Plan.

Source: S.L. No. 3L-39-93 §5-5, 7/29/93

§4-139. Premium collection. — The Board, by regulation, shall establish and implement procedures to regularly collect premium amounts from government appropriations, enrollees, employers, and other sources.

Source: S.L. No. 3L-39-93 §5-6, 7/29/93

§4-140. Sanctions. —

(1) If any premium amount imposed by this chapter or regulations is not paid by an employer or enrollee on or before the date prescribed for such payment, there shall be collected, in addition to such premium amount and penalties, interest on the unpaid balance of the premium amount at the rate of ten percent (10%) per annum from its due date until the date it is paid.

(2) An employer who has failed to make premium payments when required under this chapter shall be liable to the Plan for the reasonable costs incurred by the Plan and/or employee or covered dependent(s) for medical services required by the employee or covered dependent(s); PROVIDED that such liability shall not exceed the costs of such services allowable under the Plan at the level for which the premiums were to be made.

(3) Any employer found to carry on any employment practice directly or indirectly designed to discourage or prevent employees from exercising the option to accept the first level of voluntary coverage shall be subject to a penalty of not more than ten times the amount due to the Plan by the employer for each employee so affected by such practice. Receipts from the penalty shall first go to payment of the affected employees' premium payments. The remainder shall be deposited in the trust fund of the Plan as the realization of general revenue.

Source: S.L. No. 3L-39-93 §5-7, 7/29/93

§4-141. Remedies. —

(1) The Board is authorized to take civil action and impose liens, if necessary, to collect overdue premiums or any amount imposed or authorized under this chapter.

(2) If any person liable to pay any amount under this chapter neglects or refuses to pay the same after demand, the amount including any fine or interest assessed pursuant to §4-140, together with any costs that may accrue in addition thereto, shall be a lien in favor of the Plan upon all property and rights to property, whether real or personal, belonging to such person and may be collected by levy upon such property in the same manner as the levy of an execution.

Source: S.L. No. 3L-39-93 §5-8, 7/29/93

§4-142. Trust Fund. — The Board shall establish a trust fund that shall be administered exclusively for the purpose of this chapter. All payments for benefits under this chapter shall be paid from the fund. The fund shall consist of:

(1) All assessments for universal coverage as provided under this chapter;

(2) All premiums collected from enrollees and employers;

(3) All money received as subsidies to the Plan from the Pohnpei Government, the national government or any other source for payment to the fund; and

(4) All co-payments, fines, penalties, and interest payments collected pursuant to this chapter.

Source: S.L. No. 3L-39-93 §6-1, 7/29/93

§4-143. Management of fund. — The Executive Director shall be the custodian of the fund and shall administer the fund in accordance with the rules and regulations established by the Board. All monies in the fund shall be held in trust solely for the purposes of this chapter. With the approval and under the direction of the Board, the Executive Director may, from time to time, invest such monies in the fund as are in excess of the amount deemed necessary for a reasonable future period. The investments shall at all times be so made that all the assets of the fund shall be readily convertible into cash when needed for the purposes of this chapter.

Source: S.L. No. 3L-39-93 §6-2, 7/29/93

§4-144. Authorization for appropriation; administration. — There is hereby authorized for appropriation such sums from such funds of the Pohnpei Treasury as may be determined annually to pay assessments required thereof by §4-134 and to assist in the financing of the trust fund to be established pursuant to §4-142. All sums appropriated shall remain available until fully expended.

Source: S.L. No. 3L-39-93 §6-3, 7/29/93

§4-145. Consultation requirements. — The Board shall establish appropriate measures to assure that it consults with enrollees and providers on a regular basis and is advised of the impact of its policies and procedures on such individuals.

Source: S.L. No. 3L-39-93 §7-1, 7/29/93

§4-146. Fiscal and operational integrity. — The Board shall take all measures necessary to assure the fiscal and operational integrity of the Plan and shall review the Plan no less often than quarterly for

such purposes. Reviews shall include utilization reviews, reviews of financial statements, reviews of premium and benefit schedules, and reviews of operational policies and procedures. In particular, the Board shall take all measures necessary to assure that:

- (1) Its policies and procedures support the health care objectives of Pohnpei;
- (2) Payments for benefits do not exceed revenues to the fund; and
- (3) Only payments for benefits that the Plan is obligated to provide are made.

Source: S.L. No. 3L-39-93 §7-2, 7/29/93

§4-147. Third-party administrators and consultants. — The Board may retain the services of third-party administrators or qualified health care or business consultants as it deems necessary for the successful operation of the Plan.

Source: S.L. No. 3L-39-93 §7-3, 7/29/93

§4-148. Determinations and appeals. — Except as otherwise provided in this chapter, determinations of eligibility, covered services, qualified providers, benefit amounts, premium amounts to be billed, and all other matters arising in the implementation of the Plan shall be made by the Executive Director in accordance with regulations. Appeals from determinations of the Executive Director may be made to the Board in accordance with procedures specified in the regulations.

Source: S.L. No. 3L-39-93 §7-4, 7/29/93

§4-149. Budget preparation. —

(1) The Executive Director shall prepare, in advance of each fiscal year, an annual budget for the Plan, taking into consideration anticipated capital and operating expenditures and anticipated revenues. The Plan shall use the same fiscal year as that of the Pohnpei Government. The budget shall indicate the operating capital and maintenance requirements of the Plan that will be met with the anticipated revenues of the Plan and such essential requirements as cannot be met without increase in revenues or outside financial assistance. The annual budget shall be reviewed and approved by the Board.

(2) The estimated administrative costs budgeted for any fiscal year of the Plan shall not exceed an expenditure maximum equal to ten percent (10%) of the Plan's estimated income for such year. For purposes of this section, "administrative costs" include the costs of salaries and wages, maintenance of branch offices, patient and physician care coordination, third-party administrator contractual service fees, office supplies and equipment, as well as actuarial, auditing, legal, computer, financial management, accounting, and similar services. For purposes of this section, "income" includes universal coverage payments made, premiums collected, investment income, fines, penalties, and interest collected. "Income" also includes such subsidiary funds received from the Pohnpei Government, the national government or any other sources for payment to the fund that are not allocated to any particular or specific use or category of expenditure; PROVIDED that the specific approval of the Board must be obtained for any budgeted administrative cost from such particular or special use of category funds in excess of the expenditure maximum prescribed in this section.

Source: S.L. No. 3L-39-93 §7-5, 7/29/93

§4-150. Tax exemption. — The Plan shall exist and operate solely for the benefit of the public and shall, to the extent allowed by law, be exempt from any taxes or assessments on any of its property, operations or activities. Nothing herein shall be deemed to exempt employees and independent contractors of the Plan from tax liability for income received from the Plan.

Source: S.L. No. 3L-39-93 §7-6, 7/29/93

§4-151. Corporate debts and obligations. — Unless otherwise expressly provided by law, the Pohnpei Government shall not be liable or responsible for any debts or obligations of the Plan.

Source: S.L. No. 3L-39-93 §7-7, 7/29/93

§4-152. Immunity from liability. — The Plan and officers, employees, and Board members of the Plan shall be immune from liability for acts or omissions with respect to service for the Plan to the same extent as the Pohnpei Government and officers, directing boards and employees of the Pohnpei Government with respect to government service.

Source: S.L. No. 3L-39-93 §7-8, 7/29/93

§4-153. Records and reporting. —

(1) The Executive Director shall keep accurate records of the Plan's business transactions. Such records shall include, but not be limited to, accounting of all income and expenditures, assets (both tangible and intangible), and liabilities of the Plan. The Executive Director shall prepare and submit to the Board a monthly report, that shall include the monthly financial report. The Board, not later than 90 days after the close of each fiscal year, shall submit to the Governor and the Legislature a complete report showing the activities of the Plan during the fiscal year, the present financial condition of the Plan, and such other matters as the Board shall deem appropriate.

(2) The personal records of the Plan shall be confidential. No officer, employee or Board member of the Plan shall disclose any personal records obtained by him in any manner in connection with his service as such officer, employee, Board member or otherwise. For purposes of this section, the term "officer, employee or Board member" includes a former officer, employee or Board member. "Personal records" means any records concerning any individual enrollee or employer.

(3) The books of account of the Plan shall be audited by the Public Auditor annually.

Source: S.L. No. 3L-39-93 §7-9, 7/29/93

§4-154. Intent. — The Legislature is of the mind that all persons eligible for enrollment in the Plan will in fact be enrolled. To this end, the Legislature anticipates creating a source of public financing, that along with other mandated sources of financing, will ensure that all such persons are accorded the essential level of coverage under the Plan.

Source: S.L. No. 3L-39-93 §8-1, 7/29/93

§4-155. Financing. — Not later than July 1, 1994, the Board of the Plan shall submit to the Legislature a detailed proposal for the financing of the essential level of coverage under the Plan. Such proposal shall include the sources, levels, and expected revenues to be collected and shall include such draft legislation to amend §§4-154 through 4-159 as the Plan deems necessary to secure financing.

Source: S.L. No. 3L-39-93 §8-2, 7/29/93

§4-156. Health care premium fund. — There is hereby created within the Treasury a health care premium fund to which all collections imposed by §§4-154 through 4-159, along with all civil penalties and interest with respect thereto, shall be deposited.

Source: S.L. No. 3L-39-93 §8-3, 7/29/93

§4-157. Appropriation requests. — The Plan shall, following consultation with appropriate officials of the state and national governments, present an annual request to the Legislature for appropriation from the health care premium fund to provide the state government's share of payments necessary to finance the essential level of health care coverage for all eligible enrollees. Such request shall include information as to the level of support being requested of the national government and other sources for financing the essential level of coverage provided by the Plan.

Source: S.L. No. 3L-39-93 §8-4, 7/29/93

§4-158. Authorization for appropriation from health care premium fund; administration. — There is hereby authorized for appropriation from the health care premium fund such amounts as may be determined annually in the Comprehensive Budget Act for the sole purpose of assisting in the

financing of an essential level of health care coverage for all persons eligible therefor under this chapter. Sums so appropriated shall be administered and expended by the Plan in accordance with this chapter and shall remain available until fully expended.

Source: S.L. No. 3L-39-93 §8-5, 7/29/93

§4-159. Periodic financial review. — The Plan shall periodically undertake a comprehensive review of the financial demands of maintaining an essential level of health care coverage as provided by this chapter and the revenue generation capacities of §§4-154 through 4-159 along with national government assistance and other means of support for this coverage; and shall thereafter make recommendations to the Legislature as to modifications to the financing systems of §§4-154 through 4-159 and other methods and sources of support.

Source: S.L. No. 3L-39-93 §8-6, 7/29/93

§4-160. Government assistance to the Plan. — For the purpose of planning, undertaking, and carrying out this chapter and the subsequent operation of the Plan established hereunder, and where permissible under law, the Pohnpei Government, or any agency or political subdivision thereof, may, if the chief executive officer of the respective governmental branch or political subdivision determines that the project is of importance and benefit to that branch or political subdivision and be of advantage to the people of this state:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Plan;

(2) Incur expenses on behalf of the Plan subject to reimbursement under such conditions as may be agreed upon with the Board of the Plan;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out the duties, powers, and obligations of the Plan;

(4) Lend, advance, grant or contribute funds to the Plan and provide for or waive the repayment of any such funds loaned or advanced; and

(5) Contract with or furnish services to the Plan upon conditions and terms as may be agreed upon.

Source: S.L. No. 3L-39-93 §9-1, 7/29/93

§4-161. Initial administration. — In addition to such assistance as may be provided under §4-160, the Governor shall provide the initial Board of Trustees appointed under this chapter with office space and administrative assistance for the first 12 months of its operations, unless such space and assistance is otherwise acquired by the Board.

Source: S.L. No. 3L-39-93 §9-2, 7/29/93

§4-162. Authorization for initial financing. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury the sum of \$10,000, or so much thereof as may be appropriated and necessary for the start-up and initial administration of the Plan established by this chapter, for the development of the detailed proposal for the financing of the Plan as required by §4-155, and for the complete review of the contents of this statute as required by §4-163. Prior to the organization of the first Board of Trustees of the Plan under this chapter, not more than thirty-five percent (35%) of the monies appropriated under the authorization of this section may be administered and expended by the Governor solely for the purposes specified in this section. Following the organization of the Board, the Governor shall cause the remainder of monies appropriated hereunder and not expended or obligated for expenditure by the Governor to be deposited in the trust fund established by the Board pursuant to §4-142. Monies so deposited in the trust fund may only be expended by the Plan for the purposes specified in this section and shall remain available therein until fully expended. The Board, in its annual report to the Governor and the Legislature as provided by §4-153, shall provide a full accounting of the use of monies appropriated under the authorization of this

section, inclusive of such uses and expenditures by the Office of the Governor prior to the transfer of the appropriation to the trust fund.

Source: S.L. No. 3L-39-93 §9-3, 7/29/93

Note: S.L. No. 3L-39-93 §9-4 appropriation provision has been omitted.

§4-163. Effective date. — This chapter shall take effect upon the approval of the Governor, or upon its becoming law without such approval; PROVIDED, HOWEVER, that no level of coverage may be extended, no mandatory premiums may be imposed nor obligation to provide benefits deriving therefrom may be undertaken prior to the enactment of a financing system for coverage of persons under the essential level of care pursuant to §§4-154 through 4-159; PROVIDED FURTHER that in addition to the requirements of §4-155, the Board of the Plan shall, within six months following its initial organization, conduct a complete review of the contents of this chapter and shall thereafter present to the Legislature a full report as to its proposed implementation of the Plan along with such draft legislation as the Board deems necessary to amend this chapter to fully realize the purpose of this chapter and to ensure compliance of the Plan with all existing laws and regulations.

Source: S.L. No. 3L-39-93 §10-1, 7/29/93

CHAPTER 5 TELEMEDICINE PROGRAM

Section

5-101 Program established

5-102 Program financing

§5-101. Program established. — There is hereby established in and for the state of Pohnpei, the Pohnpei Community Health Center Telemedicine Program, hereinafter referred to as the “telemedicine program.” The telemedicine program shall utilize personal computers and modems situated in the individual community health centers, local and international communication services, and emerging Internet technologies to link the community health centers within the state with the Pohnpei central hospital and overseas health care centers that provide high quality medical advice, service, and instruction to remote areas of the world. The program shall be operated and administered by the Department of Health Services, which shall seek and obtain, to the maximum extent practical, such electronic equipment, computer software, and trained personnel as are necessary to run the program in an efficient and cost-effective manner. To the extent possible, the Department shall seek and obtain financial assistance to help fund the conduct of the program from national and international sources of grant aid. The Department shall also endeavor to obtain skilled instructors from institutions of higher learning, both locally and abroad, to help train local practitioners in the use of telemedicine technologies made available through the program.

Source: S.L. No. 4L-105-99 §1, 4/12/99

§5-102. Program financing. —

(1) There is hereby authorized for appropriation annually from such funds of the Treasury as are identified in the Comprehensive Budget Act such sums as may be so appropriated therein to the telemedicine program established by §5-101, and as may be allocated to specific program uses by the Comprehensive Budget Act.

(2) All sums appropriated under the authorization of Subsection (1) of this section shall be administered and expended by the Director of the Department of Health Services solely for the purposes specified in §5-101 and for the specific uses as may be identified in the annual Comprehensive Budget Acts.

(3) Monies appropriated to the telemedicine program under the authorization of this chapter shall remain available for program use until fully expended; PROVIDED that monies that are allocated to a specific use by a Comprehensive Budget Act and which monies are not expended for said use for a period of nine months following the close of the fiscal year in which the monies were appropriated may thereafter be expended generally for any and all purposes for which the telemedicine program has been established.

(4) In addition to such state monies as may be appropriated to the telemedicine program under the authorization of Subsection (1) of this section, the program shall be entitled to receive financial assistance from such other public and private sources as are made available to the program. Administration and expenditure of grant monies made available to the program shall be as prescribed in the terms of the grant agreement.

(5) The Director of the Department of Health Services shall submit an annual report to the Legislature on all financial and administrative matters relating to the operation of the telemedicine program established by §5-101 within 30 days following the close of each fiscal year.

Source: S.L. No. 4L-105-99 §2, 4/12/99

Note: S.L. No. 4L-105-99 §3 appropriation provision has been omitted.

CHAPTER 6 INFECTIOUS AND CONTAGIOUS DISEASES

Section

6-101 Definitions	6-104 Power to affect school attendance
6-102 Presumption	6-105 Penalty
6-103 Quarantine, confinement, and treatment of infectious and contagious diseases	6-106 Regulations

§6-101. Definitions. — As used in this chapter:

(1) “Confinement” refers to a restraint on the physical movement of the person or persons suffering from or exposed to a contagious disease or present in an area where a contagious disease is known to exist. The term “confinement” includes prohibition from entry, exit or restriction of movement within the state.

(2) “Contagious disease” means a disease caused by receiving living organisms directly from an afflicted person or by contact with a secretion of that person or with some object that person has touched.

(3) “Infectious disease” means a disease caused by the entrance, growth, and multiplication of bacteria, protozoans or analogous organisms.

(4) “Quarantine” means a condition of isolation.

(5) “Treatment” refers to the medical care instituted for the welfare of the patient and the community.

Source: S.L. No. 2L-138-82 §1, 10/18/82

§6-102. Presumption. — Diseases enumerated as infectious or contagious by the World Health Organization or the Health Services of the South Pacific Commission in their Epidemiological Reporting System are presumed as infectious or contagious for purposes of this chapter.

Source: S.L. No. 2L-138-82 §2, 10/18/82

§6-103. Quarantine, confinement, and treatment of infectious and contagious diseases. — Quarantine, confinement, and treatment of infectious and contagious diseases shall be at the discretion and under written direction of the Governor or his duly authorized representative following consultation with the Director of the Department of Health Services or appropriate medical personnel of that department where the directive is made.

Source: S.L. No. 2L-138-82 §3, 10/18/82

§6-104. Power to affect school attendance. — The Director of the Department of Health Services, after consultation with the Governor, may implement emergency measures to refuse, modify or limit attendance at any school in the state if he determines that there is, or is an imminent danger of, an epidemic or serious outbreak of a communicable disease.

Source: S.L. No. 2L-138-82 §3A, 10/18/82

Note: §3A was inserted by S.L. No. 4L-123-99 §6-5, 9/1/99.

§6-105. Penalty. — Any person found in violation of this chapter, or of any regulation or directive issued pursuant hereto, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-138-82 §4, 10/18/82

§6-106. Regulations. — The Governor is empowered to issue and promulgate regulations not inconsistent with this chapter for the enforcement hereof.

Source: S.L. No. 2L-138-82 §5, 10/18/82

CHAPTER 6A
HIV PREVENTION AND CARE

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SUBCHAPTER I: INTRODUCTION

§6A-101. Short title. — This chapter shall be known and may be cited as the “Pohnpei HIV Prevention and Care Act of 2007.”

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-102. Declaration of policies. — Acquired Immune Deficiency Syndrome (AIDS) is a disease that can be caused by HIV infection and that recognizes no territorial, social and economic boundaries and for which there is no known cure. The seriousness of the risk to Pohnpei society that HIV poses demands strong state action today thus:

(1) The state shall promote public awareness about the causes, modes of transmission, consequences, and means of prevention of HIV through a comprehensive statewide, educational and information campaign organized and conducted by the state. Such campaign shall promote value formation and employ scientifically proven approaches, focus on family, as a basic social unit, support the development of appropriate skills, and be carried out in all schools, training centers, workplaces, and communities. This program shall involve affected individuals and groups including people living with HIV.

(2) The state shall extend to every person believed to be or known to be infected with HIV full protection of his or her human rights and civil liberties. Towards this end;

(a) Compulsory HIV testing shall be considered unlawful unless otherwise provided in this chapter;

(b) The right to privacy of individuals with HIV shall be guaranteed;

(c) Discrimination, in all its forms and subtleties, against individuals with HIV or persons perceived or believed as having HIV shall be considered inimical to individual and state interest; and

(d) Provision of appropriate health and social services for individuals with HIV shall be assured.

(3) The state shall promote utmost safety and standard precautions in practices and procedures that carry the risk of HIV transmission.

(4) The state shall recognize the potential role of affected individuals in propagating vital information and educational messages about HIV and shall utilize their experience to inform the public about HIV, promote HIV testing and encourage modification of behavior that may be associated with HIV acquisition.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-103. Definition of terms. — As used in this chapter, the following terms are defined as follows:

(1) “Acquired Immune Deficiency Syndrome” (AIDS) means a condition characterized by a combination of signs and symptoms, caused by HIV contracted from another person and which attacks and weakens the body’s immune system, making the afflicted individual susceptible to other life threatening infections.

(2) “Anonymous testing” refers to an HIV testing procedure whereby the individual being tested does not reveal his/her true identity. An identifying number or symbol is used to substitute for the name and allows the laboratory conducting the test to provide the results with the identifying number or symbol.

(3) “Compulsory HIV testing” refers to HIV testing imposed upon a person, characterized by the lack of consent, use of physical force, intimidation or any form of compulsion.

(4) “Contact tracing” refers to the method of finding and counseling the sexual partner(s) of a person who has been diagnosed as having sexually transmitted disease.

(5) “Human Immunodeficiency Virus” (HIV) refers to the virus which causes AIDS.

(6) “HIV Care” means minimizing the impact of the condition of persons living with HIV.

(7) “HIV monitoring” refers to the documentation and analysis of the number of HIV infections and pattern of its spread.

(8) “HIV prevention” refers to measures aimed at protecting a non-infected person from contracting HIV.

(9) “HIV Positive” refers to the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested.

(10) “HIV Negative” denotes the absence of HIV or HIV antibodies upon HIV testing.

(11) “HIV testing” refers to any laboratory procedure done on an individual to determine the presence or absence of HIV infection.

(12) “HIV transmission” refers to the transfer of HIV from one infected person to an uninfected individual, most commonly through unprotected sexual intercourse, blood transfusion, sharing of intravenous needles and during pregnancy.

(13) “High-risk behavior” refers to a person’s frequent involvement in activities that increase the risk of transmitting or acquiring HIV.

(14) “Informed consent” refers to the voluntary agreement of a person to undergo or be subjected to a procedure based on full information, whether such permission is written or conveyed verbally.

(15) “Medical confidentiality” refers to the relationship of trust and confidence created or existing between a patient or a person with HIV and his attending physician, consulting medical specialist, nurse, medical technologist and all other health workers or personnel involved in any counseling, testing or professional care. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information.

(16) “Person with HIV” refers to an individual whose HIV test indicates that he/she is infected with HIV.

(17) “Pre-test counseling” refers to the process by which information about HIV infection, its means of transmission, the nature of the test and the meaning and likely psychological impacts of a positive or negative result is provided, together with emotional support, to an individual considering undergoing an HIV antibody test.

(18) “Post-test counseling” refers to the process of providing risk-reduction information and emotional support to a person who submitted to HIV testing at the time that the test result is released.

(19) “Prophylactic” refers to any agent, practice or device used to prevent the transmission of an infection.

(20) “Sexually transmissible infection or STI” refers to any disease that may be acquired or passed on through sexual contact.

(21) “Voluntary HIV testing” refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits himself/herself to such test.

(22) “Window period” refers to the period of time, approximately three months, during which a recently infected individual will test “negative” upon HIV antibody testing but can actually transmit the infection. For some individuals the window period may be up to six months.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-104 - 6A-109. [RESERVED]**SUBCHAPTER II: EDUCATION AND INFORMATION****§6A-110. HIV education in school. —**

(1) The Department of Education, utilizing official information provided by the Department of Health Services, shall integrate instruction on the modes of transmission and ways of preventing HIV and other sexually transmitted infections in subjects taught in public and private schools at intermediate grades, secondary and tertiary levels, including non-formal and indigenous learning systems; PROVIDED that if the integration of HIV education is not appropriate or feasible, the Department of Education shall design special modules on HIV prevention and care.

(2) Flexibility in the formulation and adoption of appropriate course content, scope, and methodology in each educational level or group shall be allowed after consultations with parent-teacher associations, private schools associations, school officials, and other interested groups. As such, no instructions shall be offered to minors without adequate prior consultation with parents.

(3) All teachers and instructors of HIV education shall be required to undergo training on HIV prevention and care supervised by the Department of Education, in coordination with the Department of Health Services, and demonstrate proficiency in skills relating to education on the prevention of HIV and other STIs, before they are allowed to teach on the subject.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-111. HIV information as a health service. — HIV education and information dissemination shall form part of the delivery of health services by health practitioners, workers and personnel. The knowledge and capabilities of all public health workers shall be enhanced to include skills for proper information dissemination and education on HIV. It shall likewise be considered a civic duty of health providers in the private sector to make available to the public such information necessary to control the spread of HIV and to correct common misconceptions about this infection. The training of health workers shall include discussion on HIV related ethical issues such as confidentiality, informed consent and the duty to provide treatment and access to preventative commodities such as condoms.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-112. HIV education in the workplace. — All government and private employees, workers, managers and supervisors shall be provided with the standardized basic information and instruction on HIV which shall include topics on confidentiality in the workplace and attitude towards infected employees and workers. In collaboration with the Department of Health Services, the Director of the Department of Treasury and Administration shall oversee the implementation of this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-113. HIV education for Pohnpeians going abroad. — The Director of the Pohnpei Department of Health Services shall cooperate with the national government to ensure that Pohnpeians traveling overseas have access to information concerning HIV infection.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-114. Information campaign for tourists and transients. — Informational materials on the causes, modes of transmission, prevention and consequences of HIV infection shall be adequately

provided at all ports of entry and exits. The Pohnpei Port Authority, in collaboration with the Department of Health Services, shall oversee the implementation of this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-115. HIV education in communities. — The Department of Health Services, in collaboration with local governments shall conduct an educational and informational campaign on HIV in the local communities of Pohnpei. To the extent possible, the local governments shall coordinate such campaign among concerned government agencies, non-government organizations and church-based groups at the local level.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-116. Information on condoms. — Appropriate information shall be attached to or provided with every condom offered for sale or given as a donation. Such information shall be legibly printed in English and Pohnpeian, and contain literature on the proper use of the condom and its efficacy against HIV and STIs.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-117. Penalties for misleading information. — Misinformation regarding HIV prevention and care through false and misleading advertisements and claims in any media or the promotional marketing of drugs, devices, agents, or procedures without prior approval from the Department of Health Services and the requisite medical and scientific basis, including markings and indications on drugs, devices and agents, purporting to be a cure or fail-safe prophylactic for HIV infection, is punishable with a penalty of imprisonment for not less than two months and not more than two years, without prejudice to the imposition of administrative sanctions such as fines and suspensions or revocation of professional or business licenses.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-118 - 6A-119. [RESERVED]

SUBCHAPTER III: SAFE PRACTICES AND PROCEDURES

§6A-120. Requirement on the donation of blood, tissue or organ. — No laboratory or institution shall accept a donation of tissue or organ, unless a sample from the donor has been tested negative for HIV. All donated blood shall also be subjected to HIV testing and HIV Positive blood shall be disposed of properly and immediately. A second testing may be requested as a matter of right by the blood, tissue, or organ recipient or his immediate relatives before transfusion or transplant, except during emergency cases; PROVIDED, that the donations of blood, tissue, or organ testing positive for HIV may be accepted for research purposes only, and subject to strict sanitary disposal requirements.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-121. Guidelines on surgical and similar procedures. — The Department of Health Services shall issue guidelines on precautions against HIV transmission during surgical, dental, embalming, tattooing, piercing or similar procedures. The Department shall likewise issue guidelines on the handling and disposition of cadavers and body fluids to prevent the transmission of blood born infections. The necessary protective equipment such as gloves, goggles and gowns shall be made available to all physicians and health care providers and similarly exposed

personnel within the Department or employed by any private health care provider or dental service provider at all times.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-122 - 6A-129. [RESERVED]

**SUBCHAPTER IV:
TESTING, SCREENING AND COUNSELING**

§6A-130. Consent as a requisite for HIV testing. — No compulsory HIV testing shall be allowed. Minors aged above fourteen years of age may consent for themselves if, in the opinion of the testing clinicians, they have been at risk of HIV acquisition and are able to understand the nature and implications of the test. Living potential donors of blood, tissue or organs for transfusion or transplantation must receive appropriate pre-test counseling and give informed consent for HIV testing before being accepted as donors.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-131. Prohibitions on compulsory HIV testing. — Compulsory HIV testing as a precondition to employment, admission to educational institutions, the exercise of freedom of abode, entry or continued stay in the state, the right to travel, the provision of medical service or any other kind of service, or the continued enjoyment of said undertakings shall be deemed unlawful. Intentional violation of this section is punishable with a penalty of imprisonment for not less than six months or more than two years, a fine of not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-132. Exception for the prohibition on compulsory testing. — Compulsory HIV testing may be allowed, upon court order, when a person is charged with any crime involving the endangerment of HIV infection of another person which appears on a list prescribed by the Director of the Department of Health Services promulgated by regulations pursuant to this section.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-133. Anonymous HIV testing. — The state shall provide a mechanism for anonymous HIV testing and shall guarantee anonymity and medical confidentiality in the conduct of such tests.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-134. Accreditation of HIV testing centers. — [RESERVED]

§6A-135. Pre-test and post-test counseling. — All testing centers, clinics, or laboratories offering HIV testing shall be required to provide and conduct free pre-test counseling and post-test counseling for persons who avail themselves of their HIV testing services; PROVIDED, HOWEVER, such counseling services must be provided only by persons who meet the standards set by the Department of Health Services.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-136. Support for HIV testing centers. — The Department of Health Services shall strategically build and enhance the capabilities for HIV testing of hospitals, clinics, laboratories,

and other testing centers, primarily by ensuring the training of competent personnel who will provide such services in said testing sites.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-137 - 6A-139. [RESERVED]

**SUBCHAPTER V:
HEALTH AND SUPPORT SERVICES**

§6A-140. Care of persons with HIV. — Since antiretroviral therapy for HIV is now available at low cost, the Department of Health Services shall provide these treatments free or at the lowest possible charge to people living with HIV who require them, taking advantage of available regional and international initiatives to support this provision.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-141. Control of sexually transmissible infections. — The Department of Health Services, in coordination and cooperation with concerned government agencies and non-government organizations shall pursue the prevention of sexually transmissible infections to help contain the spread of HIV infection.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-142. Insurance for persons with HIV. [RESERVED]

§§6A-143 - 6A-149. [RESERVED]

SUBCHAPTER VI: MONITORING

§6A-150. Pohnpei HIV Surveillance Program. — A comprehensive HIV surveillance and monitoring program shall be established under the Department of Health Services Division of Primary Health Care to determine and monitor the magnitude and progression of HIV infection in Pohnpei, and for the purpose of evaluating the adequacy of the countermeasures being employed.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-151. Reporting procedures. — It is mandatory for all the public and private health care facilities to report each new HIV infection diagnosed to the Department of Health Services utilizing the agreed name code system. The Department of Health Services shall adopt regulations implementing this section which shall provide for the reporting of relevant epidemiological information including but not limited to gender, ethnicity, residence, clinical status at time of diagnosis and likely mode of transmission. All public and private health care facilities shall also report the death of any person previously diagnosed with HIV, along with the cause of death.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-152. Contact tracing. — HIV contact tracing and all other related health intelligence activities may be pursued by the Department of Health Services; PROVIDED, that these do not run counter to the general purpose of this chapter; PROVIDED FURTHER, that any information gathered shall remain confidential, and can only be used for the purpose of offering HIV counseling and testing to persons who may have been exposed and for statistical and monitoring

purposes, but not as a basis or qualification for any employment, school attendance, freedom of abode, or travel.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-153 - 6A-159. [RESERVED]

**SUBCHAPTER VII:
CONFIDENTIALITY**

§6A-160. Medical confidentiality. — All health professionals, medical instructors, workers, employers, recruitment agencies, insurance companies, data encoders, and other custodians of any medical record, file, data, and test results are directed to strictly observe confidentiality in the handling of all medical information, particularly the identity and status of the person with HIV.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-161. Exceptions to the mandate of confidentiality. — Medical confidentiality shall not be considered breached in the following cases:

- (1) When complying with reporting requirements of this chapter;
- (2) When responding to a subpoena duces tecum or subpoena ad testificandum issued by a court of competent jurisdiction; PROVIDED, that the confidential medical record shall be properly sealed by its lawful custodian after being double checked for accuracy by the head of the office or department and hand delivered to the court.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-162. Release of HIV test results. — All results of HIV testing shall be confidential and shall be released only to the following persons:

- (1) The person who submitted himself/herself to such test;
- (2) Either parent of a minor child below 14 years of age who has been tested;
- (3) A legal guardian in the case of insane persons or orphans;
- (4) A person authorized to receive such results in conjunction with the HIV program as provided in Subchapter VI of this chapter; and
- (5) A court of competent jurisdiction.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-163. Penalties for violation of confidentiality. — Any violation of medical confidentiality as provided in Sections 6A-160 and 6A-162 of this chapter shall suffer the penalty of imprisonment for not less than six months and not more than one year, a fine of not more than \$500, or both such fine and imprisonment without prejudice to administrative sanctions such as fines and suspension or revocation of the violator's license to practice his/her profession, as well as the cancellation or withdrawal of the license to operate any business entity and the accreditation of hospitals, laboratories or clinics.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-164. Disclosure to sexual partners. — Any person with HIV is obliged to disclose his/her HIV status and health condition to his/her regular sexual partner at the earliest opportune time.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-165 - 6A-169. [RESERVED]

SUBCHAPTER VIII: DISCRIMINATORY ACTS AND POLICIES

§6A-170. Discrimination in the workplace. — Discrimination in any form from pre-employment to post-employment, including hiring, promotion or assignment, based on the actual, perceived or believed HIV status of an individual is prohibited. Termination from work on the sole basis of actual, perceived or believed HIV status is unlawful.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-171. Discrimination in schools. — No educational institution shall refuse admission or expel, discipline, segregate, deny participation, benefits or services to a student or prospective student on the basis of his/her actual, perceived or believed HIV status.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-172. [RESERVED]

§6A-173. Inhibitions from public service. — The right to seek an elective or appointive public office shall not be denied to a person with HIV.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-174. Exclusion from credit and insurance services. — Credit and loan services, and health, accident and life insurance shall not be denied to a person on the basis of his/her actual, perceived or believed HIV status; PROVIDED, that the person with HIV has not concealed or misrepresented the fact to the credit, loan or insurance company upon application. Extension and continuation of credit and loan services and insurance shall likewise not be denied solely on the basis of said health condition.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-175. Discrimination of hospitals and health institutions. — No person shall be denied health care services or be charged with a higher fee on account of actual, perceived or believed HIV status.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-176. Denial of burial services. — A deceased person who had AIDS or who was known, believed or perceived to be HIV positive shall not be denied any kind of decent burial service.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-177. Penalties for discriminatory acts and policies. — All violations of Sections 6A-170 through 6A-176 of this chapter shall be punishable with a penalty of imprisonment for not less than six months and not more than four years or a fine not exceeding \$1,000, or both such imprisonment and fine. In addition, licenses/permits of schools, hospitals and other institutions found guilty of committing discriminatory acts and policies described in this chapter may be revoked.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-178 - 6A-179. [RESERVED]

SUBCHAPTER IX: THE POHNPEI HIV COUNCIL

§6A-180. Establishment. — A Pohnpei HIV Council is hereby created to oversee an integrated and comprehensive approach to HIV prevention and care in Pohnpei. It shall be attached to the Department of Health Services for administrative purposes.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-181. Functions. — The Council shall be the state advisory body for the comprehensive and integrated HIV prevention and care program in Pohnpei. The Council shall perform the following functions:

(1) Secure from concerned government agencies recommendations on how their respective agencies can implement specific provisions of this chapter. The Council shall integrate and coordinate such recommendations and issue recommendations to the Department of Health Services and other implementing agencies for the effective administration of this chapter. The Council shall likewise monitor and issue recommendations to ensure that there is adequate coverage of the following:

- (a) The institution of statewide HIV information and education programs;
- (b) The establishment of a comprehensive HIV monitoring system;
- (c) The issuance of guidelines on medical and other practices and procedures that carry the risk of HIV transmission;
- (d) The provision of accessible and affordable HIV testing and counseling services to those who are in need of it;
- (e) The provision of acceptable health and support services for persons with HIV in hospitals and communities;
- (f) The protection and promotion of the rights of individuals with HIV; and
- (g) The strict observance of medical confidentiality.

(2) Monitor the implementation of the rules and regulations of this chapter, issue or cause the issuance of orders or make recommendations to the implementing agencies as the Council considers appropriate;

(3) Develop a comprehensive long-term HIV prevention and control program for adoption by the state and monitor its implementation;

(4) Coordinate the activities of and strengthen working relationships between government and non-government agencies involved in the campaign against HIV;

(5) Coordinate and cooperate with foreign and interstate organizations regarding data collection, research and treatment modalities concerning HIV; and

(6) Evaluate the adequacy of and make recommendations regarding the utilization of state resources for the prevention and care of HIV in Pohnpei.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-182. Membership and composition. —

(1) The Council shall be composed of the following members:

- (a) The Director of the Department of Health Services;
- (b) The Director of the Department of Education;
- (c) The General Manager of the Pohnpei Port Authority;
- (d) A representative of the women's groups of Pohnpei, chosen from among themselves;
- (e) A representative from youth groups, chosen from among themselves;
- (f) A representative of the Pohnpei Chapter of the International Red Cross, situated in Pohnpei (should they choose to participate);
- (g) Such other representatives accepted for membership by the above cited members of the Council from other public offices and non-profit organizations dealing with HIV;

- (h) A person living with HIV, selected by the Governor; and
- (i) Chief of Primary Health Care Division.

(2) The Council shall determine its own rules of procedure and may allow for representation by proxy.

(3) Service on the Council shall be deemed public service for which no compensation shall issue, but members may be entitled to payment for expenses incurred within the state while on business with the Council.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-183. Report. — The Council shall submit to the Governor and to the Legislature comprehensive annual reports on the activities and accomplishments of the Council. Such annual reports shall contain assessments and evaluation of intervention programs, plans and strategies for the medium- and long-term prevention and control programs on HIV in Pohnpei.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§6A-184. Authorization for appropriations. —

(1) There is hereby authorized for appropriation from such funds of the Pohnpei Treasury as are identified in the Comprehensive Budget Act, a sum or sums to be determined and as may be allocated annually in the Comprehensive Budget Act for the purpose of financing the administration of this chapter and the programs and activities authorized hereunder.

(2) The sums appropriated pursuant to this authorization shall be administered and expended by the Governor solely for the purposes stated in this chapter. The Governor shall report to the Pohnpei Legislature on or before December 30th of each year on all matters concerning the expenditure of the sums appropriated for the concluded fiscal year under the authorization of this section. Any balance of the sums appropriated for a fiscal year under the authorization of this section not expended or obligated for expenditure on September 30 of that fiscal year shall remain until expended.

Source: S.L. No. 6L-114-08 §1, 1/10/08

§§6A-185 - 6A-189. [RESERVED]

SUBCHAPTER X: MISCELLANEOUS PROVISIONS

§6A-190. Implementing rules and regulations. — Within six months after the effective date of this chapter, the Director of the Department of Health Services shall formulate and issue the appropriate rules and regulations necessary for the implementation of this chapter.

Source: S.L. No. 6L-114-08 §1, 1/10/08

HEALTH & WELFARE

CHAPTER 7 MENTAL ILLNESSES

Section

7-101 Diagnosis, treatment, and care	7-104 Transfers
7-102 Commitment for insanity	7-105 Release
7-103 Temporary commitments	7-106 Apprehension of absentees or escapees

§7-101. Diagnosis, treatment, and care. — The diagnosis, treatment, and care of persons suffering from mental disorder shall be carried out in such manner and in such places as may be prescribed by the Director of the Department of Health Services or his designated representative. When commitment for insanity is indicated, persons may be committed pursuant to §7-102. Feeble-minded or mentally ill persons shall not be confined in jails or penal institutions, except temporarily in case of emergency.

Source: TTC §622 (1966); 63 TTC §401 (1970); 63 TTC §401 (1980)

§7-102. Commitment for insanity. — The Trial Division of the Pohnpei Supreme Court, after hearing, may commit an insane person within its jurisdiction to any hospital for the care and keeping of the insane in the state of Pohnpei, or, if the court deems best, to a member of the insane person's family lineage or clan, which person may thereafter restrain the insane person to the extent necessary for his own safety and that of the public. Such commitment of an insane person shall be made only on the testimony of two or more witnesses who personally testify in open court and at least one of whom is a doctor of medicine or medical practitioner authorized to practice medicine in the state of Pohnpei. Before testifying, the medical witness shall have personally examined the person sought to be committed, and shall establish to the satisfaction of the court that the person is insane. Except when the court is satisfied that the delay incident to giving such notice will be detrimental to the public interest or the welfare of the patient, such a commitment shall not be made until after notice to the allegedly insane person's husband or wife, if any, or one of his parents or one of his children, or next of kin, if any, as determined by local custom. In making such commitment, the court may make such order as it deems in the best interest of the public and of the patient for the patient's temporary custody and transportation to the hospital.

Source: TTC §330 (1966); 63 TTC §402 (1970); 63 TTC §402 (1980)

§7-103. Temporary commitments. —

(1) The Trial Division of the Pohnpei Supreme Court or any court of a local jurisdiction in Pohnpei, after hearing, may commit for observation of possible mental illness any person within its jurisdiction. Such commitment shall be made only after testimony presented personally in open court has been received from at least one doctor or medical practitioner authorized to practice medicine in the state of Pohnpei, or from a nurse, health aide or nurse's aide who has personally examined the person sought to be committed, indicating to the satisfaction of the court that the public welfare or the interest of the person demands such commitment; PROVIDED, that the court, whenever practicable, shall endeavor to secure the testimony of a doctor or medical practitioner.

(2) Such commitment for observation may be to any person or institution willing to accept the patient, and shall only authorize the patient's detention for a period of not more than 30 days if the services of a doctor or medical practitioner are reasonably available. If such services are not reasonably available, commitment for observation may authorize the patient's detention until he may be brought to a doctor or medical practitioner or until a doctor or a medical practitioner visits the community in which the patient is detained, and for not more than 30 days thereafter. Notice of each

such commitment for observation shall be sent by the court making the commitment to the Director of the Department of Health Services by the quickest means practicable.

Source: TTC §331 (1966); 63 TTC §403 (1970); 63 TTC §403 (1980)

§7-104. Transfers. — Any person committed under this chapter may be transferred to any institution deemed suitable for his care by order of the Director of the Department of Health Services.

Source: TTC §332 (1966); 63 TTC §404 (1970); 63 TTC §404 (1980)

§7-105. Release. —

(1) *By the court.* The husband, wife, parent or child, or any of the next of kin, as determined by local custom, of any person committed for observation or as insane under this chapter, may petition, at any time, the Trial Division of the Pohnpei Supreme Court requesting that the commitment be terminated or the patient paroled, and the court, after notice to the Department of Health Services and to the person in charge of the hospital or other place where the patient is detained, and after public hearing, may make such order for the release of the patient or his parole under limited supervision or under specified conditions, if any, as it deems appropriate.

(2) *By medical authorities.* The doctor in charge of any hospital for the insane in the state of Pohnpei may discharge or parole, on such conditions as he deems best, any patient, except one held on order of a court having criminal jurisdiction in a proceeding arising out of a criminal offense, as follows:

(a) Upon filing with the Clerk of the Pohnpei Supreme Court a written certificate by the doctor in charge that such patient is considered to be recovered, and airmailing a copy of this certificate, postage prepaid, to the clerk of the highest court of the state from which the patient was committed, if he was committed in another state;

(b) Upon filing with the Clerk of the Pohnpei Supreme Court a written certificate by the doctor in charge that such patient, while not recovered, is considered in remission and is not deemed dangerous to himself or others and is not likely to become a public charge, and airmailing a copy of this certificate, postage prepaid, to the clerk of the highest court of the state from which the patient was committed, if he was committed in another state; or

(c) Upon transfer of such patient to an institution for care of mental cases outside of the state of Pohnpei.

(3) *Temporary leave of absence.* The doctor in charge of any hospital for the insane in the state of Pohnpei may permit leave of absence for a stated period to any of his hospital patients, under conditions that are satisfactory to the doctor, when in his judgment absence on leave will not be detrimental to the public welfare and will be of benefit to such patient. The doctor in charge of the hospital for the insane from which a patient is absent on leave may, even before the period stated in the leave has expired, terminate the leave and authorize and direct the physical return of such patient to the hospital whenever in the judgment of the doctor the return of the patient would be in the best interest of the public and the patient.

(4) *By person in charge of one committed for observation.* The person to whom or the person in charge of the institution to which a person has been temporarily committed for observation under this chapter may release such a patient whenever the person to whom or the person in charge of the institution to which the patient has been temporarily committed, deems such release is safe.

Source: TTC §333 (1966); 63 TTC §405 (1970); 63 TTC §405 (1980)

§7-106. Apprehension of absentees or escapees. — Any patient who has been committed under this chapter who is absent on leave, or on parole, or escapes from the hospital or other place of detention to which he has been committed, may upon direction of the person in charge of such hospital or place of detention be returned thereto by any policeman, or any official or employee of such hospital or place of detention, using such force as may be reasonably necessary to effect such return.

Source: TTC §334 (1966); 63 TTC §406 (1970); 63 TTC §406 (1980)

HEALTH & WELFARE

CHAPTER 8 PHYSICAL AND MENTAL DISABILITIES

Section

8-101 Short title	8-104 Administration
8-102 Statement of policy	8-105 Procedures to ensure efforts
8-103 Definitions	

§8-101. Short title. — This chapter is known and may be cited as the “Pohnpei Disabilities Act of 2001.”

Source: S.L. No. 5L-30-01 §1, 2/27/01

§8-102. Statement of policy. — The Legislature, in recognition of the obligation of the Pohnpei Government to provide free access and special services to needy people with disabilities that may include designation of areas for people with disabilities, and requiring the Governor’s Office or an appropriate entity to commence a plan to include accommodation of needy people with disabilities, hereby declares that it is the policy of state of Pohnpei and the purpose of this chapter to provide the means of providing services to needy people with disabilities in public and private areas.

Source: S.L. No. 5L-30-01 §2, 2/27/01

§8-103. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “People with disabilities” includes those individuals regardless of age who have been evaluated in the past and who are currently evaluated as having mental retardation; hearing impairments, including deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; deaf-blindness or multiple impairments; and who, because of those impairments, need special services to be accorded to them.

(2) “Areas designated to people with disabilities” means any area that has been marked or will be marked for the purposes of assisting people with disabilities to accommodate their general needs, which areas should be located in the closest and most convenient location to the entrance of the establishment, and may include the following:

- (a) Parking spaces;
- (b) Wheelchair ramps; and
- (c) Comfort room.

Source: S.L. No. 5L-30-01 §3, 2/27/01

§8-104. Administration. —

(1) There is hereby established in the Governor’s Office a special program that shall be headed by the Governor or his designee to take responsibilities for and give direction to the establishment of the program and other necessary and related services associated with the program, including a plan to accommodate people with disabilities, inclusive of budget requests to initiate the program.

(2) The Governor shall establish and make such studies, surveys, evaluations, policies, and rules and regulations as are necessary to carry out the intent of this chapter.

(3) The Governor shall submit to the Legislature a plan to provide special services to the people with disabilities which will include how public and private facilities will accommodate people with disabilities and draft laws regulating the financing and other aspects of the plan.

Source: S.L. No. 5L-30-01 §4, 2/27/01

§8-105. Procedures to ensure efforts. — The Governor shall develop within the plan a system that people with disabilities can utilize in acquiring parking space permits, inclusive of identification of vehicles with stickers or other appropriate identification methods; direct the appropriate entity in the state government to mark such areas at public facilities; and direct the appropriate representative of the appropriate entity in the state government to discuss with private owners appropriate places to designate as areas for people with disabilities so the intention of this chapter will be carried out. The Governor shall have the continuing prerogative to analyze and comment on the system, either on its practical importance or legal implications, and recommend necessary changes.

Source: S.L. No. 5L-30-01 §5, 2/27/01

CHAPTER 9 REFUSE COLLECTION AND SANITATION

Section

9-101 Rules and regulations	9-107. Standards for and inspection of service establishments
9-102 Penalty	9-108. Standards for and inspection of food
9-103 Issuance of franchise	9-109. Standards for and inspection of schools
9-104 Time requirements	9-110. Penalties for violation of §§9-105 – 9-110
9-105. Latrines and toilets; disposal of human excreta generally	
9-106. Accumulation of rubbish, refuse, etc.	

§9-101. Rules and regulations. — The Director of the Department of Health Services is hereby authorized and empowered to make any rules and regulations which are necessary to govern the collection, transportation, and disposition of garbage, ashes, rubbish, industrial refuse, and other refuse in densely populated areas as the Governor shall decree. Such rules and regulations may include, but need not be limited to, requirements for refuse removal, collection hours, collection fees, custody of funds, disposal area locations, hours, access, permits, fees, land fills, burning, rodent and pest control, prohibited items, salvage, conduct of refuse collection employees, methods of refuse collection, and the manner in which refuse is to be made available by the occupant of the premises for collection. All rules, regulations, and decrees issued pursuant to §§9-101 – 9-104 of this chapter shall be issued and promulgated in accordance with the Administrative Procedures Act, Title 8 Chapter 1.

Source: D.L. No. 4L-119-77 §1, 11/21/77

§9-102. Penalty. — Any person violating any regulation issued under §§9-101 – 9-104 of this chapter shall be guilty of an offense and upon conviction thereof shall be fined not more than \$200; PROVIDED that this section shall not take effect in an area until the Governor has determined and decreed that sufficient refuse collection, transportation, and disposition services are available to the public in that specific area to carry out §§9-101 – 9-104 of this chapter.

Source: D.L. No. 4L-119-77 §2, 11/21/77

§9-103. Issuance of franchise. — The Governor may issue an exclusive franchise to any person, firm, partnership, association or corporation for the collection, transportation, and disposition of private garbage, ashes, rubbish, industrial refuse, and other refuse, subject to such conditions and limitations as the Governor deems necessary.

Source: D.L. No. 4L-119-77 §3, 11/21/77

§9-104. Time requirements. — Whenever a person is allowed a reasonable time after due notice to remove and dispose of refuse, but has not so removed and disposed of the refuse, the time limit shall be set by the Director of the Department of Health Services and shall not be less than 24 hours nor more than 36 hours.

Source: D.L. No. 4L-119-77 §4, 11/21/77

§9-105. Latrines and toilets; disposal of human excreta generally. – Latrines or toilets conforming to standards established by public health regulations shall be constructed and maintained in connection with each inhabited dwelling in the state of Pohnpei. Depositions of human intestinal excreta in the vicinity of a dwelling or in or within five hundred yards of any village in a place other than an approved latrine or toilet is prohibited.

Source: TTC §618(a) (1966); 63 TTC §201 (1970); 63 TTC §201 (1980)

§9-106. Accumulation of rubbish, refuse, etc. – The accumulation of rubbish, garbage, cans, coconut shells and other refuse attractive to animal and insect life is prohibited. Any person who shall permit, create or maintain any such accumulation on land owned or occupied by him, and who fails to remove and dispose of such accumulation within a reasonable time after due notice thereof in writing by a representative of the Department of Health Services shall be deemed to have violated this section.

Source: TTC §618(b) (1966); 63 TTC §202 (1970); 63 TTC §202 (1980)

§9-107. Standards for and inspection of service establishments. – The Director of Health Services shall establish standards of sanitation to be maintained by all owners, operators, and employees of and in bakeries, restaurants, food stores, barber shops, beauty parlors, and similar establishments. All such establishments shall be inspected at reasonable intervals during business hours by a representative of the Department of Health Services for the purpose of determining whether such standards are being maintained. Failure to correct any substandard conditions after due notice thereof in writing by such representative shall be deemed a violation of this section.

Source: TTC §618(c) (1966); 63 TTC §203 (1970); 63 TTC §203 (1980)

§9-108. Standards for and inspection of food. – All food offered for public sale shall be subject to inspection by duly authorized representatives of the Department of Health Services. Food for human consumption which is adjudged by him to be unsanitary or of questionable sanitary condition because of contamination, spoilage, animal or insect infestation or adulteration shall, as directed by him, either be destroyed, used as animal food, or labeled to describe its true condition.

Source: TTC §618(d) (1966); 63 TTC §204 (1970); 63 TTC §204 (1980)

§9-109. Standards for and inspection of schools. – All schools shall be subject to inspection by duly authorized representatives of the Department of Health Services. They shall maintain minimum acceptable standards of health and sanitation. After due warning and advice, failure of a nonpublic school to maintain acceptable standards may result in revocation of its charter.

Source: TTC §618(e) (1966); 63 TTC §205 (1970); 63 TTC §205 (1980)

§9-110. Penalties for violation of §§9-105 – 9-110. – A person who violates any of the provisions of §§9-105 – 9-110 of this chapter or regulations issued pursuant thereto shall be deemed guilty of misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: TTC §625 (1966); 63 TTC §206 (1970); 63 TTC §206 (1980)

CHAPTER 10 HEALTH AND WELFARE FINANCES

Section

10-101 Dental and medical nurses' aides training: authorization for appropriation; administration
 10-102 Alms fund: definitions; administration; authorization for appropriation
 10-103 Medical consultant and specialist fund: authorization for appropriation; administration

10-104 Medical referral imprest fund: administration
 10-105 Medical referrals: authorization for appropriation; administration
 10-106 Medical supplies revolving fund: authorization for appropriation

§10-101. Dental and medical nurses' aides training: authorization for appropriation; administration. — There is hereby authorized for appropriation from the general fund of the Pohnpei Treasury a sum of money to assist the on-the-job training program in Pohnpei State for dental and medical nurses' aides. Compensation, and annual and sick leave shall be administered in accordance with Public Service System Act, Title 9 Chapter 2 and the state personnel manual. All the sums herein authorized for appropriation shall be expended and administered by the Director of the Department of Health Services solely for the purposes specified in this section.

Source: PDC §7-2, 3/71; D.L. No. 3L-58-73 §15, 5/29/73

§10-102. Alms Fund: definitions; administration; authorization for appropriation. —

(1) For the purpose of this section, unless it is otherwise provided or the context requires a different construction, application or meaning, the following terms shall have the following meanings:

- (a) "The unfortunate" means any person or persons who have been deprived of his dwelling house through natural disaster.
- (b) "Natural disaster" means any fire, typhoon, flood, landslide, tidal wave or any other natural and uncontrollable catastrophe which may cause destruction to a dwelling house.

(2) It is the intent of this section to provide appropriate finance or cash assistance to persons whose dwelling houses have been destroyed through some kind of natural event. This section, however, does not provide assistance to persons whose properties have been destroyed through their own negligence, and through their own laziness to prevent such happening if they could, and through fraud and intention to destroy such properties. These and others that the Governor shall present shall constitute proper grounds or disasters applicable for this alms fund or not.

(3) The Governor is hereby authorized to be responsible for the expenditure of the fund herein provided. He is also responsible to make an annual report to the Legislature on any usage of this fund. It shall be the responsibility of the Chief of the Division of Police and Security to investigate such an event in case of occurrence and report his findings to the Governor who, in turn, will either declare a person unfortunate, or not, if there is a person affected, and after reading the report's details and the facts presented.

(4) There is hereby authorized for appropriation out of the general fund of the Pohnpei Treasury an annual sum or sums to be determined in the Comprehensive Budget Act to be administered and expended by the Governor solely for the purposes of this section.

Source: PDC §7-200, 3/71; D.L. No. 3L-58-73 §18, 5/29/73; D.L. No. 3L-110-75 §1, 5/26/75; S.L. No. 5L-14-00 §3-10, 10/1/00

§10-103. Medical Consultant and Specialist Fund: authorization for appropriation; administration. —

(1) There is hereby created, under the jurisdiction of the Governor, a medical consultant and specialist fund for the purpose of financing the recruitment of medical experts to perform short-term consultant and specialist services, and to help defray the costs of emergency referral patients to hospitals outside of Pohnpei State.

(2) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act for the purposes stated in Subsection (1) of this section which shall be administered and expended pursuant to Subsection (3) of this section. All sums appropriated under the authorization of this section shall remain available in the Medical Consultant and Specialist Fund until fully expended.

(3) The Medical Consultant and Specialist Fund shall be administered and sums therefrom expended by the Governor, upon consultation with the Director of the Department of Health Services, solely for the purposes specified in Subsection (1) of this section. The Governor shall submit an annual report to the Legislature on or before October 15, which report shall provide for an accounting of all expenses drawn from the fund for the previous fiscal year.

Source: D.L. No. 4L-72-77 §§1 – 3, 7/1/77

Note: July 15 has been changed to October 15 to reflect present government fiscal year system.

§10-104. Medical Referral Imprest Fund: administration. —

(1) There is hereby established within the Department of Health Services a Medical Referral Imprest Fund for the purpose of providing advance payment to authorized representatives or agents of the Pohnpei Government to assist in meeting the expenses of Pohnpei patients and their attendants referred to hospitals and medical institutions abroad and who have been issued valid travel authorizations. The fund shall not be utilized for any purposes other than as permitted by this section.

(2) The Medical Referral Imprest Fund shall be administered and expended by the Director of the Department of Health Services solely for the purpose stated in Subsection (1) of this section. Payments shall be made into the fund by the Director of the Department of Treasury and Administration, at the request of the Director of the Department of Health Services, from appropriations generally available to finance the medical referral expenses of the state; PROVIDED that the total amount in the fund shall not exceed \$50,000 at any one time. The Director of the Department of Health Services shall enter into written agreements with representatives or agents of the Pohnpei Government in major medical referral destination points abroad for the advancement of medical referral monies thereto to assist in meeting the expenses of Pohnpei patients and their attendants referred to hospitals and medical institutions in that vicinity or during their transit through that area.

(3) The Director of the Department of Health Services shall ensure that the agreements entered into pursuant to Subsection (2) of this section provide for sound accountability in the use of the Medical Referral Imprest Fund created by Subsection (1) of this section, and that all relevant aspects of the Financial Organization and Management Act, Title 11 Chapter 2, are complied with. Notwithstanding any other provision of law, monies advanced by the fund to authorized representatives or agents of the Pohnpei Government in the manner prescribed by this section shall remain available for expenditure thereby until fully expended or recalled by the Director of the Department of Health Services. Monies within the fund not advanced to representatives or agents and recalled monies from representatives and agents shall revert to the respective funds of the Treasury at such time and in such manner as is otherwise prescribed by law.

(4) The Director of the Department of Health Services shall within 15 days following the close of each fiscal year, submit a complete report to the Pohnpei Legislature and the Governor for the Medical Referral Imprest Fund for that fiscal year.

Source: S.L. No. 1L-82-86 §§1 – 4, 9/4/86; S.L. No. 4L-104-99 §1, 4/12/99

§10-105. Medical Referrals: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds in the Treasury into which the Compact §216(a)(2) monies are deposited a sum or sums as may be appropriated annually in the Comprehensive Budget Act for the purpose of providing funding for medical referrals.

(2) The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section. The Governor shall report to the Legislature on or before October 15 of each fiscal year on all matters concerning the expenditure of the sums authorized for appropriation by this section. Any balance of the sums appropriated under the authorization of this section not expended or obligated for expenditure on September 30 of each fiscal year shall revert to such fund of the Treasury from which they were appropriated.

Source: S.L. No. 2L-64-88 §§1 & 2, 10/1/88

§10-106. Medical Supplies Revolving Fund: authorization for appropriation. —

(1) There is hereby established within the Pohnpei Treasury a fund, to be separate and apart from other funds of the state, hereinafter referred to as the “Medical Supplies Revolving Fund,” or “fund,” to be maintained by the Department of Treasury and Administration.

(2) There shall be deposited into the Medical Supplies Revolving Fund all monies collected from or on behalf of patients or clients of the Pohnpei Department of Health Services, including all payments to said Department from the FSM National Health Insurance Program. Independent records and accounts of all deposits therein shall be maintained in connection therewith. Monies in the fund are hereby continually appropriated for use by the Department of Health Services solely for the purchase of medical supplies, inclusive of pharmaceutical supplies, for use by the Department of Health services, its clinics, dispensaries, programs, and patients.

(3) It is hereby authorized to appropriate from the Medical Supplies Revolving Fund of Pohnpei, as created by Subsections (1) and (2) of this section. The sums deposited in the fund are hereby continually appropriated, as though incorporated in the annual Comprehensive Budget Act, solely for the purposes stated in Subsections (1) and (2) of this section. All monies herein appropriated under the authorization of this subsection shall be administered and expended by the Director of the Department of Health Services solely for the purposes specified in Subsections (1) and (2) of this section. The Director shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the sums authorized and appropriated under this subsection.

Source: S.L. No. 3L-100-95 §§1 & 2, 9/6/95

(Next page is Title 18 divider)