EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

GL#34-18-2102
Speaker Benjamin J.F. Cruz

JUL 18 2018

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Received By: [signature]

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

2018 JUL 18 PM 3:49

Dear Mr. Speaker:

Transmitted herewith is Bill No. 224-34 (COR), **"AN ACT TO *ADD* A NEW CHAPTER 9A TO TITLE 17 GUAM CODE ANNOTATED, RELATIVE TO CODIFYING THE STUDENT HEALTH SERVICES REQUIREMENTS APPLICABLE TO GUAM DEPARTMENT OF EDUCATION SCHOOLS, AUTHORIZING THE DELEGATION OF STUDENT HEALTH SERVICES TO SCHOOL EMPLOYEES OTHER THAN HEALTH CARE PRACTITIONERS UNDER SPECIFIC CIRCUMSTANCES, AND LIMITING THE LIABILITY OF EMPLOYEES PROVIDING STUDENT HEALTH SERVICES AND ADMINISTERING EMERGENCY MEDICATION; TO BE KNOWN AS THE 'EVIE YOUNG STUDENT HEALTH SERVICES ACT',"** which was signed on July 18, 2018, as **Public Law 34-114.**

Senseramente,

EDDIE BAZA CALVO

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 **Bill No. 224-34 (COR), "AN ACT TO *ADD* A NEW CHAPTER 9A TO TITLE 17 OF GUAM CODE ANNOTATED, RELATIVE TO CODIFYING THE STUDENT HEALTH SERVICES REQUIREMENTS APPLICABLE TO GUAM DEPARTMENT OF EDUCATION SCHOOLS, AUTHORIZING THE DELEGATION OF STUDENT HEALTH SERVICES TO SCHOOL EMPLOYEES OTHER THAN HEALTH CARE PRACTITIONERS UNDER SPECIFIC CIRCUMSTANCES, AND LIMITING THE LIABILITY OF EMPLOYEES PROVIDING STUDENT HEALTH SERVICES AND ADMINISTERING EMERGENCY MEDICATION; TO BE KNOWN AS THE 'EVIE YOUNG STUDENT HEALTH SERVICES ACT',"** was on the 6th day of July 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 6th day of JULY 2018, at 1:48 o'clock P .M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: JUL 18 2018

Public Law No. 34-114

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

Bill No. 224-34 (COR)
As amended on the Floor.

Introduced by: Mary Camacho Torres
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
James V. Espaldon
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 *ADD* A NEW CHAPTER 9A TO TITLE 17 OF GUAM CODE ANNOTATED, RELATIVE TO CODIFYING THE STUDENT HEALTH SERVICES REQUIREMENTS APPLICABLE TO GUAM DEPARTMENT OF EDUCATION SCHOOLS, AUTHORIZING THE DELEGATION OF STUDENT HEALTH SERVICES TO SCHOOL EMPLOYEES OTHER THAN HEALTH CARE PRACTITIONERS UNDER SPECIFIC CIRCUMSTANCES, AND LIMITING THE LIABILITY OF EMPLOYEES PROVIDING STUDENT HEALTH SERVICES AND ADMINISTERING EMERGENCY MEDICATION; TO BE KNOWN AS THE "EVIE YOUNG STUDENT HEALTH SERVICES ACT."

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that many students with chronic health conditions or illnesses attend Guam's schools and

require medications that affect attendance or program participation. Guam Department of Education statistics show that more than one thousand seven hundred (1,700) students have asthma, more than one thousand two hundred (1,200) students have severe allergies, more than two hundred (200) students have a seizure disorder, and more than fifty (50) students have diabetes.

Asthma is a chronic condition requiring lifetime, ongoing medical intervention. According to the Centers for Disease Control and Prevention, asthma is a common cause of missed school days. Immediate and correct use of inhaled bronchodilators and auto-injectable epinephrine is necessary to avoid serious respiratory complications and improve health care outcomes.

An increasing number of students have life-threatening allergies. Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes. According to the American Academy of Allergy, Asthma, and Immunology, people who have experienced symptoms of anaphylaxis previously are at risk for subsequent reactions and should carry an epinephrine auto-injector with them at all times, if prescribed. Anaphylaxis requires prompt medical intervention with an injection of epinephrine. Anaphylaxis occurs in some asthma patients.

Epilepsy is a chronic neurological condition characterized by recurrent seizures. It is also called a seizure disorder. The severity of epilepsy and the type of seizure vary from person to person. Although there is no cure for epilepsy, antiepileptic drugs successfully prevent seizures in the majority of people who take them regularly and as prescribed. It has been estimated that seizures can be completely controlled in fifty percent (50%) of individuals with epilepsy for substantial periods of time, while another twenty percent (20%) experience a significant reduction in the number of seizures.

Diabetes is a chronic disease in which the body does not make or properly use insulin, a hormone needed to convert sugar, starches, and other food into energy.

Neither insulin nor other medications are cures for diabetes but are needed to help control the disease. If not treated appropriately, diabetes can lead to serious health problems. However, these problems can be greatly reduced or delayed by keeping blood glucose levels near normal. Monitoring blood glucose levels and taking medications when necessary are two (2) important factors involved in the day-to-day management of diabetes.

In the case of allergies and anaphylaxis, asthma, seizure disorders and diabetes, timely administration of medication can save a student's life. Due to the large number of students who require medication, whether in the classroom, during afterschool activities, or traveling to and from school functions, school nurses sometimes need assistance to provide health services and administer medications. Currently, school nurses are not authorized to delegate these tasks to nonmedical personnel. Delegation is particularly vital in time-sensitive emergency situations where the nurse may not be capable of responding within the initial moments that matter the most. While teachers and other school employees have long wanted to help, legal uncertainty has prevented them from doing so on Guam. This situation places our students at risk.

Section 2. A new Chapter 9A is *added* to Title 17 of Guam Code Annotated, to read as follows:

"CHAPTER 9A

STUDENT HEALTH SERVICES ACT

Article 1. General Provisions.Article 2. Student Health Services.Article 3. Administration of Medications.Article 4. Specific Conditions.Article 5. Rights of Students and Parents.

ARTICLE 1

GENERAL PROVISIONS

§ 9A101. Citation.

§ 9A102. General Policy.

§ 9A103. Definitions.

§ 9A101. Citation.

This Chapter may be cited as the *Evie Young Student Health Services Act.*

§ 9A102. General Policy.

I Liheslaturan Guåhan declares that students with serious health conditions should not be prevented from receiving critical medications in the most expedient and safe manner possible. This Chapter *shall* be construed to facilitate unobstructed access to health services and administration of medicines, including during emergency events, for elementary and secondary school students in Guam Department of Education schools.

§ 9A103. Definitions.

As used in this Chapter:

(a) *Anaphylaxis* means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency. Anaphylaxis may be triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity.

(b) *Condition requiring prescribed medication* includes any serious medical condition that requires prescribed medications, such as asthma, allergies placing the student at risk of anaphylaxis, a seizure disorder, or diabetes mellitus.

(c) *Health care practitioner* means a physician or other health care provider who has prescriptive authority.

(d) *Health services* means the provision of direct health care, including the administration of medication; the operation, maintenance, or

health care through the use of medical equipment; or the administration of clinical procedures.

(e) *Medications* means all medicines individually prescribed by a health care practitioner that pertain to asthma or are used to treat anaphylaxis, including, but not limited to, inhaled bronchodilators and auto-injectable epinephrine; or that pertain to diabetes, including, but not limited to, Glucagon or insulin; or that pertain to a seizure disorder.

(f) *School employee* means an individual working in association with a Guam Department of Education school, not to include employees of charter schools, parochial schools, or Department of Defense schools.

(g) *Self-administration* means the student's use of his or her prescribed medication, pursuant to a prescription or written direction from a health care practitioner.

(h) *Superintendent* means the Superintendent of the Guam Department of Education.

ARTICLE 2
STUDENT HEALTH SERVICES

§ 9A201. Student Health Services.

§ 9A202. Provision of Health Services, Delegation.

§ 9A201. Student Health Services.

(a) The Guam Department of Education *shall* provide leadership and assistance to schools relating to student health services. The Department, working in cooperation with the Department of Public Health and Social Services, *shall* provide, contract for services, or identify resources to improve student health services, including, but not limited to, the following:

(1) standardized protocols and guidelines for health procedures to be performed by health care practitioners and school employees. The protocols and guidelines *shall* include, but *not* be limited, to the following:

(A) the delegation of nursing functions consistent with administrative rules and regulations promulgated by the Guam Board of Nurse Examiners to the extent that such rules and regulations are not inconsistent with this Chapter;

(B) training of designated nonmedical school employees; and

(C) appropriate documentation and recordkeeping, including, but not limited to, notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health care practitioner, and informed consent by a parent or guardian for the provision of health services.

A copy of the protocols and guidelines *shall* be made available to every Department of Education school and *shall* be maintained by each school in a publicly available place;

(2) consultation, technical assistance, and development of quality improvement measures for the Superintendent and individual Guam Department of Education schools;

(3) facilitation of data collection and reporting of school health services; and

(4) information and resources that relate to the provision of school health services.

(b) The Guam Department of Education *shall* establish or designate a position to assist in carrying out the responsibilities required under Subsection (a) of

this Section. The position may be established or designated using existing personnel resources, or by contract, with an individual who:

(1) holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and

(2) is a registered nurse licensed under the provisions of Chapter 12 of Title 10, Guam Code Annotated.

§ 9A202. Provision of Health Services, Delegation.

(a) Health services *shall* be provided in a school setting by:

(1) a physician who is licensed under the provisions of Chapter 12 of Title 10, Guam Code Annotated;

(2) an advanced practice registered nurse, registered nurse, or licensed practical nurse who is licensed under the provisions of Chapter 12 of Title 10, Guam Code Annotated;

(3) a non-licensed health technician that has the administration of health services in his or her contract or job description as a job responsibility, and who is delegated responsibility to perform the health service by a physician, an advanced practice registered nurse, or a registered nurse, and has been trained and approved, in writing, by the delegating physician or delegating nurse for delegable health services; or

(4) a school employee who is delegated responsibility to perform the health service by a physician, an advanced practice registered nurse, or a registered nurse; and

(A) has been trained by the delegating physician or delegating nurse for the specific health service, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and

(B) has been approved, in writing, by the delegating physician or delegating nurse. The approval *shall* state that the school employee consents to perform the health service when the employee does not have the administration of health services in his or her contract or job description as a job responsibility, possesses sufficient training and skills, and has demonstrated competency to safely and effectively perform the health service. The school employee *shall* acknowledge receipt of training by signing the approval form. A copy of the approval form *shall* be maintained in the corresponding student's record and the personnel file of the school employee. A delegation to a school employee under this paragraph *shall* be valid *only* for the current school year. Nothing in this Section shall be construed to require a school employee to consent to provide health services when the employee does not have the administration of health services in his or her contract or job description as a job responsibility.

(b) If at any time no school employee meeting the qualifications of Subsection (a) of this Section is available, the Superintendent *shall* make any necessary arrangement for the provision of the health services in order to prevent a loss of a health service from affecting students' attendance or program participation.

(c) Limitation of Liability. A school employee who has been properly delegated responsibility for performing a health service under this Section *shall* act as an agent of the school and be granted liability protection under the Paul P. Coverdell Teacher Liability Protection Act of 2001 (Public Law 107-110), unless the claimant establishes by clear and convincing evidence that harm was proximately caused by an act or omission of the school employee that constitutes gross negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(d) Nothing in this Section shall be construed to deny a student his or her right to attend a Guam Department of Education school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

ARTICLE 3
ADMINISTRATION OF MEDICATIONS

§ 9A301. Student Self-Administration and Possession of Medications.

§ 9A302. Administration of Medications by School Employees.

§ 9A301. Student Self-Administration and Possession of Medications.

(a) The Superintendent *shall* permit the self-administration of medications by a student with a condition requiring prescribed medication if the student's parent or guardian:

(1) provides a written authorization to the school for the student to self-administer prescribed medication; and

(2) provides a written statement from the student's health care practitioner that the student has a condition requiring prescribed medication and has been instructed in self-administration of the student's prescribed medications to treat the condition. The statement *shall* also contain the following information:

(A) the name and purpose of the medication;

(B) the prescribed dosage;

(C) the route of administration;

(D) the frequency or precise times in which the medication may be administered;

(E) the circumstances under which the medication may be administered; and

(F) the length of time for which the medications are prescribed.

(b) Recordkeeping. The statements required in Subsection (a) of this Section *shall* be kept on file in the office of the school nurse or school administrator.

(c) Limitation of Liability.

(1) Disclosure. The Superintendent *shall* inform the parent or guardian of the student that the government of Guam, the school, and its employees and agents shall incur no liability, except as provided in this Chapter, as a result of any injury sustained by the student from the self-administration of his or her prescribed medications, unless the injury is the result of gross negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed on behalf of the school or its employees or agents.

(2) Acknowledgment. The parent or guardian of the student *shall* sign a statement acknowledging that the government of Guam and the school shall incur no liability, except as provided in this Chapter, and the parent or guardian *shall* indemnify and hold harmless the government of Guam, the school, and its employees and agents against any claims relating to the self-administration of prescribed medications, unless the injury is the result of gross negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed on behalf of the school or its employees or agents.

(d) Upon request by the parent or student, the student *shall* have access to a private area for self-administering prescribed medication.

(e) Renewal of Permission. The permission for self-administration of medications *shall* be effective for the school year in which it is granted and *shall* be

renewed each following school year upon fulfilling the requirements of Subsections (a), (b), and (c) of this Section.

(f) Possession of Medication. Upon fulfilling the requirements of Subsections (a), (b), and (c) of this Section, a student with a condition requiring prescribed medication may possess and use prescribed medications when at school, during school-sponsored activities, or before and after normal school activities, including school-sponsored child care or afterschool programs and travel to and from any school-sponsored activity.

(g) Diabetes Care Tasks. Upon fulfilling the requirements of Subsections (a), (b), and (c) of this Section, a student with diabetes *shall* be permitted to perform blood glucose checks, administer insulin through the insulin delivery system the student uses, treat hypoglycemia, and otherwise attend to the care and management of his or her diabetes when at school, during school-sponsored activities, or before and after normal school activities, including school-sponsored child care or afterschool programs. A student *shall* be permitted to possess on his or her person at all times necessary supplies and equipment to perform these monitoring and treatment functions. Upon request by the parent or student, the student *shall* have access to a private area for performing diabetes care tasks. Any training of a school employee in diabetes care tasks *shall* be fully consistent with training programs and guidelines developed by the American Diabetes Association.

§ 9A302. Administration of Medications by School Employees.

(a) The Superintendent *shall* have at least one (1) school employee at each school who has met the requirements of § 9A202 on duty during the entire school day, including any afterschool programs, to administer or assist with the administration of the following medications:

(1) inhaled bronchodilator to a student with asthma as noted in the health care practitioner's written statement under Subsection (c)(2) of this Section;

(2) epinephrine auto-injector to a student with asthma or a documented life-threatening allergy who is experiencing anaphylaxis or other conditions noted in the health care practitioner's written statement under Subsection (c)(2) of this Section;

(3) glucagon subcutaneously to a student with diabetes who is experiencing hypoglycemia or other conditions noted in the health care practitioner's written statement under Subsection (c)(2) of this Section;

(4) insulin subcutaneously to a student, through the insulin delivery method used by the student and at the times and under the conditions noted in the health care practitioner's written statement under Subsection (c)(2) of this Section; and

(5) a seizure rescue medication approved by the United States Food and Drug Administration and any successor agency to a student with a seizure disorder who is experiencing a seizure or other condition noted in the health care practitioner's written statement under Subsection (c)(2) of this Section.

(b) Training. For those assigned the duties under Subsection (a) of this Section, training provided under § 9A202(a)(3) or (4) *shall* include instruction in administering the medications described under Subsection (a) of this Section, as well as recognition of the signs and symptoms of the conditions associated with those medications and the appropriate steps to be taken to respond to the symptoms of asthma, anaphylaxis, hypoglycemia and hyperglycemia, and seizures.

(c) Required Written Statements. Prior to administering or assisting with the administration of any of the medications listed under Subsection (a) of this

Section to a student by a school employee qualified under § 9A202(a), the student's parent or guardian *shall*:

(1) provide the school with a written authorization for the school employee to administer the medication at school;

(2) provide a written statement from the student's health care practitioner that the student has a condition requiring prescribed medication. The statement *shall* also contain the following information:

(A) the name and purpose of the medication;

(B) the prescribed dosage;

(C) the route of administration;

(D) the frequency or precise times in which the medication may be administered;

(E) the circumstances under which the medication may be administered; and

(F) the length of time for which the medications are prescribed; and

(3) provide the prescribed medication to the school in its unopened, sealed package with the label affixed by the dispensing pharmacy intact.

(d) The statements required in Subsection (c) of this Section *shall* be kept on file in the office of the school nurse or school administrator.

(e) Limitation on Liability.

(1) Disclosure. The Superintendent *shall* inform the parent or guardian of the student that the government of Guam, the school, and its employees and agents shall incur no liability, except as provided in this Chapter, as a result of any injury sustained by the student resulting from acts or omissions related to the administration or the assistance in administration of any medication listed under Subsection (a) of this Section or from any

reaction to any of the medications listed under Subsection (a) of this Section that a parent or guardian has authorized the school to administer to a student, unless the injury is the result of gross negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed on behalf of the school or its employees or agents.

(2) Acknowledgment. The parent or guardian of the student *shall* sign a written statement acknowledging that the government of Guam and the school shall incur no liability, except as provided in this Chapter, and the parent or guardian *shall* indemnify and hold harmless the government of Guam, the school, and its employees and agents against any claims made for any injury sustained by the student resulting from acts or omissions related to the administration or the assistance in administration of any of the medications listed under Subsection (a) of this Section or from any reaction to any of the medications listed under Subsection (a) of this Section that a parent or guardian has authorized the school to administer to a student, unless the injury is the result of gross negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed on behalf of the school or its employees or agents.

(f) Renewal. Permission for the administration of any of the medications listed under Subsection (a) of this Section *shall* be effective for the school year in which it is granted, and *shall* be renewed each following school year.

(g) Expiration Dates. The school nurse or school administrator *shall* check the expiration date monthly for each medication listed under Subsection (a) of this Section that is in the possession of the school. At least one (1) month prior to the expiration date of each medication, the school nurse or school administrator *shall* inform the parent or guardian of the expiration date.

(h) The requirements of Subsections (a) to (g) of this Section *shall* apply only to a school that has, only to the extent that it has, a student enrolled who has a condition requiring the prescribed medication listed under Subsection (a) of this Section prescribed by the student's health care practitioner.

(i) Nothing in this Section shall be construed to require a school employee to consent to administer medications to a student if the employee does not otherwise consent to provide the health service under § 9A202(a).

(j) Notwithstanding any other provision of law to the contrary:

(1) the administration of any one or more of the medications listed under Subsection (a) of this Section by school employees *shall not* constitute the practice of nursing and *shall* be exempt from all applicable statutory and regulatory provisions that restrict the activities that may be delegated to or performed by a person who is not a licensed health care practitioner; and

(2) a licensed health care practitioner may provide training to or supervise school employees in the administration of any one or more of the medications listed under Subsection (a) of this Section.

ARTICLE 4

SPECIFIC CONDITIONS

§ 9A401. Life-threatening Allergies.

§ 9A401. Life-threatening Allergies.

(a) A student who has a documented life-threatening allergy *shall* have:

(1) an epinephrine auto-injector provided by his or her parent or guardian in his or her possession or in the possession of the school nurse, school administrator, or his or her designee, in all school environments that the student may be in, including, but not limited to, the classroom, the cafeteria, the school bus, and on field trips; and

(2) a written individual health care plan in place for the prevention and proactive management for the student in all school environments that the student may be in, including, but not limited to, the classroom, the cafeteria, the school bus, and on field trips. The individual health care plan required under this paragraph may be incorporated in the student's individualized education program required under Public Law 94-142, or the student's 504 plan required under Public Law 93-112.

(b) Each school is encouraged to keep an epinephrine auto-injector in a minimum of two (2) locations in the school, including, but not limited to, the school office and the school cafeteria, so that epinephrine may be administered to any student believed to be having a life-threatening allergic or anaphylactic reaction. Schools electing to keep epinephrine auto-injectors *shall* maintain them in a secure, accessible, but unlocked location. The provisions of this Subsection *shall* apply to the extent that the epinephrine auto-injectors are donated to a school, or a school has sufficient funding to purchase the epinephrine auto-injectors.

(c) Policies and Procedures. Each school electing to keep epinephrine auto-injectors *shall* implement policies and procedures for managing a student's life-threatening allergic or anaphylactic reaction developed and approved by the Guam Education Board.

ARTICLE 5
RIGHTS OF STUDENT AND PARENTS

§ 9A501. Right of Equal Access.

§ 9A502. Prohibition on Parental Requirements.

§ 9A501. Right of Equal Access.

The Superintendent *shall* permit a student who has a condition requiring prescribed medication to attend the same school the student would attend if the student did not have the condition. Such a student may only be transferred to a

different school based on health care needs if the individualized education program team, the Section 504 team, or, if appropriate, the student's health services team, makes the determination that the student's health condition requires that the student's care be provided by a licensed health care practitioner at a different school. For the purpose of this determination, the teams *shall* include the parent or guardian. The parent or guardian may invite the student's treating physician to the team meeting and the team *shall* consider the physician's input, whether in person or in written form, when making this determination. This determination *shall* be based on individualized factors related to the student's health conditions. The Superintendent *shall not* prohibit a student who has a condition requiring prescribed medication from attending any school on the sole basis that:

(a) the student has a condition requiring prescribed medication;

(b) the school does not have a full-time school nurse; or

(c) the school does not have school employees who are trained in accordance with § 9A202 and assigned to provide care.

§ 9A502. Prohibition on Parental Requirements.

Parents or guardians of a student who has a condition requiring prescribed medication *shall not* be required or pressured to provide care for the student during regular school hours or during school-related activities in which the student is a participant. For the purposes of this Section, a participant is not a student who merely observes the school-related activity."