EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

FEB 13 2018

GLH 34-18-1527

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Speaker Benjamin J.F. Cruz

FEB 13 2018

Time: 3:08 [ ] AM [ ] PM File No. 34-1526

Received By: Glenn

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 202-34 (LS), **"AN ACT TO *REPEAL* AND *REENACT* § 12212.1, AND TO *REPEAL* §§ 12212.2 AND 12212.3, ALL OF ARTICLE 2, PART 1, CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING ACCESS TO PHYSICIANS' PROFESSIONAL PROFILES,"** which was signed on February 9, 2018, as **Public Law 34-79.**

Senseramente,

EDDIE BAZA CALVO

2018 FEB 13 PM 3:49 P.S.

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 202-34 (LS), "AN ACT TO *REPEAL* AND *REENACT* § 12212.1, AND TO *REPEAL* §§ 12212.2 AND 12212.3, ALL OF ARTICLE 2, PART 1, CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING ACCESS TO PHYSICIANS' PROFESSIONAL PROFILES,"** was on the 26th day of January 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 29 day of JAN, 2018, at 1:45 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: FEB 09 2018

Public Law No. 34-79

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 202-34 (LS)
As substituted by the Committee on Health,
Tourism, Military Affairs and Senior Citizens.

Introduced by: Mary Camacho Torres
James V. Espaldon
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje

AN ACT TO *REPEAL* AND *REENACT* § 12212.1, AND TO *REPEAL* §§ 12212.2 AND 12212.3, ALL OF ARTICLE 2, PART 1, CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING ACCESS TO PHYSICIANS' PROFESSIONAL PROFILES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is a need for patients to have access to professional information about physicians licensed on Guam in order to make an informed decision when choosing

a medical care provider, and to further promote a culture of trust when selecting healthcare professionals.

Therefore, it is the intent of *I Liheslaturan Guåhan* to require the Guam Board of Medical Examiners to upgrade the information found on its website by providing pertinent information on medical professionals it licenses on Guam.

Section 2. § 12212.1 of Article 2, Part 1, Chapter 12, Title 10, Guam Code Annotated, is *repealed* and *reenacted* to read:

"**§ 12212.1. Public Disclosure of a Physician Profile.**

(a) The Board *shall* establish and maintain a searchable website that *shall* contain a separate profile page for all current and former licensees, whether active or inactive.

(b) Current Status. The Board *shall* post on the profile page of the licensee the following information on the current status of the licensee, along with the full name and all aliases or other names ever used as reported by the licensee pursuant to § 12205 of this Article:

(1) whether or not the licensee is presently in good standing;

(2) the current American Board of Medical Specialties certification, or equivalent, as certified by the Board. No licensee profile shall contain certification information or words that imply certification (i.e., "board certified"), unless such certification has been reviewed and verified by the Board; and

(3) any of the following enforcement actions or proceedings to which the licensee is actively subjected:

(A) temporary restraining orders;

(B) interim suspension orders;

(C) revocations, suspensions, probations, or limitations on practice ordered by the Board, or the board of another state or

jurisdiction, including those made part of a probationary order or stipulated agreement;

(D) current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by the Board unless an appeal of that decision is pending; or

(E) citations issued that have not been resolved or appealed within thirty (30) days.

(c) Historical Information. The Board *shall* post on the profile page of the licensee the following historical information in the Board's possession, custody, or control:

(1) approved postgraduate training;

(2) any final revocations and suspensions, or other equivalent actions, taken against the licensee by the Board, or the board of another state or jurisdiction, or the surrender of a license by the licensee in relation to a disciplinary action or investigation, including the operative accusation resulting in the license surrender or discipline by the Board;

(3) probation or other equivalent action ordered by the Board, or the board of another state or jurisdiction, completed or terminated, including the operative accusation resulting in discipline by the Board;

(4) any felony convictions; provided, that upon receipt of a certified copy of an expungement order, the Board *shall*, within six (6) months of receipt of the expungement order, post notification of the expungement order and the date thereof on its website;

(5) misdemeanor convictions resulting in a disciplinary action or accusation that is not subsequently withdrawn or dismissed; provided, that upon receipt of a certified copy of an expungement order from a licensee, the Board *shall*, within six (6) months of receipt of the expungement order, post notification of the expungement order and the date thereof on its website;

(6) civil judgments issued in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal, and arbitration awards issued in any amount, for a claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services;

(7) except as provided in subparagraphs (A) and (B) of this paragraph, a summary of any final hospital disciplinary actions that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason. The posting *shall* provide any additional explanatory or exculpatory information submitted by the licensee.

(A) If a licensee's hospital staff privileges are restored and the licensee notifies the Board of the restoration, the information pertaining to the termination or revocation of those privileges *shall* remain posted on the website for a period of ten (10) years from the restoration date of the privileges, and at the end of that period *shall* be removed.

(B) If a court finds, in a final judgment, that a hospital disciplinary action was conducted in bad faith and the licensee notifies the Board of that finding, the information concerning that

hospital disciplinary action posted on the website *shall* be immediately removed;

(8) public letters of reprimand issued within the past ten (10) years by the Board, or the board of another state or jurisdiction, including the operative accusation, if any, resulting in discipline by the Board;

(9) citations issued within the last three (3) years that have been resolved by payment of the administrative fine or compliance with the order of abatement.

(10) All settlements within the last five (5) years in the possession, custody, or control of the Board *shall* be disclosed if there are four (4) or more settlements for that licensee within the last five (5) years.

(A) For the purposes of this paragraph, "settlement" means a settlement in an amount of Thirty Thousand Dollars ($30,000) or more of any claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(B) For the purposes of this paragraph, "settlement" does not include a settlement by a licensee, regardless of the amount paid, when (i) the settlement is made as a part of the settlement of a class claim; (ii) the amount paid in settlement of the class claim is the same amount paid by the other licensees in the same class or similarly situated licensees in the same class; and (iii) the settlement was paid in the context of a case for which

the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action.

(C) The Board *shall not* disclose the actual dollar amount of a settlement, but *shall* disclose settlement information by doing the following:

(i) comparing the settlement amount to the experience of other licensees within the same specialty or subspecialty, indicating if it is below average, average, or above average for the most recent ten (10)-year period;

(ii) reporting the number of years the licensee has been in practice; and

(iii) reporting the total number of licensees in that specialty or subspecialty, the number of those who have entered into a settlement agreement, and the percentage that number represents of the total number of licensees in the specialty or subspecialty.

(11) Appropriate disclaimers and explanatory statements *shall* be developed by the Board to accompany any information disclosed under paragraphs (1) through (10) of this subsection.

(d) Optional Disclosures. The Board *shall* post on the profile page the following optional information upon request by the licensee:

(1) addresses and telephone numbers of the offices maintained by the practitioner;

(2) office hours regularly maintained by the practitioner;

(3) affiliations with hospitals or clinics;

(4) whether a licensee provides services under a specified private or public insurance plan, or health care plan;

(5) languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office;

(6) an otherwise lawful image of the licensee;

(7) names of schools or postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received;

(8) publications authored by the practitioner; and

(9) teaching positions currently or formerly held by the practitioner, together with pertinent dates.

The Board *shall* develop and provide appropriate disclaimers and explanatory statements to accompany any of the information disclosed under paragraphs (1) through (9) of this subsection.

(e) Web Links. The Board *shall* provide links to websites that provide information on board certifications. The Board may also provide links to any other websites that provide information on the affiliations of licensed physicians and surgeons. The Board may provide links to other websites that provide information on health care service plans, health insurers, hospitals, or other facilities.

(f) Funding. The Board *shall* be authorized to utilize funds collected from licensees through application fees, licensing fees, or other fees, for the purpose of developing and maintaining the website established under this Section; provided, that the website is developed and maintained pursuant to the requirements of this Section.

(g) Notwithstanding any other provision of law, the Board *shall* disclose to an inquiring member of the public within four (4) working days, by traditional or electronic means, any information made publicly available under subsections (a) through (d)."

Section 3. § 12212.2 of Article 2, Part 1, Chapter 12, Title 10, Guam Code Annotated, is *repealed.*

Section 4. § 12212.3 of Article 2, Part 1, Chapter 12, Title 10, Guam Code Annotated, is *repealed.*

Section 5. Effective Date. This Act *shall* be effective no later than one hundred twenty (120) days following its enactment.