

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



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COMMONWEALTH REGISTER  
VOLUME 30  
NUMBER 01

JANUARY 22, 2008

# ***COMMONWEALTH REGISTER***

**VOLUME 30  
NUMBER 01  
JANUARY 22, 2008**

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## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Timothy P. Villagomez**  
Lieutenant Governor

### EXTENSION OF EMERGENCY Volcanic of Anatahan

WHEREAS, On May 13, 2003, a Declaration of Emergency was issued with respect to volcanic activity on the island of Anatahan; and

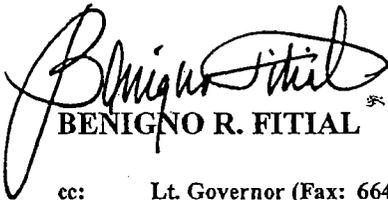
WHEREAS, said Declaration declared the island of Anatahan as unsafe for human habitation and restricted all travel to said island with the exception of scientific expeditions; and

WHEREAS, the volcanic activity and seismic phenomena which prompted said Declaration continues to exist on the island of Anatahan.

NOW, THEREFORE, I, BENIGNO R. FITIAL, by the authority vested in me as Governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, do hereby extend a state of disaster emergency in the Commonwealth with respect to the island of Anatahan under the same terms and conditions as are contained in the original Declaration.

This Extension of Emergency shall remain in effect for thirty (30) days, unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the term, and giving reasons for extending the emergency.

Dated this 26<sup>th</sup> day of December 2007.

  
BENIGNO R. FITIAL

cc: Lt. Governor (Fax: 664-2311)  
Senate President (Fax: 664-8803)  
House Speaker (Fax: 664-8900)  
Mayor of the Northern Islands (Fax: 664-2710)  
Executive Assistant for Carolinian Affairs (Fax: 235-5088)  
Director of Emergency Management Office (Fax: 322-7743)  
Attorney General (Fax: 664-2349)  
Secretary of Finance (Fax: 664-1115)  
Commissioner of Public Safety (Fax: 664-9027)  
Special Assistant for Management and Budget (Fax: 664-2272)  
Special Assistant for Programs and Legislative Review (Fax: 664-2313)  
Press Secretary (Fax: 664-2290)

Commonwealth of the Northern Mariana Islands  
Commonwealth Board of Nurse Examiners

Elaine Marie Camacho, Chair  
Commonwealth Board of Nurse Examiners, PO Box 501458  
Building No. 1336, Capitol Hill, Saipan MP 96950

tel 670.664.4810; fax:670.664.4813  
[cbone@pticom.com](mailto:cbone@pticom.com)

**PUBLIC NOTICE OF EMERGENCY REGULATIONS  
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF  
THE COMMONWEALTH BOARD OF NURSE EXAMINERS**

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands, BOARD OF NURSE EXAMINERS ("the Board") finds that:

(1) the attached rules and regulations regarding the licensure of nurses, specifically the Board's fees relating thereto, shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 91059b(2)); and

(2) the same rules and regulations shall be adopted as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC § 9104(a).

**AUTHORITY:** The Board is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute and to protect the public health, safety, and welfare. 3 CMC §§ 2306 (b) and (c); the Nurse Practice Act of 2003, PL 14-62, §§ 2306 (b) and (c). See also Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. . . .

1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** These Rules and Regulations provide for the immediate imposition of fees that will allow the Board to recover its costs to carry out the licensure of nurses in the CNMI. These update and increase the Board's fees and charges. The Board has not changed its fees since 1982. Presently the Board's fees barely cover postage, but do not cover the staff costs of the Board, including processing applications and licenses. In the present CNMI economic downturn, with the continuing reduction in the Government's revenues, it is imperative that the Board charge its true costs of operations in order for the Board to carry out its mission.

These Rules and Regulations are the second group of the Board's new Rules and Regulations. These create Rules and Regulations 160 NMIAC 40, Part 700. Many of the sections of the Board's Rules and Regulations are reserved, with no content presently.

These Rules and Regulations shall also be deemed amendments to the Board's Rules and Regulations. These amendments add to the Rules and Regulations of the Board, 140 NMIAC 60, § 001 *et seq.*

**THE SUBJECTS AND ISSUES INVOLVED:** There are independent, but related, reasons for the promulgation of these rules and regulations, as they:

1. Address the administration of the Board's licensing operations.
2. Publish and state the Board's fees, per the recent revision of fees.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Board has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASONS FOR EMERGENCY ADOPTION:** The Board finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. The Board lacks the resources to subsidize its licensure activities.
2. The Board has not increased its fees in over 25 years.
3. The Board must mail the year's renewal notices by the end of January, needs to print those notices in advance of the mailing, and needs to tell the licensed professionals how much to pay to continue and renew licensure.
4. Following the "standard" form of publishing a notice of proposed rules and regulations would delay the date of setting the new fees until February or March.

5. It would be administratively unworkable to delay the notification of new fee levels to the licensees, or notify them of the old fees, and then mail to them again with a notice of increased fees. Further, such a two-step process would waste extremely limited resources and lead to confusion.

6. In order for the Board to function, and, among other things, license the present group of nurses, it must have in place rules and regulations that govern its fees. While one may argue that the predecessor to the Act's regulations continue by necessity, it is appropriate and necessary to eliminate any doubt regarding the propriety of the nursing licensure fees by adopting these rules and regulations on an emergency basis.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

The Board shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

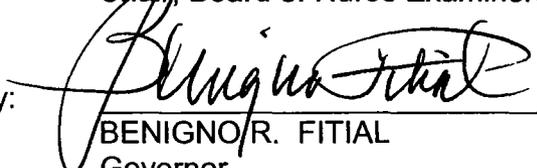
**IMMEDIATE EFFECT:** These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the Board has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

**TO PROVIDE COMMENTS:** No comments are required for these emergency rules and regulations. However, the Notice of Proposed Rules and Regulations will specify comment procedures. Please see the notice regarding these emergency regulations being presented as proposed regulations, in the February, 2008, Commonwealth Register.

These emergency regulations were approved by the Board on November 13, 2007.

Submitted by:   
Elaine Marie Camacho  
Chair, Board of Nurse Examiners

01-10-2008  
Date

Concurred by:   
BENIGNO R. FITIAL  
Governor

1/11/08  
Date

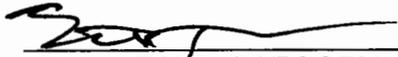
Filed and  
Recorded by:

  
\_\_\_\_\_  
BERNADITA B. DE LA CRUZ  
Commonwealth Register

1-16-08  
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 14<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
MATTHEW T. GREGORY,  
Attorney General

2 NOPR Emergency Fee Regs 2008.wpd

1 Commonwealth of the Northern Mariana Islands

2  
3 Northern Mariana Islands Administrative Code  
4 Title 140 Department of Public Health  
5

6  
7 Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and Regulations

8  
9 Chapter Authority: PL 14-62, as amended.

10  
11 Regulation History: The Nurse Practice Act of 2003, PL 14-62, ("the Nurse Practice Act" or "the Act") was codified at 3 CMC §§ 2301  
12 - 19. The Act, §§ 2306 (b) and (c) empower the Board to adopt rules for the administration and enforcement of the statute and to  
13 protect the public health, safety, and welfare.

14  
15 [Comment on numbering outline format: The hierarchy /outline is as follows, from top to bottom: Title; Chapter; Part 001-900; Section  
16 101-999; subsection (a); paragraph (1); subparagraph (i); sub-subparagraph (A). The numbering for the title and chapter shall follow  
17 the format of the Northern Mariana Islands Administrative Code ("NMIAC"). Citations are to PL 14-62, as amended.]

18  
19 Table of Contents

20  
21 Chapter 140-60 - Commonwealth Board of Nurse Examiners Rules and Regulations. . . . . Page 1 of 3  
22  
23 Part 001 General Provisions. . . . . Page 1 of 3  
24  
25 Section 001 Currency of these rules or regulations. . . . . Page 1 of 3  
26  
27 Section 002 History. . . . . Page 1 of 3  
28  
29 Part 00700 Fees (per 3 CMC § 2306(e)(14)). . . . . Page 2 of 3

30  
31 [Comment: The Table of Contents is not part of the rule or regulation, but is placed here for the convenience of the reader.]  
32  
33  
34

35 Part 001 General Provisions

36  
37  
38 Section 001 Currency of these rules or regulations.

39  
40 These rules or regulations are current through the January, 2008, CNMI Register Volume 30 No. 01.  
41  
42

43 Section 002 History.

44  
45 (a) History is not part of the operative language of the Rules or Regulations, and is included by the  
46 Board for the convenience of the reader.

47  
48 (b) The Board shall attempt to publish a brief history with each change to these rules or regulations,  
49 identifying date and Commonwealth Register citation for the change.

50  
51 (c) The history is:

52  
53 (1) Nurse Practice Act of 2003 Act passed and signed by Governor Juan N. Babauta, March  
54 31, 2005, effective 90 days later, on June 30, 2005.

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- (2) Proposed Rules or regulations adopted by resolution of the Board of Nurse Examiners on March 30, 2006. Proposed rules and regulations were published in the Commonwealth Register, Vol. 28, No.05 (5/19/06), p 025686. Final regulations were promulgated by publication in the Commonwealth Register Vol. 29, No. 11 (11/19/07), p 027460.
- (3) Emergency rules and regulations on fees were adopted by resolution of the Board on Nov. 13, 2007, and published in the Commonwealth Register, Vol. 30, No.01 (01/\_\_\_\_/08).
- (4) Proposed rules and regulations on fees were adopted by resolution of the Board on Nov. 13, 2007, and published in the Commonwealth Register, Vol. 30, No.02 (02/\_\_\_\_/08).

Part 00700 Fees (per 3 CMC § 2306(e)(14))

Section 001 The following fees must be paid for the following services:

- (a) Advanced Practice Registered Nurse (APRN)
  - (1) APRN Initial License Fee - 140.00
  - (2) APRN Renewal - 80.00
  - (3) APRN Interim Permit - 90.00
  - (4) APRN Late Renewal - 100.00
  - (5) APRN Reinstatement - 140.00
  - (6) APRN Endorsement - 80.00
- (b) Registered Nurse (RN)
  - (1) RN Initial License Fee - 110.00
  - (2) RN Examination - 110.00
  - (3) RN Re-Examination - 110.00
  - (4) RN Endorsement - 90.00
  - (5) RN Renewal - 50.00
  - (6) RN Late Renewal - 60.00
  - (7) RN Reinstatement - 70.00
- (c) Licensed Practical/Vocational Nurse (LPN/LVN)
  - (1) LPN Initial License - 90.00
  - (2) LPN Examination - 90.00
  - (3) LPN Re-Examination - 90.00
  - (4) LPN Endorsement - 70.00
  - (5) LPN Renewal - 45.00
  - (6) LPN Late Fee - 55.00
  - (7) LPN Reinstatement - 60.00
- (d) Graduate Nurse (GN)
  - (1) GN Interim Permit - 60.00
- (e) Certified Nurse Technicians (CT)
  - (1) CT Initial License - 45.00

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(2)	CT Endorsement	-	45.00
(3)	CT Renewal	-	30.00
(4)	CT Late Fee	-	35.00
(5)	CT Reinstatement	-	40.00

(f) Certified Nursing Assistants (CNA)

(1)	CNA Initial License	-	30.00
(2)	CNA Endorsement	-	30.00
(3)	CNA Renewal	-	20.00
(4)	CNA Late Fee	-	25.00
(5)	CNA Reinstatement	-	30.00

(g) Special Services

(1)	Verification of License	-	40.00
(2)	Temporary License Fee	-	50.00
(3)	Duplicate License Fee	-	40.00
(4)	Duplicate Certificate Fee	-	45.00
(5)	Rules & Regulation Hard Copy	-	40.00
(6)	Nurse Practice Act Hard Copy	-	40.00
(7)	Change of Name	-	35.00
(8)	Continuing Education Application		

(i)	Individual	-	50.00
(ii)	Group	-	150.00

(9)	Xerox Copy, more than 10 sheets-		0.50
(10)	Extension Fee of License	-	30.00
(11)	New Nursing Program		

(i)	Application Fee		\$1,000.00
(ii)	Consulting Fee: minimum of \$5,000.00, and \$1,000/day		

(12)	Labor Charge after 1 hour:		\$20.00 per hour
(13)	Cassette Tape Copy of Board meetings		15.00

(h) Notes: Payment for copies must be provided upon order, unless the Board's Administrator finds good cause for an exception. Labor charges apply to portions of an hour. Example: 3 hours = \$40.00.

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

**EMERGENCY:** The Department of Labor finds that the public interest requires that there be a temporary ban on hiring nonresident workers to be employed in unskilled positions from off island due to the closure of several garment factories over the past six months and the possibility of additional closures. These closures have created an emergency for the Commonwealth's economy and require an immediate, temporary change in the Alien Labor Rules and Regulations. The Department of Labor finds that under 1CMC §9104(b), the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Commonwealth Register, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

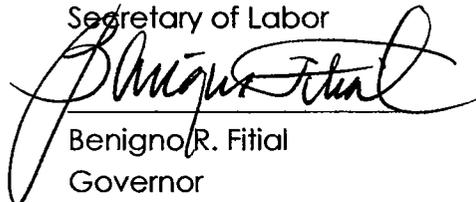
**REASONS FOR EMERGENCY:** Due to the closure of garment factories in recent weeks there are currently a great number of unemployed unskilled workers on island who are available to work. Give these circumstances, it is necessary that these regulations are approved and adopted immediately to ensure that no new unskilled workers enter the Commonwealth until the workers already in the Commonwealth find employment or depart.

**INTENT TO ADOPT:** It is the intent of the Department of Labor to adopt these emergency amendments to the Alien Labor Rules and Regulations, as permanent, pursuant to 1 CMC § 9104(a)(1) and (2). Interested persons may submit written comments on these emergency recommendations to Gil San Nicolas, Secretary of Labor, Afetna Square Building, San Antonio, Saipan, MP 96950 or by fax to (670) 236-0990.

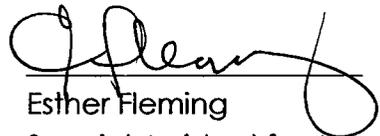
Submitted by:

  
\_\_\_\_\_  
Gil M. San Nicolas  
Secretary of Labor

12/17/07  
Date

  
\_\_\_\_\_  
Benigno R. Fitial  
Governor

12/18/07  
Date

  
\_\_\_\_\_  
Esther Fleming  
Special Assistant for Administration

12/19/07  
Date

PUBLIC NOTICE

DEPARTMENT OF LABOR

INTENT TO ADOPT AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

These amendments are promulgated in accordance with the Administrative Procedure Act, 1 CMC §9101 et seq. The Department is amending the Alien Labor Rules and Regulations that were published in the Commonwealth Register, Vo. 26, No. 06, June 24, 2004.

**Citation of**

**Statutory Authority** The Secretary of Labor is authorized to promulgate regulations pertaining to employment of citizens, permanent residents, and foreign national workers pursuant to 3 CMC §§ 4424(a)(1).

**Short Statement of**

**Goals and Objectives** These amendments would require that unemployed nonresident workers already in the Commonwealth be absorbed into the workforce before more nonresident workers could be brought into the Commonwealth. The closure of garment factories in recent weeks and the possibility of additional closures create an emergency for the Commonwealth's economy and require this temporary change in the regulations.

**Brief Summary of the**

**Proposed Regulations** These amendments would suspend the entry to the Commonwealth of nonresident workers to be employed in unskilled positions until June 30, 2008. The suspension would be reviewed at that time with respect to any continuation.

**Citation of Related**

**And/or Affected Statutes,**

**Rules and Regulations** The amendments affect the Alien Labor rules and Regulations Sections II(B)(4) and II(G) and XIV(A).

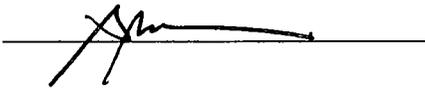
**For Further**

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**Information Contact:** Gil San Nicolas, Secretary, Department of Labor, Afetna Square Building, San Antonio, Caller 10007, Saipan, MP 96950, phone 236-0900, fax, 236-0991.

Dated this 17<sup>th</sup> day of Dec., 2007.

Submitted by:

A handwritten signature in black ink, appearing to be 'G. San Nicolas', is written over a horizontal line.

Gil M. San Nicolas  
Secretary of Labor

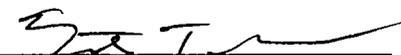
Filed and Recorded by:

  
BERNADITA B. DE LA CRUZ

12/19/07  
DATE

Pursuant to 1CMC § 2153, as amended by Public Law 10-50, the emergency rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 17<sup>th</sup> day of December, 2007.

  
Matthew T. Gregory  
Attorney General

AMENDMENTS TO Section II(B)(4) and Section II(G) of the Alien Labor Rules and Regulations:

Section II(B)(4) is amended by adding a new subsection (b) to read:

- (b) As a temporary emergency measure effective on December 30, 2007, the Director of Labor shall hold any pending application for an off-island hire, and shall not, unless in the best interests of the Commonwealth, approve any such application, for employment in an unskilled position of a nonresident worker coming from outside the Commonwealth, until June 30, 2008 in order to ensure employment of nonresident workers already in the Commonwealth who have become unemployed as a result of past and anticipated closures of garment factory operations. The Director will review the emergency measure on or before June 30, 2008 and publish further regulations as necessary.

Section II(G) is amended by adding a new subsection (6) to read:

- (6) As a temporary emergency measure effective on December 30, 2007, the Director of Labor shall hold any pending application for an off-island hire, and shall not approve any new application, unless in the best interests of the Commonwealth, for hiring in an unskilled position of a worker coming from outside the Commonwealth, until June 30, 2008 . The Director will review the emergency measure on or before June 30, 2008 and publish further regulations as necessary.

Section XIV(A) is amended by adding a new sentence at the end of the provision to read:

Fees paid for any application to hire a nonresident worker from off-island hire to work in an unskilled position that is pending on December 30, 2007 by operation of this emergency regulation are transferable for a period of six months if the pended application is withdrawn by the employer.

**NOTISIAN PUPBLIKU POT ENSIGIDAS NA REGULASION YAN  
NOTISIAN INTENSION PARA U MA'ADOPTA I AMENDASION  
PARA I REGULASION YAN AREKLAMENTO PARA I  
HOTNALERUN ESTRANGHERU SIHA**

**Ensigidas:** I Dipattamenton I Hotnaleru a sodda na I interes pupbliku a rekomenda na debi di u guaha ni I sinuhetan I man emplean hotnalerun estrangheru siha para u fan ma'emplea gi pusion siha ni ti nisisario u fan gai ekspiriansia (unskilled workers) ginen otu tano pot rason I mahuchom I loskuantus na faktirian yaldas siha gi sais mesis na tiempo ni man maloffan ya siha ha' guaha mas u fan mahuchom. Este siha na hinichom a establesi ensigidas na situasion para I ekonomian I Commonwealth ya a rekomenda imidiamente, na tinilaika gi Areklamento yan Regulasion I Hotnalerun Estrangheru. I Dipattamenton I Hotnaleru a sodda na papa I lai 1 CMC Seksiona 9104(b), I interes pupbliku a manda I inadoptasion este siha na regulasion gi menos di trenta (30) diha siha na notisia, ya este siha na regulasion debi di u efektibu ensigidas despues anai mapolu gi Rehistran I Commonwealth, suhetu para I inapruuban I Abugadu Henerat yan I kinonfotmen I Gubietno, ya debi di u efektibu esta sientobente (120) diha siha.

**Rason Para Ensigidas:** Pot rason I mahuchom i faktirian yaldas gi man maloffan siha na simana gi presente guaha loskuantus na hotnalerun estrangheru siha ni ti man ma'emplea ya man tai ekspiriansia ni man gaige gi isla ni siha man macho'chu'. Pot enao na, nisisario na este siha na regulasion man ma'aprueba yan ma'adopta ensigidas pot para u asigura na taya nuebu na hotnalerun estrangheru ni man tai ekspiriansia u fan man halom gi Commonwealth esta eyu siha na hotnaleru ni man gaige gi Commonwealth man mañodda cho'chu' osino man madipotta.

**Intension Pot Inadopta:** I Dipattamenton I Hotnaleru a intensiona para u adopta este ensigidas na amendasion siha para I Areklamento yan Regulasion Hotnalerun Estrangheru, petmanente, sigun I Lai 1 CMC Seksiona 9104(a)(1) yan (2). I man entereso na petsona siha munahalom tinige' opinion pot este ensigidas na rekomendasion siha guatu as Gil San Nicolas, Sekretarion I Hotnaleru, gi Dipattamenton I Hotnaleru, gi Afetna Square Building, gi San Antonio, giya Saipan, MP 96950 osino fax guatu gi (670) 236-0990.

Ninahalom as:

  
\_\_\_\_\_  
Gil San Nicolas  
Sekretarion I Hotnaleru

12/17/07  
\_\_\_\_\_  
Fecha

Kinonfotme as:

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Benigno R. Fitial  
Gubietno

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Maresibe' as:

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Esther S. Fleming  
Especiãt Na Ayudãnte Para I Atministrasion

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Fecha

## **Dipáttamenton I Hotnaleru**

### **MA'INTENSIONA PARA U MA'ADOPTA I AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION HOTNALERUN ESTRANGHERU SIHA**

Este na amendasion siha ni man ma'establesi para u kininsiste ni I Ákton I Areklamenton I Atministrasion, 1 CMC Seksiona 9101, et seq. I Dipáttamenton I Hotnaleru siha a amemenda I Areklamento yan Regulasion siha ni man mapubliisa gi I Rehistran I Commonwealth, gi Baluma 26, Numiru 06, gi Junio 24, 2004.

#### **Annok I Áturidát I Lai:**

I Sekretáron I Hotnaleru ma'aturisa para u establesi regulasion siha ni tineteka I man empleleha hotnalerun estrangheru siha sigun I lai 3 CMC Seksiona 4424 (a)(1).

#### **Kada'da' Na Finiho' Yan Diniseha:**

Este siha na amendasion siempre a rekomenda na I ti man macho'cho'chu' na Hotnalerun Estrangheru ni esta man gaige gi hálom I Commonwealth u fan ma'usa gi anai manisita para u fan ma'emplea ántes di u fan hálom mäs hotnalerun estrangheru siha gi hálom I Commonwealth. I mahuchom I faktirian yátdas gi man maloffan na simána ya siña guaha mäs u fan mahuchom, a na guaha ensigidas na regulasion para I ti man petmanente na tinilaika gi Ekonomian I Commonwealth.

#### **Kada'da' Na Mensáhe Pot I Man Mapropone Na Regulasion Siha:**

Este siha na amendasion siempre a suspende I entrádan I estrangheru na hotnaleru siha para I Commonwealth pot para u ma'emplea siha gi pusision ni ti nisisário u fan gai ekspiriansia na cho'chu' estaki I ha'anen Junio 30, 2008. Siempre maribisa I suspension gi eyu na tiempo ya u respeta maseha háfa na kontinuasion.

#### **Annok I Man Achule' yan/pat Man Inafekata Na Lai, Areklamento yan Regulasion Siha:**

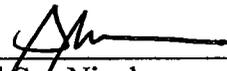
I amendasion a afekta I Areklamento yan Regulasion Hotnalerun Estrangheru Seksiona II (B)(4) yan II (G) yan XIB (A)

**Para Mås Infotmasion  
Ágang:**

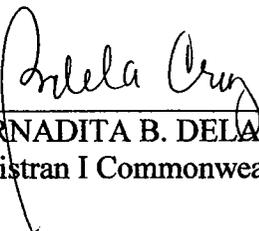
Si Gil San Nicolas, Sekretáριο, gi Dipáttamenton I Hotnaleru, gi Afetna Square Building, gi San Antonio, giya Saipan, MP 96950 numirun tilifon (670) 236-0900 osino fax guatu gi (670) 236-0991.

Mafecha este gi mina 17<sup>th</sup> na diha gi Disembre 2007.

Ninaháлом as:

  
\_\_\_\_\_  
Gil San Nicolas  
Sekretáριon I Hotnaleru

Pinelo' yan  
Marikot as:

  
\_\_\_\_\_  
BERNADITA B. DELA CRUZ  
Rehistran I Commonwealth

1-22-07  
Fecha

Sigun I lai 1 CMC Seksiona 2153, ni inamenda ni Lai Pupbliku 10-50, I areklamento yan regulasion siha ni man che'che'ton esta man ma'ina yan ma'aprueba pot para u fotma yan ligát suficiente ni I Ofisinan I Abugádu Henerát I CNMI.

Mafecha este gi mina \_\_\_\_\_ na ha'áne gi Junio, 2007

\_\_\_\_\_  
Matthew T. Gregory  
Abugádu Henerát

**ARONGOL TOULAP REEL GHITIPWOTCHOL ALLÉGH KKAAL ME  
ARONG IHGA E MÁNGI EBWE FILLÓÓY LLIWEL KKAAL NGÁLI ALIEN  
LABOR**

**GHITIPWOTCHOL:** Bwulasiyool Labor nge e schungi bwe llól tipeer toulap rebwe ayúúwól mwo umwumwul schóóy angaang kka aramasal lúghúl kka rebwe atarabwaaghoor llo angaang kka ese kkof (unskilled position) bwelle tittilóól garment factories kkaal sangi schagh llól oloow maram kkewe eló me ebwal yoor schagh milikka epwal tittiló mweteló mmwal. Akkayúúól yeel nge e ayoorátá aweweel Commonwealth economy me rebwe ghitipwotchuw, Alléghúl Alien Labor me Alléghúl Bwulasiyool Labor ebwal schungi bwe sáangi allégh ye 1 CMC Talil 9104(b), toulapeer aramas re mwuschel rebwe fillóóy allégh kkaal llól eliigh (30) ráálil ammataf yeel, me bwelle igha allegh kkaal ebwe schéschéél ammweló llól Commonwealth Register, aweweel sáangi Sów Bwungul Allégh Lapalap me alúghúlúghúl Sów Lemelem, elo bwe ebwe kkamal llól ótol ebwughúw reweigh (120) ráálil.

**BWULUL GHITIPWOTCH:** Bwelle igha akkayuulool garment factories kkaal llo sumwoola kkewe, soghuur school lughul kka relo wóól faleey ikka rese kkof emmwel rebwe féérú angaang kkaal. Aweewe, e ghatch bwe allegh kkaal ebwe alughulugh me ghitipwotchuw yaar fillooy bwe ese mmwel schóóy angaang kka re ffé rebwe toolong llól Commonwealth mille yaar schuschu yaar angaang schóókka raa fasúl lo wóól faleey me ngáre rebwe asáfáliir.

**MÁNGEMÁNGIL FILLÓ:** Schéschéél Bwulasiyool Labor ebwe fillóóy ghitipwotchol ssiwel kkaal ngáli Alléghúl Aramasal lúghúl kka rekke Angaang, bwelle allégh ye 1 CMC Tálil 9104(a) me (2). Schóókka re tipeli nge emmwel rebwe ischilong reel Gil San Nicolas, Samwoolul Labor, Bwulasiyool Labor, Afetnas Square Building, San Antonio, Seipel, MP 96950 me ngáre fax reel (670) 236-0990

Isáliyallong:

\_\_\_\_\_  
Gil M. San Nicolas  
Samwoolul Labor

\_\_\_\_\_  
Rál

Alúghúlúgh sangi:

\_\_\_\_\_  
Benigno R. Fitial  
Sów Lemelem

\_\_\_\_\_  
Rál

Mwir sangi:

\_\_\_\_\_  
Esther Fleming  
Sów Alillisil Sów Lemelem

\_\_\_\_\_  
Rál

**BWULASIYOOL LABOR**  
**AGHIYEGHIL EBWE FILLOOY LLIWEL KKAAL NGALI ALLEGHUL ALIEN**  
**LABOR**

Ssiwel kkaal nge e akkaté bwelle reel Administrative Procedure Act, 1 CMC Tálil 9101 et seq. Bwulasiyool Labor ebwe ssiweli Alléghúl Aramasal lúghúl kka rekke angaang wóól faleey. Iye aa akkatééwow mellól Commonwealth Register., Vo. 26, No. 06, June 24, 2004.

Akkatéél bwángil: Samwoolul Labor re mweiti ngáli akkatéél allégh kkaal iye e ghil ngáli schóóy lúghúl kka rebwe atarabwoghoor bwelle 3 CMC Tálil 4424(a)(1).

Aweweel pomwol  
Lliwel:

Ssiwel kkaal ebwe yááyá ngáli aramasal lúghúl kka rese kke angaang ikka raa ló llól Commonwealth igha rebwe atarabwaghoor mmwal igha rebwe atotoolong schóóy lúghúl llól Commonwealth. Sáangi garment factories kka aa akkayúúló llól oloow maram kkewe eló me emmwel ebwal yoor milikka epwal tittiló igha ebwe ayoorátá aweweel ghitipwotch ngáli economial Commonwealth me ebwe mweiti ngali ssiwel llól allégh kkaal.

Aweweel pomwol  
AlleghL::

Lliwel kkaal ebwe ayuulo atotoolongol schóóy lughul llól Commonwealth ikka rebwe atarabwaaghoor igha ese kkof iye wool Alimate 30, 2008. Akkayúúló yeel rebwe amweri fischi ngáre ebwe sóbwósóbwóló.

Gil San Nicolas, Samwool, Bwulasiyool Labor Afetna Square Building, San Antonio, Caller 10007, Seipel, MP 96950, tilifoon 236-0900, fax, 236-0991

Akkatéél akkááw

Allégh Me tingórol: Ssiwel kkaal ebwe fis ngáli Alleghul Aramasal lúghúl kka rekke angaang wóól faleey Tálil kka II(B)(4) me II(G) me XIV(A).

Rááilil llól \_\_\_\_\_ maramal \_\_\_\_\_, 2007

.Isaliyallwow \_\_\_\_\_

Gil M. San Nicolas  
Samwoolul Labor

\_\_\_\_\_ Rál

Ammwel sáangi: Bernadita B. DELA CRUZ  
Bernadita B. DELA CRUZ  
Commonwealth Register

1-22-07  
Rál

Sáangi allégh ye 1 CMC Tálil 2153, iye aa ssiwel mereel Alléghúl Toulap, alléghúl ghitipwotch ye e appasch nge raa takkal amweri fischiy me alúghúlúgh mereel CNMI Bwulasiyool Sów Bwungul Allégh Lapalap.

Rállil ye \_\_\_\_llól\_\_\_\_, 2007

\_\_\_\_\_  
Matthew T. Gregory  
Sów Bwungul Allégh Lapalap

Commonwealth of the Northern Mariana Islands  
Commonwealth Board of Nurse Examiners

Elaine Marie Camacho, Chair  
Commonwealth Board of Nurse Examiners, PO Box 501458  
Building No. 1336, Capitol Hill, Saipan MP 96950

tel 670.664.4810; fax:670.664.4813  
[cbone@pticom.com](mailto:cbone@pticom.com)

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS: FEES  
OF THE COMMONWEALTH BOARD OF NURSE EXAMINERS**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**  
The Commonwealth of the Northern Mariana Islands, Commonwealth Board of Nurse Examiners ("Board"), intends to adopt as permanent rules and regulations the attached Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board intends to adopt them as permanent, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Rules and Regulations would become effective 10 days after adoption. (1 CMC § 9105(b)) They would appear in the Northern Mariana Islands Administrative Code ("NMIAC"), Chapter 140-60.

**AUTHORITY:** The Board is empowered by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction, including its internal affairs and its operations. PL 14-62, the "Nurse Practice Act of 2003" ("The Act"), 3 CMC §§ 2301 - 19, and specifically, the Act, §§ 2306 (b), (c) and (e) .

**THE TERMS AND SUBSTANCE:**

The attached regulations update and increase the Board's fees and charges. The Board has not changed its fees since 1982. Presently the Board's fees barely cover postage, but do not cover the staff costs of the Board, including processing applications and licenses.

These Rules and Regulations are the second of the Board's new Rules and Regulations. The first addressed meetings, discipline and other general topics. Many other sections are reserved, with no content presently.

**THE SUBJECTS AND ISSUES INVOLVED:** The regulations present a new schedule of fees. These are increases over preceding levels.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to Board Chair at the above address, fax or email address, with the subject line "New CBNE Regs". Comments are due 30 days after this notice is published in the Commonwealth Register. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

Proposed Rules and Regulations approved by the Board on Nov. 13, 2007.

Submitted by: Elaine Marie Camacho 01-10-2008  
Elaine Marie Camacho Date  
Chair, Board of Nurse Examiners

Received by: Esther S. Fleming 01-11-08  
Esther S. Fleming Date  
Governor's Special Assistant for Administration

Filed and Recorded by: Bernadita B. De La Cruz 1-17-08  
BERNADITA B. DE LA CRUZ Date  
Commonwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed Rules and Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 14<sup>th</sup> day of January, 2008.

Matthew T. Gregory

MATTHEW T. GREGORY,  
Attorney General

2 Notice Proposed Regs Fees 2008 .wpd

**ARONGORONGOL TOULAP REEL POMWOL ALÉGH KKAAL: ÓBWÓSSUL  
COMMONWEALTH BOARD OF NURSE EXAMINERS**

**MÁNGEMÁNGIL REEL EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:**  
Commonwealth Téél falúw kka falúwasch Marianas, Commonwealth Mwiischil Nurse Examiners (:”Board”), e mwuschel ebwe schéschéél fillóóy allégh kka e appasch, bwelle mwóghutul Administrative Procedure Act, 1 CMC Tálil 9104(a). Schóóy mwiisch rebwe schéschéél fillóóy, me ayoora eliigh (30) ráálil arong yeel. (Id.) Allégh kkaal ebwe fis llól seigh (10) ráálil ngáre schagh raa fillóóy. (1 CMC Tálil 9105(b)) ebwe bwá llól Northern Mariana Islands Administrative Code (“NMIAC”), Chapter 140-60.

**BWÁNGIL:** Schóóy mwiisch nge re ngáleeey bwángil mereer Sów fféerúl Allégh (Legislature) reel ebwe fillóóy allégh kkaal bwelle mwóghut kka schóóy mwiisch ebwe féerú, e toolong internal affairs me mwóghutul kkaal. P.L 14-62, “ Alléghúl Nurse Practice Act llól 2003” (“ Alléghúl”), 3 CMC Tálil kka 2301 – 19, me schéschéél, Allégh kka, Tálil 2306 (b), (c) me (e).

**AWEWEEEL ME KKAPASAL:** Aghatchúl allégh kka e appasch me sárághi óbwóssuur schóóy mwiisch me mwuttal. Resáál siweli óbwós schóóy mwiisch kkaal sáangi schagh 1982. Ighila, óbwóssuur schóóy mwiisch esáál toori cover postage, me ese tepengi óbwóssuur Board, ebwal toolong ammwelil schéél tingór (applications) me linsensial.

Aruwawal allégh kka e ffé ikka schóóy mwiisch re ayoora. Mmwal akkatéél mwiisch, discipline me akkááw topics. Akkááw tálil kka e ammwel, iye esáál yoor outol.

**AFALAFAL REEL AMMWELIL ME AKKATÉÉL:** Pomwol Allégh kkaal ebwe akkatééló llól Commonwealth Register llól Talil pomwol kkaal me fillóól allégh kka e ffé (1 CMC Tálil 9102(a)(1) me ammataf kka ebwe appasch igha e fil iye mellol civic center me llól bwulasiyool gobenno kkaal llól senatorial district, e weewee schagh llól English me llól Remeraalis/Refaluwasch. (1 CMC Talil 9104(a)(1)).

**ISISILONGOL AGHIYEGH:** Afanga me ngáre bwughiiló yóómw aghiyegh reel Samwoolul Mwiisch reel address yeel, fax me email reel address yeel, fengal me aweewe ye “ New CBNE Regs”. Aingiing kkaal ebwe atotoolong llól eliigh (30) ráálil mwiril yaal arong yeel isisilong llól Commonwealth Register. Isisilong mafiyómw me yóómw aweewe. ( 1 CMC Talil 9104(a)(2)).

Pomwol allegh kkaal aa alughulugh mereer mwiisch wóól Aremwoy 13, 2007.

Isaliyallong: Elaine Marie Camacho  
Elaine Marie Camacho  
Samwoolul, Mwiischil Nurse Examiners

Jan 16-2008  
Rál

Mwir sáangi: Esther S. Fleming  
Esther S. Fleming  
Sów Afillisil Sów Lemelem

\_\_\_\_\_ Rál

Ammwel  
Sáangi: BERNADITA B. DELA CRUZ  
Commonwealth Register

\_\_\_\_\_ Rál

Sáangi allégh ye 1 CMC Talil 2153(e) (Alughulughul AG reel allégh kka ebwe akkaté) me 1 CMC Tálil 9104(a)(3) (bwughi yaal AG alughulugh) pomwol Allégh kka e appasch nge raa takkal amweri fischí me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatéwow (1 CMC Talil 2153(f) (akkatéél allégh kkaal)).

Rááílíl Ilól \_\_\_\_\_ maramal Schoow, 2008.

\_\_\_\_\_  
MATTHEW T. GREGORY  
Sów Bwungul Allégh Lapalap

Commonwealth I Sankattan Siha Na Islan Mariana  
Kuetpon I Man Eksaminan Emfetmeran I Commonwealth  
Elaine Marie Camacho, Kabiseya  
Kuetpon I Man Eksaminan Emfetmeran I Commonwealth  
Numirun I Building 1336, gi Capitol Hill, gi Saipan MP 96950

Numirun Tilifon: 670-664-4810; Fax: 670-664-4813  
Email: [cbone@pticom.com](mailto:cbone@pticom.com)

**NOTISIAN PUPBLIKU POT MAN MAPROPONE NA  
AREKLAMENTO YAN REGULASION SIHA: PEÑAN  
I KUETPON I MAN EKSAMINAN EMFETMERAN I  
COMMONWEALTH**

I AKSION NI MA'INTENSIONA PARA U MA'ADOPTA ESTE MAN MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth I Sankattan Siha Na Islan Mariana, gi I Kuetpon I Man Eksaminan Emfetmeran I Commonwealth ("I Kuetpo"), a intensiona para u adopta kumo petmanente na areklamento yan regulasion siha ni man che'che'ton na Man Mapropone na Areklamento yan Regulasion siha, sigun I areklamenton I Åkton I Areklamenton Atministrasion, lai 1 CMC Seksiona 9104(a). I Kuetpo a intensiona para u adopta siha kumo petmanente, ya este na momento man nãã'i' trenta (30) diha siha na notisia pot I intension niha. (*id*) I Areklamento yan Regulasion siha siempre u efektibu dies (10) diha siha despues de I inadoptasion. (1 CMC Seksiona 9105(b)) Siempre umannok gi halom I Kodigun Atministrasion I Sankattan Siha Na Islan Mariana ("NMIAC"), gi Kapitulu 140-60.

ÅTURIDÅT: Ma'otden I Kuetpo ni I Lehislatura para u adopta I areklamento yan regulasion ni tineteka eyu siha na asunto anai gai åturidåt I Kuetpo, a enklusu I asuntun intetno siha yan I kinalamten-ña. Lai Pupbliku 14-62, I "Åkton I Praktikan I Emfetmera gi 2003" ("I Åkto"), lai 3 CMC Seksiona 2301 – 19 yan spesifikåtmente, I Åkto, Seksiona 2306 (b), (c) yan (e).

**I SUSTÅNSIA YAN PALÅBRA SIHA:**

I man che'che'ton na regulasion siha mana fan nuebu ya man mahåtsa I peña yan åpas I Kuetpo siha. Ti mahåtsa I peñan niha siha I Kuetpo desde 1982. Gi presente I peñan I Kuetpo siha kana ti makukubre I para munahanao kåtta, lao ti makukubre I gåstun I empleåo I kuetpo siha, a enklusu I machoguen I aplikasion yan lisensia siha.

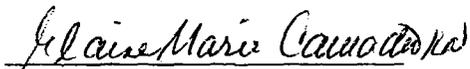
Este na Areklamento yan Regulasion siha mina dos gi I Nuebu na Areklamento yan Rgulasion I Kuetpo. I fine'nina ni mamensiona i dinanña, desiplina yan palu siha na asuntun heneråt. Loskuåntus gi palu siha na seksiona man mapolu, sin tai sinaguan gi presente.

TINETEKA NA ASUNTO SIHA: I regulasion siha a na guaha nuebu na peña siha. Sigun I man mahâtsa siha ginen I preceding level.

DIREKSION SIHA PARA U MAPOLU YAN PUPBLIKASION: Este Man Mapropone na Areklamento yan Regulasion siha siempre mapublika gi I Rehistran I Commonwealth gi I Seksionan I man mapropone ya nuebu na man ma'adopta na regulasion siha (1 CMC Seksiona 9102(a)(1)) yan ya u fan mapega gi man konbiniente na lugât gi civic center yan I ofisinan I gobietno gi kada distritun senadot, todû I dos Engles yan I lengguâhen Natibu. (1 CMC Seksiona 9104(a)(1))

PARA U MAPROBENIYI OPINION SIHA: Na hanâgue osino entrega I opinion-mu guatu I Kabiseyan I Kuetpo, gi I mamensiona na address, fax osino email address, ni I titilu "Nuebu na Regulasion I Kuetpon I Man Eksaminan Emfetmeran I Commonwealth". Man uttimo I opinion siha gi halom trenta (30) diha siha despues anai mafecha este na pupublikasion este na notisia. Pot fabot na halom I infotmasion, opinion osino testamonion kinontra siha. (1 CMC Seksiona 9104(a)(2))

I Man Mapropone na Areklamento yan Regulasion siha man ma'aprueba ni I Kuetpo gi Nubiembre 13, 2007.

Ninahalom as:  Jan 18-2008  
Elaine Marie Camacho  
Kabiseya, Kuetpon I Man Eksaminan  
Emfetmeran I Commonwealth  
Fecha

Maresibe as:  1-18-08  
ESTHER S. FLEMING  
Espesiât Na Ayudântan I Gubietno  
para I Atministrasion  
Fecha

Pinelo' yan  
Marikot as:  1-18-08  
BERNADITA B. DELA CRUZ  
Rehistran I Commonwealth  
Fecha

Sigun I lai 1 CMC Seksiona 2153 (e) (inapruedan I Abugâdu Henerât I regulasion siha ni para u establesi pot para u fotma) yan I lai 1 CMC Seksiona 9104(a)(3) (u guaha I inapruedan I Abugâdu Henerât) I man mapropone na regulasion siha ni man che'che'ton guine esta man ma'ina yan ma'aprueba pot para u fotma yan ligât suficiente ginen I Abugâdu Henerât I CNMI ya debi di u mapupblika, lai 1 CMC Seksiona 2153(f) (puplikasion I areklamento yan regulasion siha).

Mafecha este gi mina \_\_\_\_\_ na diha gi Ineru, 2008.

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MATTHEW T. GREGORY  
Abugâdu Henerât

Commonwealth of the Northern Mariana Islands  
Health Care Professions Licensing Board

Norma S. Ada, Chair  
Caller Box 502078, Saipan, MP 96950  
(1336 Ascension Dr., Capital Hill)  
tel: 670.664.4811 fax: 670.664.4813  
email: mplb@pticom.com

**PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS  
OF THE COMMONWEALTH  
HEALTH CARE PROFESSIONS LICENSING BOARD**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**  
The Commonwealth of the Northern Mariana Islands, HEALTH CARE PROFESSIONS LICENSING BOARD ("the Board"), intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board intends to adopt them as permanent after February 1, 2008, and hereby gives at least 30 days' notice of its intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC § 9105(b))

**AUTHORITY:** The Board is empowered by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction (3 CMC: § 2205 (meetings); § 2206(b) (promulgate, amend, and/or repeal rules and/or regulations to advance this Chapter and its purposes, including define and describe the health care professions and their practice which this Act makes subject to regulation); § 2206(u), (v) (charge and collect fees), § 2206 (aa) (do all other things necessary to carry out the provisions of this Chapter and the regulations promulgated pursuant hereto). See, *generally*, the Health Professions Licensing Act of 2007, 3 CMC §§ 2201-36 (2007) (Public Law 15-105). See *also* Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch.)

**THE TERMS AND SUBSTANCE:** The Rules and Regulations provide the basic framework for the Board to meet and deliberate and give notice. They also provide for basic procedures, including disciplinary procedures. They provide for fees and charges. They recite the Board's powers and duties, a conflict of interest policy, and procedures for internal administration. They also provide clear legal authority for the Board to meet by electronic means, rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's open meetings act, the Open Government Act of 1992, 1 CMC § 9901, et seq. Typically one or more Board members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Rules and Regulations define meeting by electronic means and set out the requirements for public participation.

The Rules and Regulations also provide for the licensure of midwives.

These Rules and Regulations are the first of the Board's new Rules and Regulations. These create Rules and Regulations 140 NMIAC 50.3, Part 001 through Part 9000. Many of the sections are reserved, with no content presently.

These Regulations shall also be deemed amendments to the Board's Regulations. These amendments add to the Regulations of the Medical Profession Licensing Board, 140 NMIAC 50.1-001 - 9000. The regulations are the attached new **Subchapter 140-50.3, Health Care Professions Licensing Board Rules and Regulations.**

THE SUBJECTS AND ISSUES INVOLVED: There are independent, but related, reasons for the promulgation of these regulations, as they:

1. Address the internal administration of the Board and its procedures for making decisions.
2. Provide that the Board's office will be determined and made known by the Board.
3. Prohibit conflicts of interest.
4. Provide that the Board will publish its schedule of regular meetings.
5. Provide procedures for the Board to conduct its meetings when one or more of the Board members is not physically present. This is necessary because of complexities of the travel schedules of the Board members, and the difficulties of travel in bad weather. The Rules and Regulations allow one or more of the members to call into the announced meeting place, a practice common in the business world.
6. Provide procedures that conform to the CNMI's open meetings act to insure that any member of the public may attend a Board meeting and hear and view everything that every Board member can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Board members are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Board members see and hear.
7. Provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin Boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.
8. Provide for the Board's litigation procedures, including discipline of professionals.
9. Republish and restate the Board's fees, per the recent revision of fees, pursuant to

29 Com. Reg. 9 (9/17/07), pp 26796-804 (proposed), 29 Com. Reg. 11 (11/19/07), p 27474 (notice of final adoption).

10. Provide for the specific licensure and regulation of one of the disciplines over which the Legislature has provided the Board with power and authority, midwives. The provisions address: applications; criteria for licensing; temporary and limited licensing; license renewals; continuing professional education; emergencies; and discipline.

11. Provide general provisions for the licensure and regulation of the disciplines over which the Legislature has provided the Board with power and authority.

a. The provisions address: applications; criteria for licensing; temporary and limited licensing; license renewal; continuing professional education; emergencies; and discipline.

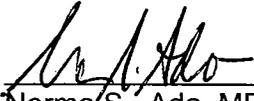
b. The disciplines are: Audiologist; Chiropractor; Clinical Social Worker; Clinical Laboratory; Dental Assistant; Dental Hygienist; Dentist; Embalmer; Emergency Medical Technician (EMT); Medical or Clinical Laboratory Technologist/Technician; Midwife; Occupational Therapist; Optometrist; Paramedic; Pharmacist; Pharmacy; Pharmacy Intern; Pharmacy Tech; Physical Therapist; Physical Therapist Assistant; Physician's Assistant; Physician-Doctor of Osteopathy; Physician-Medical Doctor; Physician-Medical Officer; Podiatrist; Professional Counselor; Psychologist; Radiologic Technologist; Respiratory Therapist; Speech and Language Pathologist; A person providing one of the above-listed services under a different name; A student under the direct supervision of a licensee. (As listed in 3 CMC § 2212)

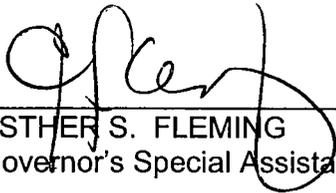
CONCURRENT ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Board has followed the procedures of 1 CMC § 9104(b) and (c) to adopt these Proposed Regulations on an emergency basis for 120 days. The Governor signed the emergency regulations on December 18, 2007. The required deliveries were made by the next day. The emergency regulations are now in effect.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to Florence Sablan, Administrator, *Attn: New Health Profession Regs*, Health Care Profs Licensing Bd, at the above address, fax or email address, with the subject line "New Health Care Prof Regs". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

These proposed regulations were approved by the Board on December 19, 2007.

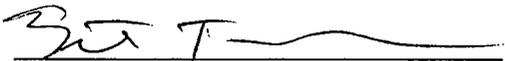
Submitted by:  Jan 10, 2008  
Norma S. Ada, MD Date  
Chair, Health Care Professions Licensing Board

Received by:  01/10/08  
ESTHER S. FLEMING Date  
Governor's Special Assistant for Administration

Filed and Recorded by:  1-15-08  
BERNADITA B. DELA CRUZ Date  
Commonwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 15<sup>th</sup> day of January, 2008.



MATTHEW T. GREGORY,  
Attorney General

0 HCPLB NOPR Proposed Midwives and Mtg Regs.wpd

**Commonwealth I Sankattan Siha Na Islan Mariana  
Kuetpon Malisensian Profesionát Inadahen Hinemlo**

**Norma S. Ada, Kabiseya**  
Caller Box 502078, Saipan, MP 96950  
(1336 Ascension Dr., Capitol Hill)  
Tel.: 670.664.4811 FAX: 670.664.4813  
Email: [mplb@pticom.com](mailto:mplb@pticom.com)

**NOTISIAN PUBLIKU POT MAN MAPROPONE NA  
AREKLAMENTO YAN REGULASION SIHA GI I KUETPON  
MALISENSIAN PROFESIONÁT INADAHEN HINEMLO I  
COMMONWEALTH**

I AKSION NI MA'INTENSION PARA U MA'ADOPTA ESTE MAN MAPROPONE NA AREKLAMENTO YAN REGULASION SIHA: I Commonwealth I Sankattan Siha Na Islan Mariana, gi I Kuetpon Malisensian Profesionát Inadahen Hinemlo ("I Kuetpo"), a intensiona para u adopta I man che'che'ton ni man mapropone na regulasion kumo petmanente, sigun I Ákton I Areklamenton I Atministrasion, lai 1 CMC Seksiona 9104(a). I Kuetpo a intensiona para u adopta kumo petmanente despues de Febreru 1, 2008, yan este na momento man náná'i' menos de trenta (30) diha siha na notisia pot I intension niha. (*id*) I Regulasion siha siempre efektibudies (10) diha siha despues de I inadoptasion. (1 CMC Seksiona 9105(b))

ÁTURIDÁT: I Kuetpo ma'otden ni I Lehislatura para u adopta areklamento yan regulasion siha ni tineteka eyu siha na asunto anai gai' áturidát I Kuetpo (3 CMC Seksiona 2205 (dinanña siha); Seksiona 2206(b) (ma'establesi, ma'amenda, yan/pat madiroga areklamento yan/pat regulasion siha para u ma'atbansa este na Kapitulu yan I propositu siha, a enklusu madefina yan madeskribi I man profesionát inadahen hinemlo siha yan I praktikan niha ni gai asunto ni este na Ákto para I regulasion siha); Seksiona 2206(u), (v) (peña yan marikohen ápas); Seksiona 2206 (aa) (u machogue todú mana siña para u makumple I probension siha gi este na Kapitulu yan I Regulasion siha ni ma'establesi sigun ginen este). Atan henerát, I Ákton Malisensian Profesionát Hinemlo gi 2007, lai 3 CMC Seksiona 2201-36 (2007) (Lai Publiku 15-105). Atan lokkue Otden Eksekatibu 94-3 (efektibu gi Agosto 23, 1994, matalu otganisa I Atministrasion Eksekatibu.)

I SUSTANSIA YAN PALÁBRA SIHA: I Areklamento yan Regulasion siha maprobeniyi maolek na fundamento para I Kuetpo para u makumple yan malaknos yan fan ná'i' notisia. Maprobeniyi lokkue maolek na areklamento, a enklusu areklamenton desiplina. Maprobeniyi peña yan ápas siha. Mamensiona I minetgot yan che'cho' I Kuetpo, areklamenton I Conflict of Interest yan internal administration. Maprobeniyi lokkue kláru na ligát na áturidát para I Kuetpo para u fan danña ya u fanguentus gi bandan ilektrisidát na manera, en ligát de u fan a'fana petsonát, asi kumo siña I pumalu u ma'atiende I dinanña gi I ma'anunsia na lugát dinanña, papa I Ákton I CNMI pot Mababa na Dinanña, I Mababa na Ákton Gobietnamento gi 1992, lai 1 CMC Seksiona 9901, et seq. Gi I regulát na manera uno osino más na membrun I Kuetpo siña ma'atiende I

dinanña gi konfiriensian tilifon na manera, ni I speaker phone gi I madesigna na kuátto para I dinanña. I Areklamento yan Regulasion siha a defina I Dinanña kumo maneran ilektrisidát ya u mana guaha nisisidát siha para I patisipánten I publiku.

I Areklamento yan Regulasion siha lokkue maprobeniyi para I malisensian I pattera (midwives). Este na Areklamento yan Regulasion siha man fine'nina gi I Nuebu na Areklamento yan Regulasion I Kuetpo. Ma'establesi este para I Areklamento yan Regulasion 140 NMIAC 50.3, Pátte' 001 esta Pátte' 9000. Minigaiña gi este na seksiona man mapolu, sin sinaguan gi prisente.

Este na Regulasion siha siempre man makonsidera kumo amendasion siha para I Regulasion I Kuetpo. Este na Amendasion ma'omenta para I Regulasion I Kuetpon Malisensian Profesionát Mediku, 140 NMIAC 50.1-001-9000. I regulasion ni man che'che'ton I Nuebu **Seksionan Kapitulo 140-50.3, Areklamento yan Regulasion Malisensian Profesionát Inadahen Hinemlo.**

I TINETEK NA ASUNTO SIHA: Man Independente, lao ti man a'achule', I rason siha para I ma'establesin este na regulasion siha, kumo:

1. Ma'mensiona I intetno na atministrasion I Kuetpo yan I manera para u mafatinas disision niha.
2. Maprobeniyi na I ofisinan I Kuetpo siempre maditetmina ya u matungo ni Kuetpo.
3. Maprohibi I conflict of interest.
4. Maprobeniyi na I Kuetpo siempre a publika I masiñálana dinanña publiku.
5. Maprobeniyi areklamento siha para I Kuetpo para u makondukta I dinanña yanggen uno osino más na membrun I Kuetpo ti man gaige fisikát. Nisisário este pot rason na gai minakat para u mana afakcha I maolek na diha para u masiñála I hinanáo otru táno' para I membru siha, yan kumplikáo I hinanao yanggen bâba I tiempo. I Areklamento yan Regulasion siha a sedi uno osino más na membrun I Kuetpo para u ma'âgang I ma'anunsia na lugát I dinanña, un praktika ni sesso gi I tano' bisnis.
6. Probeniyi areklamento siha ni konfotma para I ákton I mababa na Dinanña gi CNMI para u ma'asigura na maseha háyi na membru gi I publiku siña ma'atiende I Dinanña I Kuetpo ya u ma'ekungok yan ma'ina todú hafa I membru mahungok yan ina, suheta I dinespansan I Ákto para I session I eksekatibu yan palu siha ni man aplikáble ni lai ni tineteka I konfidensiát osino dilikáo na matiriát. Yanggen guaha uno osino más na membrun I Kuetpo man a'akuentusi gi tilifon, I petsona (siha) ni ma'atietende debi di u makonek siha gi I tilifon osino u ma'ekungok gi I speaker phone gi halom I kuatto. Yanggen mahuhunta I dinanña gi I internet, I mu'atietende debi di u fan gai computer para u mali'e' yan hungok hafa I membrun I kuetpo malili'e' yan huhungok.
7. Maprobeniyi computer para u macomputerize I dinanña ni masusesedi la'apmam na tiempo. Parehu este siha yan I computer bulletin Boards – un petsona munahalom mensahe, I otrú siempre u ineppe despues, guaha nai maloffan diha osino ora siha, yan mas, estaki I text-based interchange madeklára mahuchom.

8. Maprobeniyi areklamento I Kuetpo para maneran ligát siha, a enklusu disiplina I profesionát siha.
9. Matalun mapupblika yan masángan I peñan I Kuetpo siha, sigun I halacha na tinilaika gi ápas siha, kinonsiste I lai 29 gi Rehistran I Commonwealth 9 (gi 9/17/07), páhina 26796-804 (mapropone), 29 gi Rehistran I Commonwealth 11 (11/19/07), páhina 27474 (notisian uttimo na inadoptasion).
10. Probeniyi para spesifiku na lisensia yan regulasion gi uno na disiplina siha anai I Lehislatura a probeniyi I Kuetpo ni I minetgot yan áturidát, pattera. I tinilaika a mensiona: I aplikasion siha, nisisidát I malisensia; tempurário yan mamidi na lisensia; marinueban lisensia; makontinuan I edukasion profesionát; emergency siha; yan disiplina
11. Maprobeniyi henerat na tinilaika para I malisensia yan regulasion I madisiplina siha anai I Lehislatura a probeniyi I kuetpo I minetgot yan áturidát.
  - a. I tinilaika a mensiona: I aplikasion; I nisisidát I malisensia; tempurário yan mamidi na lisensia; marinueban lisensia; makontinuan I edukasion profesionát; emergency siha; yan disiplina.
  - b. I disiplina man sigente: Audologist; Chiropractor; Clinical Social Worker; Clinical Laboratory; Dental Assistant; Dental Hygienist; Dentist; Embalmer; Emergency Medical Technician (EMT); Medical osino Clinical Laboratory Technologist/Technician; Pattera; Occupational Therapist; Optometrist; Paramedic; Pharmacist; Pharmacy; Pharmacy Intern; Pharmacy Tech; Physical Therapist; Physical Therapist Assistant; Physician's Assistant; Physician-Doctor I Osteopathy; Physician-Medical Doctor; Physician-Technologists; Respiratory Therapist; Pathologist Kumentus yan Lengguáhi; un petsona para u probeniyi uno gi I malista na setbisiu gi sanhilo papa otru na ná'an; Un estudiánte para I direct supervision I malisensia. (Ni malista gi lai 3 CMC Seksiona 2212)

KINONFOTMEN I INADOPTASION I ENSIGIDAS NA REGULASION PARA SIENITO-BENTE (120) DIHA SIHA: I Kuetpo matattiyi I areklamenton I lai 1 CMC Seksiona 9104(b) yan (c) para u ma'adopta este Man Mapropone na Regulasion gi ensigidas na manera para sientobente (120) diha siha. I Gubietno a fitma I ensigidas na regulasion gi Disembre 18, 2007. I marekomenda na u malaknos machogue gi sigente diha. I ensigidas na regulasion siha esta pagu efektibu.

DIREKSION PARA U MAPOLU YAN MAPUPBLIKA: I Man Mapropone na Regulasion siha debi di u mapupblika gi Rehistran I Commonwealth gi I seksionan I mapropone yan nuebu na ma'adopta na regulasion (1 CMC Seksiona 9102 (a)(1)) ya u fan mapega gi man konbiniente na lugát gi civic center yan I ofisinan I gobietno gi kada distritun senadot, todú I dos Engles yan I lengguáhen Natibu. (1 CMC Seksiona 9104(a)(1))

PARA U MAPROBENIYI OPINION SIHA: Na hanágue osino entrega I opinion-mu guatu as Florence Sablan, I Atministradora, Attn: Nuebu na Regulasion Profesion Hinemlo, Kuetpon I Malisensian Profesionát Inadahen Hinemlo', gi I mamensiona na address, fax osino email address, ni I titilu "Nuebu na Regulasion Profesionát Inadahen

Hinemlo'". Man uttimo I opinion siha gi halom trenta (30) diha siha despues anai mafecha este na publikasion este na notisia. Pot fabot na halom I infotmasion, opinion osino testamonion kinontra siha. (1 CMC Seksiona 9104(a)(2))

Este man mapropone na regulasion siha man ma'aprueba ni I Kuetpo gi Disembre 19, 2007.

Ninahalom as:  Jan 10, 2008  
Norma S. Ada, MD Fecha  
Kabiseya, Kuepon I Malisensian Profesionat  
Inadahen Hinemlo'

Maresibe as:  01/10/08  
ESTHER S. FLEMING Fecha  
Especiát Na Ayudánten I Gubietno  
para I Atministrasion

Pinelo' yan  
Marikot as:  1-17-08  
BERNADITA B. DELA CRUZ Fecha  
Rehistran I Commonwealth

Sigun I lai 1 CMC Seksiona 2153 (e) (inaprueban I Abugádu Henerát I regulasion siha ni para u establesi pot para u fotma) yan I lai 1 CMC Seksiona 9104(a)(3) (u guaha I inaprueban I Abugádu Henerát) I man mapropone na regulasion siha ni man che'che'ton guine esta man ma'ina yan ma'aprueba pot para u fotma yan ligát suficiente ginen I Abugádu Henerát I CNMI ya debi di u mapubliká, lai 1 CMC Seksiona 2153(f) (publikasion I areklamento yan regulasion siha).

Mafecha este gi mina 15<sup>th</sup> na diha gi Ineru, 2008.

  
MATTHEW T. GREGORY  
Abugádu Henerát

**ARONGOL TOULAP REEL POMWOL ALLÉGH KKAAL SÁNGI  
COMMONWEALTH HEALTHCARE PROFESSIONS LICENSING BOARD**

**AGHIYEGHIL IGHA EBWE FILLÓÓY POMWOL ALLÉGH KKAAL:**

Commonwealth Téél falúw kka falúwasch Marianas, HEALTHCARE PROFESSIONS LICENSING BOARD (“schóóy mwiisch”), re mwuschel ebwe schéschéél filló allégh kka e appasch, bwelle aweweel Administrative Procedure Act, 1 CMC Tálil 9104(a). Schóóy mwiisch rebwe schéschéél fillóóy mwiril Mááischigh 1, 2008 me ebwe ngáleeer eliigh (30) ráálil arong yeel. (Id.) Allégh kkaal ebwe fis llól seigh (10) ráálil mwiril fillóól.

**BWÁNGIL:** Sów fféerúl allégh (Legislature) e ngáleeey bwángil schóóy mwiisch rebwe fiillóóy allégh kkaal bwelle mwóghutul (3 CMC: Tálil 2205 (mwiisch); Tálil 2206(b) (akkaté, ssiweli/me fféer sefál alléghúl me ngáre allégh kka rebwe ghitipwotchw Chapter yeel me pomwoli, ebwal toolong affat me bwáári health care professions me mwoghutughut ye e allegh); Tálil 2206(u),(v) (mwuttal me bweibwoghól óbwós), Tálil 2206 (aa) (fféerú milikka rebwe tabweey aweweel Chapter yeel me allégh kka ebwe akkaté ighila). Amweri, (Alléghúl Toulap ye 15-105). Mwir sáangi Tingóreyal Sów Lemelem 94-3 (Schéschéél ótol Elúwel 23, 1994. ammwelil Executive branch.)

**AWEWEEL ME KKAPASAL:** Allégh kkaal nge e ngáleeey bwángiir schóóy mwiisch rebwe schú me aghiyeghiy me ayoora ammataf. E bwal ngáleeer eghús mwóghutul, e toolong aweweel mwutta . Re ayoora fféerúl óbwós me mwuttal. Re féerú bwángiir me yaar angaang, alléghúl fitighogho, me angaangal llól administration. E ngáleeey bwángiir schóóy mwiisch rebwe mwalili llól tilifoon, mmwal rebwe aschuschu, ngáre schagh anweyút re tabweey mwiisch igha re isali iye, faal CNMI’s open meetings act, Open Government Act llól 1992, 1 Tálil kka 9901, et seq. Schéschéél, escháy me ngáre fitimal schóóy mwiisch rebwe yááyá tilifoon, fengál me speaker phone llól bwuley. Allégh kkaal nge ekke apasa ótol mwiisch sáangi electronics me mweiti ngáli yaar alillis toulap.

Allégh kkaal e ayoorátá lisensial schóóy ammwel (midwives).  
Ikkaal mmwal allégh kka e ffé sáangi schóóy mwiisch.  
E ayoora Allégh kka 140 NMIAC 50.3, peigh 001 mwet ngáli Peigh 9000.  
Essogh tálil kka raa amwalaaló, esáál yoor ótol.

Allégh kkaal nge ebwe aghiyeghi lliwel kkaal sáangi Allúghúl Mwiisch.  
Lliwel kkaal nge rebwe aschu ngáli Alléghúl Medical Professional Licensing Board, 140 NMIAC 50. 1-001 – 9000. Allégh kkaal nge e appasch ngáli **Subchapter 140 ye e ffé-50,3, Health Care Professions Licensing Board Rules and Regulations.**

**KKAPASAL ME AINGIING KKA E FILLONG;** Eyoor milikka weleffatal schagh (independent), igha ese ghol fengál, bwulul igha ebwe akkaté allegh kkaal, bwelle rebwe:

1. Abwáári internal administration llól Board me aweeweel igha rebwe aghiyeghi.

2. Sáangi Bwulasiyool Schóóy mwiisch nge rebwe ghuley sáangi me ebwe tooto mereer Mwiisch.
3. Essóbw yoor fitighogho.
4. Schóóy Mwiisch rebwe ayoora ótol mwiisch.
5. Emmwel ebwe yoor mwiisch ngáre escháy me ngáre fitimal Board rese tabweey mwiisch. Faal akkáaw nge e ghal weires fáaráághiir Board Members, me e weires fáaráágh llól ngówal ráál. Allégh kkaal nge e alisi escháy membro me ngáre fitimal rebwe failing llól bwuleyil mwiisch. Fasúl mwóghutul.
6. CNMI's open meetings act ebwe alúghúlúgh bwe inaanwo iyo meleir toulap ebwe tabweey mwiisch me rong sáangi me ghuley meeta kka board members rekke rongorong me mwóghut ágheli, kkapasal igha executive rese tabweey mwiisch me akkáaw allegh kka e fil bwelle e mwólómól me meeta kka wiiseer. Ngáre escháy me ngáre fitimal membro kka rekke tittilap llól tilifoon, Aramas ye e tabweey ebwe toolong yaal tilifoon me ebwe rongorong sáangi speaker phone mellól bwuley. Ngáre mwiisch e fis mellól internet, emmwel bwe schóóy mwiisch rebwe yááyá computer bwe rebwe rongorong me weri meeta schóóy mwiisch rekke féerú.
7. Ayoora computer bwelle ebwe ischi kkapasal mwiisch ye e láálááy. Milikkaal nge ewey schagh bulletin boards – escháy ebwe isisilong kkapasal, escháy ebwe palawali mwirilóól, emmwel ebwe ghula erál me ngáre fitoow oora, me mweteló mmwal, mille yaal e ssiwel text-based nge aa ffat bwe aa titt.
8. Ayoora bwángiir schóóy mwiisch, e bwal toolong ammwelil angaang
9. Akkaté sefál me fféer sefál óbwóssuur schóóy mwiisch, sáangi óbwós kka aa fféer sefál, bwelle 29 Com. Reg. 9 (9/17/07), pp 26796-804 (pomwol), Com. Reg. 11 (11/19/07), p 27474 (arong reel schéshéél fillóól).
10. Ayoora schéshéél lisensia me ngáre eew allégh ye e tooto mereer Sów fféerúl Allégh (Legislature) iye e ngálleey bwángiir board, schóóy ammwel (midwives). Aweewee yeel nge ekke bwáari: schéél tingór (applications); aweweel lisensia; tempiróriyól me aighúghúl lisensia; fféer sefál lisensial; sóbwólóól abwungubwung; ghitipwotchol; me alléghúl.
11. Ayoora tappal aweewee ngáliir schóóy lisensia me alléghúl disciplines igha Sów fféerúl Allégh (Legislature) e ngálleey bwángiir schóóy mwiisch.
  - a. Aweewee ye ekke bwáari: kkapasal lisensia; tempiróriyól me aighúghúl lisensia fféer sefál lisensial; sóbwólóól abwungubwung; ghitipwotchol; me angaangal..

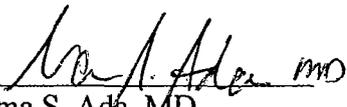
- b. Ikkaal angaangal: Audiologist; Chiropractor; Clinical Social Worker; Clinical Laboratory; Dental Hygienist; Dentist; Embalmer; Emergency Medical Technician (EMT); Medical me Clinical Laboratory Technologist/Technician; Midwives; Occupational Therapist; Optometrist; Paramedic; Pharmacist; Pharmacy; Pharmacy Intern; Pharmacy Tech; Physical Therapist Assistant; Physician's Assistant; Physician-Doctor of Osteopathy; Physician-Medical Doctors; Physician-Medical Officer; Podiatrist; Professional Counselor; Psychologist; Raddiologic Technologist; Respiratory Therapist; Speech me Language Pathologist; Aramas ye e mwir sáangi tappal alillis kka weilang me eew tappal iit; Atel meleitey ye e mwóghutughut faal schóóy lisensia/ ( Aa ischitiw llól 3 CMC Talil kka 2212)

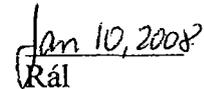
- c. **ALÚGHÚLÚGHÚL FILLÓ REEL GHITIPWOTCHOL ALLÉGH KKAAL LLÓL EBWUGHUW RUWEIGH (120) RÁÁLIL:** Schóóy mwiisch rebwe tabweey aweewee kka 1 CMC Tálil kka 9104(b) me (c) rebwe fillóóy pomwol Allégh kkaal ngáre rebwe ghitipwotchuw llól ebwughúw reweigh (120) raalil. Sów Lemelem aa makkey ghitipwotchol allegh kkaal llól Tumwur 18, 2007. Isisiwowul nge soral laay. Ghitipwotchol allégh kkaal nge aa fis ighila.

**AFALAFAL REEL FILLÓ ME AKKATÉÉL:** Pomwol Allégh kkaal ebwe akkaté llól Commonwealth Register llól tálil kka re pomwoli me fillóól allégh kka aa ffé (1 CMC Tálil kka 9102(a)(1) me appasch igha e fisch iye mellól civic center kkaal me llól bwulasiyool gobenno kkaal llól senatorial district, e weewee schagh llól Amerikkónu me llól kkasal remeraalis/refalúwasch. (1 CMC Tálil 9104(a)(1))

**ISISILONGOL AGHIYEGH:** Afanga me ngáre isisilong yóómw aghiyegh reel Florence Sablan, Samwool.Att; New Health Profession Regs, Health Care Profs Licensing Bd, sáangi address imwu weilang, fax me ngáre email address, sáangi kkapsal "New Health Care Prof Regs". Aghiyegh ebwe ótol eliigh (30) ráálil igha e akkatééwow. Isisilong yóómw data, máfiyómw me aingiingil. (1 CMC Talil 9104(a)(2))

Pomwol allégh kkaal nge aa allégheló mereer Board ótol Tumwur 19, 2007.

Isaliyallong:   
Norma S. Ada, MD  
Samwoolul, Health Care Professional  
Licensing Board

  
Jan 10, 2008  
Rál

Mwir sáangi:   
ESTHER S. FLEMING  
Sów Alillisil Sow Lemelem

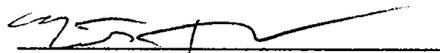
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Rál

Ammwel sáangi:   
BERNADITA DELA CRUZ  
Commonwealth Register

1-15-08  
Rál

Sáangi allégh ye 1 CMC Talil 2153 (e) (Alúghúlúgh reel allégh kkaal ebwe akkatééwow) me 1 CMC Talil 9104(4)(a)(3) (bweibwogh alúghúlúghúl Sów Bwungul Allégh Lapalap) pomwol allégh kka e appasch nge raa takkal amweri fisch mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatééló, 1 CMC Talil 2153(f) (akkatéél allégh kkaal).

Ráálil 15<sup>th</sup> Ilól maramal Schóów, 2008

  
MATTHEW T. GREGORY,  
Sów Bwungul Allégh Lapalap

Commonwealth of the Northern Mariana Islands  
Health Care Professions Licensing Board

Norma S. Ada, Chair  
Caller Box 502078, Saipan, MP 96950  
(1336 Ascension Dr., Capital Hill)  
tel: 670.664.4811 fax: 670.664.4813  
email: xxx

**PUBLIC NOTICE OF EMERGENCY REGULATIONS**  
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF  
THE COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING BOARD

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands, HEALTH CARE PROFESSIONS LICENSING BOARD (“the Board”) finds that:

(1) the attached rules and regulations regarding the licensure of midwives, the Board’s meetings, fees, procedures and discipline, shall be adopted immediately on an emergency basis because the public interest so requires and an imminent peril to the public health, safety, or welfare requires such emergency adoption and effectiveness, for the reasons stated below. (1 CMC § 9104(b), (c); 1 CMC § 91059b)(2))

(2) the same rules and regulations shall be adopted as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC § 9104(a).

**AUTHORITY:** The Board is empowered by the Legislature to adopt rules and regulations regarding those matters over which the Board has jurisdiction (3 CMC: § 2205 (meetings); § 2206(b) (promulgate, amend, and/or repeal rules and/or regulations to advance this Chapter and its purposes, including define and describe the health care professions and their practice which this Act makes subject to regulation); § 2206(u), (v) (charge and collect fees), § 2206 (aa) (do all other things necessary to carry out the provisions of the Chapter and the regulations promulgated pursuant thereto). *See, generally*, the Health Professions Licensing Act of 2007, 3 CMC §§ 2201-36 (2007) (Public Law 15-105).) *See also* Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days’ notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days’ notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be

effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. . . .

1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** These Rules and Regulations provide for the immediate licensure of midwives who have previously practiced in the CNMI.

They also provide the basic framework for the Board to meet and deliberate and give notice. They also provide for basic procedures, including disciplinary procedures. They provide for fees and charges. They recite the Board's powers and duties, a conflict of interest policy, and procedures for internal administration. They also provide clear legal authority for the Board to meet "virtually", rather than in person, as long as others may attend the meeting fully at the announced meeting site, under the CNMI's open meetings act, the Open Government Act of 1992, 1 CMC § 9901, et seq. Typically one or more Board members would attend through a telephone conference, with a speaker phone in the designated meeting room. The Rules and Regulations define the virtual meeting and set out the requirements for public participation.

These Rules and Regulations are the first of the Board's new Rules and Regulations. These create Rules and Regulations 140 NMIAC 50.3, Part 001 through Part 9000. Many of the sections are reserved, with no content presently.

These Regulations shall also be deemed amendments to the the Board's Rules and Regulations. These amendments add to the Regulations of the Medical Profession Licensing Board, 140 NMIAC 50.1-001 - 1270. The rules and regulations are the attached new **Subchapter 140-50.3, Health Care Professions Licensing Board Rules and Regulations.**

**THE SUBJECTS AND ISSUES INVOLVED:** There are independent, but related, reasons for the promulgation of these regulations, as they:

1. Address the internal administration of the Board and its procedures for making decisions.
2. Provide that the Board's office will be determined and made known by the Board.
3. Prohibit conflicts of interest.
4. Provide that the Board will publish its schedule of regular meetings.
5. Provide procedures for the Board to conduct its meetings when one or more of the Board members is not physically present. This is necessary because of complexities of

the travel schedules of the Board members, and the difficulties of travel in bad weather. The Rules and Regulations allow one or more of the members to call in to the announced meeting place, a practice common in the business world.

6. Provide procedures that conform to the CNMI's open meetings act to insure that any member of the public may attend a Board meeting and hear and view everything that every Board member can hear and view, subject to the Act's exceptions for executive sessions and other applicable law regarding confidential or proprietary material. If one or more Board members are communicating by telephone, the person(s) attending must either be connected through a telephone set or be able to listen to a speaker phone in the room. If the meeting is through the internet, the attendees must have access to a computer to see and hear what the Board members see and hear.

7. Provide for computer access to computerized meetings that happen over a longer time period. These are similar to computer bulletin Boards – one person posts a message, another responds later, sometimes days or hours later, and so on, until the text-based interchange is declared closed.

8. Provide for the Board's litigation procedures, including discipline of professionals.

9. Republish and restate the Board's fees, per the recent revision of fees, pursuant to 29 Com. Reg. 9 (9/17/07), pp 26796-804 (proposed), 29 Com. Reg. 11 (11/19/07), p 27474 (notice of final adoption).

**10. Provide for the immediate licensure and regulation of one of the disciplines over which the Legislature has provided the Board with power and authority: midwives.** The provisions address: applications; criteria for licensing; temporary and limited licensing; emergencies; and discipline.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The Board has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASONS FOR EMERGENCY ADOPTION:** The Board finds that the public interest requires adoption of these regulations on an emergency basis and that an imminent peril to the public health, safety, or welfare requires the emergency adoption, for the following reasons:

1. CHC lacks enough midwives or other support personnel to deliver all the babies presently anticipated for delivery. Midwives are key health care professionals who deliver babies in the CNMI, and CHC has had excellent experience for years with its Fijian-trained midwives. Nurses are not necessarily substitutes for midwives because they are not automatically trained, or automatically competent, to deliver babies. There are a very limited number of physicians available to deliver babies in the CNMI, and, because they perform many other medical functions, their time is limited for this set of

tasks.

2. The first day that CHC projects that **no** midwife will be in service without bringing in additional personnel is December 23, 2007. Presently there are 3 Saipan-based midwives available to CHC. There are 3 more Fijian midwives who are willing to return to Saipan from Fiji immediately. They have a combined history of decades providing excellent service to CHC. They had to leave because they were classified as nurses and had failed to secure NCLEX certification. But the Board, as a non-nursing regulator, does not require the passage of the written NCLEX to support licensure for midwifery.

3. In order for the Board to function, and, among other things, license these midwives, it must have in place regulations that govern its procedures, including meetings, communications, fees and discipline. While one may argue that the pre-existing Medical Practice Act regulations continue by necessity, it is appropriate and necessary to eliminate any doubt regarding the propriety of the midwife licensure by adopting the more general regulations on an emergency basis.

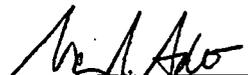
**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

The Board shall take appropriate measures to make these Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

**IMMEDIATE EFFECT:** These emergency regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the Board has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

TO PROVIDE COMMENTS: Please see the accompanying notice regarding these emergency regulations also being presented as proposed regulations.

These proposed regulations were approved by the Board on December 13, 2007.

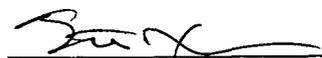
Submitted by:  Dec. 17, 2007  
NORMA S. ADA Date  
Chair, Health Care Professions Licensing Board

Concurred by:  \_\_\_\_\_  
BENIGNO R. FITIAL Date  
Governor

Filed and Recorded by:  12-19-07  
BERNADITA B. DE LA CRUZ Date  
Commonwealth Register

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 17<sup>th</sup> day of December, 2007.

  
MATTHEW T. GREGORY,  
Attorney General

0 HCPLB NOPR Emergency Midwives and Mtg regs.wpd

1 Commonwealth of the Northern Mariana Islands

2  
3 Northern Mariana Islands Administrative Code Title 140  
4 Office of the Governor

5  
6 Chapter 50.3 - Commonwealth Health Care Professions Licensing Board Regulations

7  
8 Chapter Authority: 3 CMC § 2206(b); PL 15-105, Section 3, § 2206(b), as amended.

9  
10 Regulation History: PL 15-105 (effective when approved by Governor Benigno R. Fitial, November 7, 2007), the "Health Care  
11 Professions Act of 2007," 3 CMC §§ 2201-36. The Act created a Health Care Professions Licensing Board, as an independent  
12 regulatory agency, without placing it in a Department. The Board is authorized to license health care professionals in the  
13 Commonwealth, establish standards for educational programs, administer exams, and to discipline licensees for violations of the act.  
14 See PL 15-105. 3 CMC § 2206(b), which empowers the Board to adopt rules and regulations consistent with the Act and  
15 necessary to carry out the Act's provisions.

16  
17 [Comment on numbering outline format: The hierarchy /outline is as follows, from top to bottom: Title; Chapter; Part 001-2500; Section  
18 x01-x99, where "x" is the Part's first digit(s); (a); (1); (i); (A). The numbering for the title and chapter generally follow the format set out  
19 in the pocket part to volume 1 of the Northern Mariana Islands Administrative Code. Citations are to PL 15-105, as amended.]

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47	§ 140-50.3- 004700	<b>PART 4700. Psychologist. [reserved].</b>	<u>Page 35 of 35</u>
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49	§ 140-50.3- 004800	<b>PART 4800. Radiologic Technologist. [reserved].</b>	<u>Page 35 of 35</u>
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51	§ 140-50.3- 004900	<b>PART 4900. Respiratory Therapist. [reserved].</b>	<u>Page 35 of 35</u>
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53	§ 140-50.3- 005000	<b>PART 5000. Speech and Language Pathologist. [reserved].</b>	<u>Page 35 of 35</u>
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1 § 140-50.3- 005100 **PART 5100. A person providing one of the above-listed services under a different name.**  
2 **[reserved].....** Page 35 of 35  
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4 § 140-50.3- 005200 **PART 5200. A student under the direct supervision of a licensee. [reserved]**  
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7 § 140-50.3- 005300 **PART 5300. [reserved].....** Page 35 of 35  
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9 § 140-50.3- 005400 **PART 5400. [reserved].....** Page 35 of 35  
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11 § 140-50.3- 005500 **PART 5500. [reserved].....** Page 35 of 35  
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15 § 140-50.3- 006000 **PART 6000. Reserved.....** Page 35 of 35  
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19 § 140-50.3- 008000 **PART 8000. Reserved.....** Page 35 of 35  
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21 § 140-50.3- 009000 **PART 9000. Reserved.....** Page 35 of 35  
22

23 [Comment: The Table of Contents is not part of the regulation, but is placed here for the convenience of the reader.]  
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§ 140-50.3- 001      **PART 001. Reserved.**



§ 140-50.3- 00100      **PART 100. General Provisions**

§ 140-50.3- 00101      **Currency of these regulations and transition.**

§ -101- 001      These regulations are intended to be current through the cutoff date for the CNMI Register Volume 29 No. 12 (Dec. 2007). They include all Board regulations, including (for the convenience of the reader) those previously adopted. For the purposes of transition during 2007 and 2008, they do not repeal the previous regulations of the Medical Profession Licensing Board, unless there is a conflict between the two sets of regulations.

§ -101- 002      For the transition period between the application of the old Medical Practice Act and the new Health Care Professions Licensing Act, specifically until new applicable regulations are promulgated, each practicing member of each profession over which the Board has jurisdiction shall be deemed practicing with a license until regulations are promulgated for the respective profession and an indicated re-licensing application period has ended, or until the Board acts to suspend, modify, revoke or otherwise affect a license, whichever comes first.



§ 140-50.3- 00102      **History.**

- (a) History is not part of the operative language of the Regulation, and is included by the Board for the convenience of the reader.
- (b) The Board shall attempt to publish a brief history with each change to these regulations, identifying date and Commonwealth Register citation for the change.
- (c) The history is:
  - (1) Health Care Professions Licensing Act of 2007 signed by Governor Benigno R. Fitial, November 7, 2007, 4 CMC §§ 2201-2236, PL 15-105.
  - (2) Meetings, procedure, definitions, regulation, licensing, fees, discipline, appeals, other general, and midwives:
    - (i) Emergency Regulations were adopted by resolution of the Health Care Professions Licensing Board on December 13, 2007, approved by the Governor on December 14, 2007.
    - (ii) The emergency regulations were published in the Commonwealth Register, Vol. 29, No.12 (12/xxx/2007), pp xxx, and then as proposed regulations in the Commonwealth Register, Vol. 30, No.01 (01/xxx/2008), pp xxx.
    - (iii) Final regulations were promulgated by publication in the Commonwealth Register Vol. 30, No. 3 (3/xxx/2007).



1 of the contents thereof.

2

3 

4 § 140-50.3- 00109 **Seal.**

5

6 The Board shall have a seal and shall provide for its use.

7

8 

9 § 140-50.3- 00110 **Authority of Officers and Committees.**

10

11 (a) All officers, as between themselves and the Board, shall have such authority, and perform such  
12 duties, as may be provided by or pursuant to resolution or order of the Board, or, in the absence  
13 thereof, as may be determined from these regulations.

14

15 (b) An Executive Committee, consisting of the Chair, Vice-Chair, and the Secretary or the Treasurer  
16 shall have the power to act on behalf of the Board between Board meetings as follows:

17

18 (1) In emergencies;

19 (2) Where Board action is required on a ministerial act and convenience requires that the  
20 action be taken; and

21 (3) Other actions where Board action is required but it is unreasonable to schedule and  
22 conduct a Board meeting;

23 (4) Provided that no such action shall violate the Open Meetings Act, 1 CMC §§ 9901-16.

24

25 (5) Exception: The Executive Committee shall not have any power or authority as to the  
26 following:

27

28 (i) The adoption, amendment or repeal of these regulations.

29 (ii) The amendment or repeal of any resolution or decision of the Board.

30 (iii) Vacating or discharging Board members.

31

32 (6) The Executive Committee shall meet from time to time, as the Chair requires.

33

34 (7) The meetings of the Executive Committee may be conducted by electronic means, and  
35 shall be noticed to the Board with instructions on how to attend a meeting, if by electronic  
36 means.

37

38 (8) Any Board member shall have the right to attend a meeting of the Executive Committee.

39

40 (c) Standing Committees. The Board, or the Chair with the Board's subsequent approval, may  
41 determine and create such standing committees as it finds reasonable or necessary; and it shall  
42 determine the duties and responsibilities of each standing committee.

43

44 (d) Special Committees. The Board or the Chair, respectively, may determine and create such  
45 special committees as they find reasonable or necessary.

46

47 

48 § 140-50.3- 00111 **Operations, staff and contractors.**

49

50 (a) The Board may enter into such contracts, leases, licenses, and other agreements as it may  
51 determine necessary for the conduct of its affairs.

52

53 (b) The Board may employ such staff, agents and contractors, except as provided otherwise  
54 specifically by statute or in these regulations, to assist in the performance of its duties, and pay  
55 salaries, costs and expenses.

- 1  
2 (c) The Board may appoint a chief operating officer.  
3  
4 (1) Such person may be an employee or a contractor.  
5  
6 (2) Such person shall serve ex officio on all committees, without vote.  
7  
8 (3) Such person shall attend the meetings of the Board and may attend committee meetings,  
9 and shall make recommendations to the Board.  
10  
11 (4) Except as otherwise provided by law, the Board may furnish a bond for the executive  
12 officer and other staff, the cost of which bond shall be paid by from among the Board's  
13 funds.  
14  
15 (5) Such person may be called "Administrator" or "Executive Director".  
16  
17 (d) The Board may collect, receive and disburse funds as provided by law, and may delegate such  
18 functions to its chief operating officer.  
19  
20

21 § 140-50.3- 00112 **Advisory Committees.**  
22

23 The Board may, for the purpose of obtaining technical expertise and public input, appoint advisory committees of non-  
24 Board-members to provide advice and assistance related to the Board's functions. Such committees shall act only in an  
25 advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized  
26 to report findings and/or make recommendations from any investigation, deliberation or hearing.  
27  
28

29  § 140-50.3- 00113 **Conflict of Interest.**  
30  
31

- 32 (a) No member of the Board, or any business in which a Board member or her/his immediate family  
33 serves as staff, officer, owner or director, or by contract represents, shall transact any pecuniary  
34 business of any kind with the Board, unless the following preconditions are met:  
35  
36 (1) Notification to all Members in advance, in writing, or by oral notification to the Members in  
37 a meeting at which the notification is transcribed and placed in the minutes of the Board,  
38 of his/her potential business or personal interest in the transaction; and  
39  
40 (2) The Member abstains from Board vote regarding the transaction; and  
41  
42 (3) The vote of each Member is recorded.  
43  
44 (b) Loans to Officers and Members Prohibited.  
45  
46 (1) No loans shall be made by the Board to its Members or to members of their immediate  
47 families.  
48  
49 (2) The Members who vote for, or assent to, the making of a loan to a Member, and any  
50 officer of officers participating in the making of such loan, shall be jointly and severally  
51 liable to the Board for the amount of such loan until the repayment thereof, and their  
52 action shall not be subject to indemnification.  
53  
54 (3) Exception: The following undertaken on behalf of, or for the benefit of, the Board shall not  
55 be a loan within the meaning of these regulations:

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- (i) An advance related to participating in a conference, meeting or other event.;
- (ii) An advance for a filing with a government agency or membership organization; or
- (iii) An advance made pursuant to an indemnification.

§ 140-50.3- 00114      **Purpose.**

The purpose of these regulations is to promote and protect the public interest, and the health, safety and welfare of the people of the Commonwealth, by implementing the provisions of the CNMI's Health Care Professions Licensing Act of 2007, which provide, among other things, for the issuance and renewal of licenses for the health care professionals listed in 3 CMC § 2212(a) - (hh), and such other duties and powers as are set out in that Act.

§ 140-50.3- 00200      **PART 200. Administration and Conduct of Meetings**

§ 140-50.3- 00201      **Business meetings.**

- (a) The Board shall conduct its affairs at its meetings.
- (b) All meetings of the Board shall be open and public, as provided by law.
- (c) A majority of the Board shall constitute a quorum for the transaction of any business at any meeting of the Board.
- (d) Notice to the members of regular meetings shall be given at least seven days in advance by the Chair or, upon the Board's designation, by the Chair, Acting Chair or executive officer.
- (e) Notice of meetings may be waived in writing either before or after the meeting by unanimous consent of all members.
- (f) Ordinarily, the Board shall meet at the call of the Chair or the executive officer, but not less than twice each year.
- (g) Any two members of the Board may call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.

§ 140-50.3- 00202      **Executive session.**

- (a) The Board may hold executive sessions as provided by law.
- (b) Specifically, and without limitation, the Board may deliberate in executive session:
  - (1) on the decision to be reached upon the evidence introduced in a quasi-judicial proceeding;
  - (2) on personnel matters;
  - (3) on litigation;
  - (4) on matters related to individual tests; and
  - (5) to prepare, approve, grade, or administer examinations.

- 1 § 140-50.3- 00203 **Notice.**  
2  
3 (a) Notice to the members shall be given in any way, including by electronic means, reasonably  
4 calculated to give actual notice. When actual notice may not be given, notice shall be given by US  
5 Postal Service, first class mail, and shall be deemed given when mailed.  
6  
7 (b) Notice to the public shall be given as provided by statute.  
8  
9

10 §  
11 § 140-50.3- 00204 **Robert's Rules of Order.**  
12

13  
14 Meetings of the Members shall be conducted according to Robert's Rules of Order, most recent revision, unless:

- 15  
16 (a) otherwise specified in these Regulations, or otherwise by law; or  
17 (b) the Rules are suspended pursuant to a vote of two-thirds (2/3) of those present and voting.  
18  
19

20 § 140-50.3- 00205 **Reserved**

21 § 140-50.3- 00206 **Reserved**  
22

23 § 140-50.3- 00207 **Public Meetings.**  
24

- 25 (a) In general.  
26  
27 (1) The Board shall act at its meetings, or as otherwise provided in these Regulations.  
28 (2) The Board shall make provision for the attendance by electronic means of Members, if a  
29 Member so requests.  
30 (3) Meetings shall be noticed as required by law.  
31 (4) A copy of meeting materials distributed to the Members shall be available to any person  
32 for review at the meeting site, except for materials subject to confidentiality or privilege as  
33 permitted or required by law.  
34  
35 (b) Time. The time for the regular meetings of the Board shall be set by the Board each year and  
36 published, except as otherwise permitted or provided by law.  
37  
38 (c) Location.  
39  
40 (1) Meetings shall be held at such place as the Chair may determine unless otherwise  
41 provided by the Board, and the location shall be properly noticed to the public.  
42 (2) The Board may meet by electronic means, and any Member may attend a meeting by  
43 electronic means.  
44 (3) When the Board meets by electronic means, access to the meeting shall be freely given  
45 through the noticed site so that any person attending shall have the same access to the  
46 meeting as each attending Member at the site. Typically this will include use of a speaker  
47 phone for a conference call meeting.  
48 (4) Votes of Members may be received by electronic means and announced at a meeting.  
49  
50 (d) Regular Meetings. Regular meetings shall be held as determined by the Board's regulations and  
51 as additionally determined by the Board.  
52  
53 (e) Special Meetings. Special meetings may be held from time to time, as deemed necessary, and  
54 shall be duly noticed.

- 1  
2 (f) Executive Session. Ordinarily the Board's meetings shall be open to the public. The Board may  
3 meet privately, in Executive Session, for the following purposes:  
4  
5 (1) To discuss personnel matters, including the hiring, firing and discipline of staff and/or  
6 contractors;  
7 (2) To discuss pending or potential litigation or investigations;  
8 (3) To deliberate as a quasi-judicial body, particularly with respect to discipline;  
9 (4) To discuss aspects of the Board's business affairs that are confidential and/or proprietary  
10 by law;  
11 (5) To address a matter that may give rise to a conflict of interest, or an appearance of a  
12 conflict, in the absence of the Member(s) related thereto; and  
13 (6) To address other matters permitted by law.  
14  
15 (g) Discussions by electronic means.  
16  
17 (1) The Board may discuss a matter by electronic means over time, as well as in real time,  
18 provided that access to the discussion shall be freely given so that a person seeking to  
19 review the discussion as it happens shall have substantially the same access to the  
20 discussion as each participating Member.  
21 (2) Typically such a discussion shall be by electronic bulletin board open to the view of the  
22 public.  
23 (3) Such discussion shall be noticed according to these regulations and shall comply with  
24 CNMI law regarding open meetings.  
25 (4) The Board shall arrange for a person, upon reasonable request, the reasonable use of a  
26 publicly-available computer with internet access in order to allow review of the discussion.  
27  
28 (h) Accessibility. The Board shall comply with the accessibility requirements required by law and  
29 may, upon a person's request to accommodate other special needs relating to sight, sound,  
30 language or location.  
31  
32

33 (This section is adopted pursuant to 1 CMC § 9908(a) (times and places of meeting) and 3 CMC § 2205 (meetings;  
34 meetings by electronic means.)  
35  
36

37  § 140-50.3- 00300 **PART 300. Definitions**  
38

39 § 140-50.3- 00301 **Definitions.**  
40

41  
42 For the purposes of this Chapter, and the administration and/or interpretation of the Act, the following terms shall be  
43 defined as set forth in 3 CMC § 2202:  
44

- 45 (a) Board;  
46 (b) Board Fund;  
47 (c) Commonwealth;  
48 (d) Doctor;  
49 (e) Electronic means;  
50 (f) Health care profession;  
51 (g) Health care professional;  
52 (h) License;  
53 (i) Licensee;  
54 (j) Licensure;  
55 (k) Medical Profession Licensing Board;

- 1 (l) Person;
- 2 (m) State;
- 3 (n) RULES OF CONSTRUCTION.

4  
5  § 140-50.3- 00302 **Additional definitions.**

7  
8 For the purposes of this Chapter, and the administration and/or interpretation of the Act, the following definitions shall  
9 apply:

- 10
- 11 (a) "Act" or "Health Care Professions Act" means the Health Care Professions Licensing Act of 2007,  
12 PL 15-105, as amended and codified.
- 13
- 14 (b) "By electronic means", when used with respect to a meeting, means by electronic means that  
15 provide for real-time communication to and from the participants in such a manner that each  
16 participant can hear and/or read the comments of each other participant.
- 17
- 18 (c) "CBT" means Computer Based Test, and applies to a testing center for delivering an examination.
- 19
- 20 (d) "CPE" means Continuing Professional Education, and includes continuing medical education,  
21 dental education, and other types of continuing health care professional education, as the context  
22 indicates.
- 23
- 24 (e) "Delivered" or "Presented" means:  
25
  - 26 (1) delivered in person;
  - 27 (2) deposited in the United States mail, first class or express postage prepaid, or with Federal  
28 Express, DHL, UPS or similar carrier, postage paid or guaranteed;
  - 29 (3) emailed, and an email acknowledging receipt is generated by the recipient, and not  
30 merely automatically by the recipient's machine; or
  - 31 (4) faxed, and a memo generated automatically by the sending fax machine or fax modem  
32 that the fax was received.
- 33
- 34 (f) "Direct supervision" means the physical presence of the licensed professional who is supervising  
35 the licensee.
- 36
- 37 (g) "Electronic means" includes telephone, video-conference, electronic-telecommunications-  
38 mediated written, aural and/or video means, including mediated through the internet and/or email.
- 39
- 40 (h) "Firm" shall also include a limited liability company or partnership.
- 41
- 42 (i) "Jurisdictional Testing Center" means a high security CBT center operated by the Board or its  
43 designee, for the purpose of delivering an examination in computer format.
- 44
- 45 (j) "Manager" means the same as the term "manager" in a limited liability company.
- 46
- 47 (k) "Member", when used to refer to a person in a professional health care firm or other business,  
48 means the same as the term "member" in a limited liability company or partnership.
- 49
- 50 (l) "Rule" means a rule, regulation, or other written directive of general application duly adopted by  
51 the Board, including "regulation" as defined in the Administrative Procedure Act, 1 CMC § 9101(k).
- 52
- 53 (m) "Patient", as used in any context in this Chapter, means a person for whom health care  
54 professional services are performed or to whom health care products or services are sold or

- 1 provided at the site of a health care professional's practice or through referral to another location  
 2 or business in which the health care professional has a material interest.  
 3  
 4 (n) "Signature" or "Signed": The term includes a hard copy or an electronic communication that bears  
 5 the hallmark of legitimacy, including original hard copy, xerox of an original, fax copy, electronic  
 6 signature through use of a digital code, and an electronic copy of a signature if separately  
 7 confirmed as true and correct.  
 8  
 9 (o) "State" includes a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin  
 10 Islands, Guam and the CNMI.  
 11  
 12 (p) "Writing" means handwriting, printing, typing, lithography and other methods of reproducing words  
 13 in a visible form. This includes hard copy, and communications by electronic means, including  
 14 such electronic formats as fax, email, pdf format and word processing formats which are generally  
 15 commercially available.  
 16  
 17

18  § 140-50.3- 00400 **PART 400. Professional Conduct and Ethics Rules.**

21 § 140-50.3- 00401 **Obligation to follow the rules.**

- 23 (a) A licensee shall follow the Board's rules of professional conduct.  
 24  
 25 (b) Every applicant for a license shall subscribe to the Board's rules of professional conduct on a form  
 26 supplied by the Board.  
 27  
 28

29 § 140-50.3- 00402 **Reference to the rules on Board forms.**

31 The Board's rules of professional conduct shall be identified on the application for a license or other registration.  
 32  
 33

34 § 140-50.3- 00403 **Adoption of Professional Bodies' Rules of Conduct - reserved.**

- 36 (a) The Board hereby adopts as its rules of professional conduct those published by the professional  
 37 bodies identified in the following Parts, *infra*, addressing the professions which the Board  
 38 regulates. Those Rules shall be known, respectively, as the CNMI [name of health profession]  
 39 Rules of Professional Conduct. Those professional conduct rules are included herein by  
 40 reference, and shall have the full force and effect of regulations of this Board.  
 41  
 42 (b) Each of the CNMI Health Professions' Codes of Professional Conduct is promulgated for the  
 43 purpose of maintaining high standards of professional conduct by those licensed by and otherwise  
 44 registered with the Board.  
 45  
 46 (c) It is the Board's purpose and intent that amendments which the referenced professional  
 47 organizations adopt to their Codes of Professional Conduct shall be automatically adopted herein.  
 48  
 49 (1) The amendments which each of the named professional organizations adopts to its Code  
 50 of Professional Conduct shall be automatically adopted herein.  
 51  
 52 (2) If a court of competent jurisdiction finds, or would find, that the Board may not  
 53 automatically adopt such amendments by reference, the Board shall consider each  
 54 amendment which the referenced organization adopts to its Code of Professional

1 Conduct and, after publication of notice thereof, issue an order adopting it, adopting it with  
2 changes, or declining to adopt the amendment.  
3

- 4 Ⓜ  
5 § 140-50.3- 00500 **PART 500. Education Requirements, Examinations.**  
6  
7 § 140-50.3- 00501 **Accreditation.**  
8  
9 (a) Semester hour. A "semester hour" means the conventional college semester hour. Quarter hours  
10 may be converted to semester hours by multiplying them by two-thirds.  
11  
12 (b) Accreditation. "Accreditation" refers to the process of quality control of the education process.  
13  
14 (c) [reserved]  
15  
16 Ⓜ  
17 § 140-50.3- 00502 **Education Requirements [reserved].**  
18  
19 Ⓜ  
20 § 140-50.3- 00503 **Applications for Examinations, General.**  
21  
22  
23 Ⓜ  
24 § 140-50.3- 00504 **Type, Time and Place of Examinations [reserved].**  
25  
26 § 140-50.3- 00505 **Examination content. [reserved]**  
27  
28 § 140-50.3- 00506 **Determining and Reporting Examination Grades. [reserved]**  
29  
30 Ⓜ  
31 § 140-50.3- 00507 **Candidate Testing Fee. [reserved]**  
32  
33 Ⓜ  
34 § 140-50.3- 00508 **Cheating**  
35  
36 (a) Cheating by a candidate in applying for, taking, during or subsequent to the examination shall  
37 invalidate each grade earned by a candidate, and may warrant summary expulsion from the test  
38 site and disqualification from taking the examination for a specified period of time.  
39  
40 (b) The following actions or attempted activities, among others, may be considered cheating:  
41  
42 (1) Falsifying or misrepresenting educational credentials or other information required for  
43 admission to the examination;  
44  
45 (2) Communication with others inside or outside the test site while the examination is in  
46 progress;  
47  
48 (3) Copying another candidate's answers while the examination is in progress;  
49  
50 (4) Substitution of another person to sit in the test site in the stead of a candidate;  
51  
52 (5) Reference to crib sheets, textbooks or other material or electronic media (other than that  
53 provided to the candidate as part of the examination) inside or outside the test site while  
54 the examination is in progress;

- 1  
2 (6) Violating the nondisclosure prohibitions of the examination, or aiding or abetting another  
3 in doing so; and/or  
4  
5 (c) In a case where it appears that cheating has occurred or is occurring, the Board or its  
6 representatives may either summarily expel the candidate involved from the examination or move  
7 the candidate to a position in the test center away from other examinees where the candidate can  
8 be watched more closely.  
9  
10 (d) In a case where the Board believes that it has evidence that a candidate has cheated on the  
11 examination, including a case in which the candidate has been expelled from the examination, the  
12 Board shall conduct an investigation and may conduct a hearing pursuant to the Administrative  
13 Procedure Act for the purpose of determining whether or not there was cheating, and if so what  
14 remedy should be applied. In such a proceeding, the Board shall decide:  
15  
16 (1) Whether the candidate shall be given credit for any portion of the examination completed  
17 in that session; and  
18  
19 (2) Whether the candidate shall be barred from taking the examination and if so, for what  
20 period of time.  
21  
22 (e) In a case where the Board or its representative permits a candidate to continue taking the  
23 examination, it may, depending on the circumstances:  
24  
25 (1) Admonish the candidate;  
26  
27 (2) Seat the candidate in a segregated location for the rest of the examination;  
28  
29 (3) Keep a record of the candidate's seat location and identifying information, and the names  
30 and identifying information of the candidates in close proximity of the candidate, and notify  
31 the appropriate testing organization or professional organization so that the candidate  
32 may be more closely monitored in future examination sessions.  
33  
34 (f) In a case in which a candidate is refused credit for any part of an examination taken, disqualified  
35 from taking any part of a test, or barred from taking the examination in the future, the Board shall  
36 provide to the corresponding board of each other state to which the candidate may apply for the  
37 examination information as to the Board's findings and actions taken.  
38

39   
40 § 140-50.3- 00509 **Security and Irregularities**  
41

42 Notwithstanding any other provision of these regulations, the Board may postpone scheduled examinations, the release of  
43 grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of  
44 the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an  
45 examination; or for any other reasonable cause or unforeseen circumstance.  
46

47  
48   
49 § 140-50.3- 00600 **PART 600. Issuance and Renewal of Licenses, Continuing Professional Education.**  
50

51 § 140-50.3- 00601 **Identification as a licensee.**  
52

53 No one shall practice as a claimed licensee of the Board unless they shall have a license, certificate or permit issued and  
54 maintained pursuant to these Regulations and the Act.  
55

1 § 140-50.3- 00602

**Applications for a license. [§ 2221]**

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- (a) An application for an initial license and for renewal of a license pursuant to the Act shall be made on a form provided by the Board.
- (b) The Board shall notify every licensee at least twelve (12) weeks, eighty-four (84) days, before license expiration. The notice shall state the date of expiration and the fee and any additional requirements for the renewal thereof. Ordinarily, the Board's notice shall be by electronic means.
- (c) An application for renewal, shall be filed no closer than eight (8) weeks, fifty-six (56) days, before the expiration date of the current license, or prior to the expiration date set by these Regulations. The Applicant shall ordinarily file electronically.
- (d) Applications shall not be considered filed until the applicable fee prescribed in the Regulations is received. If an application for renewal is filed late, the delinquency fee prescribed in the Regulations shall also accompany it. The Board will try to arrange for electronic payment.
- (e) Applications for renewal of a license shall be accompanied by evidence satisfactory to the Board that the applicant has complied with the continuing professional education requirements under the Act and these Regulations.



§ 140-50.3- 00603

**Experience required for initial license. [reserved]**



§ 140-50.3- 00604

**Evidence of applicant's experience; evidence from other licensees.**

- (a) Another licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so shall, upon request of the Board, explain in writing or in person the basis for such refusal.
- (b) The Board may require a licensee who has furnished evidence of an applicant's experience to substantiate the information.
- (c) An applicant may be required to appear before the Board or its representative to supplement or verify evidence of experience.
- (d) The Board may inspect documentation relating to an applicant's claimed experience.



§ 140-50.3- 00605

**Continuing professional education requirements.**

- (a) Each licensee must comply with the continuing professional education requirements stated in the Part of these Regulations specific to the profession.
- (b) The default reporting period for CPE shall be two (2) calendar years, with the report due by March 1 of the year following the close of the reporting period.
- (c) Percentage of the credits. If a licensee's license is granted part way through the year, the number of CPE credits shall be prorated. For instance, if a licensee is licensed on July 21, s/he will be responsible for 6/12 of the year's credits.
- (d) An non-active applicant seeking renewal of a license, from other than inactive status, shall show that the applicant has completed within the preceding 24 months no less than the number of credit

1 hours of continuing professional education required for one year for a licensed professional,  
2 pursuant to the Part of these regulations specific to the profession.

- 3  
4 (e) An applicant whose certificate has lapsed shall complete no less than the number of hours of CPE  
5 required by these Regulations during the three-year period preceding the date of reapplication.  
6 An applicant whose license has lapsed may be required to identify and complete a program of  
7 learning designed to demonstrate the currency of the applicant's competencies directly related to  
8 his or her profession and area of concentration.  
9  
10 (f) A licensee granted inactive status shall not be required to complete the continuing education  
11 requirements specified for an active licensee.  
12  
13 (g) Of the hours of continuing education specifically required for the professional, at least four (4)  
14 hours in every two (2) years must be in ethics. The course/s must include core values, such as  
15 ethical reasoning, integrity, objectivity, and independence.  
16  
17 (h) The continuing education requirement may be met in the CNMI or outside of the CNMI, via live  
18 attendance or through electronic means.  
19



21 § 140-50.3- 00606

**Programs qualifying for continuing professional education credit.**

- 22  
23 (a) Standards. A program qualifies as acceptable continuing professional education if it is a program  
24 of learning which contributes to the growth in the professional knowledge and professional  
25 competence of a licensee. The program must meet the minimum standards of quality of  
26 development, presentation, measurement, and reporting of credits acceptable to the Board.  
27 Ordinarily, a program sponsored by, or accepted by, the licensee's national professional  
28 organization or another state board will be acceptable to this Board.  
29  
30 (b) A continuing education credit hour is a 60-minute hour. If the licensee attends a program and  
31 leaves for more than six minutes (one-tenth of an hour), s/he shall deduct the portion of the hour  
32 missed.  
33



35 § 140-50.3- 00607

**Reporting continuing professional education and keeping records.**

- 36  
37 (a) Report format.  
38  
39 (1) At the completion of each reporting period a licensee shall file with the Board a sworn,  
40 signed statement, as follows:  
41  
42 "Declaration: I swear under the penalties of perjury that I have for the indicated reporting  
43 years completed the continuing education activities, for the hours of study/attendance,  
44 stated. I am keeping the proof of attendance and the content for five years."  
45  
46 (2) The report shall list the year and at least the following information for each activity:  
47  
48 (i) number of credits;  
49 (ii) date earned;  
50 (iii) title;  
51 (iv) summary of subject; location; and  
52 (v) a short indication of whether the activity was approved by a national professional  
53 organization or another state board.  
54

- 1 (b) The indicated supporting materials may be kept in either hard copy or electronic format. The  
 2 Board prefers electronic means, including scans into pdf format, in order to make easier the  
 3 review of the materials during an audit.  
 4  
 5 (c) Proof of compliance is the licensee's responsibility. The licensee shall be responsible for keeping  
 6 track of his/her continuing education credits and retaining materials that would demonstrate  
 7 compliance. The licensee should retain such documentation for a period of five (5) years  
 8 following completion of each compliance year.  
 9  
 10 (d) A licensee may "double count" continuing education credits to meet CNMI continuing education  
 11 requirements and requirements for other jurisdictions.  
 12  
 13 (e) The Board will randomly audit some licensees for each reporting period. In a case in which the  
 14 Board determines that the compliance requirement is not met, the Board may grant an additional  
 15 period of time in which the deficiency can be cured. Fraudulent reporting may be a basis for  
 16 disciplinary action.  
 17

18  § 140-50.3- 00608 **Exceptions.**

- 19 (a) The Board may make an exception to the continuing education requirements of these Regulations  
 20 for a licensee who is retired or who does not perform or offer to perform for the public services  
 21 involving the use of the licensee's skills. Typically, however, such person would have opted for  
 22 inactive status.  
 23  
 24 (b) The Board may in particular cases make exceptions to the continuing education requirements for  
 25 good cause, including:  
 26  
 27 (1) individual hardship;  
 28 (2) health problem;  
 29 (3) military service; or  
 30 (4) foreign residence.  
 31  
 32  
 33

34  § 140-50.3- 00700 **PART 700. Practice by Firms, Generally. [reserved]**

35  § 140-50.3- 00701 **Applications. [reserved]**

36  § 140-50.3- 00702 **Notification of changes by firms. [reserved]**

37  § 140-50.3- 00703 **Renewals. [reserved]**

38  § 140-50.3- 00800 **PART 800. Interstate or International Reciprocity Practice and Endorsements. [reserved]**

39  § 140-50.3- 00801 **Interstate practice. [reserved]**

40  § 140-50.3- 00802 **International reciprocity. [reserved]**

41

1   
2 § 140-50.3- 00900 **PART 900. Disciplinary Actions.**  
3  
4 § 140-50.3- 00901 **Grounds for enforcement actions against licensees and others.**  
5  
6 (a) The grounds for disciplinary action against licensees, and other persons over whom the Board  
7 has jurisdiction, are set out in §§ 2224-26 of the Act in both specific and general terms.  
8  
9 (b) [reserved]

10  
11   
12 § 140-50.3- 001000 **PART 1000. Investigation, Disciplinary and Enforcement Procedures.**  
13  
14 § 140-50.3- 001001 **Roles of Board Staff.**  
15  
16 (a) The Administrator shall designate a person to serve in:  
17  
18 (1) an investigatory role; and/or  
19 (2) a prosecutory role for the hearing.  
20  
21 (b) The Board's Staff shall ordinarily serve in the role of prosecutor. In such a role the Staff may  
22 secure the services of an assistant attorney general.  
23  
24 (c) The same attorney or staff member who prosecutes a disciplinary action before the Board shall  
25 not advise the Board *ex parte* regarding the case.  
26  
27

28 § 140-50.3- 001002 **Settlement and Informal Conference.**  
29  
30 (a) In addition to the due process which the Act specifically requires, the Board shall provide the  
31 licensee or other person who is subject to a disciplinary investigation or hearing the opportunity to  
32 participate in an informal settlement conference with the Board's staff and/or one or more Board  
33 members.  
34  
35 (b) A participating Board member shall not participate in both the settlement process and the Board's  
36 formal adjudication unless the licensee, or other person, subject to the matter waives the  
37 prohibition in advance in writing.  
38  
39

40 § 140-50.3- 001003 **Review of professional work product.**  
41  
42 (a) The Board may solicit and receive the following without regard to whether an application for a  
43 license, or renewal of the particular licensee is then pending, or whether there is a formal  
44 complaint or suspicion of impropriety regarding a particular licensee or an individual with privileges  
45 granted pursuant to the Act:  
46  
47 (1) publicly available reports of licensees and other persons subject to the Board's  
48 jurisdiction;  
49  
50 (2) the contents of court files related to the licensee or other person subject to the Board's  
51 jurisdiction; and  
52  
53 (3) material provided by recognized national reporting data banks.  
54

1  
2 § 140-50.3- 001004 **Reporting convictions, judgments, and administrative proceedings. [reserved]**  
3

4   
5 § 140-50.3- 001100 **PART 1100. Formal Adjudications**  
6

7 § 140-50.3- 001101 **Complaints and notices of hearing.**  
8

- 9 (a) A complaint for a matter before the Board shall include  
10  
11 (1) A plain statement of matters asserted or charged; and  
12  
13 (2) Reference to sections of the Act or of the Regulations related to the alleged unlawful  
14 conduct.  
15  
16 (b) The Board shall make available a copy of the Act and the Board's Regulations;  
17  
18 (c) The Board shall make available a brief statement calling attention to the procedural rights of the  
19 respondent to examine reports and evidence in advance of the hearing, to appear by counsel at  
20 the hearing, to present evidence and argument, and to appeal an adverse decision.  
21  
22

23 § 140-50.3- 001102 **Examination and copying of documents.**  
24

- 25 (a) A respondent shall have the right in advance of the hearing to examine and copy a report of  
26 investigation and documentary or testimonial evidence and summaries of evidence in the Board's  
27 possession relating to the subject matter of the complaint. If Staff objects to the provision of  
28 material, the matter shall be decided by the Board or a presiding officer.  
29  
30 (b) The right of examination may be exercised by the respondent or the respondent's attorney or  
31 agent at the Board's office where the records in question are kept, during regular business hours,  
32 on three (3) days' advance notice in writing. Copies shall be promptly furnished of any documents  
33 or other materials designated for copying, but the Board may charge a fee for such copying.  
34

35   
36 § 140-50.3- 001103 **Representation by Counsel.**  
37

- 38 (a) A person who is the subject of a hearing may represent him/herself or may be represented by  
39 counsel.  
40  
41 (b) A non-individual may be represented by an officer of the firm or organization or by counsel.  
42

43   
44 § 140-50.3- 001104 **Conduct of hearing.**  
45

- 46 (a) A hearing shall be conducted by:  
47  
48 (1) The Board; or  
49 (2) A presiding officer appointed by the Board, who shall be known as an administrative law  
50 judge.  
51  
52 (b) The presiding officer shall be an attorney. S/he shall be empowered, among other things, to take  
53 evidence under oath and to swear witnesses.  
54

- 1 (c) The hearing shall comply with the requirements of the Administrative Procedure Act and due  
 2 process. Rebuttal and surrebuttal evidence shall be allowed.  
 3  
 4 (d) The parties shall be entitled to file memoranda of law and/or briefs. The parties may be given an  
 5 opportunity to present oral argument, subject to the presiding officer's or the Board's decisions.  
 6  
 7 (e) The evidence and argument shall, to the maximum practicable extent, be provided by, or reduced  
 8 to, a form reproducible by and searchable by, electronic means.  
 9  
 10 (f) The hearing shall be recorded, either by audio means or by audio/video means. A party shall be  
 11 given a copy upon request and payment of the fee for such recording.  
 12

13  
 14 § 140-50.3- 001105 **Evidentiary rules.**

- 15  
 16 (a) The Board shall not be bound by the technical rules of evidence, and in its discretion may  
 17 consider evidence of a kind commonly relied upon by reasonably prudent persons in the conduct  
 18 of their affairs.  
 19  
 20 (b) Evidence need not be admitted if it is irrelevant, immaterial or unduly repetitious, or if it is  
 21 scurrilous or malicious.  
 22  
 23 (c) Rulings on evidence which have been reserved shall be disposed of before closing statements or  
 24 the commencement of the period for filing briefs or other written argument.  
 25

26  
 27   
 28 § 140-50.3- 001106 **Decisions.**

- 29  
 30 (a) If the evidence is heard by the presiding officer, but not by the Board, the presiding officer shall  
 31 present the Board with a proposal for decision ("PFD"). The parties shall have a right to file  
 32 memoranda in support of or in opposition to the PFD.  
 33  
 34 (b) A PFD shall not be required if:  
 35  
 36 (1) the Board reads, or listens to or watches, the entire record; or  
 37 (2) all parties waive the issuance of a PFD.  
 38  
 39 (c) The Board's decision shall be by written vote of a majority of a quorum of the Board.  
 40  
 41 (d) The Board's post-hearing decision shall, if it sustains a charge, be made public. A decision that  
 42 does not sustain a charge may be made public at the Board's discretion.  
 43  
 44

45   
 46 § 140-50.3- 001200 **PART 1200. Discipline and relief from discipline.**

47  
 48 § 140-50.3- 001201 **Discipline**

- 49  
 50 (a) A licensee whose license, certificate or permit issued by the Board is subsequently suspended or  
 51 revoked shall promptly return same to the Board.  
 52  
 53 (b) Grounds for discipline are stated in the Act.  
 54  
 55 (c) The Board may deny licensure to an applicant or licensee who:

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- (1) has provided false or misleading information to the Board;
- (2) repeatedly committed malpractice;
- (3) has been denied a license in another jurisdiction; or
- (4) has had a license revoked in another jurisdiction.

§ 140-50.3- 001202 **Applications for reconsideration or rehearing.**

§ -1202- 001 An application for reconsideration or rehearing may be filed for the same reasons as such a request would be submitted to a court.

§ -1202- 002 No such application shall be required as a prerequisite to a court appeal.

§ 140-50.3- 001203 **Action by the Board.**

- (a) The Board may make its decision based on the submissions, or upon a hearing record.
- (b) The Board may impose reasonable terms and conditions for reinstatement.
- (c) The Board's decision may consider:
  - (1) the offense for which the applicant was disciplined;
  - (2) the applicant's activities during the time the license, certificate, privileges or permit was in good standing;
  - (3) all activities of the applicant since the disciplinary penalty from which relief is sought was imposed;
  - (4) the applicant's rehabilitative efforts;
  - (5) restitution to damaged parties in the matter for which the penalty was imposed; and
  - (6) the applicant's reputation for truth and professional probity.
- (d) No application for reinstatement shall be considered while the applicant is under sentence for a criminal offense, including a period during which the applicant is on probation or parole.

§ 140-50.3- 001204 **Applications for relief from disciplinary penalties.**

- (a) An application may be filed with the Board for modification of a suspension, limitation, revocation or probation:
  - (1) by a person,
  - (2) after completion of all requirements contained in the Board's disciplinary order.
- (b) The application shall demonstrate the good cause for the relief sought, and shall be accompanied by at least two supporting recommendations, under oath, from licensees who have personal knowledge of the activities of the applicant since the discipline was imposed.

1 

2 § 140-50.3- 001300 **PART 1300. Unlawful Acts.**

3

4 § 140-50.3- 001301 **Misleading firm names.**

5

6 A person shall not use the title of a regulated professional in a misleading way. The title is misleading if, among other  
7 things:

8

9 (a) The firm name implies the existence of a corporation when the firm is not a corporation;

10

11 (b) The firm name implies existence of a partnership when there is not a partnership (as in "Smith &  
12 Jones, Medical Associates");

13

14 (c) The firm name includes the name of a person who is neither a present nor a past partner,  
15 member or shareholder of the firm; or

16

17 (d) The firm name includes the name of a person who is not a licensee.

18

19

20 § 140-50.3- 001302 **Fictitious firm names.**

21

22 (a) A fictitious firm name is one consisting in part of the names or initials of someone other than  
23 present or former: partners; members; or shareholders.

24

25 (b) A fictitious firm name may not be used by a firm of licensees. Exception: It may be used if such  
26 name has been registered with and approved by the Board as not being false or misleading.

27

28 

29 § 140-50.3- 001400 **PART 1400. [Reserved]**

30

31

32 

33 § 140-50.3- 001500 **PART 1500. Other Licensee Obligations**

34

35 § 140-50.3- 001501 **Notify of changes.**

36

37 Each licensee shall notify the Board in writing within 28 days (4 weeks) of a change of name, address and/or, in the case  
38 of individual licensees, change of employment. A copy of the legal document supporting a name change, e.g. court order  
39 or marriage license, shall be provided. Notification can be by electronic means.

40

41

42 § 140-50.3- 001502 **Timely respond.**

43

44 A licensee shall respond in writing to any communication from the Board requesting a response within 28 days (4 weeks)  
45 of the mailing of such communication.

46

47

48 § 140-50.3- 001503 **Pay fees.**

49

50 § -1503- 001 A licensee shall timely pay all fees which the Board requires.

51

52 § -1503- 002 Failure to pay a few timely may result in the cancellation of the item for which payment was due.  
53 In particular, the Board may withdraw a licensing approval for failure to pay the applicable fee/s  
54 within 63 days (9 weeks) of notification.

1  
 2 §  
 3 § 140-50.3- 001504 **Internet practice.**  
 4  
 5 A firm offering or rendering professional services via an internet web site shall provide in the web site's homepage, a  
 6 name, an address, an email address, a telephone number, and principal state of licensure as a means for regulators and  
 7 the public to contact a responsible licensee in charge at the firm regarding complaints, questions, and/or regulatory  
 8 compliance.  
 9

10  
 11 §  
 12 § 140-50.3- 001600 **PART 1600. Fees.**  
 13  
 14 § 140-50.3- 001601 **Board schedule for fees.**  
 15

16 The Board has adopted a schedule of fees for the following services. Fees charged by the Board shall be as further  
 17 established from time to time by resolution or regulation.  
 18

19  
 20 § 140-50.3- 001602 **Fees, initially.**  
 21

22 The fees shall be in effect initially as follows: The following fees must be paid for the following services.  
 23

24	(a)	Initial Application Fees. . . . .	\$100.00
25	(b)	Initial License Fees: Physicians, Dentists, Pharmacists, Optometrists, Psychologists. . . . .	\$200.00
26	(c)	License Fees: all other Health Care Professionals. . . . .	\$100.00
27	(d)	Temporary License. . . . .	\$200.00
28	(e)	Renewal License for Physicians, Dentists, Pharmacists, Optometrists, Psychologists. . . . .	\$200.00
29	(f)	Renewal License: all other Health Care Professionals	\$100.00
30	(g)	Delinquent (each month). . . . .	\$ 25.00
31	(h)	Replacement/Duplication of License. . . . .	\$ 75.00
32	(i)	Replacement/Duplication of wallet-size card. . . . .	\$ 25.00
33	(j)	Application for Permit to Operate Clinical Laboratory. . . . .	\$200.00
34	(k)	Permit to Operate Clinical laboratory. . . . .	\$300.00
35	(l)	Application for Permit to Operate Pharmacy. . . . .	\$200.00
36	(m)	Permit to Operate Pharmacy. . . . .	\$300.00
37	(n)	Renewal Permit for Clinical Laboratory or Pharmacy. . . . .	\$300.00

- 38  
 39 (o) Fees for documents shall be as follows:  
 40  
 41 (1) Photocopies: less than 10 copies –no charge; 11 or more copies - \$0.50 per page  
 42 (2) Electronic files on CD: \$10.00 for each CD  
 43 (3) Electronic files on DVD: \$20.00 for each DVD  
 44 (4) Copies of meeting minutes on cassette tape: \$15.00 per tape  
 45 (5) If complying with a request for information takes longer than one hour, labor shall be  
 46 charged at the rate of \$20.00 per hour.  
 47  
 48 (p) Annual reports of the Board, Ten Dollars (\$10.00)/hard copy.  
 49 (q) Such other charges and fees may be charged as shall be required for special licensee-related services, as  
 50 performed in-house or through a contract.  
 51 (r) Other fees and charges to be published by the Board:  
 52  
 53 (1) *In forma pauperis* waiver  
 54 (2) Verification of license fee  
 55 (3) Certified copies

- 1 (4) Research of licensure status
- 2 (5) Hearing transcripts
- 3 (6) Preparation of record on appeal

4  
5   
6 § 140-50.3- 001700 **PART 1700. Reports.**

7  
8 § 140-50.3- 001701 **Annual reports.**

9  
10 The Board shall, from time to time, prepare and distribute electronically to all licensees, a report of the activities of the  
11 Board, including amendments to this chapter and regulations adopted by the Board, and may likewise distribute reports of  
12 other matters of interest to the public and to practitioners.

13  
14 § 140-50.3- 001702 **Other reports.**

15  
16 The Board shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that  
17 contains information that the Board determines is necessary for the purposes for which the Board was established. The  
18 Board shall make the register available to a licensee and to the public.

19  
20   
21 § 140-50.3- 001800 **PART 1800. Papers; Retention.**

22  
23 § 140-50.3- 001801 **Documentation and retention.**

24  
25 With respect to documents and retention, licensees shall comply with all professional standards.

26  
27   
28 § 140-50.3- 001802 **Retention Period for Documentation.**

29  
30 If documentation is required to be kept for longer than seven (7) years because of a pending Board investigation or  
31 disciplinary action, the documentation shall not be destroyed until the licensee has been notified in writing by the Board of  
32 the closure of a Board investigation or disciplinary proceeding.

33  
34   
35 § 140-50.3- 001900 **PART 1900. Temporary Practice in or Contact with the CNMI.**

36  
37 § 140-50.3- 001901 **Notification. [reserved]**

38  
39 § 140-50.3- 001902 **Non-jurisdictional activities. A non-resident person shall not be deemed to have  
40 practiced their profession in the CNMI if the person's contact with the CNMI is  
41 limited to:**

- 42
- 43 (a) teaching a college or continuing professional education course;
- 44
- 45 (b) delivering a lecture;
- 46
- 47 (c) moderating a panel discussion; and/or
- 48
- 49 (d) rendering professional services to a member of the person's family or household.

50  
51

1 § 140-50.3- 001903 **Minimum reportable information.**

2  
3 A person notifying the Board pursuant to this Part shall present a current address, telephone, fax and email address for the  
4 public to contact the person regarding complaints, questions, service of legal papers, and regulatory compliance. An  
5 individual shall further present the principal state of licensure and license number.  
6

7  
8  § 140-50.3- 002000 **PART 2000. Particular Professions - General Provisions.**

9  
10  
11  
12 The following additional general provisions shall apply to each Part for each specific practice area, Parts 2100 - 9000,  
13 unless in conflict with the specific provision of one of those Parts. When there is a conflict, the specific provision controls  
14 over the general provisions of these Regulations.  
15

16 While the following sub-Parts are intended as a template for the organization of each of the practice area Parts, there may  
17 be some variation among the Parts.  
18

19 § 140-50.3- 002001 **Additional definitions**

- 20  
21 (a) "Candidate" means an applicant who has completed a filing but has not been licensed.  
22 (b) [reserved]  
23

24 § 140-50.3- 002002 **Authorized Activities and Any Limitations**

25  
26 § 140-50.3- 002003 **Requirements for Licensure**

- 27  
28 (a) General  
29 (b) Education  
30 (c) Practice  
31 (d) Other  
32

33 § 140-50.3- 002004 **Applications**

- 34  
35 (a) Applications for licensure must be made on a form provided by the Board and filed with the Board by a  
36 due date specified by the Board.  
37  
38 (b) The application for license form shall include an affidavit which is clear and says in relevant part: "I declare  
39 under penalty of perjury that my answers and all statements made by me herein are true and correct.  
40 Should I furnish any false information in this application, I hereby agree that such act(s) shall constitute  
41 cause for the denial, suspension, or revocation of my license to practice in the Commonwealth of the  
42 Northern Mariana Islands."  
43  
44 (c) Each application shall include:  
45  
46 (1) name;  
47 (2) age;  
48 (3) birth date;  
49 (4) social security number, or equivalent if from a non-US jurisdiction;  
50 (5) documentary proof of identity, preferably a passport, but the Board may also accept:  
51 driver's license, or other picture identity card;  
52 (6) photograph;  
53 (7) current residence;  
54 (8) current mailing address;

- 1 (9) current employer;
- 2 (10) telephone and fax, if applicant has same;
- 3 (11) email address, if applicant has same;
- 4 (12) copy of license or certificate from each other jurisdiction in which licensed;
- 5 (13) report of character and fitness, or equivalent, from the national database applicable to the
- 6 applicant's profession, if any;
- 7 (14) proof of applicable education or training;
- 8 (15) short description of prior professional discipline;
- 9 (16) listing and short description of prior and current malpractice actions;
- 10 (17) short description of prior convictions for misdemeanors or crimes of moral turpitude.

11  
12 (d) An application shall not be considered filed until the application fee and other fees required by these  
13 Regulations and all required supporting documents have been received.

14  
15 (e) An applicant who fails to complete the application shall forfeit all fees.

16  
17  
18 § 140-50.3- 002005 **Licensing**

- 19 (a) Examination
- 20 (b) Endorsement - US
- 21 (c) Foreign trained or licensed
- 22 (d) Issuance of licenses

23  
24  
25 (1) The Board shall issue to the successful candidate a hard copy license, signed by the  
26 Chair or his/her designee.

27  
28 (2) The Board may also issue an electronic version of such license.

29  
30 (e) Special provisions

31  
32 § 140-50.3- 002006 **Renewals**

33  
34 § 140-50.3- 002007 **Time Periods**

35  
36 § 140-50.3- 002008 **Practice - Independent Practice, Affiliated Practice or Supervision**

37  
38 § 140-50.3- 002009 **Rules of Conduct**

39  
40 § 140-50.3- 002010 **Discipline and Penalties**

41  
42 § 140-50.3- 002011 **Other**

43  
44  § 140-50.3- 002100 **PART 2100. Audiologist. [reserved]**

46  § 140-50.3- 002200 **PART 2200. Chiropractor. [reserved]**

48  § 140-50.3- 002300 **PART 2300. Clinical Social Worker. [reserved]**

50  § 140-50.3- 002400 **PART 2400. Clinical Laboratory. [reserved]**

52  § 140-50.3- 002500 **PART 2500. Dental Assistant. [reserved]**

54 

1 § 140-50.3- 002600                   **PART 2600. Dental Hygienist. [reserved]**  
2  
3 Ⓜ  
4 § 140-50.3- 002700                   **PART 2700. Dentist. [reserved]**  
5 Ⓜ  
6 § 140-50.3- 002800                   **PART 2800. Embalmer. [reserved]**  
7 Ⓜ  
8 § 140-50.3- 002900                   **PART 2900. Emergency Medical Technician (EMT). [reserved]**  
9 Ⓜ  
10 § 140-50.3- 003000                   **PART 3000. Medical or Clinical Laboratory Technologist/Technician. [reserved]**  
11  
12  
13 Ⓜ  
14 § 140-50.3- 003100                   **PART 3100. Midwife.**  
15  
16 § 140-50.3- 003101                   **Definitions**  
17  
18       (a)       "Approved educational program in midwifery" means an academic and practical program of midwifery  
19                approved by the ACNM.  
20       (b)       "ACNM" means the American College of Nurse-Midwives.  
21       (c)       "AMCB" means the American Midwifery Certification Board.  
22       (d)       "Midwife" means a person who practices midwifery.  
23       (e)       "Midwifery" means the independent management of cases of normal childbirth, including prenatal,  
24                intrapartum, postpartum, and normal newborn care, and well woman care, including the management of  
25                common health problems, newborn evaluation, resuscitation and referral for infants.  
26       (f)       "Nurse-midwife" means a nurse who also practices midwifery.  
27  
28 § 140-50.3- 003102                   **Authorized Activities and Any Limitations**  
29  
30       (a)       Midwifery shall be practiced in accordance with the practice protocols for obstetrics and gynecology.  
31  
32       (b)       Midwifery shall be practiced in accordance with a written agreement between the midwife and:  
33  
34                (1)               a licensed physician who is board certified as an obstetrician-gynecologist by a national  
35                                certifying body;  
36                (2)               a licensed physician who practices obstetrics and has full surgical obstetric privileges at a  
37                                general hospital; or  
38                (3)               a hospital that provides obstetrics through a licensed physician having full surgical  
39                                obstetrical privileges at such institution.  
40  
41       (c)       Midwifery need not be practiced under the direct supervision of a physician.  
42  
43       (d)       The written agreement shall:  
44  
45                (1)               provide for:  
46  
47                                (i)               physician consultation;  
48                                (ii)               collaboration;  
49                                (iii)              referral and emergency medical obstetrical coverage;  
50  
51                (2)               include written guidelines and protocols;  
52  
53                (3)               provide that one of the parties is responsible for securely maintaining patient records for  
54                                at least six (6) years, including the obstetrical record. And further, the retention shall be

- 1 required, if the patient is a minor, until at least one (1) year after the minor reaches the  
2 age of twenty-one (21) years. Except that these periods shall vary if a provision of law  
3 specifically requires otherwise;  
4
- 5 (4) provide guidelines for the identification of pregnancies that are not considered normal and  
6 address the procedures to be followed;  
7
- 8 (5) provide a mechanism for dispute resolution; and  
9
- 10 (6) provide that the judgment of the appropriate physician shall prevail as to whether the  
11 pregnancy, childbirth or postpartum care is normal and whether the woman is essentially  
12 healthy in the event the practice protocols do not provide otherwise.  
13
- 14 (e) The parties to the written agreement shall review it bi-annually, prior to license renewal, and so indicate in  
15 writing.  
16
- 17 (f) Prescription privilege. See *infra*, this Part.  
18
- 19 (g) The scope of midwifery may include:  
20
- 21 (1) periodic exams, including gynecological care, primary care, health screening and  
22 counseling with a focus on health promotion and disease prevention;  
23 (2) history and physical exams;  
24 (3) first exams for young women;  
25 (4) family planning and prescribing of birth control methods;  
26 (5) pre-conception counseling;  
27 (6) well woman and adolescent gynecological care;  
28 (7) perimenopausal and postmenopausal counseling and care;  
29 (8) comprehensive maternity care including prenatal, labor, delivery, postpartum and  
30 newborn care;  
31 (9) hospital admission, rounds and discharge;  
32 (10) inducing and augmenting labor by using both pharmacologic and non-pharmacologic  
33 modalities;  
34 (11) assisting at surgical procedures;  
35 (12) obstetric and gynecologic screening procedures;  
36 (13) evaluation and treatment of common health problems;  
37 (14) public education activities;  
38 (15) ordering diagnostic tests; and  
39 (16) referral to specialists.  
40
- 41 (h) Nothing in this Part shall be construed to prevent, limit, expand or otherwise affect any duty or  
42 responsibility of:  
43
- 44 (1) a licensed physician from practicing midwifery;  
45 (2) a medical student or midwifery student in pursuit of an educational program from  
46 practicing midwifery:  
47
- 48 (i) in clinical practice,  
49 (ii) under the supervision of a licensed physician, board-certified  
50 obstetrician/gynecologist, or licensed midwife practicing pursuant to the  
51 provisions of this Part.  
52 

**Requirements for Licensure**

2  
3 (a) General: In order to be licensed as a midwife, an applicant shall fulfill the following requirements:

- 4
- 5 (1) Application: file an application with the Board;
- 6 (2) Education: satisfactorily complete the education requirement, below;
- 7 (3) Examination: pass an examination satisfactory to the Board;
- 8 (4) Age: be at least 21 years of age;
- 9 (5) Character: be of good moral character, including not be convicted of a crime of moral turpitude or of a felony; and
- 10
- 11 (6) Fees: pay all applicable fees.

12  
13 (b) Education.

- 14
- 15 (1) An applicant must demonstrate completion of an approved educational program for the practice of midwifery:
  - 16
  - 17
  - 18 (i) Approved by the ACNM;
  - 19 (ii) Approved by a state of the US; or
  - 20 (iii) Approved by one of the following countries or a political subdivision thereof: Australia, Canada, Fiji, New Zealand, United Kingdom; or
  - 21
  - 22
  - 23 (2) Submit evidence of license or certification, the educational preparation for which is determined by the Board to be equivalent to the foregoing, from a state or country.
  - 24
  - 25
  - 26
  - 27 (3) Verification shall be by certified or notarized:
    - 28
    - 29 (i) transcript; and
    - 30 (ii) as proof of completion:
      - 31
      - 32 (A) certificate, degree or diploma; or
      - 33 (B) statement of the director or registrar of the program or other training entity in writing, stating that the applicant has completed the requirements satisfactorily, and the date completed; or
      - 34
      - 35
      - 36
      - 37 (iii) government agency certification of completion.
      - 38

39 (c) Experience:

- 40
- 41 (1) for US program graduates: No experience required.
- 42 (2) for non-US program graduates: Provide proof of the completion of two years of post-graduate experience.
- 43

44 

**Applications. The following information must be provided with the application:**

- 46
- 47 (a) Proof of completion of an approved educational program.
- 48 (b) Proof of completion of a required written licensing examination or endorsement.
- 49 (c) Report of professional history from the appropriate health professionals database, or letter of good standing from the appropriate government agency or other licensing authority. For an applicant who has not practiced in another jurisdiction and for whom no database entry exists, a sworn declaration that the applicant has no negative professional history may be provided.
- 50
- 51
- 52 (d) A declaration that the application is true and correct.
- 53
- 54

1 § 140-50.3- 003105 **Examination or endorsement. An applicant shall provide either:**

- 2
- 3 (a) Proof of passing an examination administered by the AMCB, or by a government-authorized licensing  
4 agency of one of the following countries or a political subdivision thereof: Australia, Canada, Fiji, New  
5 Zealand, United Kingdom; or  
6
- 7 (b) A foreign endorsement of a license from one of the following countries or a political subdivision thereof:  
8 Australia, Canada, Fiji, New Zealand, United Kingdom;  
9
- 10 (c) A foreign endorsement of a license from Fiji from the Fiji School of Medicine Midwifery Program; or  
11
- 12 (d) A domestic endorsement of a license from a US jurisdiction.  
13

14 § 140-50.3- 003106 **Special provision: prescription privilege.**

- 15
- 16 (a) A licensed midwife may be authorized to prescribe drugs, immunizing agents, diagnostic tests and  
17 devices, and to order laboratory tests if:  
18
- 19 (1) s/he has obtained training meeting professional standards to prescribe medications within  
20 the scope of the practice;  
21 (2) there is an applicable collaborative agreement which so provides;  
22 (3) s/he has obtained a Drug Enforcement Administration (DEA) number for controlled  
23 substances; and  
24 (4) the Board has approved such authorization.  
25
- 26 (b) The license shall carry a notation as to such authorization, as "Certified with prescriptive privilege."  
27

28 § 140-50.3- 003107 **Special provision - Continuation of previous CNMI practice.**

- 29
- 30 (a) A midwife who had previously been licensed in the CNMI in 2006 or 2007 as a nurse midwife shall be  
31 eligible for a license to practice midwifery, notwithstanding any other provision of these Regulations.  
32
- 33 (b) Such license shall be eligible for annual renewal.  
34
- 35 (c) The person seeking such licensure shall apply to the Board for a license. The Board may consider the  
36 person's first application complete without the pre-payment of any applicable fees, as long as provision is  
37 made for the payment thereof within 56 days (8 weeks) after delivery of the license.  
38

39 § 140-50.3- 003108 **Special provision - Practice under the supervision of a licensed midwife.**

- 40
- 41 (a) A candidate may practice midwifery under the supervision of a midwife who has received a non-temporary  
42 license if the candidate has met all other requirements for licensure but has not yet passed the required  
43 licensing examination.  
44
- 45 (b) Such supervised practice shall be licensed for no more than a one year.  
46

47 § 140-50.3- 003109 **Renewals**

- 48
- 49 (a) Continuing professional education ("CPE") shall be required as a condition of renewal.  
50 (b) The reporting period for CPE shall be every two calendar years, by March 1 of the year following the  
51 reporting period.  
52 (c) The number of CPE credits to be earned for each reporting period shall be: 30 credits, representing two  
53 (2) years.  
54

1 § 140-50.3- 003110                   **Time Periods [reserved]**  
2 §

3 § 140-50.3- 003111                   **Identification of midwife practice.**  
4  
5           (a)     Only a person licensed under this Part shall use the title "midwife", "certified midwife" or "licensed  
6                    midwife".  
7  
8           (b)     A licensed midwife who is also a nurse may use the title "nurse-midwife", "certified nurse-midwife" or  
9                    "licensed nurse-midwife".  
10  
11          (c)     An appropriate abbreviation may be made on a birth certificate.  
12

13 § 140-50.3- 003112                   **Rules of Conduct.**  
14  
15 The licensee shall follow the rules of conduct specified by the ACNM.  
16 §

17 § 140-50.3- 003113                   **Discipline and Penalties.**  
18  
19 § 140-50.3- 003114                   **Other - Professional history.** The licensee and/or applicant shall have an affirmative duty  
20                    to disclose to the Board within 28 days:  
21  
22          (a)     the occurrence of any disciplinary action in any jurisdiction;  
23          (b)     the filing of a claim of malpractice in any jurisdiction;  
24          (c)     the filing of a criminal charge in any jurisdiction and the resolution thereof.  
25  
26  
27 §

28 § 140-50.3- 003200                   **PART 3200. Occupational Therapist. [reserved]**  
29  
30 §

31 § 140-50.3- 003300                   **PART 3300. Optometrist. [reserved]**  
32 §

33 § 140-50.3- 003400                   **PART 3400. Paramedic. [reserved]**  
34  
35 §

36 § 140-50.3- 003500                   **PART 3500. Pharmacist. [reserved]**  
37 §

38 § 140-50.3- 003600                   **PART 3600. Pharmacy. [reserved]**  
39 §

40 § 140-50.3- 003700                   **PART 3700. Pharmacy Intern. [reserved]**  
41 §

42 § 140-50.3- 003800                   **PART 3800. Pharmacy Tech. [reserved]**  
43 §

44 § 140-50.3- 003900                   **PART 3900. Physical Therapist. [reserved]**  
45 §

46 § 140-50.3- 004000                   **PART 4000. Physical Therapist Assistant. [reserved]**  
47  
48 §

49 § 140-50.3- 004100                   **PART 4100. Physician's Assistant. [reserved]**  
50 §

51 § 140-50.3- 004200                   **PART 4200. Physician-Doctor of Osteopathy. [reserved]**  
52 §

53 § 140-50.3- 004300                   **PART 4300. Physician-Medical Doctor. [reserved]**  
54 §

1	§ 140-50.3- 004400	<b>PART 4400. Physician-Medical Officer. [reserved]</b>
2	<u>Ⓜ</u>	
3	§ 140-50.3- 004500	<b>PART 4500. Podiatrist. [reserved]</b>
4	<u>Ⓜ</u>	
5	§ 140-50.3- 004600	<b>PART 4600. Professional Counselor. [reserved]</b>
6	<u>Ⓜ</u>	
7	§ 140-50.3- 004700	<b>PART 4700. Psychologist. [reserved]</b>
8		
9	<u>Ⓜ</u>	
10	§ 140-50.3- 004800	<b>PART 4800. Radiologic Technologist. [reserved]</b>
11	<u>Ⓜ</u>	
12	§ 140-50.3- 004900	<b>PART 4900. Respiratory Therapist. [reserved]</b>
13	<u>Ⓜ</u>	
14	§ 140-50.3- 005000	<b>PART 5000. Speech and Language Pathologist. [reserved]</b>
15		
16	<u>Ⓜ</u>	
17	§ 140-50.3- 005100	<b>PART 5100. A person providing one of the above-listed services under a different name. [reserved]</b>
18		
19	<u>Ⓜ</u>	
20	§ 140-50.3- 005200	<b>PART 5200. A student under the direct supervision of a licensee. [reserved]</b>
21		
22	<u>Ⓜ</u>	
23	§ 140-50.3- 005300	<b>PART 5300. [reserved]</b>
24		
25	<u>Ⓜ</u>	
26	§ 140-50.3- 005400	<b>PART 5400. [reserved]</b>
27		
28	<u>Ⓜ</u>	
29	§ 140-50.3- 005500	<b>PART 5500. [reserved]</b>
30		
31	<u>Ⓜ</u>	
32	§ 140-50.3- 005600	<b>PART 5600. [reserved]</b>
33		
34		
35	<u>Ⓜ</u>	
36	§ 140-50.3- 006000	<b>PART 6000. Reserved.</b>
37		
38	<u>Ⓜ</u>	
39	§ 140-50.3- 007000	<b>PART 7000. Reserved.</b>
40		
41	<u>Ⓜ</u>	
42	§ 140-50.3- 008000	<b>PART 8000. Reserved.</b>
43		
44	<u>Ⓜ</u>	
45	§ 140-50.3- 009000	<b>PART 9000. Reserved.</b>
46		
47		
48		
49		
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PUBLIC NOTICE

NOTICE AND CERTIFICATION OF ADOPTION OF  
EMPLOYMENT RULES AND REGULATIONS

I, Gil M. San Nicolas, Secretary of the Department of Labor of the Commonwealth of the Northern Mariana Islands, which is promulgating new regulations, the Employment Rules and Regulations, to replace completely the Alien Labor Rules and Regulations, published for comments as Proposed New Regulations Under PL 15-108 in the Commonwealth Register, Vol. 29, No.11, pages 27213-27298, on November 19, 2007 and re-published after incorporating public comments in the Commonwealth Register, Vol. 29, No. 12, pages 27498-27596, on December 18, 2007, by signature below hereby certify that the regulations published therein are a true, complete, and correct copy of the Employment Rules and Regulations a previously proposed by the Department of Labor which, after the expiration of appropriate time for public comment, have hereby been adopted with the minor modifications, amendments, and conforming changes to cross references listed below.

PAGE	SECTION	FORMER TEXT	NEW TEXT
13	9(b)	Part II, Section 2(D)(10)	Part II, Section 2(E)(1)
13	10	Part II, Section 2(G)	Part II, Section 2(H)
13	13	Part II, Section 4(A)(10)	Part II, Section 4(A)(11)
14	17	Section 4922	Section 4922 of PL 15-108
16	5	Part II, Section 2(E)(13)	Part II, Section 2(E)(14)
19	B	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
20	2(a)	Part VI, Section 4(A)(18)	Part VI, Section 4(A)(20)(c)
20	2(a)	Part II, Section 2(F)(17)	Part II, Section 2(E)(17)
20	2(b)(i)	Part VI, Section 3(H)(2)(b)	Part VI, Section 3(H)(4)
21	5	Part II, Section 2(G)(2)	Part II, Section 2(H)(2)
22	A	Part V, Section B	subsection 1
23	1(g)	section 4965	Section 4965 of PL 15-108
25	B	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
25	1	Part II, Section 2(E)(13)	Part II, Section 2(E)(14)
25	4	Part VI, Section 2(A)(3)	Part VI, Section 2(A)
26	8(d)	Part II, Section 2(D)(4)	Part II, Section 2(D)(2)(c)
29	4	Section 4970(a)(1)	Section 4970(a)(1) of PL 15-108
31	2	Part VI, Section 2(A)(2)	Part VI, Section 2(A)
31	3	Part VI, Section 3(D)(1)(f)	Part VI, Section 3(D)
31	4	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)

34	1 (c)(iii)	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
35	3	Part VI, Section 3(A)(1)(d)	Part VI, Section 3(A)(1)(c)
37	11	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
37	12(a)	Part II(2)(B)	Part II, Section 2(B)
45	1(l)	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
46	3	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
48	10	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
48	H(1)	Section 4938	Section 4938(a) of PL 15-108
49	3	Section H(2)	Section H(2) above
49	3	Part VI, Section 4(A)(18)(a-d)	Part VI, Section 4(A)(19)(a-d)
50	4	Section 4939 of PL 15-108	Section 4939(g) of PL 15-108
53	13	Part VI, Section 6(B)(2)	Part VI, Section 6(B)
62	2	1 CMC 9110	1 CMC §9110
64	5	public interest in security	public interest in securing
66	1	Part VI, Section 4(A)(7)	Part VI, Section 4(A)(8)
67	B	Part VI, Section 5(E)(1)	Part VI, Section 5(F)
69	6(a)	Section 4953(a)	Section 4953(a) of PL 15-108
69	6(b)	Sections 4522 and 4532	Sections 4522 and 4922
69	9	An employer may retain	An employer may employ
69	9	contract is automatically	contract may be automatically
70	9	Section 4935	Section 4935 of PL 15-108
70	2	Part VI, Section 4(A)(17)	Part VI, Section 4(A)(20)
71	2	Part VI, Section 4(A)(16)	Part VI, Section 4(A)(19)
71	2	Part VI, Section 4(A)(10)	Part VI, Section 4(A)(11)
77	VIII	January 1, 2008	February 1, 2008

I further request and direct that this Notice and Certification of Adoption be published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 22<sup>nd</sup> day of January 2008, in Saipan, Commonwealth of the Northern Mariana Islands.

Dated this 22<sup>nd</sup> day of January 2008.

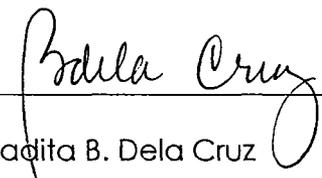
Submitted by:



Gil M. San Nicolas

Secretary of Labor

Commonwealth of the Northern Mariana Islands



Bernadita B. Dela Cruz

Commonwealth Registrar

1-22-08

# EMPLOYMENT RULES AND REGULATIONS

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## PART 0. AUTHORITY AND PURPOSE

- A. Authority. The Department of Labor (the "Department"), pursuant to its powers, duties, and authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act, as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 as amended, does hereby promulgate and issue these regulations that shall govern the hiring of citizens, permanent residents, and foreign national workers in the Commonwealth.
- B. Purpose. The purpose of these regulations is to set forth the necessary procedures and requirements regarding the placement of citizens and permanent resident workers in jobs for which they are qualified or can be trained, to set forth the necessary procedures and requirements regarding the hiring and employment of foreign national workers in jobs that support the Commonwealth's economy, and to provide procedures for investigating and adjudicating complaints regarding violations of the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act, as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 as amended.
- C. Name. These regulations shall be known as the "Employment Rules and Regulations."

## PART I. DEPARTMENT OF LABOR

(Chapter 1 of PL 15-108)

- A. Delegation of authority. (Sections 4401, 4402 of PL 15-108) The Secretary of the Department of Labor hereby delegates authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act as amended; and Public Laws No. 11-6, 11-66, 12-11, and 12-58 to the Director of Employment Services, the Director of Labor, and the hearing officers in the Administrative Hearing Office. Written delegation of authority previously issued shall remain in full force and effect until rescinded, altered, or modified as circumstances require.

- B. Appearance of conflict. (Section 4403 of PL 15-108) Employees of the Department shall avoid the appearance of conflicts of interest by reporting to the Secretary any contractual interest in an employment agency or other business engaged in recruiting or processing employment-related documents when the contractual interest is held by or for the benefit of the employee or a member of the immediate family of the employee. For purposes of this section, the term "employee" means any person whose salary is paid by or through the Department and any contractor with the Department and the term "immediate family" means parent, sibling, or child. Employees of the Department shall advise the Secretary if any person with a close familial or personal relationship appears before the employee at the Department or requests the employee to act in regard to the exercise of any power of the Department under this Act and shall perform no such act unless permitted in writing by the Secretary.
- C. Preparation and use of standard forms. It is the policy of the Department to use standard forms where possible to simplify administrative tasks, to permit the use of online filing, and to make operations more efficient. The Secretary or a designee may, at any time, amend, modify, alter, or substitute any of these forms, or add new forms as may be necessary for efficient operation of the Department, all without any amendment of these regulations. The Department may require that information on the standard forms be supplemented as provided in these regulations. Providing a standard form in no way limits the Secretary as to information that may be required in support of an application, request, or submission to the Department.

**PART II EMPLOYMENT PREFERENCES FOR CITIZENS AND PERMANENT RESIDENTS**

**(Chapter 2 of PL 15-108)**

**SECTION 1: GENERAL**

**(Chapter 2, Article 1 of PL 15-108)**

1. **Definitions.** As used in PL 15-108, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:
- (a) "Administrative Hearing Office" means the hearing office of the Department of Labor; and for purposes of 1 CMC §§9109 and 9110 as those provisions may apply to these regulations;
  - (b) "Citizen" means a person who is a citizen or national of the United States;
  - (c) "Department" means the Department of Labor;
  - (d) "Domestic helper" means a person who assists an employer with the domestic duties of a household, including but not limited to cooking, cleaning, and care for children, elders, and handicapped persons in the home; and does not include farmers;
  - (e) "Employer" means a person, corporation, partnership, or other legal entity that has a current business license issued by the Commonwealth, is doing business in the Commonwealth, and has one or more approved employment contracts with foreign national workers, or is acting directly or indirectly in the interest of a person, corporation, partnership or other legal entity in relation to an employee; or a person employing a domestic helper, farmer, household maintenance worker, or yard worker; and does not include the government of the United States;
  - (f) "Employment Services" means the Division of Employment Services of the Department of Labor;
  - (g) "Hearing officer" means a hearing officer appointed by the Secretary who serves in the Administrative Hearing Office and who conducts mediations, hearings, and other proceedings as necessary; and for purposes of 1 CMC §§9109 and 9110 as those provisions may apply to these regulations;

- (h) "Indigenous" means a person generally recognized in the community as a person of Northern Marianas Descent, who is also a citizen or permanent resident of the Commonwealth and speaks the Carolinian or Chamorro language to a degree of fluency such that the person may accomplish the basic daily tasks of life without resorting to a language other than the Carolinian or Chamorro language;
- (i) "Job classification" means the job classifications described by regulation promulgated by Employment Services;
- (j) "Permanent resident" means a person who is legally residing in the Commonwealth without restrictions as to employment in the Commonwealth, including but not limited to eligible immediate relatives of citizens and citizens of the Freely Associated States of the Federated States of Micronesia, The Republic of the Marshall Islands, and the Republic of Palau;
- (k) "Regulation" means a regulation or regulations promulgated by the Secretary of Labor, the Secretary of Public Health, or the Commonwealth immigration authority;
- (l) "Secretary" means the Secretary of Labor.

## SECTION 2: PRIVATE SECTOR EMPLOYMENT

### Chapter 2, Article 2 of PL 15-108

- A. Management of the labor pool in the Commonwealth: The Labor Department's objective under PL 15-108 is to achieve high quality employment for citizens of the CNMI in productive businesses that drive sustainable economic growth and opportunities. High levels of participation in high quality, well-paid, and diversified employment by an adaptable and skilled workforce will help ensure the economic well-being of the Commonwealth. The Department seeks to make faster and more efficient match-ups of people's skills with the job opportunities that are available and to reduce skill shortages in the future by cooperating with government-private partnership efforts to help people make informed decisions about education and training. At the same time, the Department seeks to provide fair employment opportunities for global skills and talent that support the CNMI's economy in ways that recognize and balance the Commonwealth's objectives with respect to full employment for its citizens. Citizen and permanent resident employment and foreign national worker employment are both necessary components of the Commonwealth's economic success in the future.

B. Primary job preference. (Section 4521 of PL 15-108) Citizens and permanent residents shall be given a primary preference for employment in the Commonwealth. This requirement underlies all regulations with respect to the hiring, renewal, replacement, and termination of employees. An important part of the implementation of the primary job preference is emphasis on jobs and occupations for which citizens and permanent residents are or can be qualified and which should be attractive to them. A Jobs Study by the Office of Public Auditor in 2006 and 2007 provided useful observations and conclusions in these regards. For this purpose, four categories of jobs merit special attention.

1. The "A" list. In the past, certain job classifications were reserved for citizens and permanent residents entirely, or available only on a one-to-one basis with foreign national workers. These job classifications continue to merit the most careful attention and emphasis in implementation of the preference for citizens and permanent residents. These are:

- (a) Accounting clerk
- (b) Bookkeeping clerk
- (c) Bus driver (including transit, tour, and school bus driver)
- (d) Custodian
- (e) Hotel front desk clerk
- (f) Janitor
- (g) Messenger, courier
- (h) Receptionist, information clerk
- (i) Retail trade cashier
- (j) Retail trade clerk
- (k) Secretary (other than legal, medical, and executive)
- (l) Security guard
- (m) Surface tour boat operator, motor boat operator
- (n) Taxi driver, chauffeur
- (o) Telephone receptionist, responder, answering service

(p) Tour guide and escort

2. The "B" List. Certain jobs, *in addition to the "A" list*, warrant special efforts to place citizens and permanent residents. These are:

(a) Accountant

(b) Brickmason, blockmason, stonemason

(c) Cement mason, concrete finisher

(d) Electrician

(e) Executive secretary, administrative assistant

(f) Heating and airconditioning mechanic, installer

(g) Human resource manager

(h) Operating engineer, other construction equipment operator

(i) Paving, surfacing, and tamping equipment operator

(j) Refrigeration mechanic, installer

(k) Service station attendant

(l) Ship captain, boat captain

(m) Stock clerk, stockroom, warehouse, storage yard

(n) Truck driver, light or delivery services

3. The "C" list. Certain jobs require an orientation or transition period but after appropriate training or on-the-job training can readily be filled by citizens and permanent residents. These are:

(a) Auditing clerk

(b) Auto mechanic

(c) Carpenter

(d) Cook

(e) Maintenance building repairer

- (f) Sales representative
- (g) Secretary, legal, medical, and executive
- (h) Stock clerk, sales floor
- (i) Warehouse worker

4. The "D" list. Particular care must be given to the preference for citizens and permanent residents in filling any job for which the wage is more than \$10 per hour. All jobs for which the wage rate or equivalent salary is \$10 per hour or more are included on the "D" list. Examples of these relatively high-paying jobs that citizens and permanent residents can be available to fill are:

- (a) Assistant manager, housekeeping
- (b) Customer complaint clerk
- (c) Diving instructor
- (d) Financial controller
- (e) Food & beverage manager
- (f) Front office manager
- (g) Guest service manager
- (h) Inventory controller
- (i) Kitchen manager
- (j) Maintenance manager
- (k) Preschool teacher
- (l) Sales manager, marketing manager
- (m) Station manager

C. Secondary job preference. Foreign national workers who are currently in the Commonwealth shall be given a secondary preference for employment within the Commonwealth. Employment Services shall provide services to foreign national workers who are in the Commonwealth, who have abided by Commonwealth law and worked productively, and who seek to continue their employment in the Commonwealth. Foreign national workers who fill jobs that

support the CNMI economy, in an appropriate balance with the Commonwealth's objectives regarding citizen employment, are a valuable resource to the Commonwealth and their work and contributions are important.

D. Job vacancy announcement. (Section 4522 of PL 15-108)

1. Job vacancy announcement. Any employer may submit a proposed job vacancy announcement to Employment Services by e-mail to the address provided by the Department or in writing in order to utilize the referral service in locating a suitable employee. An employer who intends to employ a foreign national worker (under a new employment contract, a renewal of existing employment contract, or a transfer from an existing employment contract) must submit a proposed job vacancy announcement to Employment Services. The proposed job vacancy announcement shall include a job description, a statement of the wages to be paid, a statement of all benefits to be provided, and, if applicable, a statement that the job posted in connection with a proposed renewal or transfer of a foreign national worker or is posted in connection with a proposed off-island replacement for a foreign national worker. The job description shall be defined by the Occupational Information Network (O-NET) which is an online database that stores information on occupational titles based on the most current version of the Standard Occupational Classification (SOC) System. The O-NET is found at <http://online.onetcenter.org>. For specialty jobs not adequately defined by O-NET classifications a parenthetical description may be appended to the closest O-NET classification. The statement of wages shall include the hourly or bi-weekly amount to be paid and any statement required to comply with regulations issued pursuant to the Resident Workers Fair Compensation Act. Employment Services shall review job vacancy announcements and approve those that meet all requirements.
  
2. Employer registration. Citizens, permanent residents, and foreign investors may register with Employment Services online at [www.marianaslabor.net](http://www.marianaslabor.net) or in writing in order to utilize the services available to employers from Employment Services. Registrants shall complete a standard form for registration and shall provide the Tax Identification Number issued by the Division of Revenue and Taxation and an industry code from the North American Industrial Classification System (NAICS) appropriate to their line of business. The NAICS is available online at [www.census.gov/epcd/www/naics.html](http://www.census.gov/epcd/www/naics.html). Employment Services shall review employer registrations and approve those that meet all requirements. Approved employer registrations remain in effect until further notice from Employment Services.

- (a) Disqualification: Persons who entered the Commonwealth for employment may not employ others or utilize the services available to employers from Employment Services.
- (b) Employer solvency. An employer must be financially solvent and able to meet the obligations of an employment contract in order to utilize Employment Services. If a foreign national worker is employed, the bonding requirement for employer obligations will meet this requirement. However, Employment Services also has responsibility for referring local residents for whom no bonding is required. Employment Services may, at its discretion, evaluate employer financial capability upon receipt of a proposed job vacancy announcement. Employment Services may request such other evidence of solvency as is required for an evaluation. Employment Services may reject a proposed job vacancy announcement if it finds the employer has presented insufficient evidence that the employer is financially capable.
- (c) Financial requirements for non-business employers. A non-business employer is a single individual person who is not incorporated or operating as a partnership or limited liability company and who does not have a business license.
- (i) Non-business employers may employ full time foreign national workers only as domestic helpers, farmers, household maintenance workers, and yard workers.
- (ii) Non-business employers must not currently be receiving nor within the past year have received assistance from the Nutrition Assistance Program, Security Supplemental Income from the Social Security Administration, any government subsidy in the form of public utilities from the Commonwealth Utilities Corporation, or low income housing from the Mariana Islands Housing Authority.
- (iii) A non-business employer must earn an annual wage or salary equal to or greater than 110% of the United States Department of Health and Human Services Poverty Guidelines for the State of Hawaii. These

guidelines are at *Federal Register*, Vol. 72, No. 15, January 24, 2007, pp. 3147-3148 or at <http://aspe.hhs.gov/poverty/07poverty.shtml>.

(iv) Members of a household may aggregate their income for purposes of qualifying as a non-business employer, but every person whose income is considered for purposes of meeting the financial requirements of this section must sign the foreign national worker's approved employment agreement and thereby becomes fully responsible, jointly and severally, for all of the employer's obligations under the agreement.

(d) Tax standing. An employer must be in good standing with respect to the payment of all taxes in order to utilize Employment Services. Employment Services shall obtain from the employer a certification of good standing from the Department of Revenue and Taxation.

(e) Outstanding complaints and judgments. An employer must have no outstanding judgments arising out of Department proceedings or outstanding billings from the Commonwealth Health Center on behalf of a foreign national worker that are more than 60 days in arrears, except matters on appeal. An employer with more than one outstanding complaint pending with the Department may not be a suitable employer who should be permitted to utilize Employment Services. Employment Services may reject a proposed job vacancy announcement if it finds the employer has presented insufficient evidence that outstanding judgments or complaints should not disqualify the employer.

E. Job referral and advertising. (Section 4523 of PL 15-108)

1. Immediate publication of job vacancy announcements. Approved job vacancy announcements from registered employers shall be published immediately on the Department's website, at no charge to the employer, and shall remain on the website for as long as the job is vacant or until Employment Services issues a certification of compliance allowing the job to be filled by a foreign national worker. Alternatively, if the website is not available, the job vacancy announcement may be published for two days in each of two successive weeks in an English-language newspaper of general daily circulation in the Commonwealth. Employment Services may require, upon notice to the employer, publication in Chinese or Korean language newspapers for certain unskilled jobs under particular circumstances when

utilization of on-island foreign national workers is more likely to come from these sources.

2. Referral service. Employment Services shall provide a referral service for citizens, residents, and foreign national workers located in the Commonwealth. This service shall match information about prospective employees with information about job vacancies so that private sector jobs may be filled expeditiously with qualified persons who are willing and able to do the work required by the employer.
3. Job applicant registration. Citizens, permanent residents, and foreign national workers may register with Employment Services for assistance in finding employment in the Commonwealth. Registrants shall complete a standard form for registration online or in writing. Registered applicants may post resumes on the Department's website.
4. Orientation and assistance to registered persons seeking employment. Employment Services will provide orientation materials to help applicants with job applications and interviews and with referrals to other agencies that provide related assistance.
5. Cataloging and evaluation of skills. Employment Services will catalog and evaluate the skills, qualifications, and interests of applicants seeking employment in order to be able to match applicants with job vacancy announcements. For jobs with a legitimate requirement for fluency in a foreign language, Employment Services will evaluate oral foreign language skills through the use of standard conversational tests administered by translators employed or contracted by the Department. Employment Services will evaluate written foreign language skills through the use of standard written tests administered by translators employed or contracted by the Department.
6. Referral List. Employment Services shall maintain a current list of all persons who have registered within the past six months and who have not yet become employed.

7. Employment referral. With respect to each job vacancy announcement, Employment Services shall determine whether any person on the Referral List is qualified for the vacancy. If candidates are available from the Referral List, a suitable number of qualified candidates will be referred to the employer within five (5) working days after receipt of the proposed job vacancy announcement.
  
8. Employer action on referrals. After receiving a referral from Employment Services, an employer may take any of the following actions:
  - (a) Any citizen or permanent resident may be hired rather than a person referred by Employment Services without any justification required to be submitted to Employment Services.
  
  - (b) In cases where more than one applicant is referred by Employment Services, any applicant referred may be hired rather than any other applicant referred without any justification required to be submitted to Employment Services.
  
  - (c) Employers may reject persons who are referred by Employment Services using the employer's normal hiring criteria in compliance with Commonwealth law with a short statement of reasons submitted to Employment Services.
  
  - (d) Employers may reevaluate their employment needs and hire no one for the proposed position. In this case, the employer shall notify Employment Services that the vacancy no longer exists.
  
9. Good faith effort to hire. An employer must make a good faith effort to hire a citizen or permanent resident for a job vacancy apart from the referral service provided by Employment Services in the event that referral service is unsuccessful in locating a qualified applicant. A good faith effort may include :

(a) Posting of the job vacancy announcement at the employer's place of business and with the Workforce Investment Agency, the Office of Vocational Rehabilitation, the Adult Development Institute at the Public School System, the Northern Marianas College, and other suitable locations;

(b) Publication in church bulletins and other newsletters, magazines, or similar publications that have a substantial audience with citizens and permanent residents and may appear less frequently than the newspapers of general circulation normally used to advertise jobs under Part II, Section 2(E)(1).

(c) Outreach for candidates from the mainland United States if local citizens and permanent residents are not available.

(d) If required under Part VI, Section 3(A)(12), an employer must have filed with Employment Services a workforce plan acceptable to the Director of Employment Services targeted at the particular job.

A certification of compliance may be issued only upon completion of action on referrals and a showing by the employer of a good faith effort to hire a citizen or permanent resident worker for the job.

10. No waivers. There are no waivers available with respect to the publication requirement. However, the publication requirement, like all other sections of Part II of these regulations, does not apply to certain employers who fall within one of the four exemptions in Section 4526 of PL 15-108. (See Part II, Section 2(H).)

11. Publication filing. If the job vacancy announcement is published on the Department's website, no filing of proof of publication is required. If the job vacancy announcement is published elsewhere, the employer must file with Employment Services, no later than thirty (30) days from last publication, a statement or invoice from the provider of publication services showing the dates on which the job vacancy announcement was published;

12. Employer declaration. Within fourteen (14) days after publication, the employer shall file a declaration on a standard form by e-mail to the address provided by the Department or in writing with respect to the citizens and permanent residents who applied for the job, the action taken on each application, and a short statement of the reasons for rejecting any applicant referred by Employment Services.
  
13. Cancellation of the job vacancy announcement. Employment Services may cancel a job vacancy announcement or deny certification if insufficient reasons are stated for failure to hire or if no statement is received within 14 days. A denial may be appealed to the Director of Labor within ten (10) days after the date of the denial. If affirmed, the denial may then be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)
  
14. Certification of compliance. If no qualified citizen or permanent resident applicant is identified through publication, referral, or good faith efforts to hire, Employment Services shall issue to the employer a certification of compliance document in the standard form prescribed by the Department.
  
15. Career guidance. Employment Services will be proactive in coordinating with representatives of the Workforce Investment Agency, the Public School System, the Northern Marianas College, the CNMI Office of Personnel Management, representatives of private educational institutions in the Commonwealth, the Department of Commerce, or the Strategic Workforce Action Team (SWAT) to discuss and cooperatively implement ways to improve career guidance for citizens and permanent residents.
  
16. Education and training resources. Employment Services will maintain a current inventory of useful education and training resources in the Commonwealth, and will provide persons who register with information about these resources available to help improve job skills and competency.
  
17. Implementation of secondary job preference. Foreign national workers may register with Employment Services at any time during or at the termination of a contract or during the 15-day period after termination of a contract. If, in the implementation of the secondary job preference for foreign national workers who are currently located in the Commonwealth, an appropriate job opportunity is identified either by Employment Services or by the foreign

national worker, Employment Services shall transmit promptly to a hearing officer an inquiry about the proposed employment. If the hearing officer finds that the employee has no disqualification and the employer has no outstanding unpaid judgments more than 60 days overdue in respect of Department of Labor proceedings or other disqualifications, the hearing officer may authorize the foreign national worker to be employed on a temporary basis and may authorize the employer to file all necessary materials to meet the requirements of Section 4922 of PL 15-108. The hearing officer shall act within five business days on each inquiry from Employment Services in this regard. The Administrative Hearing Office shall hold hearings on the third Wednesday of each month with respect to all pending temporary authorizations. If no written objection is filed at least five days prior to the hearing date by the Director of Labor, the Director of Employment Services, the foreign national worker, or the current temporary employer of the foreign national worker, the hearing officer may grant an administrative transfer so that a foreign national worker may become employed by the temporary employer under a new approved employment contract without first exiting the Commonwealth.

F. Compliance with Resident Workers Fair Compensation Act, 4 CMC §9501 et seq. (Section 4524 of PL 15-108)

[RESERVED. The regulations on medical insurance are published by the Secretary of Public Health. Until such regulations are released for comment and then published in final form, a determination with respect to equivalent benefits under the RWFCFA cannot be completed. See also Part VI, Section 2(C) and Part VI, Section 3(B) which also await the regulations from the Secretary of Public Health.]

G. Work force participation by citizens and permanent residents. (Section 4525 of PL 15-108)

1. Participation requirement. In the full-time work force of any employer, the number of citizens and permanent residents employed shall be at least twenty (20) percent of all employees and this requirement shall be at least thirty (30) percent by the year 2013. The phase-in to thirty (30) percent shall occur as follows: for the calendar years 2008, 2009, and 2010 the requirement will remain at twenty (20) percent; for the calendar years 2011 and 2012 the requirement will be twenty-five (25) percent; and for the year 2013 and thereafter, the requirement will be thirty (30) percent.

(a) For purposes of this requirement, a full-time employee is one who works the minimum hours and weeks for a full-time position as defined by federal law. All foreign national workers employed under approved employment contracts are full-time employees.

(b) For purposes of this requirement, an employer may aggregate one or more part-time jobs filled by citizens or permanent residents into the hours required for a full-time job. Under these circumstances, more than one employee is performing the "job" for the employer. This flexibility allows citizens and permanent residents who prefer to work part-time to have more access to the job market and allows employers to keep valuable citizen employees who prefer to work part-time.

(c) The citizen and permanent resident participation requirement applies during a calendar year to the average number of full-time employees during the year or portion of a year. An employer may compare the average number of full-time employees who are citizens and permanent residents during a calendar year to the average number full-time employees in determining compliance with the percentage requirement. Alternatively, an employer may compare the actual number of full-time employees who are citizens and permanent residents during a calendar year to the actual number of full-time employees. The requirement applies at the time of hire of a foreign national worker.

2. Employment on more than one island. If an employer operates on more than one island, the citizen and permanent resident participation requirement applies in aggregate to all islands. Employees on any island are counted toward the aggregate minimum percentage on all islands.
3. Employment of consultants. For purposes of the participation requirement, the term "citizens and permanent residents employed" shall not include consultants, advisers, or agents who are independent contractors or who are not full-time employees.
4. No waivers. There are no waivers available with respect to the participation requirement. However, the participation requirement, like all other sections of Part II of these regulations, does not apply to certain employers who fall within one of the four exemptions in Section 4526 of PL 15-108 (see subsection H below).

5. Reports. Each employer of foreign national workers shall submit quarterly a brief report on a standard form provided by the Department showing any applicable exemption and, for non-exempt employers, for each employee, the full name; classification as citizen, permanent resident, or foreign national worker; classification as full-time, part-time, or part-time aggregated (see subsection 1 (b) above) and last four digits of the social security number or the entire LIIDS number. The report may be submitted by e-mail to the address provided by the Department or in writing, and a current report must be on file with Employment Services showing compliance with the workforce participation requirement in order for a certification pursuant to Part II, Section 2(E)(14) to be issued by Employment Services.

H. Exemptions. (Section 4526 of PL 15-108)

1. Employers with fewer than five employees. The provisions of Section 4525 of PL 15-108 do not apply to employers with fewer than five employees except as provided in this section. For purposes of this section, all full-time employees are counted.

(a) An employer against whom two or more judgments are entered in Department proceedings within any two year period automatically loses this exemption and all provisions of PL 15-108 automatically become applicable. No administrative proceeding is required to remove the exemption. A "judgment" for purposes of this section is a final action, which includes a decision of a hearing officer that has not been appealed within the time allowed, or a decision of the Secretary on a matter that has been appealed within the time allowed, provided however that a stay of the removal of the exemption may be provided by a court of competent jurisdiction. The exemption automatically becomes unavailable on the date on which the second judgment is entered. The term "two judgments" includes judgments in two separate actions or cases bearing two separate case numbers, and also includes judgments with respect to two complainants in the same action or a case bearing only one case number.

(b) An employer with fewer than five employees who has been in operation in the Commonwealth for three years or more and all retail establishments

that handle food stamps no matter how long in operation shall have at least one citizen or permanent resident employee after June 30, 2008.

2. Particular construction project. An exemption for a particular construction project is available by written order signed by the Secretary.
  - (a) A "particular" project means a project limited to one building or one infrastructure improvement. "Limited duration" means two years or less.
  - (b) An application for an exemption for a particular construction project shall be made in writing, signed by the employer, stating the name of the project, the purpose of the project, the nature of the construction, the location of the project, the total cost of the project, the duration of the project, the number of foreign national workers to be employed on the project, the O-NET job classifications of the workers on the project, and the arrangements made to repatriate each worker within seven (7) days of the completion of the project.
  - (c) Each foreign national worker employed on a construction project under this exemption shall receive from the employer, upon arrival in the Commonwealth, a notice containing a clear explanation of the limitations on the worker's eligibility to remain in the Commonwealth.
3. Incentive exemption. An incentive exemption shall be available if the citizen and permanent resident employees in the full-time work force of an employer in specified job categories exceeds substantially thirty (30) percent of the employer's total full-time work force in these positions. The incentive benchmark is thirty-five (35) percent for A-List and B-List jobs aggregated within the employer's workforce (See Part II, Section 2(B)).
4. Light manufacturing employer holding waiver prior to Jan. 1, 2007. Certain light manufacturing employers have in the past held waivers applicable to statutory and regulatory requirements comparable to the requirements of Part II of these regulations. These past waivers have been long-standing, and business expectations and plans rest on those waivers. An exemption is available for any light manufacturing employer holding a waiver prior to Jan. 1, 2007. For purposes of this section, "manufacturing" means the

transformation of raw materials into finished goods for sale, or intermediate processes involving the production or finishing of semi-manufactures. "Light manufacturing" means a light industrial use where all processing, fabricating, assembly, or disassembly of items takes place wholly within an enclosed building. Typical items for processing, fabricating, assembly, or disassembly under this use include but are not limited to apparel, food, drapes, clothing accessories, bedspreads, decorations, artificial plants, jewelry, instruments, computers, and electronic devices.

I. Investigation. (Section 4527 of PL 15-108) The Director of Labor shall conduct investigations as necessary and appropriate to enforce the provisions of PL 15-108 and the regulations promulgated thereunder to ensure lawful working conditions, employer-supplied benefits, and health and safety for citizens, permanent residents, and foreign national workers. In conducting these investigations, the Director shall have all of the powers delegated and described with respect to inspections and investigations conducted pursuant to Part VI of these regulations.

J. Adjudication of claims. (Section 4528 of PL 15-108)

1. The adjudication of claims under Section 4528 of PL 15-108 shall proceed according to the rules and regulations in Part VI, Section 4 below. Claims must be filed in accordance with the time limits in Section 4962(b) of PL 15-108. No complaint may be filed more than six months after the date of the last-occurring event that is the subject of the complaint, except in cases where the actionable conduct was not discoverable upon the last-occurring event. In such instance no complaint may be filed more than six months after the date a complainant of reasonable diligence could have discovered the actionable conduct.

2. The term "just cause" for rejecting an application for employment includes all of the lawful criteria that an employer normally applies in making hiring decisions such as rejecting persons with criminal records for positions of trust, rejecting persons without an educational degree necessary for the position, rejecting persons with no favorable recommendation from prior employment, rejecting persons with an employment history indicating an inability to perform the job successfully, rejecting persons with an educational background making it unlikely that the necessary education or training to hold the position could be accomplished successfully within a reasonable time, and similar just causes.

3. All hearings shall be open to the public.
  4. A hearing officer is authorized to award actual damages for any out-of-pocket costs attributed directly to the action of the employer in refusing employment and liquidated damages of up to six months wages if actual damages are uncertain or cannot be ascertained under a satisfactory or known rule, provided however, any damages award, no matter what components are included, cannot exceed six months' wages for the job for which a citizen or permanent resident applied.
  5. A hearing officer is authorized to levy a fine not to exceed \$2,000 for each violation by an employer.
- K. Statistical data. (Section 4529 of PL 15-108) The Department will aggregate the NAICS data for full-time employees and part-time employees who are citizens and permanent residents into the following categories for purposes of the Department's annual report.
1. Professional, technical, and managerial
  2. Clerical, sales, and service
  3. Agricultural, fisheries, forestry, and groundskeeping
  4. Light manufacturing
  5. Construction and structural work
  6. Care for children, elders, or handicapped persons in the home, housework, gardening, and related private residence work
- L. Online implementation. The functions of Employment Services will operate online using a website the URL of which is [www.marianaslabor.net](http://www.marianaslabor.net). The purpose of moving various functions online – such as posting of job vacancy announcements, posting of resumes with the applicant's consent, delivery of responses and determinations by the Department, delivery of statements and declarations required of employers, notices, regulations, and other materials – is to make Employment Services processes faster, more efficient, and less costly for

the Department, employers, and job seekers. Employment Services will issue guidance for employers and applicants for the use of the website to file materials and to access information. Employers of twenty-five (25) or more employees will be required to use available online functions on and after March 1, 2008. Employers of ten (10) or more employees will be required to use available online functions on and after May 1, 2008. All employers will be required to use available online functions on and after September 1, 2008. Applicants for employment will use the online functions at their option and always will have the option of providing paper copies in person at the Department.

### PART III. MORATORIUM ON THE HIRING OF FOREIGN NATIONAL WORKERS

#### (Chapter 3 of PL 15-108)

A. Moratorium phase-out. (Section 4601 of PL 15-108) The moratorium is phased out as follows:

1. As of January 1, 2008, the moratorium does not apply to the visitor industry. The visitor industry includes hotels, airlines, aircraft services, tour packagers, tour guides, tourist transportation, and tourist sports, charters, and recreation services.
2. As of January 1, 2009, the moratorium does not apply to the services industry. The services industry includes accountants, lawyers, banks and financial services, medical and health care services, maintenance and repair and rental services, restaurants and catering services, retail and wholesale sales and services, bakeries with retail outlets, freight and shipping services, appraisal and surveying services, and education services.
3. As of January 1, 2010, the moratorium does not apply to agricultural, fishing and  
fisheries, forestry, and groundskeeping positions.
4. As of January 1, 2011, the moratorium expires with respect to all remaining positions.
5. Applications to bring foreign national workers to the Commonwealth, to renew foreign  
national workers, or for administrative transfers by foreign national workers may be submitted in advance of the date on which the moratorium no longer applies to the employer to take effect after the date on which the moratorium no longer applies to the employer.

B. Exemptions. (Section 4602 of PL 15-108) While the moratorium is being phased out, there are six exemptions to the moratorium, and these are defined areas of

economic growth and development and areas set aside for the preservation of the tax base of the Commonwealth. Exemptions are claimed on a standard form. A claim of exemption shall be either granted or denied by the Director of Labor. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

1. Renewals. The renewal of an approved employment contract with a foreign national worker is governed by Section 4935 of PL 15-108. See regulations with respect to that section. If a renewal is available under Section 4935 of PL 15-108 and the procedures required by that section are followed, the renewal is not affected by the moratorium. Neither Section 4935 of PL 15-108 nor any other provision of PL 15-108 provides any right to a renewal, either for the employer or the employee. The Department may, under the conditions and criteria provided in these regulations, deny any renewal application.
2. Replacements. A replacement is a foreign national worker not currently present in the Commonwealth.

(a) Preference for workers currently located in the Commonwealth. An employer seeking an exemption from the moratorium for a replacement worker shall first contact Employment Services so that eligible foreign national workers already in the Commonwealth can be placed. A foreign national worker who is working under a Temporary Work Authorization issued by a hearing officer (see Part VI, Section 4(A)(20)(c)) or a foreign national worker who transfers to an employer through an administrative order issued by a hearing officer (see Part II, Section 2(E)(17) and Part VI, Section 4(G)(4)) is not a replacement, and employment of TWA workers and workers holding transfers is not limited by the moratorium.

(b) Requirements.

- (i) A replacement worker may be hired only when a foreign national worker has actually departed the Commonwealth or the employer has reported to the Department that the employee is missing and cannot be located. See Part VI, Section 3(H)(4). A replacement worker may be hired only for a position for the same employer and within the same O-NET job classification as the departed worker.

(ii) A claim of exemption for replacement may be denied if the foreign national worker being replaced departed the Commonwealth after filing a complaint and being awarded relief or if the Director of Labor finds any violation of Commonwealth law in connection with the employment of the foreign national worker being replaced.

(iii) The employment of a replacement must comply with Part II of these regulations.

(iv) The entry permit is an important control that assists in maintaining the proper status of foreign nationals within the Commonwealth. Failure to return an entry permit or file the required notice for a departing worker is grounds for denial of a replacement. See Part VI, Section 2(E)(6).

(v) Periodic exit: Foreign national workers who exit the Commonwealth pursuant to Part VI, Section 5(C) and elect not to return to the Commonwealth in an employment status may be replaced without regard to the moratorium.

(vi) Religious leaders: Persons who qualify as religious leaders and enter the Commonwealth pursuant to Part VI, Section 2(G) are not subject to the moratorium.

3. Incentive hiring. This exemption is intended to allow the growth, through the use of foreign national workers, of the businesses of employers who have an exemplary record of employing citizens and permanent residents. An incentive exemption shall be available if the citizen and permanent resident employees in the full-time work force of an employer in specified job categories exceeds substantially thirty (30) percent of the employer's total full-time work force in these positions. The incentive benchmarks are as follows:

(a) A-List jobs: thirty-five (35) percent

(b) B-List jobs: thirty-five (35) percent

(c) C-List jobs: thirty-five (35) percent

(d) D-List jobs: thirty-five (35) percent

4. Visitor industry supporting services. This exemption is intended to allow the growth, through the use of foreign workers, of the businesses that support the visitor industry and that have a good record of employing citizens and permanent residents. In order to qualify for an exemption, an employer must demonstrate:

(a) Compliance with the requirement that twenty (20) percent of the full-time work force be citizens and permanent residents.

(b) Alternatively, that compliance will be met within one year as to the requirement that twenty (20) percent of the full-time work force be citizens and permanent residents. This provision permits new businesses and expanding businesses some leeway to accomplish the necessary hiring. Compliance is determined on an annual basis from one year after the date of the grant of the exemption.

"Visitor industry supporting services" means businesses that supply services to tourists, residents, and others, but whose customers are, in significant part, persons visiting the Commonwealth as tourists. This exemption recognizes that a web of commercial services supports the visitor industry and is necessary for it to prosper.

5. Major new development. Applicants for the grant of an exemption for a major new development must submit documentation and supporting information to demonstrate that the necessary findings can be made by the Secretary, that:

(a) The major new development is in the best interest of the Commonwealth. This may be demonstrated by participation in or support of income-generating activities that will significantly expand the tax base of the Commonwealth's economy, attract additional visitors, extend the stay of existing visitors, or other similar factors.

(b) The prospective employer has invested at least \$1 million in the Third Senatorial District or \$250,000 in the First or Second Senatorial Districts in a building, facility, or infrastructure where the exempted employment will occur. Except in unusual circumstances, this must be demonstrated by submission of an audited financial statement.

Projects that receive an exemption for a construction project under Part II, Section 2(H)(2) from the requirement for participation of citizens and permanent residents in the workforce may also receive an exemption under this subsection. The exemptions must be applied for separately.

6. Legislated hiring. Certain light manufacturing operations have had a legislated exemption in order to promote economic growth, and that exemption has been relied upon with respect to these businesses. Those legislated hiring provisions are continued.

C. Reserved. (Section 4603 of PL 15-108)

[RESERVED]

- D. Employment requirements. (Section 4604 of PL 15-108) If an exemption to the moratorium is available, and a foreign national worker is hired, all of the requirements of Part VI of these regulations with respect to the employment of foreign national workers must be met. No provisions of Part VI of these regulations are waived by qualification for an exemption from the moratorium.

E. Reserved. (Section 4605 of PL 15-108)

[RESERVED]

F. Enforcement. (Section 4606 of PL 15-108)

[RESERVED]

G. Penalties. (Section 4607 of PL 15-108)

[RESERVED]

**PART IV. RESERVED**

(Chapter 4 of PL 15-108)

**PART V. CERTIFICATION PRE-CLEARANCE**

(Chapter 5 of PL 15-108)

- A. Required clearances. (Section 4801 of PL 15-108) Certain Commonwealth statutes, rules, regulations, policies and practices require certifications of various kinds. If the documentation comes from outside the Commonwealth, the Department accepts only documentation from approved persons, agencies, and entities covered by subsection 1 below. Examples are health certifications (Part VI, Section 2(C)), police clearances, marriage and birth records, (Part VI, Section 2(B)(4)).
1. Approved list. (Section 4802 of PL 15-108). The list of approved persons, agencies, and entities published by the United States Department of State, the United States Citizenship and Immigration Service and the United States Department of Justice may be obtained from the Secretary's office.
  2. The Secretary has made no determination with respect to any other persons, agencies, or entities.
- B. Limited applicability of Administrative Procedure Act. (Section 4803 of PL 15-108)

[RESERVED]

## PART VI. EMPLOYMENT OF FOREIGN NATIONAL WORKERS

(Chapter 6 of PL 15-108)

### SECTION 1: GENERAL

Chapter 6, Article 1 of PL 15-108

1. Definitions. The definitions in Part II, Section 1 are incorporated by reference and, in addition, as used in this Part VI, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:
  - (a) "Approved employment contract" means a written contract between a foreign national worker and an employer, which has been approved by the Secretary, specifying the terms and conditions for work to be performed by the foreign national worker within the Commonwealth;
  - (b) "Approved health insurance contract" means a written contract executed by an employer, providing coverage for health care costs of one or more foreign national workers, in a form that has been approved by the Secretary of Public Health;
  - (c) "Approved security contract" means a written contract executed by an employer providing full security for all employer obligations with respect to the employment of foreign national workers as required by this chapter, in a form that has been approved by the Secretary;
  - (d) "*Bona fide* non-profit religious undertaking" means a religious organization legally established or incorporated in the Commonwealth that is exempt from Commonwealth taxation, or U.S. taxation as an organization described in 26 U.S.C. §501(c)(3);
  - (e) "Debarment" means, pursuant to an administrative order, the temporary or permanent prohibition on employment by an employer of foreign national workers;
  - (f) "Entry permit" means the entry permit card issued by Commonwealth immigration authority using the Labor and Immigration Identification Data System (LIIDS) or comparable system, and delivered to a foreign national worker pursuant to this chapter;

- (g) "Foreign national worker" means any person who is not a citizen of the United States or a permanent resident of the Commonwealth who enters the Commonwealth for the purpose of being employed or otherwise to perform services for compensation in the Commonwealth; but does not include persons exempted pursuant to Section 4965 of PL 15-108;
- (h) "Immediate family" of a foreign national worker means a legally recognized spouse or a child, whether natural or adopted, if adopted before his or her 18<sup>th</sup> birthday;
- (i) "Mediation" means an informal, non-public, confidential meeting attended by the parties to a labor dispute or potential labor dispute together with a mediator at the Administrative Hearing Office in order to seek a voluntary resolution of the dispute satisfactory to all parties and reflected in a written agreement;
- (j) "Repatriation" means the exit from the Commonwealth and travel to the point of hire for a foreign national worker or member of the immediate family of a foreign national worker whether by voluntary action of the foreign national worker or by deportation; and in the case of the death of a foreign national worker while in the Commonwealth, the embalming and shipment of the body to the point of hire;
- (k) "Termination" means, with respect to an approved employment contract, the expiration of the contract according to its terms, termination by a party for cause or as otherwise permitted by this chapter during the term of the contract, or termination by the Secretary for cause during the term of the contract; and
- (l) "Transfer" means any process by which a foreign national worker who enters the Commonwealth pursuant to an approved employment contract with one employer becomes employed by a different employer without first exiting the Commonwealth.

## SECTION 2: ENTRY INTO THE COMMONWEALTH

### **Chapter 6, Article 2 of PL 15-108**

- A. Entry by foreign national workers. (Section 4921 of PL 15-108) Airport processing. When a foreign national worker arrives at the airport for initial entry to the Commonwealth, he or she shall have for inspection by the Commonwealth immigration authority a copy of the approved employment contract for the worker's services and a copy of the sworn affidavit required under Part VI, Section 2(B)(4) of these regulations. If the affidavit was executed outside the

Commonwealth, the foreign national worker shall attest under penalty of perjury that all information contained in the affidavit is true. The arriving foreign national worker shall sign a standard form in the worker's native language with an English translation attached attesting to notice with respect to the description of the job in the employment contract, attesting to notice with respect to attendance at an orientation session, specifying any recruiting agreement, and acknowledging receipt of the telephone numbers and offices where assistance will be provided in case there are any problems locating the employer or the job. If a foreign national worker cannot complete these requirements at the airport for any reason, the worker may be paroled into the Commonwealth for a specified period of time in which to correct deficiencies or may be repatriated.

B. Approved employment contract . (Section 4922 of PL 15-108) An application for approval of an employment contract must be signed by a director, officer, or manager of a corporation or other business organization and must be submitted to the Director of Labor on a standard form provided by the Department in person by an employee of a corporation or other business organization who shall present sufficient identification and proof of status. An application must be signed and submitted in person by a non-business employer. No person who is an agent and no person holding a power of attorney may sign or submit an application. The Director shall review the application to ascertain if it is complete. An incomplete application will not be accepted. The Director shall take action on a complete application as soon as practicable after receipt, depending primarily on the time required for investigation, if any, of representations made in the application. The Director may approve or deny the application, or may hold the application for no more than ten (10) days to give the employer an opportunity to correct deficiencies. A checklist of deficiencies shall be on a standard form. A denial shall be on a standard form. No other documentation with respect to a deficiency or a denial is required. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).) An application for approval of an employment contract shall be accompanied by the following documentation:

1. Certification of compliance document from Employment Services. See Part II, Section 2(E)(14) above.
2. Proposed employment contract. A standard form contract provided by the Department and signed by the foreign national worker that complies with all applicable Commonwealth laws.
3. Proposed health insurance contract. A contract signed by the employer (after the date on which the Secretary of Public Health publishes final

regulations in that regard) that would cover the foreign national worker if entry to the Commonwealth is granted.

4. Worker affidavit. A sworn affidavit from the foreign national worker, executed under penalty of perjury in accordance with Part VI, Section 2(A) of these regulations, as to the foreign national worker's age of 21 years or more; a minimum of two (2) years experience in the O-NET job classification for which the contract has been entered; receipt and understanding of the Notice to Foreign National Workers provided by the employer; marital status and identity, age, address, and relationship of immediate family members; and criminal record, if any; and the payment of recruiting fees in the country of origin and the identification of the recruiting agency or agent. The affidavit shall be accompanied by a color photo and an original or certified copy of a birth certificate and police clearance. No employer shall be held liable for false information contained in the affidavit unless the employer has knowledge that the information is false. A standard form of affidavit is provided by the Department.
5. Employer good standing. A certification by the Division of Revenue and Taxation of the employer's good standing with respect to any current business licenses for activities in which the foreign national worker will be engaged and current full payment of all taxes; a copy of the employer's business license; and a certification by the Commonwealth Health Center of no outstanding bills more than 60 days in arrears with respect to medical care for any foreign national worker. The Department will check information provided by the Department of Finance with respect to any checks that have failed to clear in order to determine good standing in that respect.
6. Recruiting agreement. A copy of any recruitment agreement made between the employer and the foreign national worker, or between the employer and a recruitment agent or agency with respect to the foreign national worker.
7. Notice to Foreign National Workers. A copy of the notice required under Part VI, Section 3(H) that has been delivered to the prospective foreign national worker. A standard form of notice is provided by the Department.
8. Employer waiver, consent, and certification. A waiver, consent, and certification shall be provided in the form provided by the Department.
  - (a) A waiver shall be provided of rights to confidentiality concerning records with respect to the employer in the possession of other government agencies. Such records may be made available to the Department, upon its request, for purposes of administering the labor laws.

- (b) An express written consent shall be provided with respect to administrative inspections by the Department of the employer's worksites in accordance with the provisions of Part VI, Section 3(l) of these regulations.
- (c) A certification shall be provided, under penalty of perjury, by the employer of satisfaction and compliance with all Commonwealth statutory and regulatory requirements for preference for the employment of citizens and permanent residents set out in Part II of these regulations; all applicable statutory or regulatory requirements of the United States; and all regulatory requirements of the foreign national worker's home country that are the subject of a memorandum or other arrangement with the Commonwealth; and an attestation that the statements made in the application, the contract, and the supporting papers are true.
- (d) A non-business employer (an employer who does not have a business license) must certify, in addition, that he or she is not receiving certain specified government assistance and has met the financial requirements. See Part II, Section 2(D)(2)(c).
9. Payment of fee. Payment of the fee required under Part VI, Section 6(H) of these regulations. Payment in cash or by money order or debit card is acceptable and the Director of Labor may approve payment by check or credit card for particular employers with a creditworthy history of payment to the Department. If check or credit card payments do not clear, a penalty fee of \$35 will be assessed.
10. Barred List. The Director of Labor shall maintain a Barred List containing the names of employers who have been barred from employing foreign national workers in an administrative order of a hearing officer, or in an order by the Secretary on appeal. The Barred List is available to the public. No employment contract shall be approved and no entry permit shall be issued to or for an employer on the Barred List. Employers barred for a specific period of time shall be removed from the Barred List upon the expiration of the specified time period. Employers barred permanently must petition the Director of Labor to be removed from the Barred List.
11. Effect of pending cases. The Director of Labor may suspend action on any application for an approved employment contract during the pendency of any case before the Administrative Hearing Office. The Director shall give written notice to the employer of such suspension. An employer may appeal the decision to suspend processing and request an expedited hearing.
12. Effect of checks that do not clear. The Director of Labor may hold for ten (10) days any application for which the fees are paid by check and will deny the application if a check for applicable fees does not clear.

13. Effect of on-island labor pool. The Director of Labor may reject an application for an off-island hire if the circumstances of the on-island labor pool indicate that there is no substantial justification of need. The Director of Labor may issue temporary holds with respect to all application for off-island hires in the event of business closings or other events that cause a temporary increase in the unemployed on-island labor pool.

C. Health certifications . (Section 4923 of PL 15-108)

[RESERVED. The requirements for health certifications in effect in 2007 remain in place until final regulations for this section are provided by the Secretary of Public Health.]

D. Approved security contract. (Section 4924 of PL 15-108) An employer must provide a security contract in one of three forms for approval by the Director of Labor. Each contract shall secure the performance by the employer of all statutory financial obligations with respect to each foreign national worker listed in the contract. The Director shall approve only contracts that include a waiver of all defenses except presentment of a final judgment and that meet the requirements set out below.

1. U.S. national rating. A contract with an insurance company that has a rating from A.M. Best Company, which is a national rating agency in the United States. The Secretary has approved all companies with a financial strength rating of B+ or better, a credit rating of bbb or better, and a debt rating of bbb or better. Information about the ratings of insurance companies that are currently rated is at [www.ambest.com](http://www.ambest.com).

2. Licensed company with audited financial statement. A contract with an insurance company, licensed to conduct insurance business in the Commonwealth and in good standing with respect to all Commonwealth requirements for insurance companies, as follows:

(a) The insurance company shall submit to the Department an audited financial statement not more than three months old at least once each year during the period of time in which bonds are outstanding. The Department will examine the financial statement to determine the

amount of liquid financial assets currently available (not required to meet liabilities) to satisfy judgments arising out of Department proceedings.

(b) The Department will authorize the insurance company to issue bonds for a specified number of foreign national workers for one year based on the currently available liquid financial assets shown on the current audited financial statement. The Department will authorize bonding for one foreign national worker for each \$1,000 in currently available liquid financial assets.

(c) Authorized bonding may be renewed, increased, or decreased upon submission of a subsequent audited financial statement showing currently available liquid financial assets to support the bonding to be authorized. If a financial statement shows inadequate liquid financial assets to support the authorized bonding, the Department shall cancel authorized bonding to the extent required on thirty (30) days notice and notify any affected employer to submit substitute bonding within thirty (30) days.

(d) Within ten (10) days of the service of a notice of claim upon the insurance company, the amount of the claim or \$1,000, whichever is less, shall be deposited by the insurance company with the Department for a period not to exceed ninety (90) days while the Department adjudicates the claim. If the claim is denied, the deposit shall be returned. If the claim is granted, the deposit shall be held until the employer pays the judgment or the bond is called to pay the judgment. If the Department fails to adjudicate the claim within 90 days, the deposit shall be returned promptly.

3. Labor Trust Account Revolving Fund coverage. A standard form contract with the Department as follows.

(a) Coverage is provided for the employer's financial obligations with respect to a specific named foreign national worker including up to three months' unpaid wages, other damages, and the cost of repatriation, not to exceed a total of \$3,000. The cost of medical care is not included in this coverage; medical care is covered under Section 4932 of PL 15-108.

(b) Payment may be made by the employer for Labor Trust Account Revolving Fund coverage under any one of the following options:

- (i) If the employer has been in business and employed foreign national workers in the Commonwealth continuously for the previous five years and has had no complaints filed with the Department that resulted in any money judgment, payment may be made in three monthly installments or in a lump sum amount, at the employer's option, of an amount that is 125% of the current cost of repatriation of the foreign national worker covered in the account. If a worker is repatriated by the employer and the Department determines there are no outstanding obligations of the employer with respect to that worker, the amount paid into the Labor Trust Account Revolving Fund with respect to that worker shall be repaid by the Department to the employer less four (4) percent or the Department's actual administrative costs, whichever is lower.
  
- (ii) If the employer does not qualify under (i) above, payment is required of the estimated total repatriation cost for the foreign national worker plus an estimated amount to cover other obligations of the employer. The estimated amount will be determined by the Department on a case-by-case basis taking account of the employer's prior record in employing foreign national workers, paying judgments, financial stability, and any other relevant factors. If a worker is repatriated by the employer and the Department determines there are no outstanding obligations of the employer with respect to that worker, the amount paid into the Labor Trust Account Revolving Fund with respect to that worker shall be repaid by the Department to the employer less four (4) percent or the Department's actual administrative costs, whichever is lower.
  
- (iii) At any employer's option, payment may be made in the amount of \$75 per year for each foreign national worker employed together with a waiver of any right to be repaid by the Department. The amount to be paid per worker may be adjusted periodically after an audit of the Labor Trust Account Revolving Fund in order to keep the revolving fund solvent and able to meet its obligations as circumstances change over time. The Department will notify employers of adjustments at least 90 days before such adjusted amount comes into effect. The adjusted amount comes into effect automatically after notice.

(c) Eligibility is available only for employers who have no outstanding unpaid amounts due the Labor Trust Account Revolving Fund or unpaid judgments arising out of Department proceedings more than 60 days in arrears, except those on appeal.

(d) All interest earned on the Labor Trust Account Revolving Fund is returned to the fund.

A standard form contract is provided by the Department.

4. Operation of the Labor Trust Account Revolving Fund. Any person authorized to pay from the fund shall be bonded with a fidelity bond in an amount appropriate to the protection of the fund. The Labor Trust Account Revolving Fund shall be audited annually by a certified public accountant and the audit shall be reviewed by the Office of the Public Auditor. The audit report shall be a part of the annual report provided pursuant to Section 4970(a)(1) of PL 15-108.

5. Payments from the Labor Trust Account Revolving Fund. Funds in the trust account may be used by the Secretary to pay a final judgment against an employer who has paid for coverage from the Labor Trust Account Revolving Fund arising out of a Department proceeding which judgment the employer has failed to pay for thirty (30) days or more and administrative costs associated with that judgment as determined by the Secretary. The Secretary may in his or her discretion, but is not required to, pay judgments which remain unpaid by reason of defaults by insurers if an employer has a contract with an insurance company, and a claim has been made and denied or is uncollectible and the foreign national worker opts for repatriation. These judgments normally would be paid from the Deportation Fund established pursuant to PL 11-66. The Secretary may, in his or her discretion, assign judgments paid from the Trust Account for collection by a private firm. A final judgment is one in which all appeals have been exhausted. Payments are limited to the amount of the judgment or \$3,000, whichever is a lower amount, less any repatriation costs to be met by the Commonwealth. The Secretary shall be substituted for the payee in any available cause of action to collect on the judgment from the employer or insurer. Payments made from the Labor Trust Account Revolving Fund extinguish any claims by or on behalf of foreign national workers against the Deportation Fund or any other Commonwealth government fund available

for compensation for unpaid obligations of an employer to a foreign national worker.

6. Limitation on recovery. A foreign national worker who has a judgment arising out of a case or matter brought before a court or other administrative agency and not adjudicated by the Department may not recover from the Labor Trust Account Revolving Fund or the Deportation Fund for any money damages awarded by the court or other administrative agency, provided however that the costs of repatriation may be paid from these funds as appropriate. Enforcement of judgments from courts or other administrative agencies in cases not adjudicated by the Department is through the processes of those courts or other administrative agencies.
7. Defaults. Any default on an approved security contract requires the Department to publish an appropriate notice that the defaulting person or corporate entity is no longer acceptable to the Department. An employer that is a party to any approved security contract with such defaulting person or entity must provide the Department with a substitute approved security contract within sixty (60) days of receipt of notice or forfeit the privilege of employing foreign national workers.
8. Audited financial statement. A financial statement is a written report which quantitatively describes the financial health of a company. This includes an income statement and a balance sheet, and may also include a cash flow statement at the discretion of the Director of Labor. Financial statements are usually compiled on a quarterly and annual basis. An audit is an unbiased examination and evaluation of the financial statements of an organization. For purposes of allotted slots based on an audited financial statement, the audit must be done externally and signed by a certified public accountant. A certified public accountant (CPA) is an accountant who has passed the Uniform Certified Public Accountant Examination in the United States and has met additional education and experience requirements for certification as a CPA. Only CPAs who are licensed in the Commonwealth and are able to provide the public attestation (including auditing) opinions on financial statements.
9. Relationship to other funds. The Labor Trust Account Revolving Fund does not affect in any way the operation of the Deportation Fund or any other funds that may be available to cover the same or similar circumstances as the

(a) Business employers. An employer of any foreign national worker other than a domestic helper or farmer must hold a business license. An employer who holds a business license may be a corporation, partnership, or other legal entity, or may be a single individual person in a sole proprietorship.

(b) Non-business employers. A non-business employer is a single individual person who is not incorporated or operating as a partnership or limited liability company and who does not have a business license. A non-business employer may employ a foreign national worker only as a domestic helper, a farmer, a household maintenance worker, or a yard worker.

(c) Part-time casual employment. Section 4922(b) of PL 15-108 permits part-time casual employment.

(i) Eligibility. A foreign national worker who entered the Commonwealth pursuant to an approved employment contract and who is currently eligible to remain in the Commonwealth may engage in part-time casual employment.

(ii) Single employer. The "single employer" is the employer under the approved employment contract under which a foreign national worker was permitted to enter the Commonwealth until such time as the foreign national worker leaves the Commonwealth or transfers to another employer. That employer remains responsible for financial obligations under the employment contract with the foreign national worker. The employer under the approved employment contract has no liability for wages for part-time work under this section.

(iii) Hiring for part-time. An employer may employ a foreign national worker part-time for no more than 32 hours a month. A notice of part-time hiring on the standard form provided by the Department must be filed before any work by the foreign national worker begins. The notice, once filed, is sufficient to satisfy Section 4963(c) of PL 15-108. An employer who has signed an approved employment contract with a foreign national worker may not hire that foreign national worker for

part-time casual work. An employer may not hire a foreign national worker for part-time casual work for any type of work done by regular employees of the business. A notice of part-time hiring may be denied by the Director of Labor if it appears that the part-time employment is being used to circumvent the requirement of full-time work under an approved employment contract, a non-business employer is not financially responsible, or the part-time work is otherwise in violation of Commonwealth law. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

(iv) No renewal required. A notice filed with the Department in connection with part-time work is good until the foreign national worker's status as eligible to remain in the Commonwealth under an approved employment contract changes.

(v) Failure to file. Any person who employs a foreign national worker for part-time work without first filing a notice with the Department shall be barred from further employment of foreign national workers in any capacity and shall be assessed a fee equal to all of the fees applicable to an approved employment contract under Part VI, Section 6(H). An order of debarment and an assessment of fees may be appealed to the Administrative Hearing Office on the standard form provided by the Department.

2. Identification. A foreign national worker must keep his or her entry permit in his or her personal possession at all times during the worker's working hours or when on a plane or boat during business hours. "Personal possession" means actual physical possession on the person or within the immediate reach of the person. Personal possession shall not be a requirement when the foreign national worker is receiving medical treatment or when physical possession would not be practicable, at which time the entry permit shall be kept within a reasonable distance of the foreign national worker. This requirement is not in conflict with the Anti-Trafficking Act of 2005 which makes confiscation of travel documents for the purpose of controlling an alien's movements a criminal offense. A foreign national worker who is not currently employed under an approved employment contract (and therefore cannot be located at the employer's address) must provide a current residence address and telephone contact to the Enforcement Division and update that information as necessary so that the foreign national worker may be located by the Department.

3. Contract term. The usual approved employment contract provides for a one-year term. An employer and employee may agree on a two-year term, provided however that a foreign national worker employed under a two-year contract must provide an additional health certification pursuant to Part VI, Section 2(C) within the first month of the second year under the contract . Employers with special needs or specialty jobs may contract for a shorter period of time than one year. Part-time employment, see Part VI, Section 3(A)(1)(c), is employment at will and has no set term, however, part-time employment may not continue beyond the foreign national worker's eligibility under an approved employment contract to remain in the Commonwealth.
  
4. Wage rates. Wages shall be stated in hourly terms unless the foreign national worker is overtime-exempt, in which case wages shall be stated in bi-weekly terms. The wages of domestic helpers and farmers shall be stated in hourly terms. No foreign national worker employed pursuant to these regulations shall be paid less than the minimum wage provided by law. An approved employment contract shall provide that any future increase in the applicable minimum wage prior to the termination of the contract shall apply to work performed under the contract on or after the effective date of the increase.
  
5. Location of work site. A foreign national worker may have one or more work sites, however a worker may be assigned on only one island. The island where a foreign national worker will be assigned to work must be stated in the approved employment contract or in an approved change to the employment contract. Assigning a foreign national worker to work in a location not specified in the approved employment contract or in an approved contract change is a ground for denial of a renewal of the contracts of any foreign national workers in that O-NET job classification.
  
6. Hours of work. The hours of work shall be specified in the approved employment contract. Overtime work may be offered by the employer but not required. Any period of time during which the worker is required to be present at any location within the Commonwealth designated by his or her employer shall be considered working hours for purposes of determining wages and overtime pay. If a foreign national worker accepts employer-supplied housing, the employer shall not require the worker to remain in the housing during non-working hours or take or threaten to take any adverse action against the worker for refusing to remain in the housing during non-working hours. A domestic helper who lives in the same household as the employer and is on "sleeping time" or "rest time" is not on working hours.

7. Payment of wages. A foreign national worker shall be paid bi-weekly in cash or by check or direct deposit in a United States bank payable in United States currency in an amount specified in the approved employment contract. Receipts for cash payments must be signed by the foreign national worker. The employer shall retain receipts for cash payments, cancelled checks or deposit records of payment for two years.
  
8. Deductions from wages. Each expense of the employer to be deducted from the wages of a foreign national worker shall be specified in the approved employment contract and the total deductions shall not exceed thirty (30) percent of a worker's bi-weekly wages or the maximum permitted under the Fair Labor Standards Act (FLSA), whichever is less. The only permitted deductions are those described in this section.
  - (a) Deductions for medical insurance premiums. Regulations with respect to deductions for medical insurance premiums will be provided when the Secretary of Public Health publishes final regulations for the pool insurance.
  
  - (b) Deductions for employer-supplied housing. An employer providing housing for a foreign national worker may deduct from the wages of a foreign national worker who earns the minimum wage no more than \$100 per month for the cost of housing. The deduction for a foreign national worker who earns more than the minimum wage shall not exceed the fair market value of the housing supplied.
  
  - (c) Deductions for employer-supplied food, transportation, and other purposes. Allowable deductions for employer-supplied food, transportation to and from the worksite, utilities for the personal use of a foreign national worker, and other benefits or purposes may be no more than the expenses actually incurred by the employer in providing such benefits or the amounts provided in Part II, Section 2(F) with respect to the Resident Worker Fair Compensation Act, whichever is less.
  
  - (d) Deductions by non-business employers. Non-business employers may deduct up to \$100 per month for housing and up to \$100 per month for

food, local transportation, and all other benefits without regard to the thirty (30) percent limitation.

- (e) Deductions under court or administrative order. Employers may deduct amounts required or allowed by court or administrative order.
  - (f) Documentation of deductions. The amount of and reason for each deduction shall be identified on the wage statement or other documentation of wage payment provided to the employee.
  - (g) Loans and advances. Loans and advances may be agreed between an employer and foreign national worker in writing signed by the worker. However, repayment of loans and advances occurs under a separate arrangement and may not be accomplished pursuant to a deduction from wages absent a court or administrative order. Loans may not be made for recruitment, processing, or other employment-related fees.
9. Documents. A copy of the approved employment contract shall be provided to the foreign national worker by the employer prior to arrival in the Commonwealth. An entry permit shall be provided to the foreign national worker at the orientation session. (See Part VI, Section 3(D)(6).) No employer may withhold from any foreign national worker any passport, entry permit, approved employment contract, or other document related to the status of the foreign national worker.
10. Subcontracting. Any subcontract by an employer to another employer for the services of a foreign national worker shall be implemented or performed only with the prior approval of the Secretary. Application for approval of a subcontract shall be submitted on a standard form provided by the Department. Temporary census workers may be subcontracted to the Department of Commerce without prior approval.
11. Contract changes and reduction in hours. Any change to an existing approved employment contract shall be implemented or performed only with prior approval of the Director of Labor and notice to any affected foreign national worker. A request for contract change must be submitted on a standard form provided by the Department. A contract change may

Labor Trust Account Revolving Fund with respect to employers who did not pay for coverage from the Labor Trust Account Revolving Fund.

E. Entry permit. (Section 4925 of PL 15-108)

1. Entry permit required. Every foreign national worker admitted to the Commonwealth for purposes of employment must have a current entry permit in his or her possession at all times as provided under Part VI, Section 3(A)(2). If an entry permit lapses and is no longer current, the foreign national worker is automatically, as of the day after the expiration date of the entry permit, not eligible to remain in the Commonwealth.
2. Initial entry permit. When the Commonwealth immigration authority is notified by the Director of Labor that the Department has received an approved employment contract, an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), and an approved security contract for a foreign national worker, and the airport processing provided for in Part VI, Section 2(A) has occurred, the Commonwealth immigration authority shall authorize for entry or deny entry to the foreign national worker named in the documentation. If the foreign national worker is admitted for entry, the Commonwealth immigration authority shall cause to be issued an entry permit. An entry permit is valid for no more than one year from the date of issue. The entry permit will be delivered to the Director of Labor, and will be presented to the foreign national worker at the orientation session as provided in Part VI, Section 3(D)(6) of these regulations.
3. Entry permit requirements explained at orientation. Each aspect of the requirements for an entry permit shall be explained to entering foreign national workers at the orientation session. See Part VI, Section 3(D).
4. Renewal of entry permit. An entry permit may be renewed annually so long as the foreign national worker is otherwise qualified to remain in the Commonwealth. A renewal may be granted for no more than one year from the date of expiration of the prior entry permit. The employer shall file an application for renewal on the standard form provided by the Department together with payment of the nonrefundable, nontransferable fee provided in Part VI, Section 6(H). An application for renewal shall either be granted or denied. A denial of renewal may be appealed to the Administrative Hearing

Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

5. Adjustment of date. An employer may request, at renewal, an adjustment in the date of an entry permit to match the date of an approved employment contract, provided however, that such an adjustment of the date may not result in a renewal period of more than one year.
  
6. Return of the entry permit at departure. Just prior to a foreign national worker's departure from the Commonwealth, the employer shall collect the worker's entry permit and return it to the Enforcement Division within ten (10) days of the worker's departure. An employer who fails to collect a departing worker's entry permit shall give written notice to the Enforcement Division on a standard form provided by the Department within ten (10) days of the worker's departure. The entry permit is an important control that assists in maintaining the proper status of foreign nationals within the Commonwealth. Failure to return an entry permit or file the required notice is grounds for denial of a replacement.

F. Entry by immediate family members of foreign national workers . (Section 4926 of PL 15-108)

1. An "immediate family member" of a foreign national worker is a spouse for whom the foreign national worker can produce an appropriate marriage certificate or record, or a child for whom the foreign national worker can produce an appropriate birth certificate or record. The provisions of Part V apply to these records.
  
2. An immediate family member may enter the Commonwealth if the foreign national worker provides:
  - (a) Documentation that the foreign national worker earns an annual wage equal to or greater than 150% of the United States Department of Health and Human Services Poverty Guidelines for the State of Hawaii. These guidelines are published each year in the at *Federal Register* and online at <http://aspe.hhs.gov/poverty/07poverty.shtml>. A copy is posted at the Labor Department and on the Labor Department's website, [www.marianaslabor.net](http://www.marianaslabor.net). Alternatively, a foreign national worker may provide equivalent assurance that immediate family members will not require social services from the Commonwealth government due to lack of income or support during their period of stay in the Commonwealth. This may include information with respect to housing arrangements,

cooking facility and food arrangements, and an undertaking not to apply for or accept such social services directly or indirectly.

(b) Documentation of insurance coverage for each family member entering the Commonwealth.

(c) Documentation of arrangements for the education of each minor child entering the Commonwealth.

3. An immediate family member may enter the Commonwealth only after 90 days have passed since the foreign national worker entered. For purposes of this requirement, the foreign national worker "entered" the Commonwealth on the date that his or her entry permit was issued.
4. An immediate family member may enter the Commonwealth as a student at a private education institution and as a parent accompanying a student under the special visa provisions with respect to student visitors without regard to the requirements of Part VI, Section 2(F)(2) above. An immediate family member who enters under the student visa must remain eligible under that visa by remaining in private school; otherwise the immediate family member must exit the Commonwealth, wait 90 days, and then re-enter the Commonwealth under the provisions of Part VI, Section 2(F)(2).
5. An immediate family member over the age of 21 may be employed in the Commonwealth on the same terms and subject to the same requirements as any foreign national worker. No exit from the Commonwealth is required to change from immediate family member status to foreign national worker status. Once employed pursuant to the procedures in Part VI, Section 2, an immediate family member must surrender the entry permit showing immediate relative status and be issued an entry permit showing employment status. After issuance of an entry permit based on employment status, the former immediate relative shall be treated for all purposes as a foreign national worker.

G. Entry by foreign national workers in religious occupations. (Section 4927 of PL 15-108)

1. After October 2008, only persons with a vocation of minister, priest, or other religious leader equivalent may enter the Commonwealth for purposes of employment by a *bonafide* non-profit religious undertaking for the purpose of carrying on a religious occupation.

2. A "bona fide non-profit religious undertaking" is an organization legally established or incorporated in the Commonwealth that is exempt from Commonwealth taxation or that is exempt from federal taxation under 26 U.S.C. §501(c)(3). The documentation to establish that the employer is a bona fide non-profit religious undertaking must be attached to the application for an approved employment contract submitted pursuant to Part VI, Section 2(B).
  
3. A "vocation of minister or its equivalent" means that the foreign national worker has been an active, registered or recognized member of the religious organization for the two years immediately preceding entry to the Commonwealth and seeks entry for the primary purpose of serving as a minister, priest, cleric, preacher, rector, parson, reverend, nun, monk, or equivalent leader position that directs the religious affairs of the bona fide non-profit religious undertaking.
  
4. A foreign national worker in a religious occupation must have an approved employment contract that complies with Part VI, Section 2(B), however the contract term may be three years. All other requirements for the approved employment contract (other than the term) apply to foreign national workers in religious occupations in the same way as they apply to all other foreign national workers. A foreign national worker working under a three-year contract must provide a health certification pursuant to Part VI, Section 2(C) within the first month of each year under the contract.

### SECTION 3: STANDARDS FOR EMPLOYMENT

#### **Chapter 6, Article 3 of PL 15-108**

##### A. Standard conditions of employment. (**Section 4931 of PL 15-108**)

1. Single employer. A foreign national worker may be employed by only one employer pursuant to a single approved employment contract.

not be put into effect until ten (10) days after notice is given to the affected foreign national workers. A contract change may be denied by the Director of Labor. A denial may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

12. Workforce or manpower plan. (Section 4931(k) of PL 15-108)

- (a) The workforce plan. A workforce plan has as its objective an increase in the percentage of citizens and permanent residents in the workforce of the employer. A workforce plan must be appropriate to the particular circumstances of and skills required by the business of the employer. The plan shall identify specific positions on the "A" List, the "B" List, the "C" list, or the "D" List (see Part II, Section (2)(B) of these regulations), currently occupied by foreign national workers, for which citizens and permanent residents will be recruited and trained as necessary. The plan shall include a timetable for accomplishing the identified replacement of foreign national workers with citizens and permanent residents and shall identify the employee responsible for carrying out the plan.
- (b) Employers covered. Every employer with ten (10) or more employees, unless exempted, is required to have a workforce plan. Employers with fewer than ten (10) employees who are found to have violated the workforce participation requirement of Section 4525 of PL 15-108 may be ordered by a hearing officer to adopt a workforce plan, and such employers will be subject to all provisions of law and regulations with respect to a workforce plan from and after the date of the hearing officer's order.
- (c) Filing with Employment Services. Every employer required to have a workforce plan must have on file with the Director of Employment Services a written, current plan. A workforce plan is current if it has been updated and filed within the past 14 months.
- (d) Failure to file. Failure to file a required workforce plan is a ground for denial of contract renewal for any foreign national worker holding a position that should have been covered by the workforce plan.

(e) Exemption for compliance with the workforce participation requirement.

An employer that has submitted to the Director of Employment Services adequate documentation with respect to compliance for the immediately preceding two years with the twenty (20) percent requirement for employment of citizens and permanent residents under Part II, Section 2(G) of these regulations is exempt from the requirement to file a workforce plan. Adequate documentation includes a list of the full names of the employees who are citizens and permanent residents and who have been employed during each calendar quarter of the immediately preceding two years.

(f) Exemption for holder of an exemption from the workforce participation requirement.

An employer that is exempt from compliance with the twenty (20) percent requirement for the employment of citizens and permanent residents under Part II, Section 2(G) of these regulations is exempt from the requirement to file a workforce plan. In order to be eligible for the exemption, each employer must file with the Director of Employment Services a Claim of Exemption on the standard form provided by the Department. It is the responsibility of the employer to ensure that a Claim of Exemption continues to be an accurate representation to the Director of Employment Services. If circumstances change and no exemption is available, the employer shall file a Withdrawal of Claim of Exemption on the standard form provided by the Department. If no form has been filed, or an inaccurate form is on file, no exemption is available and the employer is subject to all penalties in the same manner as if the requirement for a workforce plan applied fully to the employer.

(g) Lifting of exemption if two adverse judgments entered.

Employers of fewer than ten (10) employees are exempted from the requirement to file a workforce plan. However, if an exempted employer has two or more judgments entered against them within any two-year period, the exemption is automatically lifted and a plan must be filed with Employment Services within 30 days of the entry of the second judgment. All full-time and part-time employees are counted. A "judgment" for purposes of this subsection is a final order by a hearing officer that has not been timely appealed, or a final order of the Secretary that has not been timely appealed. An appeal to a court of competent jurisdiction from a final order of the Secretary does not operate to continue an employer's previous exemption. "Two or more judgments" for purposes of this section means judgments entered in two or more separate cases or judgments entered for two or more individual complainants in the same case. "Within

a two-year period" for purposes of this section is any 24-month period. This period does not relate to a calendar year.

(h) Failure to achieve measurable progress. Failure to achieve measurable progress under a workforce plan in filling positions with citizens and permanent residents is a ground for denial of contract renewal for foreign national workers holding positions cover by the workforce plan.

13. Safe workplace conditions. Every employer shall provide safe workplace conditions for all employees, including domestic helpers and farmers.

(a) Every employer shall furnish and ensure the use of such safety devices and safeguards (such as machine guarding, electrical protection, scaffolding, safe walking and working surfaces, means of egress in case of emergency or fire, ventilation, noise exposure protection, personal protective equipment for eyes, face, head, and feet, fire protection, and sanitation) and shall adopt and use such means and practices as are reasonably adequate to render safe the employment and place of employment of all employees.

(b) An employer shall provide an adequate supply of drinking water and sufficient and sanitary toilet facilities at the worksite or reasonable access thereto.

(c) The U.S. Department of Labor's Occupational Safety and Health regulations as published and amended in the Code of Federal Regulations are recognized as the minimum standards required of every employer in the Commonwealth.

14. Safe housing conditions. Every employer who provides housing for employees shall provide safe housing conditions.

(a) The site of the housing shall be safe.

- (i) Grounds around worker housing shall be adequately drained to prevent flooding, collection of waste water, and mosquito breeding.
- (ii) Grounds around worker housing shall be maintained in a clean and sanitary condition, free of rubbish, debris, waste paper, garbage, and other refuse. Occupants of employer-supplied housing are responsible for assisting in this maintenance to the extent that they generate such refuse.
- (iii) Whenever worker housing is closed on a temporary or permanent basis, the employer shall ensure that all garbage, waste, and other refuse is collected and disposed of, and that the grounds and housing are left in a clean and sanitary condition.

(b) The building structure for housing shall be safe.

- (i) Worker housing shall be constructed in a manner which will provide protection against the elements, including, wind, rain, flood, and fire.
- (ii) Each room for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a seven-foot ceiling shall be provided.
- (iii) Separate bedding, which may include bunks, shall be provided for each occupant. Spacing of single bedding shall not be closer than 36 inches both side-to-side and end-to-end. Elevation of single bedding shall be at least 12 inches from the floor.
- (iv) Where workers cook, live, and sleep in a single room, a minimum of 100 square feet per person shall be provided.
- (v) Natural ventilation consisting of operable windows shall be provided, the area of which shall be not less than one-fourth the floor area of the living quarters. In lieu of natural ventilation, mechanical ventilation

may be provided which shall supply at least 15 cubic feet of fresh air per person per minute.

(vi) All exterior openings shall be screened with at least 16-mesh per inch material.

(vii) An adequate and convenient water supply shall be provided for drinking, cooking, bathing, and laundry purposes.

(c) Toilet facilities shall be safe.

(i) The sit down toilets provided shall be no fewer than one per fifteen (15) persons. Where there are ten (10) or more persons of different sexes using the toilets, separate toilet facilities, appropriately identified, shall be provided for each sex.

(ii) Toilet facilities shall be located within 200 feet of the sleeping quarters. No toilet facility shall be located in a room used for other than toilet purposes.

(iii) Natural ventilation consisting of operable windows or other openings shall be provided, the area of which shall not be less than one-tenth of the floor area of the toilet facility. In lieu of natural ventilation, mechanical ventilation capable of exhausting at least two cubic feet per minute per foot of floor space may be used.

(iv) All outside openings shall be screened with at least 16-mesh per inch material.

(v) Toilet facilities shall be of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the Individuals using the facilities or by the employer.

(vi) Toilet facilities shall have adequate lighting.

(vii) An adequate supply of toilet paper shall be assured by the employer.

(viii) Access to toilet facilities shall not intrude upon sleeping quarters.

(d) Laundry, hand-washing, and bathing facilities shall be safe.

(i) Sanitary laundry, hand-washing, and bathing facilities shall be provided in the following ratio: one laundry tray or tub for every fifteen (15) or fewer persons or an equivalent laundry alternative; one hand-wash basin per family or per six or fewer persons; and one showerhead for every ten (10) or fewer persons.

(ii) Facilities shall be of sanitary and easily cleanable construction and shall be maintained in sanitary condition by the individuals using the facilities or by the employer. Floors shall be of a smooth, but not slippery, surface.

(e) Sewage and refuse disposal shall be safe.

(i) Where public sewers are available, all sewer lines and floor and sink drains from toilet, laundry, hand-washing, bathing, or kitchen facilities shall be connected thereto. Septic tanks shall be installed or constructed where public sewers are not available.

(ii) Where public sewers are not available, facility wastewater shall be treated or disposed of using an on-site wastewater treatment system meeting all applicable Commonwealth regulations.

(iii) Garbage shall be stored in disposable or cleanable containers that are secured from flies, rodents, other vermin, and water. Containers shall be kept clean. Containers shall be emptied not less than twice a week. Refuse shall be disposed of only in Commonwealth-approved solid waste landfills. Burning trash is prohibited.

(f) Food storage, kitchen, and eating facilities shall be safe.

(i) Cooking facilities are to be provided wherever workers are provided common living quarters.

(ii) Cooking facilities shall be in an enclosed and screened shelter.

(iii) Food shall be stored safe from contamination by water, dirt, poisonous substances, rats, flies, or other vermin.

(iv) Refrigeration facilities shall be provided for storage of perishable food.

(v) Facilities shall be adequate for ensuring sanitary maintenance of eating and cooking utensils.

(g) Health measures.

(i) Adequate first aid supplies shall be available at the living site for the emergency treatment of injured persons.

(ii) The employer shall report to the Division of Health Services the name and address of any foreign national worker known to have or suspected of having a communicable disease.

(iii) The employer shall report to the Division of Health Services and the Health and Safety Section any case of food poisoning or unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom.

(iv) The employer shall provide adequate access to medical care if the employee's condition appears to be serious.

B. Medical insurance. (Section 4932 of PL 15-108)

[RESERVED. These regulations are published by the Secretary of Public Health. Until such regulations are published, employers remain responsible for medical care for foreign national workers in the same manner as provided under the Nonresident Workers Act. See Section 4972(g) of PL 15-108.]

C. Benefits. (Section 4933 of PL 15-108) Except as otherwise provided by a memorandum or other agreement between the Commonwealth and the foreign country that issued a passport to the foreign national worker, employers may but are not required to provide housing, food, transportation, and other benefits beyond medical care; and foreign national workers may not be required by an employer to utilize housing, food, transportation, or other benefits beyond medical care.

D. Orientation. (Section 4934 of PL 15-108)

1. Presentation. The orientation program in Saipan shall be presented every Tuesday morning at 9:00 a.m. at the conference room, second floor, Afetna Square Bldg, San Antonio, Saipan, unless rescheduled or canceled by the Director of Labor. The orientation program on Rota and Tinian will be scheduled as necessary.
2. Format. The presentation format is video tape augmented by oral presentations as necessary. The videotape will address common questions from and problems faced by foreign national workers in the Commonwealth. The videotape will be revised periodically to incorporate new material or increase the effectiveness of the presentation.

3. Translations. The orientation shall be made available in Mandarin, Tagalog, and Korean, in addition to English. Foreign national workers from India and Bangladesh are presumed to have sufficient English to participate meaningfully in an orientation session in English. For other languages, the employer shall provide a translator when the foreign national worker attends the orientation session.
4. Attendance by foreign national workers. Every foreign national worker who enters the Commonwealth shall attend the first orientation session available after date of entry unless excused for illness or other unavoidable circumstance. Upon renewal and registration with the Division of Immigration, the Director of Labor may require that some or all of the foreign national workers who entered the Commonwealth prior to the availability of the orientation program also attend an orientation session. A hearing officer may require any foreign national worker who files a complaint to attend an orientation session in order to be informed of rights and responsibilities.
5. Attendance by employer representatives. Any employer or representative of an employer of foreign national workers may attend an orientation session at any time.
6. Entry permit. The entry permit will be delivered personally to the foreign national worker at the orientation session, and the worker will sign a receipt for the entry permit that will become a part of the Department's records.

E. Contract renewal, non-renewal, and termination (Section 4935 of PL 15-108)

1. Renewal. An approved employment contract may be renewed for work within the same O-NET job classification. No right to renewal for either the employer or foreign national worker is conferred by Section 4935 or any other section of PL 15-108 or these regulations. Renewal is granted or denied by the Department taking account of the interests of the Commonwealth with respect to employment of citizens and permanent residents and enforcement of the requirements of PL 15-108 and these regulations.

(a) Form. A request for renewal is made on the standard form provided by the Department.

- (b) Fee. A nonrefundable, nontransferable fee for renewal, as provided in Part VI, Section 6(H), must be paid at the time the request is submitted.
- (c) Time. A request for renewal shall be submitted no earlier than forty-five (45) days prior to the termination date of the approved employment contract and no later than thirty (30) days prior to that termination date.
- (d) Documents. A request for renewal shall be accompanied by copies of an approved employment contract, an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), and an approved security contract covering the foreign national worker to be renewed. An employer may submit a new employment contract with new terms as necessary.
- (e) Certification as to job classification and wage rate. A request for renewal shall be accompanied by a certification by the employer and the employee, on the standard form provided by the Department, that the foreign national worker has been assigned duties and responsibilities, and has performed services, only within the O-NET job classification in the approved employment contract and that the wages paid have been in accordance with the documentation filed with Employment Services with respect to the job.
- (f) No disputes. A request for renewal shall be accompanied by a certification by the employer and the employee that there are, as of the date of the application, no disputes pending between them, no complaints outstanding, and no grievances unaddressed.
- (g) Outstanding obligations. A renewal may not be granted if the employer has any outstanding payment more than 60 days in arrears with respect to any approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard), any approved security contract, or any judgment in a Department proceeding, except those on appeal.

(h) Renewal for particular job categories. At the time of submission of a renewal application, the employer of foreign national workers in particular job categories specified below must appear, with the foreign national worker, at the Labor Processing Division, for an interview with respect to the terms and conditions under which the foreign national worker is employed. No agents or persons holding powers of attorney may appear on behalf of the employer for this interview. For purposes of this subsection, a corporate representative may not be a foreign national worker and such representatives shall produce for inspection at the interview sufficient identification and proof of status:

(i) Farmers;

(ii) Dancers;

(iii) Masseuses; and

(iv) Other employers to whom the Director of Labor gives notice as a result of adverse judgments in Department proceedings or law enforcement matters.

(i) Renewal under changed circumstances. A foreign worker whose personal circumstances have changed since arrival in the Commonwealth in a way that affects adversely the likelihood that the worker will continue to work, pay just debts and taxes, obey Commonwealth laws, or become a recipient of public assistance may be denied renewal.

(j) Barred List. No renewal of an employment contract shall be approved for an employer on the Barred List. (See Part VI, Section 2(B)(10).)

(k) Pending cases. The Director of Labor may suspend action on any application for renewal of an approved employment contract during the pendency of any case before the Administrative Hearing Office. The Director shall give written notice to the employer of such suspension. An employer may appeal the decision to suspend processing and request an expedited hearing.

- (l) Effect of denial. The denial of a request for renewal may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).) While an appeal is pending, an employee may continue to work for the employer.
2. Non-renewal. An employer may elect not to renew an approved employment contract of a foreign national worker. No reason need be given.
- (a) Notice. An employer shall provide to the foreign national worker, obtain a signature acknowledgment from the worker for, and file with the Department a notice of the employer's intent not to renew on a standard form provided by the Department at least thirty (30) days before the termination date in the approved employment contract.
- (b) Effect of failure to notify. If an employer fails to notify properly pursuant to subsection (a) above, the employer remains the last employer of record (responsible for medical expenses and repatriation) and is liable to pay the employee's full wages up to a maximum of thirty (30) days beyond the termination date of the contract until notice is given and thirty (30) days has elapsed. After the termination date of the contract, the employee is not required to work for the employer in order to be entitled to wages. At any time until thirty (30) days after the termination date of the contract, the employee may register with Employment Services and proceed under Part II, Section E(17) or file a complaint and proceed under Part VI, Section 4(A) but may not pursue both avenues simultaneously.
3. Termination. The parties may terminate an approved employment contract.
- (a) Termination for cause. During the term of the contract, an employer or employee may terminate an approved employment contract for cause as defined in the contract. An employer shall give written notice to the foreign national worker and to the Department on a standard form provided by the Department at least ten (10) days prior to the termination date. A foreign national worker may file a complaint with the Administrative Hearing Office contesting a termination for cause. The Director of Labor may investigate a termination to determine if the

termination was in compliance with Commonwealth law and these regulations.

(b) Termination by consent. An employer and employee may terminate an approved employment contract by consent during the term of the contract. The consent of the employee shall be evidenced by an appropriate writing filed with the Department at least ten (10) days prior to the termination date.

(c) Last employer of record. Under any termination of an approved employment contract, the employer remains the last employer of record (responsible for medical expenses and repatriation) until the foreign national worker transfers, is repatriated, or in the case of medical expenses, a period of 96 days expires.

F. Transfer by administrative order. (Section 4936 of PL 15-108)

1. A transfer may be made only by administrative order issued by a hearing officer. See Part VI, Section 4(G)(4).
2. A foreign national worker may not transfer to an employer on the Barred List. See Part VI, Section 2(B)(10).
3. An application for an approved employment contract in the case of a transfer must be submitted within the time allowed by administrative order. If an application for an approved employment contract is filed and has correctable deficiencies, an automatic extension of ten (10) days from the end of the time allowed by administrative order is afforded to file a proper application. The employer and the foreign national worker are responsible for staying in contact with the Department and ensuring that no deficiencies remain at the end of the automatic extension. No further extensions will be granted and the transfer will be automatically denied if deficiencies remain. Denial of a transfer may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

4. If a transfer is completed as required by this section, the new employer shall assume all legal responsibilities for the transferred worker, including but not limited to the costs of repatriation, as of the date of approval of the employment contract. The new employer is not responsible for any of the obligations of the former employer up to the date of approval of the employment contract.

G. Reductions in force. (Section 4937 of PL 15-108) Circumstances of economic necessity may require an employer to reduce the workforce or close the business. Employers have the right to make such decisions. However, because Commonwealth law allows employers to employ foreign national workers only by entering into an employment contract approved by the Department, and because foreign national workers are permitted to remain in the Commonwealth only by virtue of being a party to such an employment contract, the right of employers of foreign national workers to reduce their workforce is not unlimited.

1. Notice. Before commencement of a reduction in force, an employer shall give at least 60 days written notice to the Department and at least 30 days notice to each affected employee on the standard form provided by the Department.
2. Effective date. The effective date of termination is a date at least 30 days after the employees to be laid off have received notice of termination due to reduction in force, downsizing, or closure of the business. The employment contracts and work permits of laid-off foreign national workers shall terminate automatically on the effective date of termination.
3. Permission to enter and meet. The employer shall allow representatives from the Department to meet with the employees to be laid off on employer premises, during work hours. The purpose of the meeting shall be to advise the employees of their rights and responsibilities in connection with the lay-off, and to answer their questions.
4. Order of layoff: The employer shall layoff foreign workers before laying off citizen or permanent resident workers in the same O-NET job classification except as agreed with the Department for important business reasons. The employer shall lay off more recently arrived foreign national workers before laying off longer-term foreign national workers in the same O-NET job classification except as agreed with the Department.

5. Cooperation with the Department. The employer shall cooperate with the Department investigators and other staff by providing documentation indicating which foreign national workers seek repatriation; which workers intend to seek a transfer employer; payroll summaries for the three pay periods preceding the effective termination date; and such other documentation as necessary to allow the Department to account for all of the laid off employees. Upon request, the employer shall also produce documentation confirming the economic necessity of the lay-offs. Economic necessity may be shown by a substantial reduction in work orders, a substantial reduction in funds, or a good faith reorganization to improve efficiency, among other factors.
  
6. Company housing. The employer shall permit laid-off foreign national workers housed in employer-provided housing at the time of the reduction in force to remain in that housing for a period of 30 days following the effective date of termination upon the same terms stated in each affected workers' employment contract. The employer is not responsible for providing food for laid-off workers.
  
7. Department action. If an employer fails to comply with paragraphs 3 through 5 above, or the Director of Labor finds that the lay-offs were not prompted by economic necessity, the Director may bring an administrative action against the employer at the Administrative Hearing Office within 30 days of the date of the employer's notice of lay-off.
  
8. Limitations on new hires of foreign national workers.
  - (a) On-island hires. An employer who has laid off foreign national workers shall be barred for a period of 90 days from the effective date of termination. from hiring any new foreign national workers to work in the O-NET job classifications held by laid-off workers
  
  - (b) Off-island hires. An employer who has laid off foreign national workers shall be barred for a period of six months following the effective date of termination from hiring foreign national workers from off-island to work in the O-NET job classifications held by laid-off workers.

9. Pending applications for approved employment contracts. Upon receipt of notice from an employer of a reduction in force, downsizing or partial closure, the Director shall immediately deny all pending applications filed by the employer to hire foreign national workers from off-island for O-NET job classifications held by the laid-off workers.
  
10. Relief from time limits. An employer may petition the Director in writing for relief from the time limits stated in subsection (7) above. The Director may grant such relief only for good cause shown. A denial of a petition for relief may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)
  
11. Transfers in event of reduction in force. In the event of a reduction in force due to economic necessity, other remedies are ordinarily not sufficient to provide the foreign national worker with the benefit of the bargain made when entering an approved employment contract and a transfer may be granted. The Administrative Hearing Office shall convene a hearing within fifteen (15) days of notice to workers with respect to a reduction in force to determine worker status.
  
12. Rights and remedies. The rights and remedies afforded all employees under these regulations, and the obligations imposed upon employers, are in addition to, and not in lieu of, any other contractual or statutory rights and remedies. In particular, these regulations do not excuse employers from the requirements of the federal Worker Adjustment and Retraining Notification Act (the "WARN Act"), 21 U.S.C. § 2101 et seq. (1988), pursuant to which covered employers must provide affected employees and specified government entities at least 60 days notice of a mass lay-off or company closure.
  
13. Investigatory powers. Nothing in this section shall be construed to limit the Department's general investigatory and enforcement authority under the Commonwealth Employment Act of 2007, PL 15-108; the Minimum Wage and Hour Act; or these regulations to investigate alleged violations of same. In particular, the Department may conduct an investigation related to lay-offs of foreign national workers if the Director or a designee has reason to believe the lay-offs were not prompted by economic necessity. Nor shall anything in this section be construed to limit the right of foreign national workers to file meritorious complaints against an employer for violations of the PL 15-108, the Minimum Wage and Hour Act, or these regulations, related to the lay-off.

H. Avoidance and early resolution of potential labor disputes. (Section 4938 of PL 15-108)

1. Notice to Foreign National Workers. The notice required under Section 4938 (a) of PL 15-108 shall be in the standard form provided by the Department. The notice will be supplied by the Department in English, Mandarin, Tagalog, and Korean. Foreign national workers from India and Bangladesh are presumed to have sufficient English to understand the English-language version of the notice. Employers bringing foreign national workers from countries requiring translation to other languages shall supply a translation. The notice shall be delivered to the foreign national worker while in the home country before departure for the Commonwealth. Receipt of the notice shall be confirmed by the foreign national worker upon arrival in the Commonwealth. See Part VI, Section 2(A).
  
2. Reporting of disputes. A system of informal reporting of disputes is intended to facilitate early resolution of the potential dispute and to maintain the employment relationship. Disputes may be reported orally, by telephone or in person, or in writing to the Enforcement Section.
  - (a) Reporting by employees. In the event that an employer fails to make full and complete payment of bi-weekly wages on two successive occasions, or if a conflict arises between the foreign national worker and the employer about working conditions or the implementation of the terms of the approved employment contract, the foreign national worker shall report the potential dispute to the Department promptly.
  
  - (b) Reporting by employers. In the event that a foreign national worker fails to report for work for five successive workdays without notice to the employer of medical or other reasons for absence, or if a conflict arises between the employer and the foreign national worker about working conditions or the implementation of the terms of the approved employment contract, the employer shall report the potential dispute to the Department promptly. This provision does not limit the right of an employer to terminate an approved employment contract for cause pursuant to the terms of the contract.
  
3. Mediation of disputes. Disputes reported under Section H(2) above may be mediated under the procedures set out in Part VI, Section 4(A)(18)(a-d).
  
4. Accountability. Each employer is accountable for every foreign national worker for whom the employer has had an approved employment contract in effect at any time during the preceding calendar year and shall ensure that such persons are currently employed by the employer, have transferred

to another employer by administrative order, have exited the Commonwealth, are otherwise accounted for as remaining in the Commonwealth lawfully, or are deceased. In the event that an employer becomes unable to account for a foreign national worker, the employer shall report to the Department within fifteen (15) business days on the standard form provided by the Department.

I. Inspection of worksites . (Section 4939 of PL 15-108)

1. Timing and frequency of inspections. An administrative schedule of worksite inspections shall be established each year. Normally worksites are inspected once per calendar year, and not more than four times in any calendar year, except that follow up inspections of worksites where violations have been found may be conducted with more frequency.
2. Procedure for inspections and investigations.
  - (a) Inspections shall be conducted during normal business hours or, if an administrative warrant is obtained, at any other reasonable time under the circumstances.
  - (b) The investigator shall present himself or herself to the authorized representative at the worksite and shall provide identification as a Department investigator. The investigator shall inform the authorized representative at the worksite that the worksite has been chosen for inspection by the Department, and shall furnish to such person a copy of the current statutes and regulations authorizing worksite inspections.
  - (c) The investigator shall ask the authorized representative at the worksite if he or she consents to the inspection. If the authorized representative consents to the inspection, the investigator is authorized to inspect all areas of the worksite and premises and perform all functions listed in subsection (b) above. If the authorized representative refuses to permit entry, or does not consent to allow inspection of the worksite, the investigator may not proceed with the inspection unless an administrative warrant is obtained.
  - (d) In all cases where the authorized representative refuses to permit entry, does not consent to allow inspection of the worksite, or unreasonably obstructs the investigator in carrying out the inspection, the investigator shall serve notice upon the authorized representative of an administrative hearing at which the employer shall be required to show cause why the employer should not be disqualified by the Department from employing

foreign national workers or enjoined from future refusals with respect to inspection.

3. Violations. If upon inspection a violation is found of any provision of the Commonwealth Employment Act of 2007, the Minimum Wage and Hour Act, or the Departments regulations promulgated pursuant to Commonwealth law, the Director may, within thirty (30) days:
  - (a) Warning. Issue a warning to the responsible party to correct the violation. If the responsible party does not comply within ten (10) days and correct the violation, the Director may issue a Notice of Violation.
  - (b) Notice of violation. Issue a notice of violation to the responsible party. Upon issuance of a notice of violation, an action is opened in the Administrative Hearing Office with the Director of Labor as the complainant. If the notice of violation is issued in circumstances where a complaint has been filed with the Administrative Hearing Office by an individual complainant, the caption on the case may be amended to reflect the Director of Labor as the complainant. The Division of Labor's legal counsel shall represent the Division of Labor and the Director in such actions.
4. Inspections pursuant to warrant. For purposes of Section 4939(g) of PL 15-108, "reasonable suspicion" means specific facts about the suspected employer or worksite justifying inspection efforts beyond the norm for businesses of that type.
- J. Investigation. (Section 4940 of PL 15-108) The Director of Labor may conduct investigations as necessary and appropriate to enforce the provisions of PL 15-108 with respect to foreign national workers and these regulations to ensure lawful working conditions, employer-supplied benefits, and health and safety for foreign national workers. In conducting these investigations, the Director shall have all of the powers delegated and described with respect to inspections and investigations pursuant to Part VI of these regulations.

#### SECTION 4: ADJUDICATION OF DISPUTES

##### Chapter 6, Article 4 of PL 15-108

- A. Complaints and actions in labor matters. (Section 4941 of PL 15-108)

1. Adjudicative proceeding. "Adjudicative proceeding" means a judicial-type proceeding leading to the issuance of a final order. The parties to an adjudicative proceeding are one or more complainants and one or more respondents. A complainant is a person who is seeking relief from any act or omission in violation of a statute, executive order, contract, or regulation. A respondent is a person against whom findings may be made or who may be required to provide relief or take remedial action. A "person" in this context includes an individual, partnership, corporation, association or other entity or organization. A "party" to an adjudicative proceeding is a person or government agency admitted as a party to the proceeding.
  
2. Rules of practice. Pursuant to the Administrative Procedure Act, these rules and regulations in this Section 4 are generally applicable to adjudicative proceedings in all actions pursued by the Director of Labor and other persons. Upon notice to all parties, a hearing officer may, with respect to matters pending before that hearing officer, modify or waive any rule herein upon a determination that no party will be prejudiced and the ends of justice will be served.
  
3. Pro se litigants. In applying the rules of procedure to adjudicative proceedings, a hearing officer shall give added accommodation to parties appearing *pro se* to ensure that no party is prejudiced and that the ends of justice will be served. The Administrative Hearing Office will take all steps necessary to develop the record fully, including the record adverse to the Department.
  
4. Complaint. "Complaint" means any document initiating the adjudicative proceeding, whether designated a complaint, appeal, or an order for proceeding, or otherwise. Registration by a foreign national worker with Employment Services may be deemed a "complaint" by a hearing officer under circumstances in which it is appropriate to do so.
  
5. Case numbers. Each case shall be assigned a unique case number at the time of the filing of the complaint. All pleadings of any kind shall clearly show the case number.

6. Location for filing. A complaint and any other pleadings shall be filed at the office of the Department of Labor on the island where the employment occurred, unless good cause is shown.
  
7. Signature on pleading. Each pleading shall be signed by the party filing it or by an attorney admitted to practice in the CNMI representing a party. The signature constitutes a certificate by the signer that he or she has read the pleading; that to the best of his or her knowledge, information, and belief, there are good grounds to support it; and that it is not filed for purposes of delay.
  
8. Computation of time periods. In computing any period of time under these rules, or in a decision or order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or non-work day observed by the Commonwealth government, in which case the time period includes the next business day. When a prescribed period of time is seven (7) days or less, Saturdays, Sundays, and non-work days shall be excluded from the computation.
  
9. Filing of a consolidated agency case. The Director of Labor may commence an action against an employer or employee for an alleged violation of the labor or wage laws in force in the Commonwealth by filing a complaint with the Administrative Hearing Office. The caption shall set forth the names and addresses of the parties. The complaint shall contain a short description of the nature of the alleged violation of law and the relief sought. A Department action may require all foreign national workers employed by an employer to attend a hearing for purposes of determining eligibility for awards of damages and transfer relief.
  
10. Filing of a labor case.
  - (a) Any employer or employee may file a complaint with the Administrative Hearing Office regarding any violation of the Commonwealth Employment Act of 2007, the Minimum Wage and Hour Act, as amended, the Fair Labor Standards Act, as amended, and Public Laws 11-6 and 12-11, as amended, and these rules and regulations; or any breach of an approved employment contract, an approved health insurance contract

(after the date on which the Secretary of Public Health publishes final regulations in that regard), or any other document filed with the Department. Each individual complainant shall file a separate complaint. Cases may be handled together, but complaints cannot cover the allegations of more than one complainant.

(b) A foreign national worker may file a complaint if the worker entered the Commonwealth for employment even if an incomplete application has been filed, the employment contract has not been approved, the employer never provided any job, the employment contract has been terminated, the employee has fallen into illegal status, the employee has been working illegally, the employee has violated Commonwealth law, or similar circumstances exist. The Administrative Hearing Office will adjudicate all complaints of those who entered the Commonwealth for employment regardless of when they entered the Commonwealth or their current status in the Commonwealth. Persons who did not enter the Commonwealth for employment (such as tourists) may pursue their claims in the Commonwealth courts.

(c) A complaint may be filed only after the violation or breach has occurred. Prior to filing an action in any Commonwealth court, a foreign national worker shall file a complaint with the Division of Labor so that remedies available under Commonwealth law may be considered expeditiously and potential violations may be investigated by the Director of Labor for the potential benefit of other similarly-situated workers.

(d) A complaint filed by an individual shall be filed on the standard form provided by the Department. The Administrative Hearing Office shall post in a prominent place a translation of the complaint form in Mandarin, Tagalog, and Korean for reference by complainants. No other form of complaint is required. Any additional or explanatory materials may be filed at the option of the complainant in any form chosen by the complainant. The Administrative Hearing Office shall provide personnel to assist pro se complainants in filling out the complaint form. No pleading will be refused or stricken for failures of form, however the hearing officer may direct that more understandable pleadings be substituted or that a proper signature be added.

11. Filing of a denial case. In the event of an administrative denial under these regulations, the employer or employee adversely affected by the denial (or

both) may file a denial case with the Administrative Hearing Office on a standard form provided by the office challenging the basis for the denial. Appeals of an administrative denial must be filed within fifteen (15) days of the date of the denial.

12. Filing of a labor case to determine status. The Director of Labor may file a complaint in the Administrative Hearing Office in a labor case in the matter of a foreign national worker who is litigating in some other forum and who is not currently employed under an approved employment contract in order to determine eligibility for transfer.
13. No administrative rejection for untimeliness. Failure to file within the statutory time limit of six months (see Part VI, Section 6(B)) shall not be grounds for refusal to accept a complaint or appeal.
14. No filing fee for indigents. Indigent complainants may file *in forma pauperis* and are not required to pay a filing fee. The standards of the Commonwealth Superior Court with respect to waiver of fees for indigents shall be followed. A complainant who files *in forma pauperis* and is later found by a hearing examiner not to qualify for that status may be ordered to pay the filing fee. (For filing fees, see Part VI, Section 6(H).)
15. No retaliation. An employer shall not retaliate against an employee for filing a complaint. Such retaliation is a separate cause of action against the employer.
16. No response to the complaint required. The respondent may, but is not required to, file a written response to the complaint.
17. Assistance and representation. Any party may be represented by counsel, at the party's own expense. A party appearing *pro se* may be assisted by any person, regardless of whether that person is a lawyer, except that a person who is deportable or who has been the subject of debarment for past misconduct may not serve as an assistant. Each authorized counsel or assistant must file a written notice of appearance with the Administrative Hearing Office. A standard form for this purpose is provided by the Department.

18. Translation. A party requiring the services of a translator to and from English shall provide a competent translator at their expense. The Administrative Hearing Office may require certification of a translator in order for the translator to participate in a hearing. A translator who has translated a document shall sign the document on its face as evidence of the translation. Such a signature constitutes a declaration, under the penalty of perjury, that the translator has accurately translated the document and has not included any statements beyond those made in the document. A hearing officer may disqualify a person from participating in a proceeding as a translator, upon a finding, supported by credible evidence, that the person is not sufficiently competent or truthful as a translator.

19. Mediation of the complaint. The Administrative Hearing Office shall, refer each complaint in a labor case for mediation. Mediations may be conducted by the Director of Labor or a designee, by a hearing officer, or by a mediator designated by the Administrative Hearing Office. Mediators need not be lawyers or have any formal certification. The Administrative Hearing Office shall schedule the mediation as promptly as practicable, normally within five (5) days of filing of the complaint, and notify the parties.

(a) The parties must be given at least three (3) days notice before the mediation session. Notice of mediation may be issued to the complainant when the complaint is filed. Telephone notice of the mediation session is sufficient.

(b) The mediation will be conducted informally and confidentially without a taped or other record of the proceedings.

(c) No oral statement made at a mediation is admissible in evidence.

(d) If the mediation is successful, the mediator shall reduce the agreement to writing and the agreement shall be signed by both parties within three (3) days after the mediation session. . If the foreign national worker is represented by counsel or a professional assistant, any mediator may approve the settlement agreement. If the foreign national worker is unrepresented, a hearing officer must approve the settlement agreement.

(e) If a foreign national worker who is a complainant does not attend the mediation session after adequate notice, a hearing officer may deny authorization to seek temporary work pending a hearing on the matter. If a foreign national worker does not attend the mediation session after requesting a rescheduling and does not provide the Administrative Hearing Office with at least five (5) days notice, the hearing officer may dismiss the complaint without prejudice.

(f) If an employer who is a complainant does not attend the mediation session after adequate notice, a hearing officer may dismiss the complaint without prejudice.

(g) If the complaint is not resolved at mediation, the Director of Labor may file a motion to dismiss if the complaint has not been timely filed or is otherwise deficient on its face. A hearing officer may then examine the complaint for timeliness. If the complaint is not timely filed, the hearing officer shall dismiss the complaint with prejudice. If the complaint is timely filed, the hearing officer shall set a hearing date and inform both parties of the date.

20. Permission to seek temporary work pending a hearing. A hearing officer may authorize a foreign national worker who attends a mediation session at which no agreement is reached to seek employment in the Commonwealth on a temporary basis pending a hearing in the case.

(a) A foreign national worker to whom permission to seek temporary work is granted shall make a good faith effort to find work and shall appear in person at Labor Enforcement at least once in each calendar month to report on such efforts to find work. Failure to make a good faith effort to find work shall be grounds for denying a request for transfer. Failure to report or false or fraudulent reports shall be grounds to dismiss the pending case.

(b) An order granting permission to seek temporary work shall have attached to it a copy of the Barred List. An employer on the Barred List may not employ a worker pursuant to a temporary work authorization. A copy of

the order shall be transmitted by the Administrative Hearing Office to Employment Services within three days of issuance.

- (c) If a foreign national worker who has received permission to seek temporary work finds work, the Department shall issue a temporary work authorization for up to six months while the case is pending. A temporary work authorization may be renewed for an equal term and shall expire automatically ten (10) days after the date of a hearing officer's final order in the case, or in the event of a timely appeal ten (10) days after the date of the Secretary's order, or in the event of a timely appeal to a court ten (10) days after the date of the court's final order. .
  
  - (d) An employer who hires a foreign national worker under a temporary work authorization shall file with the Department prior to the commencement of any work by the foreign national worker a short form statement of employment terms on the standard form provided by the Department.
  
  - (e) The financial obligations with respect to, medical expenses (see regulations published by the Secretary of Health) and repatriation (see Part VI, Section 5(D)) remain with the last employer of record at the time the complaint was filed and are not shifted to the employer who hires the worker under a temporary work authorization. The financial obligations with respect to payment of wages and any employer-supplied housing or other benefits (other than health care) are the responsibility of the employer who hires the worker under a temporary work authorization.
  
  - (f) If employment under the temporary work authorization ends prior to the determination of the pending case, the foreign national worker shall report to Labor Enforcement within ten (10) days for a renewal of the permission to seek temporary work.
21. Investigation of the complaint. A hearing officer may refer a complaint to the Director of Labor for investigation, and the Director of Labor or a designee may also initiate such investigation of the complaint as appears warranted by the allegations, other information provided by the complainant or available to the Department, and past complaints filed by the complainant or violations adjudicated against the respondent. Investigators may conduct interviews of the parties and others, request documents from

the parties, inspect worksites and living quarters, and undertake such other investigative actions as are warranted. Any non-privileged information gathered during an investigation shall be made available to the parties on request. Investigators may make such written report of the investigation as may be useful, but no written determination is required. At any time, an investigator may request from Administrative Hearing Office a continuance of the hearing for further investigation. Such requests for continuance shall be granted unless serious adverse consequences to a party would result.

22. Recusal of an investigator. An investigator shall be impartial. An investigator may voluntarily enter a recusal if the investigator's impartiality might be called into question. A party may request the recusal of an investigator. The request must be in writing supported by a sworn affidavit. The Director of Labor shall decide the request based only on the written affidavit.

B. Jurisdiction of the Administrative Hearing Office. (Section 4942 of PL 15-108)  
The Administrative Hearing Office shall have jurisdiction to decide all issues of fact and related issues of law. Jurisdiction attaches upon the filing of a complaint, and no procedural or investigative document is required in order for the Administrative Hearing Office to hold a hearing on the complaint.

C. Reserved. (Section 4943 of PL 15-108)

D. Powers of the hearing officer. (Section 4944 of PL 15-108)

1. Amendment of pleadings. A hearing officer may allow appropriate amendments to pleadings when the determination of a controversy on the merits will be facilitated thereby and it is in the public interest.
2. Motions and requests. An application for an order or any other request may be made by motion. The hearing officer may allow oral motions or require motions to be made in writing. If a motion is made in writing, the hearing officer shall specify the time period for response to the motion. The hearing officer may allow oral argument or written briefs in support of motions.

3. Prehearing conferences. A hearing officer may direct the parties to participate in a pre-hearing conference. At a pre-hearing conference, a hearing officer may discuss any matter that may facilitate resolution of the dispute, including settlement. Pre-hearing conferences may be conducted by telephone, in writing, or in person. A hearing officer may, but is not required to, reduce the results of a pre-hearing conference to an order. A statement on the record at the hearing may be used as an alternative.
4. Consolidation. A hearing officer may consolidate two or more matters for hearing if the issues or evidence are the same or substantially similar. When consolidated hearings are held, a single record of the proceedings may be made, evidence introduced in one matter may be considered in consolidated matters, and the decision of the matters may be separate or joint, at the discretion of the hearing officer.
5. Bifurcation. A hearing officer may bifurcate or separate one or more matters (such as status and eligibility for transfer separated from damages and other claims) for hearing on separate occasions. When separate hearings are held, evidence introduced at one session may be considered in another session, and the decision of the issues may be separate or joint, at the discretion of the hearing officer.
6. Discovery. A hearing officer may, but is not required to, allow discovery. A party may request discovery regarding any matter, not privileged, that is relevant to the subject matter of the proceeding. If discovery is permitted, it is not ground for objection that the information sought will not be admissible at the hearing. Appropriate methods of discovery include depositions on oral examination or written questions, written interrogatories, production of documents or other evidence for inspection, and requests for admissions. Upon motion and good cause shown, a hearing officer may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. If a party fails to respond to discovery permitted by a hearing officer, an order may be entered by the hearing officer compelling response in accordance with the request.
7. Subpoenas. Upon written application by a party or *sua sponte*, a hearing officer may issue a subpoena as authorized by law. A subpoena may compel attendance of non-party witnesses and production of relevant records and other tangible things in the possession or under the control of the

non-party witness. Any person compelled to testify in response to a subpoena may be represented, counseled or advised by a lawyer or authorized agent. Within ten (10) days of the receipt of a subpoena but no later than the date of the hearing, the person against whom the subpoena is directed may move to quash or limit the subpoena. Any such motion shall be answered within ten (10) days. An order with respect to a subpoena shall specify the date, if any for compliance. Upon the failure of any person to comply, a party adversely affected may apply to a court of competent jurisdiction for enforcement.

8. Classified or sensitive material. The hearing officer may implement procedures for dealing with classified or sensitive material, including limiting discovery or the introduction of evidence, redacting documents, using unclassified or non-sensitive summaries, and conducting *in camera* hearings.
9. Conduct of hearings. A hearing officer shall preside at each hearing conducted by the Administrative Hearing Office. A hearing officer shall administer oaths and may examine witnesses. A hearing officer may exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Secretary as are necessary and appropriate. A hearing officer may conduct a hearing telephonically at the request of the Labor Department office on Rota or Tinian or at the request of a party on Saipan. At the conclusion of a hearing, a hearing officer shall issue such findings, decisions, and orders as are necessary to resolve the matter.
10. Continuances. Continuances may be granted only in cases of prior commitments for a court proceeding, a showing of undue hardship, or a showing of other good cause. Requests for continuance must be in writing and must be filed more than five (5) days prior to the date set for the hearing. Oral orders with respect to continuances shall be confirmed in writing. The Administrative Hearing Office shall not stay any proceeding to allow the parties to proceed with their claims in a different forum except upon order of a court of competent jurisdiction.
11. Further investigation. A hearing officer may refer a matter to the Director of Labor for further investigation of the complaint at hand or of the actions of the complainant or respondent.
12. Attendance at hearings. A hearing officer may grant an extension of time to a foreign national worker who has exited the Commonwealth to re-enter more than five (5) days prior to a scheduled hearing for which his or her attendance is required. A hearing officer may grant to a foreign national

worker who has re-entered the Commonwealth in order to attend a hearing an extension of time for exit from the Commonwealth after a hearing.

13. Amendments to conform to the evidence. When issues are not raised in a pleading, prehearing stipulation, or prehearing order and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence may be ordered by a hearing officer.
  
14. Dismissal. A pleading may be dismissed upon its abandonment or settlement by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if neither the party nor the party's representative appears at the time and place fixed for the hearing unless good cause is shown. A dismissal may be entered against any party failing, without good cause, to appear at a hearing. A dismissal may be entered against any person who has left the CNMI and has been absent for six months or more without having notified the Administrative Hearing Office of their contact information.
  
15. Separation of functions. No officer, employee, or agent of the Commonwealth engaged in the performance of investigative or prosecutorial functions in connection with any proceeding shall, in that proceeding or a factually related proceeding, participate or advise in the decision of a hearing officer except as witness or counsel in the proceedings.
  
16. Recusal of a hearing officer. A hearing officer shall be impartial. A hearing officer may voluntarily enter a recusal if the hearing officer's impartiality might be called into question. A party may request the recusal of a hearing officer. The request must be in writing supported by a sworn affidavit. The hearing officer shall decide the request based only on the written affidavit. If the hearing officer refuses the recusal, the hearing officer shall state reasons for the refusal. A party may contest the refusal by written petition to the Secretary or a designee.

E. Service of process. (Section 4945 of PL 15-108)

1. Service of a complaint, time requirements. Service of the complaint on the respondent shall be made within five (5) days of the filing and proof of service shall be filed with the Administrative Hearing Office within two (2) days of service. If a complainant is represented by counsel, counsel shall complete service. If complainant is not represented by counsel, the Director of Labor, or a designee, shall complete service.
  
2. Service of a response, time requirements. No response is required, however if a written response is made, it shall be served on the Administrative Hearing Office and the complainant within twenty (20) calendar days after service of the complaint.
  
3. Service, address. Employers and employees are responsible for keeping contact information in the Department's records up to date and accurate. Service may be made at the address currently shown on the records of the Department unless a party knows of an actual current address.
  
4. Service, methods. Service of any pleading, notice, or order may be made anywhere within the territorial limits of the Commonwealth. Service may be made by delivery to the party personally; or service may be made by United States mail first class postage prepaid; or service may be made by publication in a newspaper of general daily circulation on business days in the Commonwealth.
  - (a) Personal service. Personal service is made by delivery of a copy of the pleading, notice, or order to the party personally or by leaving a copy of the pleading, notice or order at the party's dwelling house or usual place of abode with some person of suitable age and discretion then residing there. If a party is represented by counsel, personal service may be made on counsel. If a party is represented by an agent authorized by appointment or by law to receive service of process, personal service may be made on the agent. Service may be made on any person designated by the complainant. Service is complete upon delivery.
  
  - (b) Mail service. Mail service is made by delivery of a copy of the pleading, notice, or order to the United States Post Office, with first class postage prepaid, addressed to the complainant at the address provided on the complaint form or addressed to the respondent at the address provided on the approved employment contract unless a party has notified the

Department of a change of address in which case service shall be made to the address last provided by the party. If a party is represented by counsel, mail service may be made on counsel. If a party is represented by an agent authorized by appointment or by law to receive service of process, mail service may be made on the agent. Service is complete upon mailing. When documents are served by mail, five (5) days is added to the prescribed period after service to exercise a right or take an action.

(c) Publication service. Publication service is made by publishing a copy of the pleading, notice, or order in an English-language newspaper of general daily circulation on business days in the Commonwealth at least once in each of two weeks. If the Department uses publication service without first attempting personal or mail service, publication with respect to any party who is a citizen of a foreign country shall be supplemented by a one-time publication in a newspaper of the party's national language if such newspaper exists in the Commonwealth. Service is complete upon last publication.

(d) Alternative service. Notice may be given by telephone or electronic mail as the Administrative Hearing Office determines appropriate.

5. Service by a party. Either personal service or mail service must be attempted before publication service may be used by a party.
6. Service by the Department. The Department may use publication service for any notice or any order without first attempting any personal or mail service. The Department normally will publish on the first Monday of a month, and normally will publish at least once in each of two successive weeks, but is not required to do so. In matters in which a Department representative has personally informed a foreign national worker and confirmed in writing or it has been ordered by a hearing officer that notices with respect to a particular matter may be posted under defined circumstances, the Department may use posting in a public place as service for any notice without first attempting any other service.

F. Conduct of hearings. (Section 4946 of PL 15-108)

1. Public proceedings. Absent a finding by a hearing officer, hearings shall be open to the public. In unusual circumstances, a hearing officer may order a hearing or any part thereof closed if doing so would be in the best interests of the parties, a witness, the public, or other affected persons. Any order closing the hearing shall set forth the reasons for the decision. Any objections thereto shall be made a part of the record.
  
2. Rules of evidence for hearings. The Commonwealth rules of evidence are generally applicable to adjudicative proceedings before the Administrative Hearing Office. To the extent that these rules may be inconsistent with a rule of special application as provided by statute, executive order, or regulation, the latter are controlling. The parties may offer such evidence as is relevant to the dispute, and the hearing officer may request the production of evidence by a party. Strict adherence to the formal rules of evidence shall not be necessary, and the hearing officer shall make appropriate accommodations for *pro se* litigants. The hearing officer may make rulings on evidentiary issues and the introduction of evidence. The hearing officer may waive any rule upon a determination that no party will be prejudiced and that the ends of justice will be served.
  
3. Exhibits. Parties shall exchange copies of exhibits at the earliest practicable time and, in any event, at the commencement of the hearing. Exhibits offered in evidence shall be numbered and marked for identification. One copy shall be furnished to each of the parties and to the hearing officer. If a record from any other proceeding is offered in evidence, a true copy shall be presented for the record in the form of an exhibit unless the hearing officer directs otherwise. The hearing officer shall direct the use of documents as to which only parts are relevant, or bulky documents, so as to limit irrelevant material in the record. The authenticity of all documents submitted as proposed exhibits in advance of a hearing shall be presumed unless written objection is made prior to the hearing. Objection to authenticity shall not prevent the admission of a document but a hearing officer may consider matters of authenticity when deciding the weight to give the evidence.
  
4. Judicial notice. A hearing officer may take judicial notice of adjudicative facts that are not subject to reasonable dispute, provided however that as to facts so noticed, the parties shall be given adequate opportunity to show the contrary.

5. Privilege. Except as otherwise required by law, the privilege of a witness, person, government or political subdivision shall be governed by the principles of common law as they may be interpreted by the courts of the Commonwealth in light of reason and experience.
6. Record. All hearings shall be recorded. Parties may provide a stenographic reporter at their own expense. The media on which recordings of proceedings are made shall be maintained by the hearing office until the expiration of all appeals, at which time the media may be destroyed.
7. Default. Except for good cause shown, failure of a party to appear at a hearing after timely being served notice to appear shall be deemed to constitute a waiver of any right to pursue or contest the allegations in the complaint. If a party defaults, the hearing officer may enter a final order containing such findings and conclusions as may be appropriate.
8. Closing the record. When a hearing is conducted, the record shall be closed at the conclusion of the hearing unless the hearing officer directs otherwise. If any party waives a hearing, the record shall be closed upon receipt of submissions of the parties or at the time deadlines set by the hearing officer for receipt of such submissions. Unless the hearing officer directs otherwise, no document or other evidentiary matter may be submitted after the record is closed.
9. Standards of conduct. All persons appearing in proceedings before a hearing officer are expected to act with integrity and in an ethical manner. A hearing officer may exclude parties, participants, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or acting in violation of these rules and regulations. A hearing officer shall state on the record the cause for suspending or barring any person from participation in a proceeding. Any person so suspended or barred may appeal to the Secretary, but no proceeding shall be delayed or suspended pending disposition of the appeal. A hearing officer shall suspend the proceeding for a reasonable time if it is necessary for a party to obtain another lawyer or representative. A hearing officer may apply the Commonwealth Disciplinary Rules and Procedures for guidance when issuing decisions regarding ethics.

10. Ex parte communications. A hearing officer shall not consult any person or party on any issue of fact or question of law unless upon notice and opportunity for all parties to participate or learn the results of such communication. Communications for the sole purpose of scheduling hearings or considering requests for extensions of time are not considered *ex parte* communications so long as other parties are notified of any request and given an opportunity to respond. A person who makes or attempts to make an *ex parte* communication may be subject to sanction including exclusion from the proceedings and adverse ruling on the issue which is the subject of the prohibited communication.

11. Expedited hearings. The Commonwealth immigration authority may request and the Administrative Hearing office, in its discretion, may order that any pending labor matter involving a party who is currently in deportation proceedings in the Commonwealth Superior Court be heard and decided on an expedited basis.

G. Orders and relief . (Section 4947 of PL 15-108)

1. Dismissal. The hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds on its face to be without merit. Parties adversely affected by a dismissal may appeal.

2. Issuance of orders. The hearing officer shall, upon concluding a hearing, issue any necessary findings, decisions, and orders as soon as practicable. Issuance of findings, decisions, and orders shall be pursuant to 1 CMC §9110, but shall not be judicially reviewable until final.

3. Authority. The hearing officer is authorized to:

(a) Award unpaid wages or overtime compensation, amounts unlawfully deducted from wages or unlawfully required by an employer to be paid by a foreign national worker, damages for unlawful termination of an approved employment contract, or damages, when appropriate, for conduct of the employer that is in violation of Commonwealth or federal law;

(b) Assess liquidated damages of up to six months wages if actual damages are uncertain or cannot be ascertained under a satisfactory or known rule in cases in which the employer's conduct is found to have been retaliatory;

- (c) Cancel or modify an entry permit or an approved employment contract or require an employer thereafter to pay foreign national workers only by check or direct deposit in a United States bank payable in United States currency (no cash payments) in cases where payment records have been negligently or inappropriately kept;
  - (d) Order temporary or permanent debarment of an employer or order an employer to attend one or more orientation sessions under Part VI, Section 3(D) for education as to rights and responsibilities under Commonwealth law;
  - (e) Disqualify a foreign national worker, temporarily or permanently, from employment in the Commonwealth;
  - (f) Levy a fine not to exceed \$2,000 for each violation of any provision of PL 15-108;
  - (g) Issue declaratory or injunctive relief as appropriate;
  - (h) Award attorneys fees when appropriate in addition to any other remedy; provided however that attorneys fees shall not be recoverable against the Commonwealth and
  - (i) Use the inherent powers of a hearing officer and powers granted by the Administrative Procedures Act to further the interests of justice and fairness in proceedings.
4. Transfers. Only a hearing officer may grant a transfer. Nothing in the Commonwealth Employment Act of 2007, PL 15-108, or in these regulations creates any right to a transfer. A hearing officer may grant a transfer if other remedies are insufficient to provide a foreign national worker the benefit of the bargain made when entering the approved employment contract. If a hearing officer grants a transfer, a foreign national worker may become employed under a new approved employment contract without first exiting the Commonwealth.

(a) The grounds for granting transfer relief include:

- (i) An unlawful termination of an approved employment contract by an employer;
- (ii) The voiding of an approved employment contract or debarment of an employer for a violation of these regulations or PL 15-108;

- (iii) A reduction in force pursuant to Section 4937 of PL 15-108;
  - (iv) The abandonment of the worker during the term of an approved employment contract, but prior to ninety (90) days before the termination date of the contract, by an employer who failed to pay bi-weekly wages on two successive occasions, closed a business, declared bankruptcy, or exited the Commonwealth evidencing an intent not to return; or,
  - (v) Upon a finding by the hearing officer that the foreign national worker has prevailed under an equivalent theory of law or equity and that transfer relief is appropriate.
- (b) A transfer may be granted only to a foreign national worker who has complied with the provisions of the approved employment contract to the extent practicable under the circumstances, and for whom transfer relief is required in order to assure receipt of the benefit of the bargain under the contract that is the subject of the action. A settlement may include transfer relief, if appropriate, and subject to approval by a hearing officer.
- (c) The order granting a transfer shall specify the time period within which the foreign national worker must secure new employment, which time period shall not be longer than thirty (30) days from the date of the order unless the hearing officer makes specific findings of exigent circumstances requiring a longer period.
- (d) The order granting a transfer shall include a referral to Employment Services so that available positions for foreign national workers can first be filled by foreign national workers already in the Commonwealth and shall attach a copy of the current Barred List, see Part VI, Section 2(B)(10), so that the foreign national worker knows which employers cannot employ transfers. A copy of any order granting a transfer shall be transmitted by the Administrative Hearing Office to Employment Services within three days of issuance.
5. Whistleblower relief. In order to promote the public interest in securing compliance with Commonwealth law, a foreign national worker who provides the Department with information on the basis of which a compliance agency case is concluded successfully may be granted a transfer by a hearing officer even if not qualified under subsection 4 above.
6. Repatriation. The hearing officer may assess costs for repatriation of a foreign national worker.

7. Frivolous actions. The hearing officer may find an action to be frivolous if it is unfounded in fact or law or initiated primarily to obtain an undue pecuniary benefit or for distraction or delay. The filing of an action which is determined by a preponderance of the evidence to be frivolous shall be grounds for permanently disqualifying the foreign national worker who filed the action from employment in the Commonwealth or permanently barring an employer who filed the action from further employment of foreign national workers.
  
8. Solicitation of sponsorships. The purpose of Section 4963(k) and Section 4964(d) of PL 15-108 is to prevent illegal sponsorships in which the employer is offering no viable job but files an application in order to allow the foreign national worker to remain in the Commonwealth. These sections do not apply to employment arrangements in which the employer is offering a legitimate, viable, wage-paying job. The hearing officer shall apply these sections in this way.
  - (a) A foreign national worker who intentionally and knowingly violates Commonwealth law by paying an application fee or a renewal fee that should be paid by an employer solely in order to remain in the Commonwealth, under circumstances in which the employer provides no viable wage-paying job for the worker, may be deported if, under all the circumstances of the case, deportation is the appropriate remedy.
  
  - (b) A foreign national worker who pays an application or renewal fee in connection with an existing, viable, wage-paying job may not be deported on account of the violation of these sections. If the employer provides a viable job for which the worker has been employed, they have not participated in an illegal sponsorship arrangement involving sham employment. Foreign national workers who pay an application or renewal fee under these circumstances may have a claim against the employer whose responsibility it is to pay the fee and may be awarded damages if, under all the circumstances of the case, damages are the appropriate remedy. Similarly, a foreign national worker who pays an application or renewal fee without knowledge or intent to participate in an illegal sponsorship arrangement may not be deported on account of the violation of these sections. A hearing officer may take account of the information about illegal sponsorships provided at an orientation session.
  
  - (c) An employer who engages in an illegal sponsorship by filing an application for an approved employment contract without the intent or present ability to provide a viable, wage-paying job for a foreign national worker may be barred from further employment of foreign national workers if, under all the circumstances of the case, debarment is the appropriate remedy.

- (d) An employer who requires or permits a foreign national worker to pay an application or renewal fee in connection with an existing, viable, wage-paying job may be fined up to \$2,000 and ordered to pay the amount of the fees to the worker in addition to any other remedies if, under all the circumstances of the case, these are the appropriate remedies.
9. Order. As soon as practicable, and generally within fifteen (15) days after the close of the record, the hearing officer shall complete and issue or enter any necessary decisions and orders. A decision of a hearing officer shall include findings of fact and conclusions of law, with reasons therefore, on each material issue of fact or law presented on the record. A decision shall be based on the whole record, supported by reliable, probative evidence, and in accordance with the statutes and rules and regulations conferring jurisdiction. An order may be made with respect to amounts to be paid, actions to be taken, or other relief to be accorded. An order shall include a schedule of payment for all awards, if any, to the prevailing party.
10. Date of an order. The hearing officer shall sign and enter the date on which an order was signed. The date on which the order was signed is the date the order was issued or entered.
11. Motion for reconsideration. A party may file a motion for reconsideration within fifteen (15) days after service of an order. The motion shall state concisely the matters or controlling decisions that a party believes the hearing officer overlooked or misapprehended. A response may be filed no later than five (5) days after the filing of the motion. No affidavits shall be filed or additional evidence offered. No oral argument shall be heard unless the hearing officer directs to the contrary. A motion for reconsideration may be granted for mistake, inadvertence, surprise, or excusable neglect; newly discovered evidence which, by due diligence, could not have been discovered in time to move into evidence at the hearing; fraud, misrepresentation, or misconduct of an adverse party; the judgment is void, has been satisfied, released, or discharged, or a prior judgment on which it is based has been reversed; or other reason justifying relief. A properly filed and served motion for reconsideration tolls the time for filing a notice of appeal. The time for appeal begins to run again on the date the decision on a motion for reconsideration is signed. After a decision on a motion for reconsideration is signed, no further motions or filings may be made with the Administrative Hearing Office other than a notice of appeal.
12. Correction of errors. A hearing officer may *sua sponte* correct an error prior to the time the record is certified for appeal.

13. Referral to the Commonwealth immigration authority. The hearing officer shall notify the Commonwealth immigration authority promptly upon cancellation or modification of an entry permit. The hearing officer may refer any person to the Commonwealth immigration at the conclusion of any labor case.
  
14. Satisfaction of a judgment from a bond. Within thirty (30) days after the date of a final judgment including an award of money damages, the final judgment shall be presented to the holder of the bond under Part VI, Section 2(D) above. If the final judgment has not been fully satisfied within sixty (60) days after the date of the final judgment, the Department shall execute on the bond for payment of the judgment.
  
15. Reimbursement. Any claim made for reimbursement from any government fund on account of an award of unpaid wages, overtime, or other damages in an order of a hearing officer shall be made within one year of the date of the order of the hearing officer or an order after appeal.

H. Appeal to the Secretary . (Section 4948 of PL 15-108)

1. Commencing an appeal. An appeal is commenced by filing a notice of appeal on the standard form provided by the Department and payment of the fee required in Part VI, Section 6(H) of these regulations. A notice of appeal must be filed within fifteen (15) days of service of the decision on the party who is appealing. See Part VI, Section 4(A)(8) above with respect to computation of time limits.
  
2. Procedural requirements. Service of process with respect to appeals shall be as provided in Part VI, Section 4(E) of these regulations. Alternative forms of notice by telephone or electronic mail may be used. The party who seeks relief from the Secretary is the appellant. The party against whom relief is sought is the appellee. The Secretary may entertain an *amicus* brief with fifteen (15) days notice to the parties.

3. Preparation of the record. Upon receipt of a timely notice of appeal and the fee required in Part VI, Section 6(H) of these regulations, the Administrative Hearing Office will make a copies of the media on which the proceeding was recorded and deliver a copy to each party. If a written transcript is necessary, it is the responsibility of the appealing party to prepare and certify it.
  
4. Rules of practice on appeals before the Secretary. When the Secretary is exercising jurisdiction over appeals from final orders of the Administrative Hearing Office, the Secretary shall have all the powers and responsibilities of a hearing officer. No hearing or oral argument on an appeal is required. The Secretary shall notify the parties by mail of the time and place for any hearing on the appeal and shall not schedule the hearing with less than fifteen (15) days notice or change a hearing date with less than fifteen (15) days notice.
  
5. Administrative review by the Secretary. In a review on appeal, the Secretary may restrict review to the existing record, supplement the record with new evidence, hear oral argument, or hear the matter *de novo* pursuant to 1 CMC §§9109 and 9110. Upon completion of review, the Secretary shall affirm, reverse, or modify the findings, decision, or order of the hearing officer. The Secretary may remand under appropriate instructions all or part of the matter to the Administrative Hearing Office for further proceedings. The Secretary's decision shall constitute final agency action for purposes of judicial review.
  
- I. Judicial review. (Section 4949 of PL 15-108) Judicial review of a final action of the Secretary is authorized after exhaustion of all administrative remedies and shall be initiated within fifteen (15) days of the final action. Except as may be contrary to the provisions of PL 15-108, judicial review shall be pursuant to 1 CMC §9112. Appeal from a final action by the Secretary shall be directly to the Commonwealth Superior Court.

## SECTION 5: EXIT FROM THE COMMONWEALTH

### Chapter 6, Article 5 of PL 15-108

- A. Exit during the contract term. (Section 4951 of PL 15-108) A foreign national worker who exits the Commonwealth during the term of an approved employment contract shall file with the Enforcement Division, a notice on the standard form provided by the Department. A foreign national worker who fails to file the notice before departing the Commonwealth may be precluded from re-entering the Commonwealth.
- B. Exit after the contract term. (Section 4952 of PL 15-108) Each foreign national worker is required to exit the Commonwealth within fifteen (15) days after the termination date of an approved employment contract unless the contract is renewed (see Part VI, Section 3(E)), or a case or transfer is pending, or the worker has filed for a fifteen (15) day extension in connection with processing a transfer or filing a complaint (see Part VI, Section 5(F)).
- C. Periodic exit. (Section 4953 of PL 15-108) PL 15-108 imposes a periodic exit requirement on all persons who enter the commonwealth for employment.
1. Policy with respect to periodic exit. There are three policy reasons for a periodic exit requirement. The first and primary reason is to open up opportunities for U.S. citizens and permanent residents to be trained and employed in positions previously held by foreign national workers. Substantial survey and other work by the Office of Public Auditor, the Northern Marianas College, the Special Workforce Action Team, the Workforce Investment Agency, and other agencies and groups with responsibilities to train and place U.S. citizens and permanent residents, in addition to data generated by the Department of Labor, has documented the very great difficulty in finding job opportunities for citizens when jobs are filled on a long-term basis by foreign national workers. This is an especially difficult problem in a relatively small jobs market. Increased employment for citizens and permanent residents is essential to the economic well-being of the Commonwealth. The second reason, is to enforce the basic bargain that was made with each foreign national worker who entered the Commonwealth for employment that supports the Commonwealth's economy and not for permanent residence or change in status. Data, studies, and surveys including those regarding past experience when an open-ended permission was granted to settle in the Commonwealth indicate that there would be a substantial burden on the Commonwealth's economy and its taxpayers if temporary employment in the Commonwealth could lead to a change in status. The third reason is that the Commonwealth's need to ensure that overstayers are kept to a minimum and the laws with respect to temporary permission to work in the Commonwealth are fairly and rigorously enforced.

2. Repatriation. An exit by a foreign national worker under the periodic exit requirement is a repatriation. See Part VI, Section 5(D).
3. Timing of exit. A foreign national worker must exit the Commonwealth within three years of the date on which the foreign national worker entered the Commonwealth and remain outside the Commonwealth for at least six consecutive months.
  - (a) The date on which a foreign national worker entered the Commonwealth is the entry date stamped on the worker's passport.
  - (b) The date on which a foreign national worker exited the Commonwealth is the exit date stamped on the worker's passport.
  - (c) If a tourist visa is issued to the foreign national worker after exit from the Commonwealth for purposes of a visit to the Commonwealth, the six month period shall begin again from the date on which, under the tourist visa, the foreign national worker exits the Commonwealth.
  - (d) The timing of the periodic exit is left up to the employer and the employee.
4. Employers and employees covered. Unless an exemption applies, the periodic exit requirement covers all employers in the Commonwealth who employ foreign national workers and all foreign national workers who are present in the Commonwealth. On or before June 15 of each year, the employer shall e-mail to the address provided by the Department or file in writing with Labor Enforcement the names of employees who have exited or will exit during the calendar year. This list may be amended at the end of any calendar quarter.
5. The "key employee" exemption. Each employer with ten (10) or more employees may designate certain employees as key to the business and exempt them from the exit requirement. This allows each business to determine for itself whether a worker has skills important to the continued success of the business. The exemption may not reach more than ten (10) percent of an employer's foreign national workers. On or before March 15 of each year, the employer shall e-mail to the address provided by the Department or file in writing with Labor Enforcement the names of employees exempt from the periodic exit requirement. This list may be amended at the end of any calendar quarter. In any event, every employer shall be entitled to designate at least one foreign national worker as a key employee.
6. Equivalent exit. The periodic exit requirement serves two objectives that are important to the management of the Commonwealth's labor pool. First, and primarily, the periodic exit serves the objective of promoting employment

opportunities for U.S. citizens and permanent residents. Second, the periodic exit requirement serves the objective of promoting enforcement, understanding and clarity with respect to the requirement that the status of guest workers does not change as a result of their work in the Commonwealth.

(a) Employers who have complied with the requirements of Section 4525 of PL 15-108 with respect to citizen and permanent resident participation in their full-time workforce have met the primary objective of the periodic exit requirement. They have provided significant employment opportunities for U.S. citizens and permanent residents. For that reason, these employers may satisfy the periodic exit requirement by repatriating their foreign national workers under Section 4953(a) of PL 15-108 for 60 consecutive days (rather than six consecutive months) and submitting to the Department a consent document signed by the foreign national worker acknowledging permanent residence in the country that issued the worker's passport and no change in status by reason of employment in the Commonwealth. The consent document shall be accompanied by a legal opinion, signed by an attorney admitted to practice in the Commonwealth, that the consent document was signed under circumstances that make it legally effective in the Commonwealth, given the nature of the employment, the education and language capability of the foreign national worker, and any other circumstances appropriately considered.

(b) Non-business employers who have hired domestic helpers, farmers, household maintenance workers or yard workers in compliance with Sections 4522 and 4922 of PL 15-108 may utilize the 60-day alternative as provided in subsection (a) above. Statistical analyses by the Division of Employment Services demonstrate that these jobs, although advertised and open to U.S. citizens and permanent residents, are very rarely filled by persons other than foreign national workers. Foreign workers employed by non-business employers facilitate the holding of jobs by U.S. citizens and permanent residents and maintenance of residences by foreign investors all of which benefits the CNMI economy.

(c) Should any 60-day exit requirement be found by a hearing officer or court not to be applicable to any worker, then the six-month exit requirement would automatically apply to that worker.

7. Work while the foreign national worker is outside the Commonwealth. A foreign national worker who exits the Commonwealth and is residing in a foreign country may perform work for an employer located in the Commonwealth under any contract arrangement acceptable to the employer and the worker. When a foreign national worker is outside the Commonwealth (and outside the United States), the worker is not working

under Commonwealth law with respect to foreign national workers and the minimum wage does not apply.

8. Exit while awaiting processing. A foreign national worker who is proceeding with a renewal or transfer may sign a contract and undergo a health examination while on-island and then fulfill the periodic exit requirement by exiting until their documents are processed. Under circumstances of a transfer, the foreign national worker may claim the 60-day equivalent exit if available either under the entitlement of the former or new employer.
  9. Automatic contract extension or renewal. An employer may employ a foreign national worker in his or her former job after the periodic exit has been completed. If the foreign national worker exits during the term of an employment contract, that employment contract may be automatically extended, without fee, by the six month or 60-day period that the foreign national worker exited. If the foreign national worker exits at the end of a contract term, that employment contract may be renewed, without fee, under the terms of Section 4935 of PL 15-108 substituting the termination date of the periodic exit for the termination date of the contract.
  10. Contract adjustments to accommodate exit. Under circumstances in which a foreign national worker has completed a one-year contract, and the employer plans to renew the employee but wishes to schedule the employee for a six-month exit, the employer may enter into an employment contract with the employee for six months under Part VI, Section 3(A)(3) at half the cost of the application fee under Part VI, Section 6(H), process the necessary documents while the employee is completing the exit period, and re-start the employee again under a one-year contract at the end of the periodic exit.
  11. Status. Foreign national workers who return to the Commonwealth after six months' or sixty days abroad are starting a new period of residence in the Commonwealth. No period of prior residence is relevant to status after return. A foreign national worker loses employment status in the Commonwealth on the last exit date available to that worker to remain in compliance with Commonwealth law.
  12. Disqualification. An employer may not employ a foreign national worker, who is not exempt, who has not complied with the periodic exit requirement.
- D. Responsibility for costs of repatriation. (Section 4954 of PL 15-108)
1. Last employer of record. The last employer of record is the employer under the most recent approved employment contract, on file at the Department, with respect to the foreign national worker. The last employer of record is responsible for all of the costs of repatriation of a foreign national worker.

Repatriation costs include the costs with respect to the embalming and transport of deceased workers back to the point of hire.

2. Employment on temporary work authorization. An employer of a foreign national worker under temporary work authorization (see Part VI, Section 4(A)(20)) is not responsible for repatriation costs.
  3. Illegal employment. An employer who employs a foreign national worker without an approved employment contract, without an approved security contract, or without an approved health insurance contract (after the date on which the Secretary of Public Health publishes final regulations in that regard) or who is otherwise in violation of Commonwealth law shall be assessed full or partial repatriation costs by the Director of Labor.
  4. Joint and several liability. In situations in which there is a last employer of record and a foreign national worker has also been employed illegally by another employer, the Director of Labor may assess repatriation costs entirely to the last employer of record, entirely to the illegal employer, or partially to both employers. If a foreign national worker has been employed illegally and a last employer of record is assessed repatriation costs, that employer may recover the assessed repatriation costs from the illegal employer in an action before the Commonwealth Superior Court.
  5. Appeals. Within fifteen (15) days of the issuance of an assessment of repatriation costs by the Director of Labor, any person or party affected by the assessment order may appeal the order in accordance with Part VI, Section 4(H) and seek judicial review in accordance with Part VI, Section 4(I). A standard form for an appeal is provided by the Department.
- E. Responsibility for medical expenses: The last employer of record shall be responsible for medical expenses of the foreign national worker for up to a maximum of 96 days after termination of the approved employment contract to allow for the completion of transfers, cases, and appeals. In the event of requests for extensions of time to pursue cases and appeals, the hearing officer may inquire as to how medical expenses will be met in order that this burden not fall upon the Commonwealth government. A foreign national worker who remains in the Commonwealth after the expiration of the employer's responsibility for medical expenses shall be personally responsible for his or her medical expenses, and failure to pay outstanding bills for medical expenses or

lack of means to pay significant medical bills that may be incurred in the future may be considered by hearing officers under appropriate circumstances.

F. Stay and re-entry for litigation purposes. (Section 4956 of PL 15-108)

1. Extension for purposes of filing a claim. A foreign national worker must exit the Commonwealth within fifteen (15) days after the termination of an approved employment contract or any renewal. An automatic extension of an additional fifteen (15) days is available if the foreign national worker is in the process of preparing a complaint to be filed with the Labor Department, a complaint in a civil matter to be filed with the any court, or a complaint to the Department of Public Safety with respect to a criminal matter.
2. Extension by order of a hearing officer. A foreign national worker who attends a mediation session after filing a complaint (see Part VI, Section 4(A)(19)) may request an extension of time for departure from the Commonwealth from the hearing officer. In deciding a request for extension of time the hearing officer shall consider whether the foreign national worker is likely not to appear at the hearing, r a deportation order already has been entered, the foreign national worker may continue a fraudulent scheme to the detriment of the Commonwealth, the foreign worker has adequate resources to return to the Commonwealth for proceedings before the Department, or equivalent circumstances exist. A hearing officer's order granting an extension of time shall also set an initial hearing date in the matter. A denial of a request for an extension of time may be appealed to the Administrative Hearing Office within fifteen (15) days after the date of the denial. (See Part VI, Section 4(A)(11).)

G. No stay or bar in other actions. (Section 4957 of PL 15-108)

[RESERVED]

SECTION 6: OTHER PROVISIONS

Chapter 6, Article 6 of PL 15-108

A. Regulations. (Section 4961 of PL 15-108) In order to implement the legislative oversight requirement, amendments to these regulations after the effective date of the initial regulations shall be published for comment in the normal course as for other regulations and then, after the public comment period has been completed, the final regulations shall be transmitted to the presiding officers of the Legislature for a thirty (30) day period of consideration. If all or any part of the regulations is rejected by a joint resolution within the thirty (30) day period, the regulations shall be amended accordingly before going into effect. No further period for public comment is required after submission to the Legislature.

B. Limitations. (Section 4962 of PL 15-108) The Commonwealth Employment Act of 2007 includes new provisions to avoid disputes where possible and to resolve disputes as promptly as possible. In the past, very large backlogs have built up in large part because complainants had one year in which to file complaints and often waited until the very end of the period to file, then claimed damages back to the very beginning of the contract. An extensive orientation session will brief incoming foreign national workers on their rights. Documentation requirements have been improved. For these reasons, the statute of limitations with respect to filing individual labor complaints is six months from the date the actionable conduct could have been discovered with reasonable diligence. In any event, an individual must file a complaint within thirty (30) days of the termination of an approved employment contract. However, the Director of Labor may file an action against an employer on behalf of individual workers after the 30-day period for an individual complaint has expired. The six month period within which the Director may file a complaint does not commence until after an investigation involving multiple workers has been concluded.

C. Prohibitions. (Section 4963 of PL 15-108)

[RESERVED]

D. Sanctions and penalties. (Section 4964 of PL 15-108)

[RESERVED]

E. Exemptions. (Section 4965 of PL 15-108)

[RESERVED]

F. No liability. (Section 4966 of PL 15-108)

[RESERVED]

G. Required records. (Section 4967 of PL 15-108) An employer of a foreign national worker shall keep for at least four years, and present immediately upon written request by the Director of Labor or a designee, the following information:

1. Personnel records for each foreign national worker including the name, current residence address, age, domicile, citizenship, point of hire, and , entry permit expiration date, and approved employment contract termination date;
2. Payroll records for each foreign national worker including the O-NET job classification; wage rate or salary, number of hours worked each week, gross compensation, itemized deductions, and evidence of checks or direct deposits for net payments made biweekly;
3. Documentation for each foreign national worker including approved employment contract, police clearance, health certificate, and tax payment records; and
4. The employer's business license and security contract information with respect to each foreign national worker.
5. The number and type of employment-related accidents or illnesses involving workers and adequate identification of each worker involved.

H. Fees . (Section 4968 of PL 15-108) The following fees shall be collected by the Department. All fees are nonrefundable and nontransferable unless otherwise provided in these regulations.

- |  |          |
|--|----------|
| 1. Processing a request for a job vacancy announcement | No fee   |
| 2. Registration with Employment Services               | No fee   |
| 3. Application for an approved employment contract     | \$250.00 |
| 4. Attendance at orientation                           | No fee   |
| 5. Application for part-time casual employment         | \$40.00  |
| 6. Request for contract amendment or change            | \$25.00  |
| 7. Request for exemption (moratorium)                  | \$500.00 |

8. Request for contract renewal	\$250.00
9. Request for approval of subcontracting	\$25.00 per person
10. Certificate of good standing	\$100.00
11. Processing a transfer after administrative order	\$250.00
12. Filing of workforce plan	No fee
13. Replacement or duplicate entry permit	\$50.00
14. Penalty fee for untimely renewal 30 days	\$5.00 per day up to
15. Appeal of failure to timely renew entry permit	\$100.00
16. Processing a temporary work authorization	\$150.00
17. Renewal of temporary work authorization	\$50.00
18. Mediation of labor disputes	No fee
19. Filing a labor complaint	\$20.00 per person
20. Filing an appeal to the Secretary	\$25.00 per person
21. Copying costs for documents in Department files	\$0.50 per page
22. Transcript of labor hearing (tape only)	\$10.00 per tape
23. Printed version of Labor Rules and Regulations Commission	From Law Revision
24. Expedited processing	\$150.00 in addition to fee
25. Miscellaneous certifications	\$25.00

i. Statistical data. (Section 4969 of PL 15-108) The Department will aggregate the NAICS data for full-time employees and part-time employees who are foreign national workers into the following categories for purposes of the Department's annual report.

1. Professional, technical, and managerial
2. Clerical, sales, and service
3. Agricultural, fisheries, forestry, and groundskeeping

4. Light manufacturing
5. Construction and structural work
6. Care for children, elders, or handicapped persons in the home, housework, gardening,  
and related private residence work

J. Required reports. (Section 4970 of PL 15-108)

[RESERVED]

K. Electronic filing and access. (Section 4971 of PL 15-108)

1. Electronic forms. These regulations are designed to foster the use of Internet access so that forms may be filed via the Department's website. To that end, most submissions to the Department are standard forms that are available for downloading from the Department's website.
2. Online functions. The functions of the Department with respect to foreign national workers will be put online using a website the URL of which is [www.marianaslabor.net](http://www.marianaslabor.net). The purpose of moving various functions online – such as submission of applications, notices, complaints, appeals, and other forms – is to make the Department's processes faster, more efficient, and less costly for the Department, employers, and foreign national workers and their representatives. The Department will issue guidance for employers and foreign national workers for the use of the website to file materials and to access information. Employers of more than 25 employees will be required to use available online functions on and after March 1, 2008. Employers of more than ten (10) employees will be required to use available online functions on and after July 1, 2008. All employers will be required to use available online functions on and after January 1, 2009. Foreign national workers and their representatives will use the online functions at their option and always will have the option of providing paper copies in person at the Department.
3. Online access. The Department will provide for access via the Department's website for employers and foreign national workers to revised statutes and regulations, announcements, notices, opinions and orders, and public data from the Department. The Department will also provide for secure access to data pertaining to individual employers or foreign national workers for

purposes of updating, correction, or supplementation of the Department's records.

L. Transition. (Section 4972 of PL 15-108)

1. Transition for employment contracts. The transition for employment contracts is for the purpose of ensuring that , the maximum number of contracts are in compliance with PL 15-108, without impairing any existing contract.

(a) Proposed job vacancy announcements submitted in 2007 and job vacancy announcements approved in 2007 will be processed under the regulations applicable in 2007. Proposed job vacancy announcements submitted after January 1, 2008 will be processed under these regulations.

(b) Applications for approval of employment contracts submitted during 2007 will be processed under the regulations applicable in 2007. Applications submitted after January 1, 2008 will be processed under these regulations.

(c) An employment contract in effect on January 1, 2008 shall be performed under these regulations, provided however that reasonable expectations and business plans grounded in the regulations that applied in 2007 will be respected upon request to and approval of the Director of Labor. Employment contracts, the applications for which were submitted in 2008, shall be performed under these regulations.

(d) An employment contract in effect on January 1, 2008 under which a foreign national worker of an age of less than 21 years is working may be performed in accordance with its terms after January 1, 2008, the effective date of PL 15-108. However, the employer of an underage worker must bring the worker to the Department by February 15, 2008 to meet with an investigator who will determine whether the employer and the nature of the employment are suitable for an underage person. The contract may be renewed if the foreign national worker is under the age of 21 at the time of renewal provided that an investigator has determined in connection with the renewal application that the employer and the nature of the employment are suitable for an underage person. Underage persons who are in unsuitable employment may register with

Employment Services to find suitable employment and may remain in the Commonwealth until suitable employment is found or the person gains the age of 21, at which time the person shall have 30 days to find an employer and these regulations shall apply in full.

2. Transition for the Resident Workers Fair Compensation Act provisions: An employer may elect to reexamine benefits offered in the past and, if benefits are not offered to foreign national workers, no equivalent is owed to citizen and permanent resident employees. The requirements for compliance with the Resident Workers Fair Compensation Act will be suspended during the term of contracts currently in force on January 1, 2008 until those contracts are completed, and no equivalent compensation for citizen and permanent resident employees will be due in the interim.

3. Transition for religious occupations. The transition for religious occupations is for the purpose of phasing out the availability of approved employment contracts for foreign national workers hired by *bona fide* religious affiliates as employees rather than as leaders.

(a) The transition for religious occupations is in effect from January 1, 2008, the effective date of PL 15-108, through October 1, 2008.

(b) During the transition period, the Director of Labor may approve employment contracts under which a *bona fide* religious undertaking (see Part VI, Section 2(G)) is the employer and the position to be filled by the foreign national worker is a professional position in a religious vocation or occupation. Such an employment contract may be for a term of three years.

(c) After October 1, 2008, the Director of Labor may not approve any employment contract other than for a priest or similar leader of a *bona fide* religious undertaking. (See Part VI, Section 2(G).) No employment contracts for foreign national workers as employees of a *bona fide* religious undertaking will be approved. Existing contracts in effect on January 1, 2008, with foreign national workers who are employees and not leaders are not affected but may not be renewed at expiration in 2008 unless, under Part VI, Section 3(A)(3), the contract term will not extend beyond October 2008.

4. Transition for periodic exit requirement. The transition for the periodic exit requirement is for the purpose of ensuring that these exits occur in an orderly fashion throughout the first three -year period after the effective date of PL 15-108 and are not bunched at the very end of the three-year period. It would adversely affect the economy of the Commonwealth if all exits occurred in the third year of the three-year period.

(a) The transition for the periodic exit requirement is in effect from January 1, 2008, the effective date of PL 15-108, to July 1, 2011, a date 42 months after the effective date of PL 15-108.

(b) For purposes of the transition, foreign national workers lawfully in the Commonwealth on January 1, 2008, the effective date of PL 15-108, shall be deemed to have entered the Commonwealth on that date, except as provided below.

(c) During the transition period, each employer shall have an exemption for key employees of up to ten (10) percent of the employer's total number of foreign national workers.

(d) During the transition period, each employer may earn additional exemptions up to a total of five (5) percent of the employer's total number of foreign national workers.

(i) Employers who carry out the periodic exit requirement of at least twenty (20) percent of the exit-eligible work force during the period from January 1, 2008 through December 31, 2008 shall be able to claim a key employee exemption for an additional three (3) percent of the full-time work force.

(ii) Employers who carry out the periodic exit requirement of at least thirty (30) percent of the exit-eligible work force from January 1, 2009 through December 31, 2009 shall be able to claim a key employee exemption for an additional two (2) percent of their exit-eligible work force.

- (e) Employers with only one exit-eligible employee shall accomplish the periodic exit for that employee no later than September 30, 2009 unless alternative arrangements are made with the Director of Labor before June 30, 2009. The Director will accommodate reasonable requests based on personal needs, scheduling problems, vacation or school requirements, or other factors.
- (f) In the event that the Department determines that periodic exits have not begun or been accomplished by at least thirty percent of the exit-eligible foreign national workers by September 30, 2008, the Department shall hold a lottery to determine which exit-eligible foreign national workers shall begin the periodic exit during the period January 1, 2009 through March 30, 2009 in order to ensure that a sufficient number of exits will occur in order to keep the exit program on schedule so that there is no bunching of exits at the end of the initial three-year period. In the event that the Department determines that periodic exits have not begun or been accomplished by at least sixty percent of the exit-eligible foreign national workers by September 30, 2009, the Department shall hold a lottery to determine which exit eligible foreign national workers shall begin the periodic exit during the period January 1, 2010 through March 30, 2010 in order to keep the exit program on schedule so that there is no bunching of exits at the end of the initial three-year period.
- (g) The exit of every exit-eligible employee shall be accomplished by December 30, 2010. An additional lottery shall be held, as necessary, to accomplish this result.
- (h) A renewal application under Part VI, Section 3(E) of these regulations may be denied for failure to comply with the transition provisions implementing the periodic exit requirement. The renewal period may be truncated to less than one year in order to ensure compliance with the periodic exit requirement.
- (i) Effect of the moratorium. While the moratorium is in effect (from 2008 through 2011), Section 4602 of PL 15-108 provides that a foreign national worker who exits the Commonwealth and is covered by the moratorium shall, at the conclusion of the required absence, be considered a renewal for the purposes of the moratorium. This section affects only the

exemption from the moratorium and no other circumstance. The resumption of employment is considered a renewal only for purposes of accommodating the moratorium and not affecting foreign national workers solely because of the application of the moratorium. This provision affords an exemption to the moratorium but does not afford any right to a renewal.

#### **SECTION VII. SEVERABILITY**

If any provision of these regulations or the application of such regulations to any person or circumstance shall be held invalid by a court of competent jurisdiction, the remainder of such regulations or the application of such regulations to persons or circumstances other than those as to which it was held invalid shall not be affected thereby.

#### **SECTION VIII. EFFECTIVE DATE**

These regulations are effective on February 1, 2008, and shall not apply retroactively to applications in the Division of Labor or proceedings in the Administrative Hearing Office that were pending before that date except with respect to appropriate forms of notice given by the Department.



## ZONING BOARD

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Caller Box 10007, Saipan, MP 96950 Tel. 670-234-9663, FAX 670-234-9666

E-mail ZoningBoard@zoning.gov.mp

Henry S. Hofschneider, Chair  
Rexford C. Kosack, Vice Chair  
Herminia M. Fusco, Member

Isidoro T. Cabrera, Member  
David L. Igitol, Member  
Elizabeth D. Rechebei, Ed.D. Member

Steve Tilley, Zoning Administrator

### PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE Commonwealth Zoning Board

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS

Volume 29, Number 03, pp 026462-70, of March 15, 2007

#### Regulations of the Commonwealth Zoning Board: Parts 100 – 1000

Please take notice that the Commonwealth Zoning Board hereby adopts as permanent the referenced Proposed Regulations. I also certify by signature below that such adopted regulations are being adopted without modification or amendment, except for the following “non-material” changes:

1. First change:

The “History”, § 1-10-00102(c)(3)(ii) and (iii) has been amended to fill in date and page numbers, as follows:

(ii) Proposed Fee Regulations adopted by resolution of the Zoning Board on March 15, 2007. Proposed fee regulations were published in the Commonwealth Register, Vol. 29, No. 03, pp 026462-70 (March 15, 2007).

(iii) Final fee regulations were adopted by resolution on January 10, 2008, and promulgated by publication of notice in the Commonwealth Register Vol. 30, No. 01 (01/\_\_\_/2008).

2. Second change: The fee amounts have, in some cases, been reduced. Because a fee reduction benefits the public, this is not considered a “material” change, and the Board is not re-publishing the regulations for comment.

I further request and direct that this Notice and the attached revised, final regulations be published in the Commonwealth Register.

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

The prior publication was as stated above. The Board adopted the regulations as final at its meeting of January 10, 2008.

**Comments and agency concise statement.** Pursuant to 1 CMC § 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30

days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if any, in response to filed comments. Note: There were no filed comments.

**Attorney General approval.** The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law). Due to the further, 'non-material' changes, the Attorney General has approved this final version for promulgation. (*Id.*)

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 10th day of January, 2008, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
Henry S. Hofschneider,  
Chair, Commonwealth Zoning Board

January 10, 2008

\_\_\_\_\_  
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 5<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
MATTHEW T. GREGORY,  
Attorney General

Filed and  
Recorded by:

  
\_\_\_\_\_  
BERNADITA B. DE LA CRUZ  
Commonwealth Register

1-16-08  
Date

NMIAC 165-30.1  
**COMMONWEALTH ZONING BOARD REGULATIONS**

**§165-30.1-301 Fees**

(a) Fees for zoning permits and actions shall be assessed according to Table 1. Zoning Fees.

<b>Table 1. Zoning Fees</b>		
<b>Permit or Action</b>	<b>Project Construction Cost</b>	<b>Fee (Costs may be added. See below)</b>
Minor-Subdivision	All projects	\$100
Minor site plan	Any amount	\$50.00
Major Site Plan, Preliminary Plat Major Subdivision, Conditional Use, or Variance	Up to \$50,000	\$100.00
	\$50,001 to \$99,000	\$200.00
	\$100,000 to \$500,000	\$750.00
	Over \$500,000	\$1,250.00
Final Plat Major Subdivision	All projects	\$200.00
Limited or Temporary Use	All projects	\$50.00
Zoning Permit	All projects	\$50.00
Sign Permit	All projects	\$25.00
Beneficial Use	All projects	\$200.00

- (1) In addition to the base application fee in Table 1, an applicant shall reimburse the Zoning Office for the costs of professional engineers and other consultants hired by the Zoning Administrator to review and inspect the applicant's proposal when the Zoning Office is unable to do so with existing in-house staff.
    - i. These professional services may include, but are not limited to: legal; planning; hearing examiner; environmental review; financial; accounting; soils; and civil, environmental, traffic, mechanical, and structural engineering.
    - ii. In the event that a project requires special staff analysis beyond that which is included in the base fee, the applicant shall reimburse the Zoning Office at a rate of \$25.00 per hour for this extra staff time.
    - iii. The Zoning Administrator may require the applicant to deposit an amount with the CNMI Treasurer to cover anticipated costs of retaining professional consultants or performing special staff analysis.
  - (2) If a permit category is not listed in Table 1, the Zoning Administrator or his/her designee shall determine the fee schedule for that category, subject to Zoning Board approval.
  - (3) In the event of unique and unusual circumstances or economic hardship, the Zoning Administrator may waive or reduce a fee. The Zoning Administrator shall notify the Zoning Board of any waivers or reductions, and shall rescind any charges deemed inappropriate by the Zoning Board.
- (b) Fees for documents and related services shall be as follows:
- (1) Photocopies: less than 20 copies –no charge; 21 or more copies - \$0.50 per page

- (2) Electronic files on CD: \$10.00 for each CD
- (3) Electronic files on DVD: \$20.00 for each DVD
- (4) Copies of meeting recording on cassette tape: \$15.00 per tape
- (5) If complying with a request for information takes longer than one hour, labor shall be charged at the rate of \$20.00 per hour.

0 Zoning Board Fees Reg 2008 - 165-30dot1-301.doc