

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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**COMMONWEALTH REGISTER**

**VOLUME 38  
NUMBER 11**

**NOVEMBER 29, 2016**

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# COMMONWEALTH REGISTER

VOLUME 38  
NUMBER 11

NOVEMBER 29, 2016

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Commonwealth of the Northern Mariana Islands  
OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

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[www.deq.gov.mp](http://www.deq.gov.mp) and [www.cnm.gov.mp](http://www.cnm.gov.mp)



Ralph DLG. Torres  
Governor

Victor B. Hocog  
Lt. Governor

Frank M. Rabauliman  
Administrator

Ray S. Masga  
Director, DEQ

Frances A. Castro  
Director, DCRM

**PROPOSED AMENDMENT OF THE  
CNMI UNDERGROUND STORAGE TANK REGULATIONS**

**INTENDED ACTION TO AMEND THE REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) intends to amend the CNMI Underground Storage Tank Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104 (a) or (b). 1 CMC § 9105(b).

**AUTHORITY:** The Administrator of BECQ is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the Commonwealth Environmental Protection Act. 2 CMC § 3122.

**THE TERMS AND SUBSTANCE:** The proposed amendment adds a new Part, Delivery Prohibition, to the CNMI Underground Storage Tank Regulations and amends the section on permitting. Consistent with federal law, the proposed amendment intends to make it unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility that has been identified by the BECQ as ineligible for fuel delivery or deposit. The BECQ shall also amend the permitting fees regarding the installation and renewal operation of underground storage tanks (USTs) and include the wellhead setbacks for UST installation.

**THE SUBJECTS AND ISSUES INVOLVED:**

- 1) The Energy Policy Act of 2005 provided the US Environmental Protection Agency with the authority to prohibit deliveries of regulated substances. As a result, all UST state programs now use delivery prohibition and the CNMI also adopts this prohibition.
- 2) The use of delivery prohibition by the BECQ shall only be used in serious situations with the opportunity for the UST facility to come into compliance. The criteria for determining which UST facilities are ineligible for delivery, deposit or acceptance of a regulated substance are as follows:
  - a. Failure to properly operate or maintain release detection equipment;
  - b. Failure to properly install, operate, or maintain spill prevention equipment;
  - c. Failure to properly install, operate or maintain overfill equipment;
  - d. Failure to properly install, operate or maintain corrosion protection equipment;
  - e. Failure to protect a buried metal flexible connector from corrosion;
  - f. Failure to maintain financial responsibility;
  - g. Recalcitrance – the owner or operator has a history of non-compliance and not responding to previous enforcement or compliance assistance;
  - h. Negligible actions that pose a serious threat to human health, safety or the environment; or




- i. Failure to obtain a valid permit to operate from the BECQ.
- 3) Delivery prohibition is applicable on a tank by tank basis, not to an entire facility.
- 4) The UST permit to install application fee of one thousand five hundred US dollars (\$1,500) per tank (new and replacement).
- 5) The UST permit to operate application fee of two-hundred and fifty US dollars (\$250) per tank (new, renewal, and replacement).
- 6) No new USTs shall be permitted for installation or operation in Saipan's Class I or Class II Groundwater Management Zones.
- 7) USTs shall be permitted for installation or operation in Saipan's Class III Groundwater Management Zones with the restriction of UST location to wellhead setback of 500 feet upgradient and 500 feet downgradient.
- 8) For the islands of Tinian and Rota, USTs may be permitted for installation or operation meeting the wellhead setback of 500 feet upgradient and 500 feet downgradient as well as the groundwater recharge zone as defined by the CNMI Water Quality Standards.
- 9) BECQ will require that UST owners and operators report all petroleum spills greater than five gallons.

**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 Reina C. Camacho, Pesticide & Storage Tank Branch Manager, *Re: Underground Storage Tank Regulations*, at the above address or to the above fax number or email [storagetankspesticides@becq.gov.mp](mailto:storagetankspesticides@becq.gov.mp). 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 Administrator on October \_\_\_\_\_, 2016.

Submitted by:  FRANK M. RABAULIMAN 11/3/16  
 Administrator Date  
 CNMI Bureau of Environmental & Coastal Quality

Received by:  SHIRLEY CAMACHO OGUMORO 11/14/16  
 Governor's Special Assistant Date  
 for Administration

Filed and  
Recorded by:

  
\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Register

11.16.2016  
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 this 16 day of November, 2016.



\_\_\_\_\_  
EDWARD MANIBUSAN  
Attorney General



Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

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**MAPROPONI NA TINILAIKAN AREKGLAMENTU POT MANMAHĀFUT NA TĀNGKI**

**MA INTENSIONA NA AKSION PARA MATULAIKAN AREKGLAMENTU: I**

Gubietnamentun Islan Sankattan na Marianas, Ofisinan i Maga'lāhi, "Bureau of Environmental and Coastal Quality (BECQ)", sigun I ginagagāo gi "Administrative Procedure Act (APA), 1 CMC § 9104 (a)". I regulasion siha para u ifektibu dies (10) dihas dispues di makumpli i 1 CMC § 9102 yan i 9104 (a) pat (b). (1 CMC § 9105 (b)).

**ATTURIDĀT:** I Lehislatura ha nā'i Administradot i BECQ pudet ni para u aprueba i arekglamentu yan regulasion siha para i atministrasion yan i maenfuetsan i "Commonwealth Environmental Protection Act", 2 CMC § 3122". i

**I ALIMENTU YAN I SUSTĀNSIAN AREKGLAMENTU:** I maproponi na tinilaikan arekglamentu ha intensiona para upruhibi machule'guattu, sumini halum, osino mañuli' pat manaksepta binināo na kosas gi manmahāfut na tångki siha gi papa' tĀnu' ni dinititmina ni BECQ kumu ti elihipbli sa' piligru. Muchumās i BECQ debi na u tulaika i kuāntu na gāstu (permitting fees) para u afuetsa kada' aplikānti ni malagu' mangāhāt yan manrinueba bisnis put asuntun mahāfut na tångki siha.

**I MAÑĀSAONĀO SIHA NA ASUNTU:**

- 1) I "Energy Policy Act of 2005" ha prubiniyi i "US Environmental Protection Agency" ni attoridāt para u pruhibi i kinalamtin binināo siha na kosas. Pot esu, enteru prugrāman manmahāfut na tångki siha (UST) pā'gu giya Sankattan na Islan Marianas debi na hu tatiyi yan enfuetsa gi parehu manera esti na attoridāt sigun i mĀndun i "Energy Policy Act of 2005".
- 2) I usun binināo siha na kosas ni BECQ debi na u enfuetsa gi man siriosu na kosa dibuenamenti lāo unā'i opottunidāt i fasilidāt manmahāfut na tångki siha para umakumpli i nuebu na tinilaikan arekglamentu guini. Eyu ha' ti man elihipbli man risibi osino manaksepta binināo na kosas siha sigun i sigienti:
  - a. Yanggen ti propiu arekglu pat asiguran ramenta para ensigidas manlagnus pittoliu pat binināo siha (release detection equipment);
  - b. Yanggen ti propiu un hātsa, arekglā, pat asigura i ramenta para u atāha sumi';
  - c. Yanggen ti propiu un hātsa, arekglā, pat asigura i ramenta para u machuda' ginin tångki;s
  - d. Yanggen ti propiu un hātsa, arekglā, pat asigura i ramenta para u adahi tångki kontra distrosu gi katkuet manera ("corrosion, rust");



- e. Yanggen ti ma adahi i mahâfut na luluk ("buried metal flexible connector) kontra distrossu ("corrosion, rust");
  - f. Yanggen ti ma adahi i risponsibilidât finansiât pat sino salâppi';
  - g. Yanggen i dueñu guaha' historian diskuidu kontra yan ti ha kukumpli i lai yan arekglamentun tinilaika guini pot asuntun manmahâfut na tângki siha;
  - h. Diskuidu siha ni lâ'yiyi siriosu na piniligru kontra hinemlu', salud, yan lina'la' pupbliku yan i tano'ta; pat
  - i. Yanggen ti ha chuli' kabâlis petmisu (valid permit) ginen BECQ.
- 3) Prinihibi na bininâo siha aplikâpbli gi kada' tângki, âhi' ti enteru fasilidât.
  - 4) Kada' tângki uginasta \$1,500 parehu ha' para nuebu yan presenti.
  - 5) I "UST permit" na apikasion uginasta \$250 kada' tângki parehu ha' nuebu, rinueba, pat tinilaika.
  - 6) Tâya' nu'ebu na UST siña mapetmiti para ma hâtsa pat sino mana'kalamtin gi halum Class I pat sino Class II Groundwater Management Zones giya Saipan.
  - 7) Ma petmiti i UST para ma hâtsa yan para u mana'kalamtin gi hâlum Class III Groundwater Management Zones giya Saipan, lâo debi di 500 pie chinago'ña pâpa' yan 500 pie chinago'ña hulu' kontra i lipuk (wellhead).
  - 8) Para islan Tinian yan Luta, ma petmiti para u mapega yan para u manakalamtin i UST kumu matatiyi i CNMI Water Quality na areklamentu ni ginagagâo na debi di 500 pie para hulu yan 500 pie para pâpa parehu ha' yan i groundwater recharge zone (*lugât anai mimilalag para i papa' tânu para i sagan hanum*)
  - 9) I BECQ para u na' seguru na debi i dueñu yan i manehântin i UST ma ripot todû pitoliu ni machuchuda' mâs ki sinku (5) galon.

**AREKGLAMENTU POT "FILING" YAN "PUBLICATION":** Esti manmaproponi na tinilaikan arekglamentu siha debi umapupblika gi "Commonwealth Register" gi seksiona put manmaproponi yan nuebu namanma adopta na arekglamentu (1 CMC § 9102(a)(1)) yan u fanma pega gi katkuet na sagan pupbliku gi kada' Isla gi finu' CHamoru, Refaluwaasch, pat English (1 CMC § 9104(a)(1)).

**PARA MANNA'HALUM FINIHU:** Na'hânâo pat na'hâlum finihu guattu as Reina C. Camacho, Pesticide & Storage Tank Branch Manager, *Re: Underground Storage Tank Regulations*, gi sanhilu' na "address" pat i sanhilu' na "Fax number" pat "Email gi: [storagetankspesticides@becq.gov.mp](mailto:storagetankspesticides@becq.gov.mp). Todû finihu debi ufanhalum gi hâlum trenta dias (30 days) ginin i fecha ni mapupblika esti na nutisia (1 CMC § 9104(a)(2)).

Esti ni priniponin tinilaikan arekglamentu inapruêba ni "BECQ Administrator" gi Oktubre , 2016.

Nina'hâlum as:


  
FRANK M. RABAULIMAN

Administratot

CNMI Bureau of Environmental & Coastal Quality


  
Fecha

Rinisibi as:

  
SHIRLEY CAMACHO OGUMORO  
Espisiat na Ayudantin i Gubietnu  
para i Administrasion

11/14/16  
Fecha

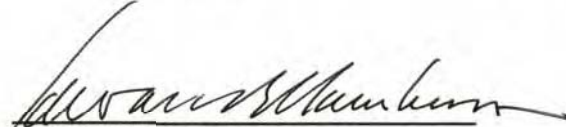
"Filed and  
Recorded by":

  
ESTHER SN. NESBITT  
Rehistradoran i Commonwealth

11.16.2016  
Fecha

Sigun i 1 CMC § 2153 (e) (inapruewan Abugâdu Hinerât ni regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104 (a) (3) (inahentan mapruewan Abugâdu Hinerât) i manmaproponi na regulasion siha guini ni mantinilaika yan manmaapruewa kumu futmât yan suficiente ligât ginin i CNMI Abugâdu Hinerât yan debi na umapublika, 1 CMC § 2153 (f) (publikasion arekglamentu yan regulasion siha).

Ma fecha gi 16 Novembri na diha, 2016.

  
EDWARD MANIBUSAN  
Abugao Hinerat (Attorney General)





Commonwealth of the Northern Mariana Islands  
OFFICE OF THE GOVERNOR

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**APÉLÚGHÚLÚGHÚL AWEEWEL FÉÉRIL TANGKIL FÁÁL PPWEL ME LÓLL CNMI**

**ALLÉGHÚL FFÉÉRIL AWEEWEL:** Nge Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental me Coastal Quality (BECQ) re schu me re mwuschel fééri aweewel fééril tangkil fáál ppwel (CNMI Underground Storage Tank Regulation), rebwe attabwel meeta ówtol aweewe kkaal sáangi Administrative Procedure Act, 1 CMC § 9104(a). Aweewe (Regulations) kkaal nge ebweletá rebwe fééri sáangi 10 rál ngare ra mwóló sáangi 1 CMC §§ 9102 and 9104 (a) or (b). (1 CMC § 9105(b))

**ATORIDÓD:** Samwolul (Administrator of BECQ) mille Kongresso me Legislatura re apélúghúlúgh wóól ebwe lemelem me ebwe atemeleghúw me reel Commonwealth Environmental Protection Act. 2 CMC § 3122.

**AWEEWEL TOOL ME ÓWTOL:** Aweewel mille rebwe fééri nge ese fil bwe rebwe bwughiito, isiisitiw, me rebwe akseptáli gas iye rebwe isáliilong lóll tangki ye e libwilibwitiw fáál ppwel reel ngare BECQ ese akseptáli rebwe bwughiito me isiisitiw. Me bwal BECQ ebwe ayoora abwóosul ngare rebwe fééri-tá me fééri sefáli-tá tangkil fáál ppwel (USTs).

**ÓWTOL ME AWEWE KKA E LO LÓLL:**


- 1) Rel Energy Policy Act of 2005 nge e ngalley US Environmental Protection Agency atoridót ebwe aayúw-ló me bwebwogholong gas kka ese fil. Resutal nge alongal UST state programs nge CNMI aa kke fééri aweewe kka emwel ebwe aayúw-ló sáangi CNMI UST regulation.
- 2) Yáyáál fééril aweewe sáangi BECQ nge ebwe fééri ngare eghi sirioso problemal me ngare UST e toolong ebwe aweewe ngare ese wel yaar fefféér. Aweewe kka rese fééri nge re sóbw akseptáli bwebwogh-longol gas ngare:
  - a) Ngare rese fééri ghatchúw óperedal release detection equipment;
  - b) Ngare rese fééri me ayoora, óperedal spill prevention equipment;
  - c) Ngare rese fééri me ayoora, óperedal overfill equipment;
  - d) Ngare rese fééri me ayoora, óperedal corrosion protection equipment;
  - e) Ngare rese ayoora parang iye emmwel ebwe libwilibwitiw ebwe piley

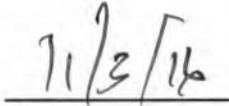
- ppwel ete bwot;
- f) Ngare rese féeri me aléghúw ghatchúw salapiyal yal mwóghut;
  - g) ,Recalcitrance – aramas iye yaal me ópereda nge ese yoor yaar féféer rígów iye ese atabwey me meeta aweewel engów e féeri.
  - h) Fééiril atchofesá me bwasaas me ngare ese ghatch ngalir ilighiir aramas me rete semwaay me welearol.
  - i) Ngare rese bwughi valid permit ebwe ópereda sáangi BECQ.
- 3) Ffééiril aweewe kkaal nge e mwetengáli tanki me tanki schagh, saabw alongal peirághil.
  - 4) Mille UST permit nge re ayoorátá install application reel abwóssul ngáli ééw tanki nge ééw sangaras limabwughúw dólla (\$1,500) abwóssul ééw (mil-ffé me ngare rebwe liwili)
  - 5) Mille UST permil reel operate application nge abwóssul fee nge ruwabwúghúw limeigh dólla (\$250) abwóssul ééw (mil-ffé me ngare rebwe liwili)
  - 6) Esóór mil-fféé iye USTs ebwe atotolong bwe re bwe appaschátá me ngáre tarabwaaghóli ópereedal lóll Saipan's Class I me ngáre Class II Groundwater Management Zones.
  - 7) USTs re bwe pitmiitiiy bwe ebwe ayoora me appascha me ngare ebwe ópereedáli lóll Saipan Class III Groundwater Management Zones fengál me ebwe alúghúw leeliyál igha ebwe lo iye schápil sáangi 500 feet mwettá weiláng me 500 feet mwettiw faal.
  - 8) Sáangi wóol falúw kka Tchiliyól me Luta, nge USTs nge re bwe petmiitiiy yaar apaschátá me ayoora me rebwe aweeweey schápil yaar isáli bwe 500 feet mwettá weiláng me 500 feet mwettiw faal sáangi schápil bwe ilaal igha groundwater recharge zone e affata me e lo lóll CNMI Water Quality Standards.
  - 9) BECQ e appelúghúlúgh ngáli malle yaal UST me e ghal ópereedáli bwe ebwe ripoodai alongal potolorio iye elipiló iye essogh sáangi limwow (5) galoon.


**DIREKSION REEL FILING ME PUBLIKÁLI:** Alongal ffééiril aweewe Proposed Regulations nge rebwe ebwe isissilong lóll Commonweal Register reel seksionul aweewe me milli ffé regulations (1 CMC § 9102(a)(1)) me rebwe atowowu reel pobliko me reel civic center leliyer towlap me alongal bwulasiyol gobietno me ghal lóll senatorial district reel kapasal English me mwaliyeer aramasal falúw. (1 CMC § 9104(a)(1))

**REEL ATOOTOLONG MÁNGÁMÁNG:** Afangátiw yóómw mángámáng ngáli Reina C. Camacho, Pesticide & Storage Tank Branch Manager, Re: Underground Storage Tank Regulations, reel address iye elo weiláng me ngare fax ngali me ngare email storagetankspesticides@becq.gov.mp.

Alongal fféiril aweewe kkaal nge re aprebáli sáangi Administrator wool October \_\_\_\_, 2016.

Isiiss ngáli:   
FRANK M. RABAULIMAN  
Administrator  
CNMI Bureau of Environmental & Coastal Quality

  
Date

Bwughi me reel:   
SHIRLEY CAMACHO-OGUMORO  
Governor's Special Assistant  
for Administration

  
Date

Fayeli me Rekodili:   
ESTHER SN. NESBITT  
Commonwealth Register

  
Date

Sáangi ówtol 1 CMC § 2153(e) (AG e aprebáli regulations rebwe fééri) me aléghúw fééiril me 1 CMC § 9104(a)(3) (AG e amweschúl lúghúw appreba kkaal) reel proposed regulations kka e appasch bwe ra árághil me aweewel me aprebáli bwe legal me e allégh sáangi CNM Attorney General bwe ebwe atowowul bwe aramas towlap rebwe repiyáilil (1 CMC § 2153(f)(publication of rules and regulations).

Sáangi lóil 16 ráil wool November \_\_\_\_, 2016

  
EDWARD MANIBUSAN  
Attorney General



# Chapter 65-100: Underground Storage Tank Regulations

## Chapter Authority, History, and Comment

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135.

Chapter History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 27 Com. Reg. 25748 (May 19, 2006); Amdts Proposed 27 Com. Reg. 25341 (Dec. 30, 2005); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that "all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated."

In April 2016, pursuant to § 65-100-020, all rules and regulations in this chapter were superseded by new rules and regulations as proposed at 38 Com. Reg. 37613 (Feb. 28, 2016) and adopted at 38 Com. Reg. 37908 (Apr. 28, 2016). The Commission numbered and renumbered sections and subsections throughout this chapter pursuant to 1 CMC § 3806(a).

## Part 001 - General Provisions

### § 65-100-001 Authority

(a) The regulations in this chapter have been promulgated by the Bureau of Environmental and Coastal Quality in accordance with the Commonwealth of the Northern Mariana Islands Public Law 3-23, the Commonwealth Environmental Protection Act, 2 CMC §§ 3101-3134. The regulations in this chapter and technical provisions shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

(b) The Bureau of Environmental and Coastal Quality (BECQ) shall serve as the official representative for all purposes of Subtitle I of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6992k (Public Law 94-580) as amended, and for the purpose of such other federal or local legislation as may hereafter be enacted to assist in the management of underground storage tanks in the Commonwealth of the Northern Mariana Islands.

### § 65-100-005 Purpose

(a) The purpose of the regulations in this chapter is to establish a system of control and enforcement over the permitting, installation, compliance, use and monitoring of all underground storage tanks (USTs) containing regulated substances and prohibit the storage of hazardous substances or wastes in UST systems by persons within the CNMI as necessary to conserve the land and water resources of the CNMI, protect public health, and prevent environmental pollution, resource degradation and public nuisances.

(b) The regulations in this chapter provide a means to protect the CNMI surface and groundwater resources, as stated in the Commonwealth Groundwater Management and Protection Act of 1988, 2 CMC §§ 3311-3333 (PL 6-12). Since the CNMI is dependent on groundwater for its drinking water supply, this chapter establishes a mechanism to protect this limited resource from contamination from petroleum products contained in underground storage tanks. Thus, the purpose of this chapter is to also establish leak detection, leak prevention, financial responsibility, and corrective action requirements for all UST containing regulated substances.

{c} The regulations in this chapter provide a means to protect marine resources and coastal areas under the Coastal Resources Management (CRM) Act, 2 CMC §§ 1501–1543 (PL 3-47). These UST regulations provide a mechanism to prevent the degradation or pollution of, or damage to the marine resources of the CNMI from underground storage tanks. The provisions stated in this chapter are consistent with the purpose and objective of the CRM Act.

{d} The Bureau of Environmental and Coastal Quality shall have primary jurisdiction to enforce this chapter in the CNMI. Additionally, the Environmental Protection Agency (EPA) Region IX Office, may independently enforce the regulations in this chapter without requiring BECQ action.

#### § 65-100-010 Administration

{a} The Administrator is authorized to take such action as may be necessary in the administration and enforcement of the Underground Storage Tank Regulations for the CNMI.

{b} The Bureau of Environmental and Coastal Quality shall be responsible to prepare, adopt, promulgate, modify, update, repeal, and enforce rules and regulations governing underground storage tank design, construction, permitting, installation, release detection and inventory control, compatibility, record maintenance, reporting, corrective action, closure, and financial responsibility in order to protect human health and environment, and enable BECQ to carry out the purposes and provisions of this chapter.

#### § 65-100-015 Severability

Should any part, section, paragraph, sentence, clause, phrase, or application of the rules and regulations in this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder or any other application of these rules and regulations shall not be affected in any way thereby, and shall remain in full force and effect.

#### § 65-100-020 Supersedure

The rules and regulations in this chapter supersede all CNMI Division of Environmental Quality Underground Storage Tank Regulations in effect prior to the effective date of these rules and regulations.

#### Part 100 - Adoption by Reference

##### § 65-100-101 Adoption by Reference

The provisions of 40 CFR Part 280 - UNDERGROUND STORAGE TANKS (UST) REGULATIONS are hereby adopted by reference, as published in the 2015 Federal Register 15914 (July 15, 2015; Volume 80, Number 135).

#### Part 200 - Definitions

##### § 65-100-201 Definitions

{a} "Act" means the Commonwealth Environmental Protection Act, 2 CMC §§ 3101–3134 (Public Law 3-23).

{b} "Administrator" means the Administrator of the CNMI Bureau of Environmental & Coastal Quality.

{c} "Agency" means the Bureau of Environmental and Coastal Quality.

{d} "Commonwealth" means the Commonwealth of the Northern Mariana Islands (CNMI).

{e} "BECQ" means the Bureau of Environmental and Coastal Quality.

{f} All other terms shall have the same meaning as set forth in the federal regulations referred to in Part 100

#### Part 300 - Permits

##### § 65-100-301 Permit Required

- (a) No person shall install or operate a UST system, without first obtaining a permit from the Administrator.
- (b) The Administrator shall approve an application for a permit to install or operate only if the applicant has submitted sufficient information to the satisfaction of the Administrator that the technical, financial, and other requirements of this chapter are or can be met and the installation and operation of the UST system will be done in a manner that is protective of human health and the environment.
- (c) A permit shall be issued by BECQ only in accordance with this chapter, and it shall be the duty of the owner to ensure compliance with the law in the installation and operation of the UST system.
- (d) Issuance of a permit shall not relieve any person of the responsibility to comply fully with all applicable laws.

**§ 65-100-305 Application for a Permit**

(a) Every application for a permit to install or operate shall be submitted to the BECQ on forms prescribed by the BECQ.

(b) A permit fee shall accompany each application for a permit.

- **The owner or operator shall pay an UST permit to install application fee of one thousand five hundred US dollars (\$1,500) per tank (new and replacement) payable to the BECQ, at the time the UST permit to install application is submitted.**
- **The owner or operator shall pay an UST permit to operate application fee of two-hundred and fifty US dollars (\$250) per tank (new, renewal, and replacement) payable to the BECQ at the time the application is submitted. Applications for UST permit to operate must be renewed yearly.**

(c) The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Information submitted shall include but not be limited to the following:

- {1} General information on involved parties, including the landowner, owner, and operator; identification of location of the tanks, piping, and other components that comprise the UST system; and basic description of the UST system;
- {2} Age, size, location, and uses of the UST system;
- {3} Other information required in forms prescribed by the BECQ for the application for a permit; and
- {4} Other information as determined by the Administrator.

(d) Every application shall be signed by the owner and the operator and shall constitute an acknowledgement that the owner or operator assumes responsibility for the installation and operation of the UST system in accordance with this chapter and the conditions of the permit, if issued.

**Underground Storage Tank Location Requirements**

**(a) Island of Saipan — Groundwater Management Zones (From part 2000 of the CNMI Well Drilling and Well Operations Regulations, NMIAC, title 60, chapter 140).**

**(1) Island of Saipan Class I and Class II Groundwater Management Zone UST System Restrictions: No new USTs shall be permitted for installation or operation in Saipan's Class I or Class II Groundwater Management Zones.**

**(2) Island of Saipan Class III Groundwater Management Zone Restrictions. Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells for new USTs:**

**(i) Boundary of UST facility. Wellhead setback requirement:**

**(A) Upgradient 500 feet**

**(B) Downgradient 500 feet**



(ii) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under § 65-140-1105 and § 65-140-1205 of the CNMI Well Drilling and Well Operations Regulations.

(3) There shall be no tanks installed in the following locations:

- (i) Within a wetland or within five hundred (500) feet of a wetland boundary; or
- (ii) Within five hundred (500) feet of surface water bodies, such as a reservoir, spring, or cave, from which public drinking water supply is collected; or
- (iii) Within five hundred (500) feet of inland waters;
- (iv) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark) or navigable waters; or
- (v) Within tidal or storm water inundation areas; or
- (vi) Any area determined as unsuitable by the Administrator of BECQ.

(4) The Administrator of BECQ may, on a site specific basis, waive the requirements of this section, Part 4 (B)(5)(a)(1-3) for the replacement of an existing permitted UST if it can be demonstrated to the Administrator's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:

- (i) The particular conditions which make compliance with this section, Part 4 (B)(5)(a)(1-3) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
- (ii) With the exception of this section, Part 4 (B)(5), the project design shall fully meet all the requirements of this subchapter, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in this section, Part 4 (B)(5). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
- (iii) When granting a waiver to the requirements in this section, Part 4 (B)(5) (a)(1)-(3), the Administrator of BECQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

(b) Islands of Tinian and Rota — CNMI Groundwater Recharge Zones.

(1) Until such time as the DEQ promulgates groundwater management zones for the islands of Tinian and Rota, the existing groundwater recharge zone categories (primary, secondary, and brackish) as defined in CNMI Water Quality Standards 2014 [NMIAC, Title 65, Chapter 130] shall be used to determine acceptable locations for placement of new USTs.

(2) To determine the groundwater recharge zone in the location of a proposed UST placement, the applicant must provide a determination of the underlying geology, aquifer characteristics, groundwater quality, location and proximity of all nearby wells, and current and potential future use of the underlying groundwater for public water supply based on a review of available information including United States Geological Survey (USGS) maps and reports, Commonwealth Utility Corporation (CUC) well field maps, and nearby well drilling records. DEQ may assist the applicant in making such determination where sufficient information exists. The applicant may provide a determination on the basis of a professional hydrogeologist.

(3) Primary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet one or more of the following primary groundwater recharge zone criteria:

- (i) Areas contributing surface infiltration to a geologic formation that is saturated with fresh groundwater that is not in contact with seawater (i.e. "perched" groundwater) and is capable of transmitting quantities of fresh water in sufficient quantity to sustain a public water supply well;
- (ii) Areas that can reasonably be considered, on the basis of maps provided by USGS or CUC, to be within active or future public water supply well fields;



- (iii) Areas contributing surface infiltration to a geologic formation that discharges to a known spring or stream that currently is or is capable of transmitting quantities of fresh water in sufficient quantity to be used as a public water supply.
- (4) Secondary Groundwater Recharge Zone.
- (i) No new USTs shall be permitted for installation or operation in areas determined to meet the secondary groundwater recharge zone criteria.
- (ii) Secondary groundwater recharge zones are defined as areas designated as contributing surface infiltration to a geologic formation that is saturated with groundwater less than 500 parts per million total dissolved solids, and currently or are capable of transmitting quantities of water in sufficient quantities to sustain a public water supply well; or areas with groundwater surface elevation equal to or greater than 1 foot as mapped by the USGS.
- (5) Brackish Groundwater Recharge Zone.
- (i) New USTs may be installed and operated in areas which are determined to meet the brackish groundwater recharge zone criteria provided.
- (ii) Brackish groundwater recharge zones are defined as areas contributing surface water infiltration to a geologic formation that is saturated with greater than 500 parts per million total dissolved solids; or areas with groundwater surface elevation less than 1 foot as mapped by USGS.
- (6) New USTs must meet the following wellhead setbacks:
- (i) Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells:
- (ii) Boundary of UST facility. Wellhead setback requirement:
- (A) Upgradient 500 feet
- (B) Downgradient 500 feet
- (iii) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under § 65-140-1105 and § 65-140-1205 of the CNMI Well Drilling and Well Operations Regulations.
- (7) No UST systems shall be installed in the following locations:
- (i) Within a wetland or within five hundred (500) feet of a wetland boundary; or
- (ii) Within five hundred (500) feet of surface water bodies, such as a reservoir or cave, from which public drinking water supply is collected; or
- (iii) Within five hundred (500) feet of inland waters; or
- (iv) Within five hundred (500) feet of the shoreline (as measured from the mean high water mark); or
- (v) Within tidal or storm water inundation areas; or
- (vi) Any area as determined unsuitable by the Administrator of BECQ.
- (8) The Administrator of BECQ may, on a site specific basis, waive the requirements of this section, Part 4 (B)(5)(a)(1)-(3) for the replacement of existing permitted USTs if it can be demonstrated to the Director's satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
- (i) The particular conditions which make compliance with this section, Part 4 (B)(5) (a)(1)-(3) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
- (ii) With the exception of this section, Part 4 (B)(5), project design shall fully meet all the requirements of this subchapter, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in §§ 65-100-350 (a)(1)-(3). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
- (iii) When granting a waiver to the requirements in this section, Part 4 (B)(5)(a)(1)-(3); the Administrator of BECQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

#### § 65-100-310 Permit

- (a) Upon approval of an application for a permit to install the owner or operator shall have six months from the issuance of the permit to install a UST system. If the installation is not completed within six months, the permit expires and the owner or operator must apply for a new permit.
- (b) A permit to operate may be issued by the Administrator for a period of one year.
- (c) The BECQ, where practicable and appropriate, may issue one permit to the owner or operator of a UST system for the purpose of combining all USTs, piping, and any ancillary equipment constituting that UST system under one permit, irrespective of the number of individual USTs, so long as that UST system is part of one reasonably physical location.
- (d) BECQ shall inspect and approve all installation procedures and verify that all federal and local specifications have been met and followed.
- (e) All ports, vents, or other apparatuses that could in anyway be construed as a fill port must be:
- (1) properly identified by labeling which is easily visible and
  - (2) locked to prevent accidental spills due to human error.
- (f) There will be a twenty-one day processing period for any permit to be issued, from the time all requirements in this chapter have been completed and BECQ determines the application complete.
- (g) All BECQ UST permits shall be kept at the UST site and be readily available at all times for inspection by the Administrator or BECQ UST inspector.
- (h) The Administrator may set permitting fees as appropriate. Fees shall be specified in writing and published in the Commonwealth Register.

#### § 65-100-315 Permit to Operate (Renewals)

- (a) A permit to operate may be renewed for a term of one year.
- (b) A renewal fee shall accompany each application for renewal of a permit.

**The owner or operator shall pay an UST permit to operate application fee of two-hundred and fifty US dollars (\$250) per tank (new, renewal, and replacement) payable to the BECQ at the time the application is submitted. Applications for UST permit to operate must be renewed yearly.**

- (c) An application for a renewal shall be received by the BECQ at least 30 days prior to the expiration of the existing permit and shall be submitted on forms prescribed by the Agency.
- (d) Failure to submit a renewal application more than 30 days after the date of expiration may result in penalty.

#### § 65-100-320 Permit Conditions

The Administrator may impose conditions on a permit that the Administrator deems reasonably necessary to ensure compliance with this chapter and any other relevant requirement, including conditions relating to equipment, work practice, or operation. Conditions may include, but not be limited to, the requirement that devices for measurement or monitoring of regulated substances be installed and maintained and the results reported to the Administrator. All costs and expenses related to any permit condition imposed by the Administrator shall be borne by the applicant.

#### § 65-100-325 Permit Transfers



(a) No permit shall be transferred, unless approved by the Agency. Request for approval to transfer a permit from one owner to another owner must be made by the new owner. Request for approval to transfer a permit from one operator to another operator must be made by the new owner.

(b) An application for the transfer shall be received by the BECQ at least 60 days prior to the proposed effective date of the transfer and shall be submitted on forms prescribed by the Agency.

(c) The approval of transfer is dependent upon meeting all technical, financial, and other requirements of this chapter.

(d) The transferred permit will be effective for the remaining life of the original permit.

#### **Part \_\_\_\_\_ Spill Reporting**

**All petroleum spills that occur within the Commonwealth of the Northern Mariana Islands must be reported to the Bureau of Environmental and Coastal Quality within two (2) hours of discovery, except spills which meet all of the following criteria:**

- 1) **The quantity is known to be less than 5 gallons; and**
- 2) **The spill is contained and under the control of the spiller; and**
- 3) **The spill has not and will not reach the CNMI's water or any land; and**
- 4) **The spill is cleaned up within 2 hours of discovery.**

#### **Notification requirements.**

- A. **Notice should be given by telephone at the earliest practicable moment and should include:**
  - 1) **Name of reporter.**
  - 2) **Name and address of carrier represented by reporter.**
  - 3) **Phone number where reporter can be contacted.**
  - 4) **Date, time, and location of incident.**
  - 5) **The extent of injuries, if any.**
  - 6) **Classification, name and quantity of hazardous materials involved, if available.**
  - 7) **Type of incident and nature of hazardous material involved and whether a continuing danger to life exists at scene.**
- B. **As soon as practicable after the release, a follow-up notification must be given by providing the following information:**
  - 1) **Actions taken to respond to and contain the release.**
  - 2) **Health risks.**
  - 3) **Advice on medical attention for exposed individuals.**

**Any person who knowingly gives or causes to be given any false information as a part of, or in response to, any claim made pursuant to this regulation or who fails to comply with any duty created by this regulation shall be liable to a penalty.**

#### Part 400 - Records and Public Information

##### § 65-100-401 Record Maintenance

All records must be kept in accordance with federal regulations pursuant to Part 100.

##### § 65-100-405 Records Available to DEQ

(a) All records shall be made immediately available to the Administrator or BECQ staff member upon request.

(b) Willful withholding of requested information shall be subject to enforcement procedures specified in Part 500.

§ 65-100-410 Release Information Available

Information regarding the nature and quality of releases from a UST or associated piping otherwise reportable pursuant to this part shall be available to the public.

DELIVERY PROHIBITION

It shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility that has been identified by the BECQ as ineligible for fuel delivery or deposit.

- (A) In order to prevent the delivery of a regulated substance into an underground storage tank that has been identified by the BECQ as ineligible for fuel delivery or deposit, a tamper-proof red tag ("red-tag") shall be affixed to the fill pipe of the ineligible underground storage tank.
- (B) This affixed "red tag" shall serve as written notification to the owner, operator, and the product delivery industry of the delivery prohibition to the underground storage tank.
- (C) No owner or operator shall receive any regulated substance into any underground storage tank to which written notification of delivery prohibition ("red tag") has been made.
- (D) No person selling any regulated substance shall deliver or cause to be delivered a regulated substance into any underground storage tank to which notification of delivery prohibition ("red tag") has been made.
- (E) It shall be unlawful for any person, other than an authorized representative of the BECQ, to remove, tamper with, destroy, or damage a "red tag" affixed to the fill pipe of any underground storage tank.
- (F) The following violations shall render a UST as ineligible to receive or accept a regulated substance:
  - 1. Failure to properly operate or maintain release detection equipment;
  - 2. Failure to properly install, operate, or maintain spill prevention equipment;
  - 3. Failure to properly install, operate or maintain overfill equipment;
  - 4. Failure to properly install, operate or maintain corrosion protection equipment;
  - 5. Failure to protect a buried metal flexible connector from corrosion;
  - 6. Failure to maintain financial responsibility;
  - 7. Recalcitrance – the owner or operator has a history of non-compliance and not responding to previous enforcement or compliance assistance and currently in violation of the UST laws;
  - 8. Actions that pose a serious threat to human health, safety or the environment; or
  - 9. Failure to obtain a valid permit to operate from the BECQ.

The BECQ, in its discretion, may delay the affixing of a red tag to an underground storage tank for up to one hundred eighty (180) days upon determination that no urgent threat to public health exists and such an action would jeopardize the availability of, or access to, fuel for the local community.

Notification

- (A) BECQ shall notify the UST owner or operator of BECQ's intent to prohibit deliveries to the UST.
- (B) The UST owner or operator shall have 30 calendar days to correct violations as stated in BECQ's notice of intent to prohibit deliveries.
- (C) After the 30-day period, BECQ shall issue a written statement addressed to the UST owner and operator that the underground storage tank is ineligible for fuel delivery or deposit. This written statement is known as the Notification of Delivery Prohibition. BECQ shall also affix the "red tag" to the fill pipe.
- (D) If the owner or operator is not present at the facility at the time the underground storage tank is identified as ineligible, the BECQ shall notify the employee(s) at the facility that the UST is ineligible for fuel delivery or deposit.



- (E) The written statement of ineligibility for fuel delivery or deposit, or Notification of Delivery Prohibition, shall include a compliance period, not to exceed thirty (30) calendar days.
- (F) The BECQ may also post a written statement of ineligible for fuel delivery or deposit, or Notification of Delivery Prohibition, on the main entrance of the facility or at a conspicuous location within the facility.
- (G) The BECQ may provide a copy of the written statement of ineligible for fuel delivery or deposit, or Notification of Delivery Prohibition, by letter, fax or email to product deliverers or fuel delivery providers doing business in the CNMI.

Fines

The UST owner shall also be assessed a \$100 penalty per day during which the facility is ineligible for fuel delivery or deposit.

Reclassification

- (A) In order for an owner or operator of an underground storage tank that has received a Notification of Delivery Prohibition (red tag) to have the tank reclassified by the BECQ as eligible to receive delivery of a regulated substance, the owner or operator must provide a written statement to the BECQ that the deficiencies listed in the notice of noncompliance have been corrected.
- (B) The BECQ will determine whether the deficiencies have been corrected as soon as practicable, but no longer than five (5) business days after receipt of the owner's written statement of compliance.
- (C) Upon verification of compliance, BECQ personnel will reclassify the tank as eligible to receive product by removing the red tag and shall also provide a written statement that the UST has been reclassified to receive product or fuel delivery.

Enforcement of Delivery Prohibition

The owner or operator of a UST that has a "red tag" shall have the right to appeal BECQ's determination as set forth in NMIAC § 65-100-505 in the UST regulations, but filing an appeal shall not toll the assessment of fines or entitle the owner or operator of the UST to receive fuel delivery to the relevant UST prior to the final decision.

(Reserved)

Part 500 - Enforcement

§ 65-100-501 Civil Actions

The Administrator may institute civil actions through the Commonwealth courts and/or by administrative orders issued by the Administrator.

§ 65-100-505 Procedures for Administrative Orders

Procedures for administrative orders shall be conducted as follows:

- (a) The Administrator may issue an order to enforce compliance with the Act; any regulations adopted pursuant to the Act; any permit or license issued pursuant to the Act or regulations; any order issued pursuant to the Act, permits, or regulations. Such orders may include but are not limited to a payment of a civil fine, take corrective action, or to cease and desist. The administrative order shall serve as a complaint.
- (b) The Administrator may suspend, revoke, or modify any permit or license issued by the BECQ for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.



(c) Any person who is subject to civil penalties, revocation, or suspension pursuant to Part 500 shall be served an administrative order and may upon written request seek a hearing before the Administrator or his designee. Request for a hearing must be served upon the BEC within seven calendar days from the receipt of the notice of violation or the right to a hearing is waived.

(d) The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state the circumstances or arguments which are alleged to constitute the grounds of defense, the facts which respondent intends to place at issue, and whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations.

(e) The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondent's obligation to file a timely request for hearing.

(f) If a hearing is conducted the Administrator or his designee will preside over the hearing. The Administrator shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be the discretion of the Administrator. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Administrator in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The Administrator shall issue a written decision within ten working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

(g) For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing date shall be extended to the next working day.

(h) The Administrator's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court under the Commonwealth Administrative Procedure Act within thirty calendar days following service of the final agency decision.

#### **§ 65-100-510 Responsibility of Administrator**

The Administrator shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of this chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures for underground storage tank management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this chapter.

#### **§ 65-100-515 Civil Actions through Commonwealth Courts**

Nothing in Part 500, § 65-100-505 above shall limit the remedy of civil actions through the Commonwealth courts. At the request of the Administrator, the Attorney General shall institute a civil action in the Commonwealth Superior Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of the Act; this chapter; any term of a permit issued under the authority of the Act or this chapter; or any order issued to enforce the Act, this chapter, a term of a permit, or prior order.

#### **§ 65-100-520 Searches of Property**

(a) If the Administrator has probable cause to believe there has been a violation of this chapter, upon receipt of an order or warrant from the Commonwealth Superior Court or the District Court, BECQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein, and examine or impound any book or record found therein or specified in such order or warrant.

(b) The Administrator or an authorized representative may enter upon any property for the purposes set forth in 2 CMC § 3132(c) without an order or warrant if the chief or authorized representative has probable cause to believe:

(1) that a violation described in the subsection has occurred or is imminent,

(2) that the violation poses a serious, substantial, and immediate threat to the public health or welfare, and

(3) that the delay in obtaining a court order or warrant would prolong or increase the threat, or would prevent, hinder, or delay the discovery of evidence of the violation or the taking of any necessary mitigating or remedial measure.

#### § 65-100-525 EPA Enforcement

Nothing in this section shall prevent US EPA from enforcing applicable rules and regulations.

#### § 65-100-530 Penalties and Fines

If any person fails to comply with any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter, after notice of failure and the expiration of any reasonable period allowed for corrective action, the person is liable for a civil penalty of not more than \$25,000 for each day of the continuance of the violation. A person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce any significant adverse effect of the violation when the person is unwilling or unable to do so. If appropriate, any permit granted to a person pursuant to this chapter may be revoked, suspended, or modified for continuing violations or as otherwise deemed necessary. The director may assess, collect, and compromise any penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing before the director or a person designated by the director for that purpose; provided, in emergencies the director may summarily suspend a permit pending proceedings under this subsection.

#### § 65-100-535 Criminal Prosecutions

Any person who knowingly and willfully makes any false statement, representation, or certification in any application, records, report, plan or other documentation filed or required to be maintained under this chapter, or by any certification, or order issued under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to this chapter or any certification or order of the Administrator pursuant to this chapter shall be subject to criminal prosecution and upon conviction shall be assessed fines not to exceed fifty thousand dollars per day or imprisoned not less than six months and not more than one year or both.



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## PUBLIC NOTICE OF PROPOSED CHCC PERSONNEL REGULATIONS

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**  
The Commonwealth Healthcare Center (CHCC) intends to adopt as permanent regulations the attached Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Rules and Regulations will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

**AUTHORITY:** The Chief Executive Officer is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC § 2824(k), (l) and 3 CMC § 2829.

**THE TERMS AND SUBSTANCE:** The Rules and Regulations provide guidance on all aspects of the employment relationship between CHCC and its permanent, provisional, temporary, and contract employees.

**THE SUBJECTS AND ISSUES INVOLVED:** These Rules and Regulations include the following subjects: Recruitment; Evaluation, Certification, and Selection of Candidates; Work Hours, Holidays, Leave, and Benefits; Personnel Policies; Special Provisions; Drug and Alcohol Abuse Policy.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Notice of 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)) Copies are available upon request from Clarinda Ngirausui, Human Resources Manager.

**TO PROVIDE COMMENTS:** Send or deliver your comments to Esther Muna, *Attn: CHCC Personnel Regulations*, at the above address, fax or email address, with the subject line "New Personnel Regulations". 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)).

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 236-8201/2 FAX: (670) 233-8756



These proposed regulations were approved by the CEO on \_\_\_\_ of November, 2016.

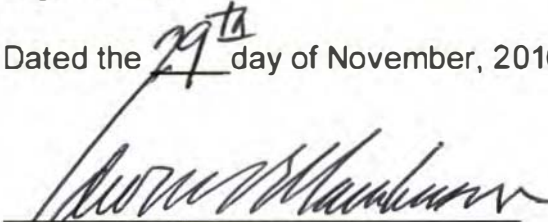
Submitted by:   
ESTHER MUNA, CEO  
11/23/16  
Date

Received by:   
SHIRLEY CAMACHO-OGUMURO  
Governor's Special Assistant for Administration  
11/28/16  
Date

Filed and Recorded by:   
ESTHER SN. NESBITT  
Commonwealth Register  
11.29.2016  
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 29<sup>th</sup> day of November, 2016.

  
EDWARD E. MANIBUSAN  
Attorney General



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## Commonwealth Healthcare Corporation Commonwealth Gi Sangkattan Na Islas Marianas Siha

1 Lower Navy Hill Road, Saipan, MP 96950  
Tilifon: (670) 234-8950 Fax: (670) 236-8930

### NUTISIAN PUPBLIKU NI MANMAPROPONI NA REGULASION PERSONNEL SIHA GI CHCC

**I AKSION NI MA'INTENSIONA PARA U MA'ADAPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth Healthcare Center (CHCC) ha intensiona para u ma'adapta kumu petmanienti i regulasion siha i mañechetton nu i Manmaproponi na Areklamentu yan Regulasion siha, sigun gi manera siha gi Akton Atministrasion Procedure, 1 CMC § 9104(a). I Areklamentu yan Regulasion siha para u ifektibu gi hãlom dies (10) dihas dispues di adaptasion yan publikasion gi hãlom i Rehistran Commonwealth. (1 CMC § 9105(b))

**ATURIDAT:** I Chief Executive Officer ma'aturisa ginen i Lehislatura para u adapta esti na areklamentu yan regulasion siha sigun para 3 CMC § 2824(k), (l) and 3 CMC § 2829.

**I TEMA YAN SUSTANSIAN I PALABRA SIHA:** I Areklamentu yan Regulasion siha mapribeni guidelines para todú klãsin kondision nu i rilasion empli'ãon CHCC yan iyon-ñiha petmanienti, provisional, tempurãriu, yan contract na empli'ao siha.

**I SUHETU YAN MANERA SIHA NI MANTINEKKA:** Esti na Areklamentu yan regulasion siha inklusi i tinatitíyi na suhetu siha: Recruitment, Ibaluasion, Setifikasion, yan Sileksion nu i Kandidãtu siha; Oran i Cho'cho' siha, Holidays, Leave, yan Benifisiu siha; Personnel Policies; Special Provisions; Drug yan Alcohol Abuse Policy.

**DIREKSION SIHA PARA U MAPO'LU YAN PUBLIKASION:** Esti na Nutisia nu i Manmaproponi na Regulasion siha debi na u mapublika gi hãlom i Rehistran Commonwealth gi hãlom i seksiona gi maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi hãlom i mangkumbinienti na lugãt gi hãlom i Civic Center yan i hãlom ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i dos na lingguãhi Chamorro yan Refaluwasch. (1 CMC § 9104(a)(1) Managuaha kopia siha yanggin manrikuesta hao ginen as Clarinda Ngirausui, Human Resources Manager.

**PARA U MAPRIBENIYI OPIÑON SIHA:** Na'hãnão pat intrega i opiñon-mu siha guatu gi as Esther Muna; Attn: *Regulasion Personnel Siha Gi CHCC*, gi sanhilo' na address, fax pat email address, yan i subject line "Ñuebu na Regulasion Personnel Siha". Todú upiñon debi na u fãnhãlom trenta (30) dihas ginen i fetchan publikasion esti na nutisia. Pot fabot na'hãlom iyon-mu data, upiñon, yan kuntestasion siha. (1 CMC § 9104(a) (2))

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Telephone: (670) 234-8950 FAX: (670) 236-8930

Esti siha i manmaproponi na regulasion ma' aprueba ginen i CEO gi diha \_\_\_\_\_ gi Nubembri, 2016.

Nina'háloom as:  \_\_\_\_\_ 11/23/16  
Esther Muna, CEO  
Commonwealth Healthcare Corp. Fetcha

Rinisibi as:  \_\_\_\_\_ 11/28/16  
Shirley P. Camacho-Ogumoro

Espisiât Na Ayudânti Para I Atministrasion

Pine'lu Yan  
Ninota as:  \_\_\_\_\_ 11.29.2016  
Esther SN. Nesbitt  
Rehistran Commonwealth Fetcha

Sigun i 1 CMC § 2153(e) (I Abugâdu Henerât ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inapruedan Abugâdu Henerât) i manmaproponi na regulasion siha ni ma'nechettun guini ni manmaribisa yan ma' aprueba kumu para fotma yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika sigun gi , 1 CMC § 2153(f) (pubplikasion areklamentu yan regulasion siha).

Mafetcha gi diha \_\_\_\_\_ gi Nubembri, 2016.

 \_\_\_\_\_ 11/29/16  
EDWARD J. MANIBUSAN  
Abugâdu Henerât Fetcha

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# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



Commonwealth Health Corporation  
Commonwealth Téel Faluw kka Efáng llól Marianas  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950

## ARONGORONG NGÁLIIR TOULAP REEL POMMWOL MWÓGHUTÚGHÚTÚL AAR CHCC PERSONNEL

**MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTÚGHÚT:** Commonwealth Health Center (CHCC) re mángemángil bwe rebwe adóptááli mwóghutúghút ikka e appasch bwe pommwol allégh me mwóghutúghút, sángi Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwung ló allégh me mwóghutúghút kkal llól seigh (10) ráál mwiril aal adóptááli me arongowoowul me llól Commonwealth register. (1 CMC § 9105(b))

**BWÁNGIL:** Eyoor bwángil Chief Executive Officer merel Legislature bwe rebwe adóptááli allégh me mwóghutúghút kkal sángi 3 CMC § 2824(k). (l) me 3 CMC § 2829.

**KKAPASAL ME AWEEWEL:** Allégh me Mwóghutúghút e ayoora bwe afal rel alongal masamasal schóól angaang leyiir CHCC me aa lléghló, provisional, temporary, me contract employees.

**KKAPASAL ME OUTOL:** E bwal schuu llól Allégh me Mwóghutúghútú subject ikka faal: Recruitment, Sóssót, Certification, me Affilil Kkandidóótu; Ooral Angaang, Holidays, Leave, me Benefits; Personnel Policies; Special Provisions; Drug me Alcohol Abuse Policy.

**AFAL REL AMWELIL ME ARONGOWOOWUL:** Arongorongol Pommwol Mwóghutúghút kkal ebwe arongowow merel Commonwealth Register llól tálil pommwol me ffél móghutúghút ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá me civic center me llól bwulasiyol gobetnamento llól senatorial district, fengál rel English me mwáliyash. (1 CMC § 9104(a)(1)) Ebwe yoor copies ngáre u tipáli aiyegh merel Clarinda Ngirausui, Human Resources Manager.

**REL ISIISILONGOL KKAPAS:** Afanga ngáre isiisilong yóómw angiingi ngáli Esther Muna, *Attn: CHCC Personnel Regulations*, rel felefel iye weiláng, fax ngáre email address, nge ebwe lo rel subject line “New Personnel Regulations”. Ebwe toolong angiingi llól eliigh (30) ráál mwiril aal akkatewoow arongorong yeel. Isiisilong yóómw data, views, me ngáre angiingi. (1 CMC § 9104(a)(2)).

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Pommwol mwóghutúghút kkal nge aa átirow ló merel CEO wóól \_\_\_\_\_ Nobembro, 2016.

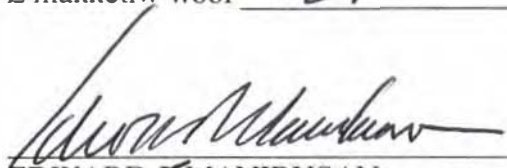
Isaliyalong:  \_\_\_\_\_ 11/23/2016  
ESTHER MUNA, CEO Ráll

Mwiir Sángi:  \_\_\_\_\_ 11/28/16  
SHIRLEY P. CAMACHO-OGUMORO Ráll  
Special Assistant náli Administration

Ammwel Sángi:  \_\_\_\_\_ 11.29.2016  
ESTHER SN. NESBITT Ráll  
Commonwealth Register

Sángi I CMC § 2153(e) (allégh kkal e bwe llégh ló sángi AG bwe e fil fféerúl) me I CMC § 9104(a)(3) (mwiir sángi aal llégh ló merel AG) rel pommwol mwóghutúghút ikka e appasch long bwe ra takkal amwuri fischiiy, me a lléghló fféerúl me legal sufficiency sángi Sówlemelem Allégh Lapalapil CNMI me ebwe arongowoow, I CMC § 2153(f) (arongowoowul allégh me mwóghutúghút).

E makketiw wóól 29<sup>th</sup> ráalil Nobembre, 2016.

 \_\_\_\_\_  
EDWARD MANIBUSAN  
Sówlemelemil Allégh Lapalap

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# Commonwealth Healthcare Corporation

## HUMAN RESOURCE RULES & REGULATIONS



**Promulgated November 2016**



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## **SECTION 1 GENERAL PROVISIONS**

### **1.1 Authority**

Under the authority vested in the Chief Executive Officer pursuant to 3 CMC Sections 2824 (k), (l) and 3 CMC Section 2829 the following rules and regulations are hereby promulgated.

### **1.2 Statement of Purpose**

The purpose of these rules is to implement 3 CMC Section 2829 (a) that requires the Corporation to develop, adopt, and administer a merit-based HR Office system that rewards productivity and service, provides management flexibility, and includes provisions for employees to appeal serious disciplinary action. The Corporation shall set forth the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation by adoption of these regulations.

### **1.3 Application and Interpretation**

- A. These rules shall apply to all employees of the Commonwealth Healthcare Corporation (CHCC) except that they shall not apply to the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), the Corporate Officers, the Hospital Administrator, the Legal Counsel, and the Medical Staff who are covered by the Medical Staff By-laws of the Corporation.
- B. If any section subsection, sentence, clause or phrase of these rules is found to be illegal, such findings shall not affect the validity of the remaining portions of these rules.

### **1.4 Authority and Responsibilities of the Manager of the Human Resources Office**

The Human Resources Manager (HRM) shall have overall authority and responsibility for the Human Resource administration for the Corporation. The HRM shall also:

- A. Advise the Corporation on matters pertaining to the administration of HR Office and assist in ensuring that these rules and are observed by those concerned. In this capacity, the HRM has advisory

- responsibility in coordination and consultation with CHCC Legal Counsel for the enforcement of these rules.
- B. Maintain or direct the maintenance of an up-to-date HR Office records system.
  - C. Prepare or direct the preparation of forms and reports as may be required by the Rules and Regulations.
  - D. Assist all Manager and Supervisors in the interpretation and application of employee relation matters.
  - E. Administer and maintain classification and compensation system.
  - F. Direct the recruitment, employment and promotion programs and promote equal employment opportunity in the Corporation.
  - G. Review and implement the HR organizational plans and modifications thereto as directed by the Chief Executive Officer.
  - H. Promote and develop programs improving employee effectiveness, such as training, health and safety, counseling, and productivity improvement programs.
  - I. Maintain a position control system based on the budget as approved for the Corporation.

### **1.5 HR Committee**

The HR Office Committee consists of members appointed by the Chief Executive Officer. The committee may review and make recommendations or modifications to these regulations, and has the authority to hear and decide employee grievances and appeal of adverse actions.

### **1.6 HR Office Records and Official HR Office Files**

- A. The HRM shall establish and maintain a separate HR file and medical information file for each employee.
- B. Access to HR or Medical Information Files.
  - 1. Employees shall have access to their own HR files during normal office hours. The employee's Manager or Supervisor, the CEO, the



HRM, and the Legal Counsel may inspect the employee's HR file. Except as otherwise provided in this rule, an HR file shall be inspected by others only following presentation of written consent by the employee to whom that file pertains. A document contained in an HR Office or medical information file shall be confidential and protected from unauthorized or unwanted disclosure.

2. Review of any HR Office or medical information files shall be conducted in the presence of the HRM or assigned staff in the HR Department. No document shall be removed from a HR Office or medical information file without the prior written approval from the CEO after consultation with Legal Counsel. The HRM shall record for tracking purposes the person(s) that accessed the HR Office or medical information file. The Legal Counsel of the Corporation shall review and authorize removal, copying, destruction, shredding or taking of HR Office file outside the premises of the Corporation or custodian of the record.
- C. Use of HR Office or Medical Information files. Employees shall have access to their HR Office file only upon 24 hours advance request to the HRM.
- D. In keeping with the Corporation's policy and the CNMI Open Government Act (OGA) on record confidentiality and disclosures, the HRM may release employee information such as employee name, employment dates, and salary and position title and duty station in response to requests received from outside the corporation. Other information is considered confidential and will be released only upon written consent of the employee or by authorization of the CEO or authorized designee pursuant to the laws of the CNMI.
- E. Employees who may have access to employees' records because of their administrative responsibilities shall be required to observe due care protecting against the unauthorized disclosure of documents or records contained in the HR Office file or medical information file. The employees in the HR Office shall observe and maintain the highest standard of confidentiality to avoid unwanted disclosure of personal and private information about employees.

## **SECTION 2 TYPES OF EMPLOYMENT**

### **2.1 Types of Employment**

The type of employment is dependent upon the position that is being filled.

- A. Probationary Appointment – Probationary Appointment employees will be hired for a period of 90 days based on a selection process from a list of eligible applicants resulting from an open-competitive announcement to fill a full time employment position. Probationary employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period.

Managers will be given the evaluation form at the time of hire. The Manager should try to provide periodic feedback so that the employee is aware of any deficiencies he or she needs to correct prior to the end of the 90 day period. The Manager must do the evaluation, provide it to the employee, and transmit it to the HRM one week prior to the end of the 90 day probationary period. An employee who receives all or primarily all “unsatisfactorious” on the evaluative criteria should assume s/he will be separated from service, though the HRM needs to provide a letter that the employee either has or has not successfully passed his or her probationary period. The employee who has not received a letter about passing the probationary period should request one.

That probationary period may be extended if the Supervisor and HRM document additional time is needed to evaluate whether the employee can perform the job adequately. Once the employee successfully completes the probationary period, s/he can only be terminated through the disciplinary process.

- B. Provisional Appointment – Provisional Appointment employees are hired on a 90 day period to fulfill an urgent need of the Corporation. This is usually done in order to allow time to obtain a full time permanent employee for the position.

If the Corporation still needs the services of the provisional employee and the position has not yet permanently been filled, the Corporation may extend the provisional employee another 90 days but the employment of a provisional employee shall not exceed 180 days.

Provisional employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period. If the employee is then converted to a full-time position, s/he still has to complete the 90 day probationary period.

Please refer to Appendix A for Employment Status Acknowledgement Form.

- C. At Will Employment – At will Employees will be hired as full time employees when the position is a continuous one and there is an FTE to fill it. An employee under this employment status must have satisfactorily completed a 90 day probationary period.
- D. Limited Term Appointment – Limited Term Appointment employees may be classified as a Federal Grant Employees who are hired to work on programs funded through federal grants. The terms of these employees shall be congruent with the budget cycle of the grant. Limited Term Appointment employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period.
- E. Temporary Appointment – Temporary Appointment employees are employees who are hired for less than one year. While their terms may be extended, there should be no expectation of and reliance upon an extension.

Temporary employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

- F. Employment Contract – Employment Contract employees shall be hired on a contractual basis. These shall be the following types of contract employees:
  - 1. Employment Contract employees shall be hired for a period of one to two years and are entitled to all the benefits of employment, including annual and sick leave, and are eligible for health and life insurance and the 401(a). Employees under this status are subjected to the Offer Letter of Employment from the Chief Executive Officer and the Conditions of Employment.

Please refer to Appendix D for an updated Conditions of Employment Form.

- 2. *Locum tenens* (temporary substitute) employees shall be hired, usually for the medical staff, for a period not to exceed one year.



These employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

3. Part-time employees may be hired for one or two years and do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

***No contract employee shall have an expectation of renewal.***

## **SECTION 3 RECRUITMENT**

### **3.1 General Policy**

- A.** The HRM shall facilitate all employment recruitment. The Chief Executive Officer will approve the final selection prior to the position being offered to the applicant and ensure all appropriate HR procedures have been followed.
- B.** Applicant selection shall be done without discrimination based on race, national origin, color, age, religious creed, sex, political affiliation, marital status, disability or other criteria prohibited by law. Position requirements that constitute bona fide occupational qualifications (BFOQs) will be allowed.
- C.** Generally, position vacancies shall be filled from within the Corporation. This policy is observed so that employees and the public will regard service to the Corporation as a career, whereby efficiency and ability will be recognized, and employee turnover will be minimized.
- D.** Qualified applicants with disabilities and veterans are encouraged to apply for positions in the Corporation.

### **3.2 Request for Recruitment**

The Managers or Supervisors shall notify the HRM as far in advance as possible of the need to fill a vacated or new position. Upon receipt of request, the HRM shall approve the method for filling the position as set forth in this section. It is the responsibility of the Manager or Supervisor to ensure that funding in the position is available through the certification of the Fiscal/Budget Officer.

### 3.3 Types of Announcements

- A. Contents and distribution. When a position vacancy occurs, the HRM shall circulate a recruitment announcement. The announcement shall specify the FLSA coverage, title, duties and the minimum qualifications required, the open and closing date on which applications will be accepted, the type of examination and other pertinent information and requirements.
- B. Recruitment announcement may be circulated only within the Corporation for up to five (5) working days. If there are no qualified applicants, then HRM may advertise publicly in the CNMI for at least ten (10) working days, and thereafter may recruit outside the CNMI. Hard to fill positions may be open until filled.
- C. The HRM, in consultation with the Managers or Supervisors, shall issue a recruitment announcement in accordance with the following procedures:
  - 1. Corporation announcement. When an examination is restricted to employees within the Corporation, the examination will be announced on a Corporation wide basis only. Recruitment announcements will be published for at least five (5) working days.
  - 2. Open-competitive announcement. Open-competitive announcements will be published for at least ten (10) working days. Applications may be received from any persons who wish to apply.
  - 3. Continuous announcement. Positions may be announced on a continuing basis at the discretion of the HRM, without a designated closing date for receipt of application, when it is anticipated that the designated ten (10) working days for publishing an open competitive announcement may not be adequate for generating qualified applicants. Continuous open-competitive announcement issued under this rule will indicate that the period for application will be "open until filled" or "open until further notice". When an appropriate number of qualified applications have been received or upon request by the requisitioning division, a notice closing the announcement shall be published providing an additional five (5) working days period for final receipt of applications. Applications received after the five (5) working days notice deadline will not be considered for the examination announcement concerned. This procedure must be completed for each vacancy requirement for which it is considered necessary to extend the period for application.

4. All applications must be received by the HR Office on or before the closing date of the announcement. Hard copies may be mailed to:

Human Resource Office  
Commonwealth Healthcare Corporation  
P. O. Box 500409  
Saipan, MP 96950 USA

Hard copies may also be hand delivered to the HR Office.

In addition, electronic copies may be emailed to [humanresources@dph.gov.mp](mailto:humanresources@dph.gov.mp). The HR Office will acknowledge receipt of the application. ***If the applicant has not received this acknowledgement, the burden is on the applicant to contact the HR Office and ascertain his or her application has been received.***

### **3.4 Announcement Deadline**

Deadline for receipt of applications by the HRM for any examination announcement will be at the close of business on the announced closing date. If the closing date should fall on a day when the CHCC Offices are closed for business, then applications will be accepted on the following business day. Applications received after that time shall not be considered.

## **SECTION 4 EVALUATION OF CANDIDATES**

### **4.1 Types of Examination or Announcement**

- A. Open-competitive. Open-competitive examinations shall be open to all applicants.
- B. Corporation. Corporation examinations shall be open only to employees of the Corporation.

### **4.2 Minimum Qualifications for Applying**

#### **A. Minimum Qualifications Requirement**

Only applicants who meet the advertised minimum qualifications will be considered for the position.



**B. Equivalency**

Please refer to Appendix B for full discussion of College Equivalency.

For positions requiring a High School Diploma:

The equivalency for positions requiring a High School Diploma is a General Education Diploma (GED), an Adult Basic Education Diploma (ABE), or an Advanced Development Certificate (ADI) from an accredited institution.

**C. Without Equivalency**

Candidates who do not meet the minimum qualifications of the position or its equivalency will not be entertained.

If the pool of applicants does not contain an individual who meets the qualifications or the Corporation does not want to fill the position with an applicant who does meet the qualifications, for good reason, such as a recent violent felony or a termination for cause by another employer, the position may be re-announced.

**D. Minimum Age for Employment; Registration for Selective Service**

The minimum age for employment within the Corporation shall be in accordance with the minimum age prescribed by Federal law. In accordance with Federal law, all male applicants between the age of 18 up to 25 must register with the U.S. Selective Service in order to have gainful employment with the Corporation. A copy of the Selection Service Registration Card must be provided and will be placed in employee file.

**4.3 Filing of Applications**

Applications shall be filed with the HRM or Human Resource Office on or prior to the closing date specified in the announcement and shall constitute an integral part of every examination. The HRM may require information as to education, training and experience of the applicant and such other information as he or she may deem pertinent and may require any applicant to submit documented proof of any license, certificate, degree or other qualification claimed or required, and may refuse credit for such qualifications in the absence of proof.

**A. Character**

Evaluation shall be practical and shall relate to the duties and responsibilities of the position for which the applicant is being considered and shall measure the relative capacity and fitness of applicants to perform the duties of the class of positions to which they seek to be appointed or promoted.

The evaluation used to determine the fitness and relative ability of the applicant shall consist of one or more of the following:

1. an evaluation of education, training and experience as shown on the application or by other information submitted;
2. an interview designed to determine general suitability for the position; or
3. any other appropriate and reasonable measure of suitability.

**B. Ranking Education and Experience**

When the ranking of education and experience forms a part or all of the examination, the HRM shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall consider the quality of the education and experience.

**4.4 Disqualification of Applicants**

**A.** The HRM may refuse to examine an applicant, or after examination may refuse to place his or her name on an eligible list, or may remove his or her name from an eligible list, or may refuse to certify any person on an eligible list who:

1. Has failed to submit a complete and accurate application or failed to submit within the prescribed time limit;
2. Is found to lack any of the minimum qualifications in the recruitment announcement or examination for the position;
3. Has applied for corporation announcement, but whose last performance evaluation was below average;
4. Has received any disciplinary action (other than an oral reprimand, warning, or counseling) from the Corporation within a

12-month period preceding application and it has not been rescinded;

5. Is found to have been convicted for violation of the narcotics law of the CNMI or federal government within the past two years. Conviction includes guilty pleas. The applicant shall comply with the Corporation's Drug Free Work Place policy concerning post employment offer drug testing;
6. Has been convicted of any crime involving violence or dishonesty, or other crimes involving moral turpitude, within the last two years, if such disqualification does not violate federal, or CNMI laws;
7. Has withheld information of material fact or made a false statement of material fact in regard to the application for employment;
8. Has ever been dismissed from the Corporation or from other employer for disciplinary reasons or resigned in lieu of termination;
9. Has used or attempted to use bribery to secure an advantage in the examination or appointment;
10. Has directly or indirectly obtained information regarding examinations to which the applicant is not entitled; or
11. Is disqualified under other sections of these rules.

## **SECTION 5 CERTIFICATION AND SELECTION OF CANDIDATES**

### **5.1 Certification of Candidates**

Upon receipt of request for certification, the HRM may certify to the Manager or Supervisor the names of all candidates included in the highest five (5) rankings (if more than five applied) pursuant to an examination and the names of those candidates whose employment may assist the Corporation to reach its affirmative action goals and timetables. Upon request by the Manager or Supervisor, the HRM may certify additional candidates. If more than one vacancy occurs in the



same class of positions, the HRM may certify the name of five additional candidate for each additional vacancy. If the Manager or Supervisor, for good cause, rejects all names submitted, the HRM may prepare and submit a second list of candidates for consideration. If there are no other certified candidates and all efforts are being exhausted; then position will be re-announced. The Manager or Supervisor must submit in writing justification for the rejection of all names submitted in the list of candidates.

## **5.2 Selection of New Employees**

The Manager or Supervisor shall select a candidate for hire and forward it to the HRM. At the same time, the Manager or Supervisor must indicate the reason for non-selection of the other names listed on the certification list and forward it to the HRM for his or her appointment action. No offers of employment, transfer or promotion either oral or written, will be made by anyone but the CEO or authorized designee.

## **5.3 Acting Appointment**

An acting appointment is made when an employee may be required to serve temporarily and accept responsibilities for work in a vacant higher level position which, the Chief Executive Officer has determined cannot be left vacant for any but the shortest period of time. This type of appointment gives the acting appointed employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned.

All acting appointments require the written approval of the Chief Executive Officer. Any employee who is acting for a period in excess of 90 days will receive acting pay effective the 91<sup>st</sup> day in acting capacity. If the employee does not meet the minimum qualifications of the position for which he/she is in acting capacity, the acting pay will be at least 10% more than the employee was earning immediately prior to accepting the acting role but not more than the pay level for the position the employee is filling.

## **5.4 Reinstatement of Veterans and Employees Who Successfully Appealed Termination**

### **A. Reinstatement and Re-Employment of Returning Veterans**

1. Return from military leave. A Corporation employee who returns from military duty shall be re-employed in accordance with the (United States Code Title 50, War and National Defense Military Selective Service Act of 1967, Section 459, Separation from Service (a), (b), (c), (f) and (g) Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. 4301-4333. The employee is entitled to re-instatement into the position the employee had when the employee left on military duty, or into one as nearly alike as possible or comparable position with similar pay and seniority.
2. Re-instatement as a result of successful appeal. An employee with status who has been dismissed, demoted or suspended for insufficient reasons, as determined through a due process hearing conducted by the HR Committee, may be reinstated to his or her former position or to a position of like status and pay, with or without loss of pay or benefits for the period of separation as specified in the Hearing Officer's decision or stipulated order.

### **B. Promotion**

Promotions shall be made on the basis of qualifications.

A promotion is the filling of a vacancy, which has been announced within the Corporation for a period of five (5) working days, by the advancement of an employee from a position having a lower salary or pay level. Vacancies shall be filled by promotion whenever practicable and in the best interest of the Corporation. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these rules.

Major factors in determining promotions are:

1. Performance evaluation report;
2. Education, experience and training;
3. Length of service;
4. Police Clearance; and/or
5. Must have no disciplinary action.

**C. Lateral Transfer**

Lateral transfers shall be made based on the needs of the Corporation. Whenever possible, the desires of the employee will be taken into account, but if the position the employee is currently filling is no longer needed, the employee must either accept the lateral transfer or resign.

**D. Demotion**

The movement of an employee to a position in a lower class is a demotion. For this purpose a lower class means a class having a pay band lower than the pay level of the position in which the individual is employed. An employee will not be demoted to a lower class without being given (1) a written notice and (2) a opportunity to improve his/her performance, unless that opportunity would possibly compromise health and / or safety.

1. Reasons.

- a. For lack of work or for cause. An employee may be demoted for lack of work in his or her class, or for cause. An employee may appeal his or her demotion for cause to the HR Committee.
- b. Employee request. If, for personal or other reasons, an employee requests in writing that he or she be assigned to a vacant position in a lower class, the Manager or Supervisor for that vacant position may make such a demotion with prior approval of the CEO in writing. The employee must meet the minimum qualifications for the position and such change is in the best interests of the Corporation. In such cases, the demotion will be deemed to have been made on a voluntary basis.

2. From the Exempt Status to Non-Exempt Status

An Exempt employee who requests demotion, may be placed in a vacant Non-exempt position at the same or a lower level position than the one previously held, with the approval of the Manager or Supervisor of the vacant position and the CEO. Such a demotion shall be allowed only if the employee is qualified to hold the position. The HRM may require evidence of the applicant's qualifications for the new position.



## **SECTION 6 HOURS OF WORK, HOLIDAYS, LEAVE, AND BENEFITS**

### **6.1 Work Hours**

#### **A. Regular Hours of Work**

Regular working hours of the Corporation employees shall consist of a five-day week, eight hours a day, 40 hours per workweek from 7:30 am to 4:30 pm. The standard workweek shall consist of the period from midnight Sunday to 11:59 pm Saturday.

The CHCC is a 24-hour operation. In the departments that operate outside of normal business hours, the Manager of the Department together with the Hospital Administrator shall make a schedule for the employees who work hours other than the standard work week. Please refer to the Time Clock / Biometric Timekeeping Policy, Policy No. 1095 for the hours of all units operating outside of the standard work week.

#### **B. Time and Attendance Record**

All CHCC employees shall sign the biometric Time and Attendance Record. The respective Department Managers/Supervisor shall review and approve Time and Attendance Records. The CHCC pay periods shall be identical with those of the CNMI Government. Executive, managerial, professional and exempt employees are expected to work the regular hours of employment but need not time-in or time-out.

#### **C. Payment of Salary**

All CHCC employees shall be paid in arrears within two (2) weeks after end of every pay period worked.

#### **D. Temporary Schedule**

Temporary shifting of employee's working hours to meet routine needs may be done as necessary and if approved by the Manager or Supervisor. Changes in temporary schedule for more than one-week duration require at least one (1) week's advance notice to employees except in emergency situations, or when the employees waive the need for notice. HR must have duty station change form in employees OPF.

**E. Lunch Period**

For most positions, lunch shall be one hour unpaid time, usually from 11:30 am to 12:30 pm. Deviation from the standard lunch time requires the approval of the employee's Supervisor or Manager. Where shift work precludes a lunch break for an exempt position, employee shall be paid for all time on that shift. If employee is on a shift schedule, lunch or dinner break should be complied accordingly based on existing policy.

**F. Rest Periods**

Employees are entitled to rest periods of fifteen (15) minutes during the first four (4) hours of work and another fifteen (15) minutes during the second four hours of work. The responsibility for scheduling break periods rests with the immediate supervisor. The 30 minutes allotted for break time may not be used to lengthen lunch hours or shorten working days. Rest periods shall not be used to cover late arrivals nor may they be accumulated for scheduled time-off.

**G. Changes of Schedule**

All long-term changes to established working schedules shall be provided to the employees affected at least one (1) week's notice of the change, if practicable, except in emergency situations or when the employees waive the need for notice. HR must have duty station change form in employees OPF.

**6.2 Recognized Holidays with Pay**

**A. Holidays with Pay**

The following days will be recognized as holidays with pay for all employees. These holidays are subject to change pursuant to Executive Order of the CNMI Governor or by statute.

New Year's Day (*January 1*)  
Martin Luther's King, Jr. Day (*3<sup>rd</sup> Monday in January*)  
President's Day (*3<sup>rd</sup> Monday of February*)  
Covenant Day (*3<sup>rd</sup> Friday in March*)  
Good Friday (*as designated by the Catholic Church calendar*)  
Memorial Day (*last Monday in May*)  
Independence Day (*July 4*)

Labor Day (*September 4*)  
Commonwealth Cultural Day (*2<sup>nd</sup> Monday in October*)  
Citizenship Day (*November 4*)  
Veteran's Day (*November 11*)  
Thanksgiving Day (*last Thursday in November*)  
Constitution Day (*December 8*)  
Christmas Day (*December 25*)

**B. Holiday Falling on Saturday or Sunday**

When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized as the holiday. When a recognized holiday falls on a Sunday, the Monday following shall be recognized as the holiday.

**C. Computation of Holiday Pay**

1. Employees shall receive their regular straight time rate of pay for recognized holidays if they do not work.
2. Employees who are not managers but who work on the holiday shall receive 1.0 pay for the holiday hours worked. Managers who work on a holiday shall receive a compensatory day off.
3. Holiday during annual, or sick leave. A recognized holiday occurring during the employee's annual or sick leave shall not be counted as a day of annual or sick leave.

**D. Forfeiture of Holiday Pay**

Employees shall forfeit their right to payment for any holiday if they are on leave without pay (LWOP) or absent without leave authorization (AWOL) for the entire shift on the last regular work day preceding such holiday or on the next regular work day following such holiday.

**E. Pay for Employees who Work on a Holiday**

Employees who perform work on a holiday will be compensated straight time pay in addition to the holiday pay. Overtime rate will be applied for hours worked beyond the 40-regular work hours. A work hour is defined as actual hours of performance. Holiday hours are not counted as regular work hours.



## **6.3 Leave**

### **A. Policy**

Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work if it was an emergency situation and prior notification was given to the Supervisor or Manager. Failure by the employee to submit leave applications will result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

### **B. Annual Leave Accrual**

#### 1. Rate

- a. Employees shall accrue leave at the following rates:

Four (4) hours a pay period if the employee has zero to less than three years of service;

Six (6) hours a pay period if the employee has at least three but less than six years of service;

Eight (8) hours a pay period if the employee has six or more years of service or is a board certified medical provider.

- b. Leave shall not accrue if the employee was not on full pay status for the pay period. Pay status shall not include LWOP and AWOL absences.

#### 2. When an Employee May Accrue Annual Leave

Leave accrues during the period of time an employee is on paid leave. Such additional accrual shall be canceled if the employee fails to resume duty on completion of his or her authorized leave. Leave does not accrue during periods of LWOP and AWOL.

- a. Approval to Use Annual Leave

Employees may request and supervisors may approve any amount of accrued annual leave that will not be detrimental to the Corporation operations. Annual leave in excess of 24 hours

must be approved 1 week in advance by the Supervisor or Manager, unless there is an emergency or some exigent circumstances. A denial by the Supervisor or Manager may be appealed to the Hospital Administrator or Division Director only for abuse of discretion.

If an employee needs to take annual leave for an emergency, he or she should inform the supervisor or manager as soon as is practicable. The more serious the emergency, the more leeway the supervisor or manager should give in consideration of the request.

The Manager or Supervisor should be cognizant of the leave balances of his or her subordinates and encourage them to space their leave with respect to the colleagues who need to cover for them. If two employees who cannot both be gone at the same time want to take leave at the same time, the supervisor or manager should encourage them to work it out amicably. If they unable to resolve the matter without management intervention, the leave shall be awarded to the employee with seniority to the Corporation.

b. Annual Leave Accrual Limits

Accrued and unused leave may be carried from one year to the next for the purpose of accumulating an annual leave account or reserve; however, on January 1<sup>st</sup> of any year an employee may not have more than 360 hours leave on his or her leave account. Any annual leave hours in excess of 360 on January 1<sup>st</sup> of each year will be converted to sick leave.

c. Transfer of Annual Leave

The Corporation will not accept any transfer of annual leave for a new employee. If an employee is separating, the Corporation will transfer any accrued leave to any agency willing to accept it. It is incumbent upon the employee who is separating to determine if the receiving agency will accept the leave transfer. Otherwise, the leave will be paid out in accordance with the Annual Leave at Date of Separation section below.

3. Annual Leave Conversion and Payment

a. Conversion of Excess Annual Leave to Sick Leave

Any annual leave in excess of 360 hours on January 1<sup>st</sup> of each year shall be converted to the employee's sick leave account.

b. Annual Leave at Date of Separation

Upon separation of employment for any reason, employees shall be entitled to payment of their unused annual leave balance in accordance with this subsection (b). Payment shall be made at the rate of 100% of the current value of the employee's leave balance based upon his or her factored hourly rate at time of separation for up to 360 hours of leave, paid out in bi-weekly payments. There will be no lump sum payouts of annual leave.

**C. Sick Leave**

1. Purpose

Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in the event of an illness or lengthy absence for legitimate medical reason.

In addition, in accordance with PL 15-69, as repealed in part by Public Law 15-115, an employee may use sick leave to care for a sick spouse or child. In this case, "sick" means a serious or life threatening illness. HR approval is required to use sick leave in this way. A doctor's certification will be required.

2. Transfer-In of Sick Leave from other CNMI Government Agencies

The CHCC will accept up to 500 hours of sick leave from other CNMI Government agencies.

3. Sick Leave Accrual and Accumulation

Sick leave is accrued separately, like annual leave, on a regular basis. Sick leave is accumulated through conversion of excess hours of annual leave to sick leave as of January 1 of each year and the employee earns sick leave at the rate of four (4) hours



for each biweekly pay period in which the employee is in full pay status for the entire pay period.

4. Use of Sick Leave

- a. An employee eligible for sick leave with pay may use such sick leave for absence due to illness, injury, and exposure to contagious disease. Doctor or dental appointments shall be included as an appropriate usage of sick leave, for the number of hours or duration of the appointment and necessary travel to and from.
- b. An employee who is absent from work shall inform his or her immediate supervisor, and failure to do so within a reasonable time may be cause for disciplinary action. Notification in this context shall mean notification no later than an hour after the accident, emergency or injury, *if practicable*, or advance notice if medical and/or dental appointment is being sought. Unit policies shall supercede this section.
- c. Sick leave may not be allowed unless an employee notifies the supervisor of illness within the period of time established within that unit. Further, it is the policy of the Corporation that sick leave is a privilege, which is granted to provide time-off to an employee with a doctor's appointment or an illness or injury.
- d. Doctor's certificate. The Corporation requires a medical certificate or additional documentation from a practicing physician as proof of sickness after 24 consecutive hours of absence from work due to Sick Leave, or more often should the employee's record indicate habitual requests for Sick Leave approval. Sick Leave shall be granted subject to approval of the Supervisor or Manager. In cases where warranted, the Chief Executive Officer, in his or her sole discretion, may require all future Sick Leave to be reviewed for approval or disapproval by Human Resources. Disallowed sick leave shall be charged as AWOL.
- e. Falsification of Doctor's certification will result in Disciplinary Action, and may lead to termination with cause.

- f. For employees with serious medical conditions resulting in prolonged illness or disability as documented by his/her physician, unpaid sick leave may be requested under the Family Medical Leave Act (FMLA).

**D. Work Related Injury Leave**

1. Any employee who is injured in the course of performing his or her duties and who receives Worker's Compensation benefits due to that injury, shall be eligible for unpaid injury leave as provided in this section. If an employee fails to return to work within a reasonable time after being cleared to return to duty, the Chief Executive Officer may terminate that employee.
2. While an employee is on work related injury leave, and the employee was enrolled with the Department of Finance (DOF) Group Health Insurance program at the time of the work related injury, those benefits shall be continued in the manner prescribed by DOF or IAC for the Group Life Insurance. An employee injured on the job will be provided paid Administrative Leave if a doctor certifies the employee is unable to work due to the injury sustained on the job.
3. The Corporation's responsibilities under this rule shall terminate upon the occurrence of any of the following:
  - As of the date on which the employee is declared by a physician to be permanently disabled or on which the Settlement Fund effectuates the disability retirement or regular retirement pension benefits to the employee;
  - As of the date on which the employee returns to work with an unrestricted medical release or on which he or she first engages in any occupation for wage or profit; or
  - At the end of the one year following the date of the original injury.
- a. An employee shall be eligible for work related injury leave only upon satisfaction of the following conditions:
  - i. The employee shall make a complete report of the injury to the Department of Commerce, Worker's Compensation Commission (WCC) through the HRM or authorized designee.

- ii. The employee shall cooperate with the HRM or his/her designee to prepare and submit all forms and information related to the employee that the HRM may request;
- iii. The employee shall cooperate fully with the investigator(s) of the Worker's Compensation Commission handling the claim investigation as required by law; and

b. Return to Work

Employees returning to work within the time allowed shall be re-employed in their position, or another position in the same class or similar class with the same pay level and rate consistent with these rules.

If an employee is incapable of performing his or her former duties as a result of an illness or work related injury, the Corporation may offer a position to which he or she can perform the essential function, if available. The Corporation is under no obligation to re-employ an employee who does not return within the time allowed.

**E. Administrative Leave**

An absence from duty administratively, without loss of pay and without charge to accrued leave, is administrative leave. The CEO, or his/her authorized designee, has the responsibility for approving administrative leave requests.

Administrative Leave is permissible under the following circumstances:

Administrative leave is absence authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government, or employment connected examinations, or for such reasons as the Governor may determine (such as a shortened work day on Christmas Eve).

Administrative leaves related to disciplinary actions. Managers may place an employee in non-working status with pay indefinitely for purposes of an investigation or for up to three work days pending preparation of an appeal of termination.



Administrative leave may be granted to employees serving on government boards and commissions, provided such employees do not receive compensation from the boards and commissions.

**F. Court Leave**

Employees call for jury duty for the local or federal courts shall be treated as being on approved leave without loss of longevity, leave or pay. Service in court or administrative adjudication proceedings when subpoenaed as a witness on behalf of the Corporation or CNMI government needs shall be treated the same as jury duty. If the employee is subpoenaed on behalf of a private person or corporation, the employee shall apply for annual leave and such request shall be submitted to the Manager or Supervisor in advance. Fees paid by the court, other than those for an employee's appearance at anytime outside the employee's regularly scheduled shift, for travel and subsistence allowance, shall be treated in accordance with Corporation's policy.

An employee shall provide his or her supervisor or manager with a copy of a notice of call for jury duty immediately upon receipt by the employee. When excused or released from jury duty for the day, the employee shall return to work without delay, taking into account the reasonable travel time to arrive at the work site.

An employee may keep his or her compensation for being a juror or if called as a witness if the court provides it but the employee must apply for annual leave if accepting compensation from the court.

**G. Military Leave**

Any employee who is involuntarily enlisted, drafted or is called into active service in the armed service of the United States shall be granted military service leave in accordance with this Section and applicable Federal Law. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Corporation without interruption, provided that the employee's absence has not voluntarily exceeded two (2) years and application for re-employment was made within thirty (30) days of release from active military service.

In accordance with local and federal laws, any employee who enlists or is called to federal active duty, territorial active military service or training duty as a Reserve of the Armed Forces or a member of the National Guard will be granted up to 120 hours of unpaid military leave for the period of active duty upon presentation to Human Resources of Orders into service. This leave shall be granted solely for the purpose of and will continue only for the time stated in the Orders into service and that said employee is actually performing said military service.

Any employee who is a veteran of a branch of the United States Armed Services will be excused from work duties without loss of pay for the time necessary, not to exceed four (4) hours in any one day, to participate as an active pall bearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces of the United States whose remains final interment is in the Commonwealth.

#### **H. Compassionate Leave**

Each employee shall be eligible for five (5) working days of leave for funeral or death of a member of his or her immediate family. Immediate family includes grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses. Such leave shall not be deducted from the employee's leave account. The compassionate leave shall be taken within 18 calendar days after the death of the immediate family member. The employee shall certify the purpose of the compassionate leave request.

#### **I. Leave Without Pay**

The Managers or Supervisors or his/her designee shall be the approving authority for Leave Without Pay for less than 80 hours. The CEO needs to approve any LWOP in excess of 80 hours.

It is the responsibility of the employee to apply for leave without pay. If LWOP is not authorized, it is characterized on the employee's payroll as Absent Without Leave (AWOL). If an employee believes s/he has been adjudged AWOL improperly, s/he needs to clear that issue with her supervisor or manager (with appeal to the Department Head) within the next pay period after having received the AWOL.

Leave and benefits shall not accrue during leave without pay except as provided in this section. The employer-employee relationship is

maintained during a period of leave without pay, but the Corporation shall pay no other compensation.

## **J. Family and Medical Leave Act Of 1993**

### 1. General Provision

The Family and Medical Leave Act (FMLA) requires covered employers to provide up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over the previous twelve (12) months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

### 2. Reasons for Taking Leave

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

### 3. Advance Notice and Medical Certification

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met. The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."

The HRM has an affirmative duty to inform an employee if the HRM believes an employee may be eligible for FMLA leave. Once the employee has been apprised by the HRM of potential eligibility for the FMLA leave or based on the employee's own belief s/he is eligible for FMLA leave, the employee must complete and submit a request for FMLA form. CHCC may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.



4. Job Benefits and Protection

For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan." Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**K. Unauthorized Absence or Absent Without Leave (AWOL)**

Absence Without Leave ("AWOL") is defined as leave without approval and may subject the employee to discipline. For purposes of this section, AWOL will be evaluated per calendar year. Such leave is unpaid.

1. Discipline may be as follows:

- Employees who accrue 3 days AWOL during any one pay period shall be issued a reprimand.
- Employees who accrue at least 8 additional hours after reprimand in any following pay period shall receive a five (5) day suspension without pay.
- Employees who accrue 3 additional days of AWOL after a five (5) day suspension shall be terminated.
- Employees who accrue eighty (80) hours of AWOL in one year shall be terminated.

2. Abandonment of Position. Any employee absent without approved leave (AWOL), for a consecutive total of ten (10) working days shall be deemed to have resigned without notice by abandonment of position.

Employees will be responsible to submit leave applications prior to the leave being taken or in the event of an emergency absence, immediately upon return to work. Failure by the employee to submit leave applications in a timely fashion may result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll.

**L. Maternity and Paternity Leave**

1. Maternity Leave

Maternity leave on account of childbirth shall be granted a female employee for fifteen (15) workdays beginning from the date of delivery or confinement for childbirth and extending to reasonable postpartum period for the care of the newly born child. After using the fifteen (15) days of paid leave, the employee may use accrued sick and annual leave balances, or request to be placed on leave without pay up to 12 weeks under FMLA. The use of sick leave after the 15 days of paid maternity leave will require a doctor's certification.

2. Paternity Leave

Paternity leave is a leave of absence from work for male employees whose spouse is pregnant. Paternity leave shall be for a period of five (5) consecutive workdays. Paternity leave shall commence from the date of birth or spouse confinement for childbirth. If childbirth falls on a holiday or weekend, the paternity leave will commence on the next workday.

**M. Advanced Leave**

An employee may apply for advanced sick or annual leave. The allowable amount is up to one-half of what the employee would accrue in one year or to the end of the grant period, whichever is less. Approval of such advance leave shall be in the sole discretion of the Chief Executive Officer and shall only be granted to the extent it is in the best interest of the Corporation.

**6.4 Benefits**

**A. Insurance Benefits**

Employees who are scheduled to work at least 40 hours each week may participate in insurance and medical benefit programs made available and in the manner provided under the Life and Health Insurance Programs (GLHIP) administered through the Department of Finance. Such benefits shall continue to be in effect during absences due to paid leave, up to three (3) months of paid or unpaid FMLA leave, where required by the Americans with Disabilities Act, and during approved leave without pay when the employee pays the insurance premium.

**B. Retirement Benefits**

1. Employees currently grandfathered in to the NMI Settlement Fund will be able to retire consistent with the NMISF regulations.
2. Full time employees not part of the NMISF will be allowed to participate in the CNMI's 401(a) plan to the same extent as employees of the central government.

**6.5 Overtime and Compensatory Time**

**A. Purpose**

The purpose of this section is to provide managers and supervisors with guidance related to the administration of overtime and compensatory time and ensure compliance with the Fair Labor Standards Act (FLSA) and the applicable Commonwealth law and regulations.

**B. Scope**

Compliance with this policy is the responsibility of all CHCC managers, supervisors, and employees.

**C. Coverage**

This policy includes, but is not limited to, all regular full-time and part-time non-exempt employees (regardless of source of funding) who occupy positions determined to be eligible for overtime and compensatory time.

**D. Definitions**

1. **Compensatory Time.** An alternative method of overtime payment for hours worked over 40 for non-exempt employees. It is management's discretion whether to provide overtime pay or compensatory time off based upon fiscal availability and operational needs of the work unit and an employee agreeing to such an alternative method of compensation.
2. **Exempt Employees.** A regular or temporary employee deemed to be exempt from the overtime provisions of the FLSA. Exempt status is determined by CHCC using the test set forth in the FLSA. 29 CFR §541.100-§541.402; See also Exempt or Non-Exempt Guideline & FLSA Checklist. While exempt employees are



generally not eligible for overtime, CHCC, in exceptional circumstances, may pay additional compensation for exempt employees.

3. Non-Exempt Employees under the Fair Labor Standards Act (FLSA). The Fair Labor Standards Act (FLSA) of 1938 is a federal law that requires employers to pay non-exempt employees time and a half for all hours in excess of 40 hours worked per work week.
4. Hours Not Worked. Hours not actually worked mean those hours not worked, regardless of whether they were with or without pay.
5. Hours Worked. Hours actually worked during a Workweek. This includes all time an employee spends on duty in the course and scope of his/her job, whether on CHCC's premises or at another prescribed place of work. Also included is any time the employee is permitted to work in addition to his/her regular schedule.
6. Overtime Hours. Hours Worked in excess of 40 hours in a Workweek are paid at the rate of time and a half for non-exempt employees.
7. Straight Time Rate. An employee's hourly base rate of pay exclusive of additional types of pay (e.g., overtime, shift differential, unit based differential).
8. Workweek. The standard workweek begins at 12:00:01 a.m. Sunday morning and ends at 11:59:59 p.m. Saturday night. Operating units, however, may establish a different workweek based on the needs of the unit.

## **E. Policy and Procedure**

### **Policy**

Non-exempt (hourly paid) employees who work more than 40 hours during a workweek will be:

- Paid at the overtime rate of one and one half times their regular rate of pay, OR
- Granted compensatory time off at the rate of one and one half times the number of hours worked over 40 in a workweek provided the employee signs the Compensatory Time Agreement (CTA).

## **CHCC HUMAN RESOURCE RULES AND REGULATIONS**

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The CHCC departments, divisions, offices, sections and units may choose to allow non-exempt, hourly paid employees to accrue and use compensatory time off in lieu of pay for overtime hours worked subject to the approval of the CEO, HRM or authorized designee. The business needs of the departments will dictate the use of compensatory time.

To provide this form of compensation, the appropriate supervisor or manager must arrive at an agreement or understanding with an employee that compensatory time will be granted instead of cash compensation. The CTA must be signed prior to the performance of work, and must be entered into voluntarily by the employee. Additionally, a record of the compensatory time must be kept together with an explanation justifying the need to perform work outside the regular work time.

Compensatory time is subject to the following provisions:

1. Compensatory time must be credited to the employee at the rate of time and one half times all hours worked over 40 hours in a workweek.
2. Accrued compensatory time may not exceed 240 hours.
3. When an employee has reached the maximum accrual of 240 hours compensatory time, all additional overtime hours worked must be paid at the overtime rate of one and one half times the employee's regular rate of pay.
4. Time off must be scheduled only for overtime which is actually worked and documented on employee time records.

Compensatory time may be accrued only for overtime which is actually worked and documented on employee time records.

The establishment of and changes in employee work schedules are the responsibility of the Supervisors and Managers and the Hospital Administrator.

Non-exempt employees shall not work overtime without the prior knowledge and prior written approval of the appropriate supervisors and/or managers. Hourly paid employees shall not start working before the beginning of their scheduled time and shall not work beyond the ending of their scheduled time without management's prior approval. Similarly, hourly paid employees must not work during their lunch break. Also, hourly paid employees shall not be

allowed to continue to work at their work stations while having lunch or during established lunch break.

It is important for supervisors and/or managers to monitor overtime and compensatory time violations. If employees fail to adhere to overtime and compensatory time guidelines, disciplinary action against both the Supervisor or Manager and subordinate should be taken. However, all overtime worked must be compensated, regardless of whether or not it was approved.

Neither employees nor the CHCC may waive their rights or obligations under the FLSA or agree to accept less or pay less than the required overtime rate.

Specific questions regarding completion of time records for non-exempt employees should be directed to the HR Payroll Unit.

**Procedure**

a. Overtime

1. Eligibility Determination

1.1 The Human Resources (HR) office is responsible for determining the FLSA status of all positions.

2. Prior Written Approval

An employee may work overtime only at the request and prior written approval of the employee's Manager or Supervisor. An employee will be paid for all hours worked, but is subject to disciplinary action if s/he works overtime without prior authorization.

3. Scheduling

3.1 Each manager has the responsibility within budgetary limitations for scheduling overtime that meets the operational needs of the department.

3.2 All employees are expected to work overtime when requested by their manager or supervisor. Managers will make every effort to assign such overtime on a volunteer



basis. However, when no volunteers are available, employees will be scheduled for as needed.

3.3 Refusal to work overtime will be considered as failure to report to work as scheduled and may result in disciplinary action, up to and including termination.

4. Tracking

4.1 Managers have the responsibility for monitoring overtime hours worked by employees reporting to him/her.

4.2 Managers will follow appropriate payroll procedures for documenting overtime hours.

5. Calculation of Pay

5.1 Overtime Hours are calculated only on the basis of hours actually worked.

5.2 Hours paid but Hours Not Worked, such as holidays, Paid Time Off (PTO), annual leave, sick leave, administrative leave and Family and Medical Leave, funeral leave, jury duty, inclement weather, and military leave are not considered as time worked when computing overtime.

6. Non-Exempt Employees

Non-Exempt Employees are eligible for overtime and are paid in the following manner:

6.1 Straight time for all Hours Worked up to and including 40 hours in a Workweek;

6.2 Time and one-half for all Hours Worked in excess of 40 hours in a Workweek; and

6.3 For all Hours Worked, but are subject to disciplinary action if they repeatedly work overtime without prior authorization.

7. Exempt Employees

- 7.1 Generally, Exempt Employees are NOT eligible for overtime and are expected to work hours scheduled plus any additional hours required to fulfill their responsibilities in a professional manner.
- 7.2 In exceptional circumstances, management may approve certain Exempt positions for recognition of overtime at a rate of 1.0 of regular rate. This may result in the payment of overtime in the following manner:
  - 7.2.1 As straight time or
  - 7.2.2 As 1.0 of regular rate.
  - 7.2.3 As the accumulation of compensatory time.
- 7.3 Exempt Employees on the time and attendance system may utilize an alternate work period. The use of an alternate work period must be requested through a Manager or Director and is to be granted in the sole discretion of the CEO. Employees will receive overtime recognition for Hours Worked in excess of 80 hours in a 14-day period.

8. Exemption Status and Changes in Time Schedule

Exempt Employees who change their work schedule or reduce their standard Hours Worked may inadvertently cause their exemption status to change to Non-Exempt if their weekly salary no longer meets the minimum salary requirements for Exempt Employees, as defined by the FLSA.

9. Improper Pay Deductions

The CHCC will not make salary deductions that are prohibited under the FLSA. Employees with specific paycheck questions should speak with their manager or the Payroll Supervisor for clarification. If, after speaking with his/her manager or Payroll, an employee still believes an improper pay deduction was made, he/she may go to HR for resolution of the improper pay deduction(s).

b. Compensatory Time

1. Eligibility Determination - Non-Exempt and Exempt Employees

1.1 Non-Exempt Employees

The CHCC's non-exempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this policy provided that:

- 1.1.1 The employee signs a statement agreeing to compensatory time in lieu of overtime; and
- 1.1.2 The maximum authorized accumulation of compensatory time is 240 hours per year. When an employee has accumulated twenty hours of compensatory time off in a month, the employee must take a compensatory time off for any hours over twenty per month; and
- 1.1.3 An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations; and
- 1.1.4 Accrued balances of compensatory time off at the termination of employment must be paid at the average basic pay of the employee over the last three years of employment or the final basic pay, whichever is higher. Like accrued annual leave, any accrued compensatory time will be paid out bi-weekly until it is exhausted.

1.2 Exempt Employees

All requests for designation of exempt positions as eligible for Compensatory Time must be approved in advance by the CEO or his/her authorized designee on a case by case basis. In no event will a department implement Compensatory Time for positions without formal approval.



Employees in eligible positions must also maintain sufficient hours of work to meet the FLSA salary provisions.

2. Guidelines

- 2.1 The manager must give advance approval for any time worked that will be eligible for Compensatory Time and is responsible for approving the Compensatory Time reported on the time sheet.
- 2.2 The maximum number of Compensatory Time hours that may be accrued by eligible employees cannot exceed 240 hours per year.
- 2.3 An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations;
- 2.4 All compensatory time earned by exempt employees in any workweek must be taken during the two-month period following the end of the workweek during which the compensatory time was earned. Compensatory time accrued is subject to an accrual limitation of 40 hours. Employees cannot accrue compensatory hours in excess of 40 in a two-month period.

3. Compensatory Hours

The number of compensatory hours accumulated in a workweek is determined in the same manner as are overtime hours.

4. Usage

- 4.1 Compensatory Time may only be taken as straight hours.
- 4.2 An eligible employee may not receive both pay and Compensatory Time for the same hours worked.

5. Recording

Compensatory hours are maintained using the time and attendance system.

6. Payout

Unused Compensatory Time is not paid out upon termination of employment, transfer to a job not eligible for Compensatory Time, or conversion of a position to non-exempt due to a change in time status.

**SECTION 7  
HUMAN RESOURCES POLICIES**

**7.1 Grievance Procedure**

**A. General Policy**

An employee of the Corporation may submit a grievance regarding any matter involving the interpretation, application, or alleged violation of any HR Rule or Regulation.

**B. Grievance Procedures**

1. Informal discussion. The aggrieved employee shall discuss the grievance with the immediate supervisor in an attempt to resolve the issue.
2. If the grievance cannot be resolved informally through discussion, a written grievance shall be submitted to the Manager or Supervisor. The written grievance should be submitted as soon as practicable but must be submitted within ten (10) working days of the date that the employee knows or has reason to know of the conduct or actions upon which the grievance is based. Failure to submit the grievance in writing within the specified time abolishes further action on the alleged grievance.
3. Upon receipt of a written grievance, the Manager or Supervisor shall, with written concurrence of the HR Office, the Legal Counsel and the Chief Executive Officer (CEO), within ten (10) workdays, respond in writing. The employee will be notified in writing should an extension be required. Upon receipt of the response, the employee shall have five working days to appeal the decision in writing to the CEO. If the employee fails to appeal the decision within five (5) workdays, the grievance will be deemed fully and finally closed upon the Manager or Supervisor's decision.

4. Within ten (10) working days of receipt of a timely written appeal from the decision of the Manager or Supervisor, or longer if employee notified in writing, the CEO or authorized designee shall review the matter and respond in writing to the employee's grievance. The CEO, or authorized designee, may request additional information, conduct interviews or take other actions necessary to be fully informed as to the issues. Upon receipt of the CEO's decision and the employee is not satisfied by the CEO's decision, the employee shall have five (5) working days in which to submit a written request for review by the Personnel Committee. The Personnel Committee shall only review the decision to determine whether or not the CEO's decision was an abuse of discretion.
5. The decision of the Personnel Committee is final. The HRM shall be responsible for keeping and maintaining the grievance file and such file shall be kept for at least three years.

## **7.2 Annual Performance Evaluation**

It is the policy of the Commonwealth Healthcare Corporation (CHCC) to utilize a performance evaluation program to maximize employee's overall job performance and development of staff through the periodic review of their progress through results oriented performance evaluations.

### **A. Purpose**

1. To establish a Performance Evaluation process for employees that will serve as a formal communication tool between the CHCC employees and their supervisors concerning job expectations and employee performance of those expectations.
2. To periodically record essential information concerning the performance level and strengths/weaknesses of an employee in relation to career development, including potential for advancement and suitability for other jobs and training.
3. To assist management in making thorough, objective and factual evaluations of the performance of employees under his/her supervision.



4. To assist management in achieving maximum utilization of all human resources, to motivate each employee to seek ways to improve performance where needed, and to enhance overall employee relations.

The CHCC believes that performance evaluations provides managers, supervisors and employees, the opportunity to discuss job tasks, identify developmental needs, encourage and recognize strengths, discuss positive and purposeful approaches to meeting goals. In summary, the objective of the performance evaluation is to:

- Evaluate and improve job performance in terms of meeting goals and job responsibilities
- Facilitate mutual feed-back and communication between the employee and the supervisor
- Identify areas where improvement may be needed to determine if coaching or training is needed
- Ensure position descriptions are accurate
- Provide a basis for salary recommendations and compensate for merit or promotional increases

All full and part time employees will receive a performance evaluation annually. If an employee is transferred or promoted, an evaluation will be given within 90 days after the transfer or promotion.

All newly hired employees will receive a performance evaluation prior to the end of their 90-day introductory period.

## **B. Frequency and Reporting**

Annual Review: Supervisors will meet with and formally review the job performance of each employee in coordination, and prior to, the new fiscal year, annually.

End of Probation Period: A performance evaluation report will be completed by management for all new employees at the conclusion of the ninety-day probation period.

End of Provisional Period: A performance evaluation report by management will be completed for all new employees at the conclusion of the ninety-day probation period.

“Other” Reviews: “Other” reviews may occur at the discretion of the supervisor to review outstanding or unsatisfactory performance. This is to be indicated by checking the block designated as “Other” and any related and appropriate supporting comments in the “Comments” section of the evaluation form. Additional performance factors may be added in the Supervisor’s/Appraiser’s Comments section of the evaluation form.

### **C. Human Resources’ Responsibility**

The Office of Human Resources (HR) will provide a systematic procedure to ensure that a viable performance evaluation program is on-going. HR will monitor the performance evaluation procedure to insure consistency in application throughout the departments, divisions, and offices.

The original copy of all completed performance evaluation forms will be submitted to HR office for career development, professional development/training and review purposes within five working days from the date of the completed evaluation.

### **D. Supervisor’s Responsibility**

It is the responsibility of the supervisor to ensure that the performance of each staff employee is reviewed and recorded in accordance with the prescribed procedure, a minimum of one time per year, or at the employee’s anniversary date.

### **E. Discussion with Employee**

All sections in the Performance Evaluation form have a specific employee development purpose and must be completed by filling in applicable numerical rating on the blank spaces provided.

1. Provide careful objective thought on the individual’s performance for the period being evaluated, NOT previous performance, future predictions, or areas not related to job content.
2. Place special emphasis on the employee’s current performance in meeting his/her objectives of the existing fiscal year.

3. Supervisor should establish a date that is acceptable to the employee that will permit an uninterrupted time for discussion of the evaluation.
4. Inform the employee well in advance and suggest that he/she prepare for discussion of the evaluation with questions on topics which he/she wishes to be discussed, with a focus on the employee's career objectives. The "*Comments*" section is designed to be completed in a constructive coaching manner for discussion with the employee.
5. Encourage open and free discussion during the discussion of the evaluation to maximize beneficial results of the evaluation/evaluation.

#### **F. Completion of Form and Transmission to HR Office**

All completed performance evaluation forms will be prepared by the employee's immediate supervisor to insure an accurate evaluation of the employee. It should be reviewed by the appraiser's immediate supervisor prior to any discussion with the affected employee. Differences of opinion on the employee's evaluation should be discussed and resolved if possible.

The formal evaluation discussion is not to occur with the affected employee until the department manager or his/her designee has reviewed the completed evaluation report.

In addition to rating several individual areas of performance, the supervisor must assign an overall numerical performance rating of the performance factors, which reflect CHCC's core values. The appraising supervisor shall complete Sections A through J on the evaluation form.

Following all reviews and signatures, the completed Performance Evaluation form will become a permanent part of the employee's official HR file. Completed forms shall be submitted to HR within five working days from the date of completion the performance evaluation form.

#### **G. Performance Rating Levels**

Under the Employee Performance Evaluation form, the five levels of performance with corresponding numerical rating scores used are:



*Exceptional* – Consistently exceeds all requirements of the job. Outstanding performance is clearly obvious to all. Unique, exceptional accomplishments that are obviously very far above what is required and which relatively few employees would be expected to achieve. The numerical rating score for this level is Five (5).

*Superior* – Frequently exceeds job requirements and is highly motivated. Takes initiative and demonstrates creativity and produces a quality work product. Accomplishments clearly surpass what is required. The numerical rating score for this level is Four (4).

*Satisfactory* – All aspects of performance are fully acceptable within position essential requirements and supervisor's requirements. Most qualified incumbents should be able to attain this level. The numerical rating score for this level is Three (3).

*Marginal* – Does not meet minimum expectations of the job on a consistent basis. The incumbent should improve performance and move up in the range of satisfactory performance or out of the position in a relatively short period of time. At this level, there is an obvious need for improvement. The numerical rating score for this level is Two (2).

*Unsatisfactory* – Performs job below expectations of supervisor and does not fulfill minimum job requirements. The numerical rating score for this level is One (1).

#### **H. Performance Factors Explanations**

1. Job Knowledge. Measures the employee's understanding of the complete scope and related functions of the job. Knowledge of one's specialized and technical field of work.
2. Quality of Work Performed. Addresses how well knowledge is applied to generate work outputs and to what degree quality of performance contributes to obtaining expected results with thoroughness and accuracy.
3. Quantity/Productivity. The degree to which the employee produces the acceptable amount of satisfactory work and consistency of output generated compared to reasonable expectations.

4. Initiative. The extent to which the employee effectively and enthusiastically performs and carry out responsibilities independently.
5. Reliability. The degree to which the employee can be relied upon to do the job and to meet work deadlines with minimal or no supervision.
6. Teamwork and Collaboration. The extent to which to employee cooperates or works together with other employees for common goals and purpose.
7. Work Habits. The manner in which an employee conducts himself or herself in the working environment.
8. Communications. Measures the employee's ability to convey ideas and information effectively and courteously to others.
9. Customer Service. The employee's ability to demonstrate a positive attitude and displays high levels of professionalism.
10. Attendance. The extent to which the employee can be depended upon to be available for work and to fulfill position responsibilities.

**I. Things to Avoid in Performance Evaluations**

The "Halo" Effect. The "Halo" effect occurs when one factor influences ratings on all factors. Examples: An employee's work is of good quality; therefore, other ratings (such as those on promptness or work quantity) are higher than normal. Another employee is frequently absent, with the result that the ratings on other factors are usually low.

The "Cluster" Tendency. The tendency to consider everyone in the work group as above average, average, or below average. Some raters are considered "tough" because they normally "cluster" their people at a low level. Others are too lenient. "Clustering" overall ratings usually indicates that the rater has not sufficiently discriminated between high and low levels of performance.

Length of Service Bias. There is a tendency to allow the period of an individual's employment to influence the rating. Normally, performance levels should be higher as an individual gains training and experience, but this is not always the case.

Personality Conflicts. Avoid judgments made purely on the basis of personality traits. Effective, efficient employees do not necessarily agree with everything a supervisor believes in or states.

### **7.3 DISCIPLINARY ACTIONS**

#### **A. General Policy**

The Corporation expects its employees to maintain standards of conduct and behavior appropriate to its mission of service to the public.

All documentation for disciplinary actions issued by the Manager or Supervisor must be provided to the HRM and employee file.

The Administrator/Division/Section heads initiate disciplinary actions through the HRM. The Chief Executive Officer shall issue written disciplinary actions after review by Legal Counsel including suspension, transfer, demotion, or dismissal. The Division Managers may take immediate action to remove an employee from duty only in circumstances involving immediate danger to the health or, safety of Corporation employees or the public.

Examples of unacceptable conduct or performance that may result in corrective actions up to and including dismissal include, but are not limited to the following:

1. Any violations of HIPAA;
2. Attendance problems such as not showing up for work and not calling or using approved leave or tardiness that is more than *de minimis*;
3. Repeated violations of CMS regulations or a single violation if the conduct is severe or affects patient health or safety;
4. Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out in the Manual;
5. Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance;



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6. Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known to the employee;
7. Any breach of duty or trust to the Corporation;
8. Use of obscene or abusive language;
9. Falsification of employment application;
10. Falsification of certification of providers;
11. Harassment of other employees or the public, or violation of Corporation's sexual harassment policy;
12. Leaving the work site during working hours without permission from supervisory officials;
13. Theft, conversion, or unauthorized removal of corporation's property, or the use of Corporation property without authorization;
14. Fighting and/or acts of violence; or threats of violence constituting assault
15. Abuse or destruction of CHCC property
16. Possession of weapons, explosives
17. Sleeping on duty
18. Unauthorized use of vehicles, equipment
19. Punch another's time card/alter time records
20. Misuse mail, phones, computer system, internet access
21. Ethics Code Violation
22. Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Manager or Supervisor due to

arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL).

23. Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance; or
24. Other conduct or failure of performance which the management of the Corporation reasonably recognizes as justification for serious discipline, including dismissal.
25. Unauthorized removal of property of CHCC or stealing government property while on duty.

Please refer to Appendix C for Table of Disciplinary Actions.

#### **B. Forms of Corrective Action**

Progressive corrective action shall be followed when reasonably practicable. However, when the severity of the inappropriate conduct warrants and it is in the best interest of the Corporation, the Chief Executive Officer may impose any of the following forms of corrective action without first resorting to lesser corrective action.

##### **1. Verbal Reprimand or Warning or Counseling**

This type of corrective action is usually the first step in identifying and correcting failure to perform or misconduct and may be carried out by a Manager or Supervisor or office supervisor. A written reprimand may also be given by the Manager or Supervisor or supervisor, however, all other forms of corrective action require action by the Chief Executive Officer. A reprimand or warning and/or oral counseling should be a private conference between an employee and supervisor whereby the problem can be worked out in a constructive manner. The supervisor or manager will advise the employee of the problem, such as misconduct or failure to perform to expectation and present a solution to correct the problem. The supervisor or manager will offer guidance and assistance in an effort to prevent the problem from occurring again. The supervisor or manager will also point out future corrective action that might be taken should the problem continue. Supervisors or managers will document the nature of the problem and retain a record of the problem and the action taken. Such

documentation will be placed in the employee's official personnel file.

2. Written Reprimand

A written reprimand is an official notice to the employee of a failure of performance or misconduct. The nature of the breach and all related facts are documented and placed in the employee's official HR Office file (OPF) by the Manager or Supervisor or office supervisor. A copy shall be given to the employee. Unless circumstances do not permit the supervisor and employee shall meet to discuss the problem before issuance of the reprimand to allow the employee an opportunity to respond.

3. Immediate Suspension Without Pay

Employees shall be immediately suspended, upon verbal notice, when the nature of the breach of discipline or misconduct makes it imprudent or hazardous for a supervisor to allow an employee to remain on the job. Supervisors or managers shall immediately, before taking any immediate suspension action, shall unless circumstances do not permit, advise the Chief Executive Officer to discuss the nature of the discipline problem and the suspension. An immediate suspension is without pay. In any event, the immediate suspension shall be followed up with a written notice to the employee within five (5) working days in accordance with the notice requirement under these rules. If more time is required to provide the employee written detail/support about the suspension, the employee will be notified. A copy of the notice of immediate suspension shall be placed in the OPF. An immediate suspension may be followed by additional corrective action based on the same incident.

An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension.

4. Regular Suspension

An employee may be suspended without pay for a repeated offense or a serious failure of performance or misconduct. A regular suspension generally will not exceed 20 working days. When legal issues prevent the closure of a case pertaining to an employee's



performance or action, the suspension may be longer than 20 working days. The employee shall be given the opportunity to respond to the allegations of misconduct or failure of performance prior to suspension. Subsequently, if the suspension is warranted, the employee shall be notified in writing in accordance with the provision of these rules and a copy shall be placed in the OPF.

An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension.

An employee charged with a criminal offense may be suspended without pay if the offense arises in connection with the employee's job responsibilities or is an offense which in the CEO's opinion, would affect continued job performance or bring discredit to the Corporation.

5. Demotion

The Chief Executive Officer may demote an employee for misconduct, failure of performance, or other reason as set out in Section 1 of this rule. A disciplinary demotion shall result in a reassignment of the employee to a position in a lower classification at a lower pay band.

6. Dismissal

Employment may be terminated when previous corrective actions have failed to bring about correction or when serious misconduct or failure to perform occurs. The employee shall be given notice of the decision to terminate employment. The dismissal will take effect only in accordance with the procedures in these rules.

**C. Corrective Action Reporting - Corrective Disciplinary Action - Corrective Action Notice for Written Reprimands**

All reprimands shall be documented on a corrective action report form. A record of the date, time and subject of a written reprimand shall be maintained in the official HR employee file. The employee shall be given an opportunity to review the report with his or her Manager or Supervisor. If the employee disagrees with the facts or conclusions contained in the report, he or she shall be permitted to submit, within ten (10) workdays after receiving the report a

statement of disagreement. The statement shall clearly and concisely set forth the employee's reasons for disagreeing with the report. One copy of the employee's statement shall be appended to the report and shall become a part of it. If the employee has no comment or has not responded within the required time frame, the report shall be forwarded to the HRM. Upon completion of the approvals section of the disciplinary action report form, one copy shall be forwarded to the HRM for filing of the record to the official HR Office file of the employee.

The Manager or Supervisor will, if appropriate, complete periodic reviews of the employee's progress in correcting the cause of the original discipline. Such reports shall be made a part of the employee's official HR Office file.

#### **D. Corrective Action Procedure and Appeals**

1. A suspension without pay, demotion, or dismissal, shall be accomplished and reviewed only in accordance with the procedures stated in this section.
2. The process of discipline begins with the immediate supervisor reporting misconduct or failure of performance with concurrence to the Section Head and HR Manager.
3. Before the Chief Executive Officer issues a notice to terminate employment, demote with a reduction in pay, or suspend without pay an employee, the Chief Executive Officer shall require HRM or designee to investigate the basis for the proposed corrective action. The investigation shall include an interview of the employee with Legal Counsel unless the employee has made him or herself unavailable. The employee shall be invited to submit a response in writing after the interview and it shall be included in the record of the matter. The findings and recommendations for action shall be prepared by HRM, or designee, and reviewed by Legal Counsel. In deciding what type of disciplinary action should be taken, the following shall be considered:
  - a. Seriousness of the breach of discipline, misconduct, or failure of performance.
  - b. The circumstances surrounding the incident.
  - c. The past service record of the employee. The conduct should be considered within the context of the employee's total record. If

the employee's record includes past misconduct, the action taken will ordinarily be more severe.

- d. The HRM will consult with the Legal Counsel concerning action to be taken.
4. The HRM shall issue a notice of action for all warnings and counseling.
5. The HRM, with the endorsement of the CEO and Legal Counsel, based on the investigation, any follow-up after receiving the HRM report and after review of the proposed action by Legal Counsel, shall issue all notices of suspension or termination. The notice shall state any and all factual findings and reasons for the corrective action completely and concisely. The notice shall explain the employee's right to appeal the decision of the Chief Executive Officer to the Board HR Office Committee.
6. The notice of decision shall be given to the employee or sent by certified mail.

**E. Appeal to the Personnel Committee**

The Personnel Committee members shall act as hearing officers on employee appeal of adverse action.

1. The employee may request to appeal to the Personnel Committee by submitting a written request to the Personnel Committee within ten (10) working days from the date of receipt of notice of the decision of the Chief Executive Officer. The appeal letter shall be submitted to the HRM, who will in turn, notify the members of the committee. The decision of the Personnel Committee shall be the final agency decision for purposes of judicial review as set out in the Administrative Procedures Act.
2. The hearing shall be conducted pursuant to the CNMI Administrative Procedures Act and according to CHCC Regulations regarding hearings.
3. Failure of the employee to timely submit a written notice of his or her appeal or request for hearing shall constitute a waiver of the employee's right to appeal and the Chief Executive Officer's decision shall be the final decision of the Corporation.



4. The Personnel Committee shall exercise independent judgment as to the weight of evidence on factual raised by the employee. The CHCC will provide a basis for the corrective action taken by a preponderance of the evidence.
5. The Personnel Committee shall ordinarily issue a written decision no later than fifteen (15) working days after the close of the hearing. The decision shall include reasonably specific findings of facts, conclusion of law, and clear and precise statement of the reason for the decision.

#### **7.4 Separation**

An employee may be separated from employment with the CHCC by resignation, retirement, involuntary termination, or lay off.

##### **A. Resignation**

1. A permanent employee shall submit a written resignation at least thirty (30) calendar days notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.
2. A contract or federal grants employee must give sixty (60) calendar day notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.
3. Withdrawal of Resignation. An employee may withdraw his or her resignation only with the written approval of the Chief Executive Officer. Approval shall be obtained before the effective date stated in the resignation.
4. Failure to give adequate notice. Failure to give adequate notice of resignation shall be considered separation not in "good standing" and shall preclude consideration for future employment with the Corporation.
5. Effective Date of Separation. The Effective date of separation shall be at the close of business on the last day on which the employee works or uses approved leave.

**B. Retirement**

Employees retiring from the Corporation are required to provide a written notice 60 days in advance. This advance time is needed so that retirement benefits can begin as soon as possible following date of retirement and to allow management to plan for the departure of the retiring employee. Employees should submit a letter indicating the date of retirement to the Chief Executive Officer accompanied by a letter from the Northern Mariana Island Settlement Fund indicating eligibility for retirement.

**C. Austerity/Reduction in Hours**

If the need arises for austerity, employees may have their hours reduced. The Notice shall be given at least one pay period in advance of the beginning of the austerity. The CEO may exclude certain positions from the austerity. His or her decisions to exclude or not to exclude positions for austerity are not grievable.

**D. No Lump sum Payment upon Separation**

In general and in most cases other than termination, Employees will not be paid out for unused annual leave. Employees are expected to be aware of their leave balances and to plan appropriately to exhaust their annual leave prior to their separation date. If an employee has leave s/he is not able to use due to short staffing or some other emergent condition, the employee shall seek the approval of the Supervisor or Manager and the Chief Executive Officer to get approval to have those funds paid out.

Moneys the employee owes the Corporation shall be deducted from the final paycheck. Deductions from accrued leave pay may be made for the replacement value or fair market value of the Corporation's property not returned by the employee on or before the effective date of separation

1. Final paycheck for separation on account of death of employee shall include final wages or salary and other payments the corporation owes the employee, e.g., reimbursable travel advances and other similar payments made by the employee on behalf of the Corporation.
2. Final paycheck shall be paid only to the beneficiary designated in writing filed by the employee before death or to the employee's

estate. Commonwealth law does not recognize common-law spouses. If no beneficiary has been designated final payment should be made to surviving legal spouse; if no legal spouse, to surviving children, or guardian of any minor children in equal shares; otherwise to father and/or mother in equal shares; if parents are not living, then to brothers and sisters in equal shares; if no surviving next of kin, payment should be made to the Corporation as escheat.

#### **F. Medical Separation**

An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and CHCC policies (sick leave, annual leave, and FMLA leave) shall be separated from employment.

### **7.5 Policy of Non-Discrimination**

It is the policy of the Corporation to recruit, employ, train, retain, compensate, promote, and make decisions regarding all other conditions of employment on the basis of an individual's qualification and ability to perform in his or her respective position without regard to race, disability, color, religion, national origin, sex, pregnancy related condition, status as a disabled veteran or veteran of the Vietnam era, or age, except where age or sex are essential, bona fide occupational requirements. Neither discrimination nor harassment will be permitted in the Corporation.

Each Manager, Director, Administrator and Supervisory official, who exercises management functions by virtue of their delegated authority within the Corporation, shares the responsibility for the implementation of this policy. This includes initiating or supporting programs and practices designed to develop understanding, acceptance, commitment and compliance with all legal requirements and changes in the law or its interpretation.

### **7.6 Policy Against Sexual Harassment**

#### **A. Prohibition Against Sexual Harassment**

It is the policy of the Commonwealth Healthcare Corporation (CHCC) that all our employees shall enjoy a work environment free from sexual harassment and all forms of discrimination.



**B. What is Sexual Harassment**

Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which creates an intimidating, hostile or offensive work environment which impacts on an employee's work performance. Conduct of a sexual nature includes: sexual flirtation, verbal sexual harassment, direct or indirect pressure for sexual activity, unsolicited comments about a person or that person's appearance, physical assault and battery, the display of sexually explicit or suggestive objects or images or abusive or otherwise unwanted physical contact.

**C. Sexual Harassment is Illegal**

Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11 and is prohibited.

**D. Policy Against Sexual Harassment**

Sexual harassment is specifically prohibited and will not be tolerated, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

All employees are encouraged to report any violation of this policy. Management cannot address sexual harassment in the work place until incidents of sexual harassment are reported. Employees will not be retaliated against for making truthful statements about alleged harassment.

No employee will be denied or receive employment opportunities and/or benefits because of a sexual relationship of a co-worker or supervisor. No employee or non-employee shall imply to an employee or applicant for employment, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement or any other condition of employment.

Supervisors, by law, are responsible for the acts of sexual harassment in the work place when they know or should have known of the prohibited conduct.

Each division manager is required to distribute this policy to every employee and post this policy in an accessible location.

All supervisors will be provided training on conducting an investigation and resolving cases of harassment.

**E. Sanctions Against Sexual Harassment**

The CHCC will take immediate and appropriate action for acts which violate this policy against sexual harassment. Such actions will include, if warranted, suspension without pay and/or termination.

**F. Reporting Procedure**

1. Report all sexual harassment to the division manager, unless he or she is the harasser, and/or Legal Advisor for Human Resources. You may make a verbal report first and if you need assistance, he or she will help you prepare the written report of the incident(s).
  - a. The written report must contain the following information:
  - b. The identity of the aggrieved employee and the organization in which the employee works;
  - c. The details of the grievance;
  - d. The corrective action desired; and
  - e. The name of the employee's representative, if any.
2. The management will examine the grievance, conduct an investigation, discuss it with the grievant or representative and the alleged harasser, and render a decision, in writing, within fourteen (14) calendar days after receiving the grievance.

If management is not successful in settling the grievance to the employee's satisfaction within fourteen (14) days after it is presented to the employer in writing, the employee shall, within fifteen (15) calendar days after receiving written notification of the decision, submit a grievance to the HR Office Committee through the HRM.

## **G. Equal Employment Opportunity Commission**

If your grievance is not acted upon to your satisfaction, you may file a complaint with the Equal Employment Opportunity Commission (EEOC).

The EEOC in Hawaii is located at 300 Ala Moana Blvd., Room 7123A, Box 50082, Honolulu, Hawaii, 96850, or call (808) 541-3120.

The EEOC in San Francisco, California is located at 901 Market Street, Suite 500, San Francisco, California, 94103, or call (415) 356-5100.

## **7.7 Policy On Use of CHCC Vehicles**

### **A. Introduction**

Use of Corporation vehicles is limited to use for official public business. Frolic or detour for private errands or otherwise is prohibited. The Commonwealth Healthcare Corporation (CHCC) requires all employees who drive a CHCC vehicle to obtain a CNMI Government Driver's License. The CHCC requests employees who drive on behalf of the Corporation to operate vehicles safely for the protection of the public. In addition, the CHCC reminds its employees who drive to operate vehicles responsibly and maintain the vehicles so that they are available to the CHCC work force and costs of maintenance, repair and replacement are kept to a minimum.

### **B. Driver Responsibilities**

1. Documents Driver Must Carry When Driving
  - a. Valid CNMI Driver's License
  - b. Current Government Driver's License  
Current Vehicle Registration
  - c. Authorization to Drive After Regular Working Hours if driver is assigned to drive after 4:30pm Monday-Friday or on Saturday, Sunday or holidays.
2. Driver's Responsibility for Condition of Vehicle
  - a. Driver is responsible for ensuring that the vehicle is fueled and That the proper fuel is put into the vehicle.



- b. Driver is responsible for inspecting the vehicle daily to identify and correct or report obvious problems including oil level, tire inflation, signal, head and taillights, wipers.
- c. Driver is responsible for reporting any damage to the vehicle immediately to the supervisor.
- d. Driver is responsible for operating the vehicle properly, so that the condition of the vehicle is not diminished as a result of improper operation.

3. Safety Rules Drivers Must Know And Follow

- a. All CNMI driving laws;
- b. Laws regarding vehicle safety;
- c. Law regarding restrictions on use of government vehicles.

**C. Prohibitions**

No CHCC employee driving a CHCC vehicle shall drive any non-CHCC person in the CHCC vehicle unless that person is a federal employee working with the CNMI employee or the passenger is integrally involved in a presentation or conference with the CHCC employee.

No CHCC employee shall drive his or her spouse or child in a CHCC vehicle.

No CHCC employee shall take a vehicle home unless he or she is authorized by the CEO to use the vehicle on a 24 hour basis. That approval must be in writing in accordance with the CNMI Government Vehicle law and Department of Finance regulations.

No CHCC employee shall drive a CHCC vehicle while intoxicated from alcohol or under the influence of illegal drugs.

Any violations of these prohibitions are grounds for immediate termination.

## 7.8 Travel Policy

### A. General Guidelines/Policy Objectives

It is the objective of the CHCC Travel Section to achieve efficiency and consistency with the travel policy for the CHCC of the CNMI. Travel by the CHCC Board Members, Management and employees must be limited to what is necessary to accomplish the mission of the corporation. Travel for CHCC should be taken in the most economical and cost-effective manner and in accordance with this policy objective and the following travel rules. The traveler will be responsible to pay any fees associated with the cancellation or rebooking/rerouted of a reservation that is confirmed by the Travel Section, unless travel cancellations or rebooking is approved by the Chief Executive Officer (CEO).

### B. Definition of Terms

1. Actual Expense: Actual amount incurred for transportation and other expenses related to travel which are reimbursed in full to the traveler. Entitlement to reimbursement is contingent upon entitlement to per diem and is subject to the same rules governing per diem.
2. Advisory Board Member: An individual appointed and confirmed as member of the Advisory Board of the Commonwealth Healthcare Corporation for a fixed term.
3. Conference: A meeting, retreat, seminar, symposium or event that requires attendees to travel. It also applies to training activities.
4. CHCC Employee: An individual who is an employee of the Commonwealth Healthcare Corporation, whether part-time or full-time. Excludes consultants.
5. Recruitment: The hiring of staff from outside the CNMI.
6. CHCC Purpose: Relates to active conduct of CHCC's trade or business which includes but is not limited to:

Attendance at training, conferences, workshops, utility organization meetings and events outside of the employee's official post or assignment which will result in enhancing the employee's knowledge and skills that would benefit the corporation.

7. Official Station: Municipal limits of the island in which the Board Member or Employee is stationed.
8. Per Diem: A daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses.
9. Training: Includes job-related training and developmental programs offered by reputable firms locally and off-island.
10. Travel: Authority given to a Board Member or an Employee to stay temporarily on a location away from his/her official station or assignment for purposes beneficial to the Corporation or the public.
11. Travel Authorization (TA): Written permission to travel on official business.
12. Travel Voucher: A written request supported by documentation and receipts where applicable, for reimbursement or reporting of expenses incurred in the performance of an official travel.
13. Travel Advance: A form that indicates the amount of funds to be given to a traveler at the time of travel. It can be for a 100% or 80% of the total Per Diem as approved by the Chief Executive Officer.

### **C. Guidelines**

1. Factors to be Considered in Authorizing Travel
  - a. The need for travel as it relates to CHCC purpose.
  - b. The most cost-effective routing and means of accomplishing travel.
  - c. The employee's travel plan, including plans to take leave in conjunction with travel.
  - d. Availability of budget.
2. Approval Flow
  - a. Director or Manager or Supervisors initiate travel requests indicating purpose and period of travel. For Board members, the chairman initiates the request.



- b. Travel request is submitted to Accounting Section for certification of availability of funds.
- c. Travel Request is then submitted to Travel Section for processing of a Travel Authorization.
- d. Travel Authorization is then routed for proper signatures.
- e. Travel Authorization is entered into the JD Edwards system to generate a TA number.
- f. Travel Section prepares the calculation of per diem according to the official itinerary and prepares the Travel Advance form for proper signatures. (Attachment C)
- g. Travel Section will then deliver the Travel Advance to Treasurer for issuance of funds to the traveler before the travel date.

### 3. Guidelines

#### a. Flight Accommodation

##### i. Use of Economy/Coach Class

Official travels by the Commonwealth Healthcare Corporation are to be accommodated on economy/coach class service. This guideline applies to all individuals traveling at the expense of CHCC. Any memorandums issued by the Chief Executive Officer may supersede any existing relevant policies.

##### ii. Available Classes of Airline Accommodations

**Coach Class:** The basic class of accommodations offered to a traveler that is available to all passengers regardless of fare paid. This term applies when an airline offers one or more classes of accommodations, which includes tourist or economy.

**Premium Class:** Any class of accommodations above coach, e.g. first or business.

**First Class:** The highest class accommodations on multiple class airline flight. When an airline flight only has two classes of

accommodations, the higher-class, regardless of the term used for that class, is considered to be first class.

iii. Traveler liability for opting for a higher class of accommodation

If an economy class accommodation was available but the traveler went on a higher class accommodation for his/her own convenience or other reasons which did not meet any of the preceding unavoidable situations, the traveler shall make his/her own arrangement with the travel agent concerned and pay for the difference. The CHCC will pay only for the cost of the economy class.

iv. New Employees (employees on probationary period)

A newly hired employee within their 90-day probationary period will not be allowed to travel, unless an advanced approval has been obtained by the CEO prior to routing the Travel Authorization. The approval memo must be attached to the TA to support the newly hired employee's TA request.

b. Routing of Travel

A. A traveler must travel to his/her destination by the usually traveled route, as determined by CHCC unless CHCC authorizes or approves a different route.

B. If the traveler, for personal convenience, travels by an indirect route or interrupts travel by an official direct route, the reimbursement will be limited to the cost of travel by a direct route or on an uninterrupted basis. Traveler will be responsible for any additional costs.

c. Travel Cancellation

When a Travel Authorization (TA) is cancelled, the original TA together with the unused ticket and cash advances must be returned to the Travel Section on the day of the cancellation. A cover memorandum explaining the reason for the cancellation must accompany the original TA.

d. Travel Authorization

i. Purpose

- (1) Provide the employee with information regarding what expenses will be paid.
- (2) Provide travel service vendors with necessary documentation
- (3) Identify purpose of travel.

ii. The form "Travel Authorization" is prepared by the Travel Section once the travel request from the department concerned is approved by the Director or the Chief Executive Officer. This must have all the required information, approval by authorized Director or the Chief Executive Officer, and certified for funds availability prior to commencement of travel. A TA is required for all official travels.

iii. The Travel Advance Form will be filled out as soon as the Travel Authorization has been routed. Travel advance funds is calculated using the JD Edward's System Per Diem Calculator, and will then be routed for traveler signature and the CEO.

iv. Requirements

- (1) All TA forms must be fully completed along with all supporting documents including but not limited to programs, itinerary, agenda, pertaining to purpose of travel. The TA must include the employee number of the traveler.
- (2) Any type of fee associated with the purpose of the travel shall be included on the TA; for example, registration fee for a conference, training, seminar, car rental, ground transportation.
- (3) Travelers traveling on a ZERO TA must route a TA for approval and submit a Travel Voucher upon completion of the travel.
- (4) Travelers whose TA's are paid for by a different department other than the CHCC should route the TA



to CHCC for concurrence from the CEO before routing for other approval signatures.

v. Processing Time of Travel Authorization

All approved travel requests must be submitted to Travel Section at least three (3) weeks prior to the planned departure date to give ample time for Travel Section to process the request. Only approved travel requests for emergency cases shall be processed immediately.

e. Per Diem

i. The per diem allowance is a daily payment instead of a reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate from transportation expenses and other miscellaneous expenses. The per diem allowance covers all charges, including any service charges where applicable for:

- (1) Lodging – Includes expenses for overnight sleeping facilities, baths, and personal use of the room during daytime. Lodging does not include accommodations on airplanes, trains, buses or ships. Such cost is included in the transportation expense and is not considered a lodging expense.
- (2) Meals – Expenses for breakfast, lunch, dinner and related tips and taxes. Excluded are alcoholic beverages and entertainment expenses and other expenses incurred for other persons.

ii. Per Diem Rates

The amount of per diem allocated for individual travelers varies by destination, and is calculated based on the following scale.

<u>Location</u>	<u>Rate</u>
Within the CNMI	
Saipan	175.00
Rota	125.00
Tinian	100.00
Guam	175.00

US Mainland (excluding Hawaii, California, New York and Washington DC)	200.00
Hawaii, CA, NY, DC	250.00
Far East & Southeast Asia	200.00
Japan (all locations)	275.00
FSM, Palau, and Marshalls	150.00

iii. Eligibility for Per Diem

(1) The traveler is made to perform official travel away from his/her official station, or other areas.

- i. The traveler incurs per diem expenses while performing official travel; and
- ii. Traveler is in a travel status for more than 10 hours. (if travel is less than 10 hours, the employee can get a subsistence allowance of \$15.00)

iv. Start/Stop of per diem entitlement

Per Diem entitlement starts at the time the traveler departs from his/her official station and ends on the day of his/her return to his/her official station.

Travel time is computed using the JD Edwards System.

v. Maximum amount of Per Diem

A traveler may receive a travel advance for up to 30 days at a time to cover expenses allowed.

vi. Limit to amount of travel advance

An advance is limited to 80% of the total estimated per diem and other expenses as shown on the travel authorization. The remaining 20% of the per diem will be due to the traveler upon submission of a Travel Voucher provided all supporting documents are submitted with the Travel Voucher.

vii. Exclusions

Employees on recruitment, change of duty station, termination or repatriation travel are not entitled to travel advance.

viii. Travel Advances can be made only when a TA provides for the payment of the established per diem rate. Travel advances are not based and are not authorized, on other allowances such as subsistence, stipend, transfer allowance, honorarium, and incidental expense allowance which are paid when actually earned.

ix. Cancellation of a travel

If travel is cancelled for any reason after the travel advance is issued, the traveler is required to return the travel advance he/she received. Failure to return the travel advance will result in an automatic payroll deduction to recover the travel advance initiated to the traveler. The recovery of the travel advance through payroll deduction takes priority over all other allotments the traveler may have.

f. Ground Transportation

Car Rental. If a traveler is authorized a car rental, item #18 (Other) on the TA form is check marked. If this section is not signed, the traveler will not be compensated for any amount.

g. Travel Voucher

i. Purpose and requirement

A Travel Voucher Form is required to be submitted when funds for per diem and other expenses, honorarium, and travel allowance have been obligated on a travel authorization. Whether or not a travel advance was received in connection with the travel, the filing of a travel voucher is mandatory.

ii. Procedure

(1) The traveler is responsible to prepare and submit a travel voucher within 5 working days after the completion of travel. The non-filing of travel voucher when due, may require the Travel Section to refuse further issuance of travel authorization to an individual. A set of travel voucher consists of an original and two copies.



(2) The local date and time of arrival and departure from the terminal points must be shown on the form.

(3) Itemization of all expenses is required to be noted on the form and amounts.

(4) Required attachment to travel voucher

- (a) Copy of TA
- (b) Boarding Passes
- (c) Car rental Receipts
- (d) Registration Fee Receipt (if applicable)
- (e) Certificate of attendance (if applicable)
- (f) Brief Trip Report
- (g) Ground Transportation receipts (if applicable)
- (h) Hotels Receipts
- (i) Meal Receipts

h. Trip Report

Trip reports should be as brief as possible to provide information as to the actual activities covered by the trip.

i. Travel Reservations

Travel reservations can be made by the traveler, however Travel Section will make all the necessary changes/booking to ensure adherence to this Travel Policy.

## **SECTION 8 SPECIAL PROVISIONS**

### **8.1 Outside and Dual Employment**

- A. No employee shall engage in any employment other than that assigned by the Corporation whether public, private or self-employment, during scheduled work hours, nor outside scheduled work hours if such employment conflicts with the Corporation's interests or adversely affects the employee's availability or productivity.
- B. Any employee who wants to engage in outside employment with a company that may engage in business dealings with the Corporation directly or indirectly or which provide medical services shall request

approval from the Chief Executive Officer in writing. The Chief Executive Officer shall decide for or against the outside employment request according to the concept of conflict of interest under the CNMI Laws.

- C. No employee may hold two positions within the central CNMI government or any agency thereof or its autonomous corporations.

## **8.2 Certification of Employment**

No disbursing or certifying officer or cognizant authority of the Corporation shall make, approve or take any part in committing the Corporation or approving on behalf of the Corporation any payment for personal services to any person holding a position in the corporation unless the HRM has certified that the person named therein has been appointed and employed in accordance with the provisions of the classification and compensation plan of the HR Office rules and regulations.

## **8.3 Unlawful Acts Prohibited**

- A. No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment held or made, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the HR Office rules and regulations.
- B. No person seeking appointment to, or promotion in, the non-exempt service shall either directly or indirectly give, promise, render or pay any money, service or other valuable thing to any person for, or on account of, or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- C. No employee, examiner, or other person shall defeat, deceive or obstruct any person in his or her right to examinations, eligibility certification or appointment under these rules, or furnish to any person any special or secret

information for the purpose of affecting the rights of prospects or any person with respect to employment in the non-exempt service.

- D. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspects of HR Office administration because of race, color of skin,

creed, sex, religion, national origin or ancestry, age and disability except where physical requirements constitute a bona fide occupational qualifications necessary to proper and efficient administration, is prohibited.

**8.4 Gifts and Gratuities**

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to gifts and gratuities. It is the responsibility of each Corporation employee to remain free from indebtedness or favors which could tend to create a conflict of interest on the part of such employee. If employee does not have any authority in the business transaction between the CHCC and the vendor, employee is not conflicted.

**8.5 Nepotism – Employment of Relatives**

Relatives of employees of the Corporation may be employed by the CHCC in accordance with the following provision:

Relatives may be employed within the same division or department, provided there is not a direct reporting relationship between relatives who are immediate family. Immediate family includes grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses.

Conflicts may be resolved in a reorganization of reporting relationships at the discretion of the Chief Executive Officer, or the Board should the Chief Executive Officer recuse himself.

**8.6 Political Activity**

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to political activity.

**8.7 Safety Programs**

All employees are responsible for following all federal and CNMI occupational safety and health regulations and all CMS and other federal regulations applicable to hospitals.



## **8.8 Conflict of Interest**

A conflict of interest exists when an employee's loyalties become divided between the Corporation's interests and those of another, such as a competitor, supplier, colleague, associate or customer. Employees are expected to devote their best efforts and attention to the performance of their jobs. Employees are also expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employee's personal interests and the interests of the Corporation. Employees must refrain from taking part in, or exerting influence over, any transactions in which their own interests may conflict with the best interests of the Corporation.

Management reserves the right to determine when an employee's activities represent a conflict with the Corporation's interests and to take whatever action is necessary to resolve a conflict of interest, including discharge of an employee. If determined to be a conflict of interest, employee must be given a written warning that such activity is a conflict of interest.

The list below provides examples of some activities that would reflect negatively on an employee's ability to perform job duties and responsibilities in an ethical manner:

- a. Accepting substantial personal gifts or excessive entertainment from competitors, customers, suppliers, colleagues, associates or potential suppliers;
- b. Working for a competitor, supplier, colleague, associate or customer while simultaneously employed by this Company;
- c. Engaging in competition with the Company;
- d. Having a direct or indirect financial interest in the business of a competitor, customer, supplier or associate, except that ownership of less than two percent (2%) of the publicly traded stock of a corporation will not be considered a conflict of interest;
- e. Using Corporation assets or labor for personal use;
- f. Borrowing money from competitors, suppliers, customers, associates or potential suppliers other than recognized loan institutions (i.e., banks); or

- g. Misusing one's position in the Corporation for personal gain to the detriment of the Corporation.

Employees who are uncertain whether a transaction, activity or relationship may create a conflict of interest should discuss the situation with their supervisor for feedback without detriment to their employment.

## **8.9 Whistleblower's Policy**

### **A. Reprisal Prohibited**

No CHCC employee or Board Member shall engage in reprisal against an employee for disclosing a violation or suspected violation of a CNMI or federal law, or a regulation promulgated by CHCC pursuant to CNMI law.

### **B. Application**

An employee who reports, or who is known by any person in a management or supervisory position to have indicated to report, such violation or suspected violations shall be protected by this rule, unless the employee knew the report was false. This protection shall extend to employees who participate, or who have indicated an intent to participate, in an investigation, hearing or inquiry conducted by a public body, and to employees who participate, or who were known by management or supervisor to have indicated an intent to participate in a court proceeding.

### **C. Forms of Reprisal**

Reprisal includes such actions as discharge, threats of discipline, or material changes in the conditions of employment.

## **SECTION 9 DRUG AND ALCOHOL ABUSE POLICY**

### **9.1 Basis for the Policy**

The Commonwealth Healthcare Corporation (CHCC) is committed to protecting the safety, health and well-being of its employees and of all people who come into contact with its workplace(s) and property and/or use its services.

Drugs and alcohol pose a direct and significant threat to our goal. An employee who uses drugs and alcohol and then goes to work at CHCC puts his or her life in danger and threatens the lives of co-workers and of the public. Drugs and alcohol do not allow us to reach our full potential. Drug and alcohol abuse prohibits us from having a safe and efficient workplace.

## **9.2 The Rules of a Drug-Free Workplace**

### **A. Application**

This policy applies equally and without exception to all Commonwealth Healthcare Corporation HR Office no matter what position or employment status, including all management employees, contract employees and part-time employees.

### **B. Prohibitions**

1. The Commonwealth Healthcare Corporation prohibits the use, possession, sale, conveyance, distribution or manufacture of illegal drugs, intoxicants or controlled substance in any amount or manner while engaged in work or work-related activities or in any pay status. In addition, the Commonwealth Healthcare Corporation strictly prohibits the abuse of prescription drugs.
2. Drugs and alcohol are strictly prohibited from CHCC vehicles.
3. Employees may not accept from anyone (an employee, boss, customer, friend, relative, etc.) any drugs or alcohol, or money to purchase illegal drugs during working hours or while the employee is operating or riding in a CHCC vehicle.
4. Employees who are on "stand by" are prohibited from drugs or alcohol usage. Do not come to work under the influence of drugs or alcohol.
5. Refusing to submit to drug testing as provided for in this policy is a violation of work rules. Refusal to submit means the employee:
  - Makes a verbal declination after being given a clear and specific order to submit to urine and/or breath testing.



- Fails to provide adequate breath for testing or does not produce a urine specimen without valid medical explanation after he or she has received notice of the requirement to be tested.
  - Engages in conduct that clearly obstructs the collection process.
6. Refusing to submit to treatment, or to meet the requirements of the treatment program, is a violation of this policy.
  7. An employee adversely affected in his or her use of any legally obtained drugs (prescription or non-prescription drugs) cannot be allowed to perform a safety sensitive job (as described in Section III, A, 1). Prior to commencing work, each employee must report immediately to his or her supervisor/manager the use of any prescription drug which may affect performance or that contains a cautionary label regarding the operation of equipment or vehicles.

### **C. Consequences of Conduct in Violation of Policy**

The Corporation recognizes the need to offer treatment to employees with substance abuse problems. However, CHCC will not accept employee conduct that interferes with the Corporation's goal of having a drug and alcohol free workplace.

Therefore any employee who:

- Refuses to submit to a drug or alcohol test authorized by this policy,
- Refuses to participate in, meet program requirements and complete a CHCC approved drug or alcohol treatment program, or
- Uses a prohibited substance (verified by a "positive" drug or alcohol test) *after* having been referred previously to an approved drug or alcohol program because of a positive drug or alcohol test or an admission of substance abuse will be terminated under the applicable HR Office procedures.

### **9.3 Drug and Alcohol Testing**

The Commonwealth Healthcare Corporation asserts its legal right and prerogative to test employees for substance abuse. Employees may be

asked to submit to medical examination and/or to submit urine and/or breath to be tested for drugs or alcohol.

**A. Basis for Testing**

To ensure the safety of both CHCC's employees and the public, employees will be required to undergo drug and/or alcohol testing under the following circumstances:

1. Employees who perform a safety-sensitive function or whose work exposes others to risk will be tested when hired and randomly thereafter. Safety-sensitive function means performing work involving hazardous tasks directly affecting the safety of others.
2. Any employee may be tested for cause following an accident.
3. All employees will be subject to drug/alcohol testing if there is reasonable suspicion to believe the employee may be under the influence of some drug or alcohol. Reasonable suspicion for drug/alcohol testing means specific, articulated observations concerning the appearance, behavior, speech or body odors of the employee. In other words, a reasonable suspicion decision consists of specific facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a trained supervisor to reasonably conclude an employee may have engaged in on the job drug or drug/substance including alcohol.

**B. Referral**

An employee who tests positive for any prohibited substance will be referred to treatment. Referral to treatment will be confidential with the exception of those management HR Office necessary for the implementation of this policy. Refusal to accept treatment, or a second positive test are grounds for adverse employment action. Employees are allowed the opportunity for rehabilitation under the following conditions.

1. Voluntary self-referrals by the employee, prior to any type of incident or accident/incident or notification of random testing.
2. Management intervention/referral prior to any incident or accident/incident. Employees who are referred as part of a supervisory performance counseling or intervention based on

admitted substance abuse problems are assured of confidentiality. Only those in the chain of responsibility may be aware of a referral/treatment request.

4. Positive test referrals If any employee tests positive for the presence of alcohol or prohibited drugs, they shall be referred to a substance abuse professional for assessment and will be required to fulfill specified steps of treatment before being considered ready for evaluation for return to duty to any position at CHCC.

#### 5. Return to Duty

An employee, either referred by CHCC or self-referred, having previously tested positive for drugs or alcohol or voluntarily acknowledged being under the influence of drugs at any time or alcohol while on duty, will not be allowed to return to work until the employee:

1. Successfully completes a program of treatment; and
2. Tests negative for covered substances and is evaluated and released for duty by a substance abuse professional or a doctor; or
3. Is released by a substance abuse professional (if the referred was alcohol related).

Any employee, returning to duty after drug or alcohol treatment, may be subject to unannounced drug or alcohol tests for up to 60 months after returning to work.

#### **9.4 New Hires: Pre-employment Testing**

All new hires are required to submit to a pre-employment drug test. No employee will be placed on duty until testing is performed. Failure to pass this drug test shall result in denial of employment.

#### **9.5 Notification of Criminal Convictions**

Any employee convicted of a violation of a criminal drug statute must notify the Commonwealth Healthcare Corporation in writing within-five (5) calendar days for the conviction.



**9.6 Searches**

When the Commonwealth Healthcare Corporation has reasonable suspicion that an employee has illegal drugs or alcohol on CHCC premises or in a CHCC vehicle, CHCC may conduct an inspection at any time, including during breaks and lunch period while the employee is on the Corporation's premises or property, or while conducting Corporate business.

The search areas may include at the employee's work area and CHCC vehicle, his or her locker, desk, work station, vehicles, or any other CHCC property he or she uses, or has access to available for inspection. Entry on to Corporate premises constitutes implied consent to reasonable search and inspection. An employee who refuses to consent to a reasonable search or inspection when requested by the Commonwealth Healthcare Corporation violates Corporate policy and is subject to adverse employment action.

**9.7 Employee Assistance**

The Corporation makes available to all employees a confidential rehabilitation program through the Commonwealth Health Center's Substance Abuse/Addiction Treatment Program. This program is available at low cost to employees and their departments, and includes initial assessment, referral and counseling.

The Substance Abuse/Addiction Treatment Program includes family support, counseling and reinforcement, all of which can be critical to the successful rehabilitation of a substance abuser.

Any subsequent treatment, after referral from the Substance Abuse/Addiction Treatment Program to an outside treatment provider, may be covered under the employee's health coverage. The costs of continuing or long-term rehabilitation services, whether covered by the employee's medical plan or not, are the ultimate responsibility of the employee.

**9.8 Confidentiality**

The result of drug tests, the facts or referrals to treatment and employees' voluntary statements concerning drug use are strictly confidential. Information shall be limited to the Chief Executive Officer, the HRM, and the Corporation Legal Counsel and confidential. Such information is to be used only provided in this Policy. Any disclosure of

confidential information received under the terms of this policy by any CHCC employee shall be grounds for disciplinary action, up to and including termination of employment.

**9.9 Violation of Policy**

Violation of this policy shall result in adverse employment action up to and including dismissal and referral for criminal prosecution.



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## EMPLOYMENT STATUS ACKNOWLEDGEMENT FORM

The Commonwealth Healthcare Corporation has selected me \_\_\_\_\_  
to fill the vacant position of \_\_\_\_\_ under ninety (90) days Provisional  
Appointment to pursuant to Section C(3), Selection, of the CHCC Employment Policy Manual. I  
understand as a Provisional Appointee, I am subjected and must conform to the following terms  
and conditions:

1. I must complete and submit an updated Application for Employment form and required supporting document to the Human Resource Office prior to the closing date of the announcement.
2. I understand my employment with the Commonwealth Healthcare Corporation is a temporary one and may be subject to termination or separation, with or without cause, and with notice, at any time.
3. I understand that I must still compete with other interested applicants applying for the announced position.
4. I understand that my continuing employment with the Commonwealth Healthcare Corporation is contingent upon the certification of my qualifications, the job interview results, and that my performance **MUST** be maintained as satisfactory during this appointment.
5. I understand that the department/unit may terminate my employment should they find other candidates more qualified and better suited for the vacant position other than myself; and,
6. I understand that upon proper separation from employment, I have no appeal rights in relation to this appointment.

I have read and agreed to the forgoing terms and condition and I hereby affixed my signature to acknowledge my understanding of my employment status.

\_\_\_\_\_  
Provisional Appointee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manager, Human Resources

\_\_\_\_\_  
Date

Rev. #2 04/08/16

CHCC HUMAN RESOURCES RULES AND REGULATIONS, ATTACHMENT A

P.O. Box 500409 CK, Saipan, MP 96950

Telephone: (670) 236-8204 FAX: (670) 236-8756





Commonwealth Healthcare Corporation  
Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## *Human Resources*

For explanation on how the applicants are evaluated, refer to the following qualification factors below:

### **1. EDUCATION**

Education is a qualification factor used to determine the level and kinds of education achieved by an applicant. It is a necessary qualification requirement needed in order to perform the job successfully. The knowledge possessed determines how qualified the applicant is in relation to the position applied for.

#### **a.) Level of Education**

Consider the number of undergraduate and/ or graduate semester/ quarter hours achieved or the level of degree completed by the applicant. Applicants will be rated higher for having a higher level of education achieved.

#### **b.) Kinds of Education**

Consider the kinds of undergraduate and/ or graduate subjects/ courses completed by the applicant. If the applicant is a degree holder, determine the type of degree earned. Applicants will be rated higher for possessing related subjects/ courses.

Whenever an applicant applies for a vacant position and the position has an MQR of an equivalent combination of education and work experience, a conversion must then be made on the qualifications to determine the equivalency level between the number of undergraduate semester hours versus the month(s) and year(s) of work experience possessed.

**For Example:** If an applicant is a high school graduate and is applying for a position having an equivalent combination MQR of an AA degree in Accounting plus two (2) years of accounting related work then the applicant must possess any of the following equivalent combination to qualify. Refer to the Conversion Chart on the next page.

<b>CONVERSION CHART (Work Experience for Education)</b>		
<b>MQR of Vacant Position</b>	<b>Education Level of Applicant (ELA)</b>	<b>Equivalent Combination Required</b>
A.A. + 2 years of Accounting Related Work.	High School Graduate + 0 USH	ELA + 4 yrs. 3 mos. of related. Work Experience
	High School Graduate + 15 USH	ELA + 3 yrs. 10 mos. of related. Work Experience
	High School Graduate + 30 USH	ELA + 3 yrs. 2 mos. of related. Work Experience
	High School Graduate + 45 USH	ELA + 2 yrs. 6 mos. of related. Work Experience

To convert any other equivalent combination of education for related work experience and vice versa, refer to the Conversion below.

<b>CONVERSION CHART (Work Experience for Education)</b>	
<b>Level of Education [Undergraduate Semester Hours]</b>	<b>Length of Related Work Experience [Year(s) – Month(s)]</b>
1 – 4	0 – 0
5 – 8	0 – 2
9 – 12	0 – 4
13 – 16	0 – 6
17 – 20	0 – 8
21 – 24	0 – 10
25 – 28	1 – 0
29 – 32	1 – 2
33 – 36	1 – 4
37 – 40	1 – 6
41 – 44	1 – 8
45 – 48	1 – 10
49 – 52	2 – 0
53 – 60	2 – 2
<b>A.A. / A.S. Degree</b>	2 – 3
61 – 64	2 – 4
65 – 68	2 – 6
69 – 72	2 – 8
73 – 76	2 – 10
77 – 80	3 – 0
81 – 84	3 – 2
85 – 88	3 – 4
89 – 92	3 – 6
93 – 96	3 – 8

97 – 100	3 – 10
101 – 104	4 – 0
105 – 108	4 – 2
109 – 112	4 – 4
113 – 120	4 – 6
<b>B.A. / B.S. Degree</b>	4 – 7



## TABLE OF DISCIPLINARY ACTIONS

### Key: Recommended Disciplinary Actions

- V** = Verbal Reprimand or Warning or Counseling
- W** = Written Reprimand
- I** = Immediate Suspension without pay
- R** = Regular suspension
- D** = Demotion
- T** = Termination

TYPE OF OFFENSE	Disciplinary Actions					
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>
1. Abuse or destruction of CHCC property	V	W	R	T		
2. Any breach of duty or trust to the Corporation	V	I	T			
3. Any violations of HIPAA	V	W	R	T		
4. Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Division Head due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL)	T					
5. Ethics Code Violation	V	W	I	T		
6. Falsification of employment application	T					
7. Fighting and/or acts of violence; or threats of violence constituting assault	T					
8. Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than <i>de minimis</i>	V	W	I	T		
9. Harassment of other employees or the public, or violation of Corporation's sexual harassment policy	W	T				
10. Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance	V	W	D			
11. Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known	V	W	R	T		

TYPE OF OFFENSE	SANCTIONS					
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>
to the employee						
12. Leaving the work site during working hours without permission from supervisory officials	V	W	R	T		
13. Misuse mail, phones, computer system, internet access	V	W	R	T		
14. Other conduct or failure of performance which the management of the Corporation reasonably recognizes as justification for serious discipline, including dismissal	I	D	T			
15. Possession of weapons, explosives	T					
16. Punch another's time card/alter time records	V	W	R	T		
17. Repeated violations of CMS regulations or a single violation if the conduct is egregious	V	W	R	T		
18. Sleeping on duty	V	W	R	T		
19. Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance	T					
20. Theft, conversion, or unauthorized removal of corporation's property, or the use of Corporation property without authorization	T					
21. Unauthorized removal of property of CHCC or stealing government property while on duty	V	W	R	T		
22. Unauthorized use of CHCC vehicles, equipment	V	W	R	T		
23. Use of obscene or abusive language	V	W	R	T		
24. Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out in the Manual	V	W	R	T		

TYPE OF OFFENSE	SANCTIONS					
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>

## SANCTIONS FOR VIOLATION OF RULES

The CEO or the HR Manager, in consultation with the Legal Counsel, has the option of imposing a lesser or greater penalty than the suggested remedial action/starting point where the particular circumstances warrant or require it, in the management's judgment.



# APPENDIX D



## Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



### OUTSIDE EMPLOYMENT REQUEST & APPROVAL FORM

An employee may undertake outside employment only if such is not in conflict with his/her work assignments and duly scheduled work hours of his/her employment with the Commonwealth Healthcare Corporation (CHCC), and only with the consent in writing of the CHCC management. This form shall be updated annually and/or when there is a change.

Check One:  New Request  Update to Request on File      Date of Request: \_\_\_\_\_

NAME OF EMPLOYEE: \_\_\_\_\_

POSITION TITLE: \_\_\_\_\_ DEPARTMENT/UNIT: \_\_\_\_\_

#### INFORMATION ABOUT SECONDARY OR OUTSIDE EMPLOYMENT:

NAME OF EMPLOYER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

START DATE OF EMPLOYMENT: \_\_\_\_\_ END DATE OF EMPLOYMENT: \_\_\_\_\_

NATURE OF WORK: \_\_\_\_\_

#### CHCC'S POLICY/CONDITIONS OF EMPLOYMENT: 8. OUTSIDE EMPLOYMENT

The Employee may provide services to persons other than the Employer only if full disclosure is made by the Employee to the Employer and:

- A. The Employee receives the prior written approval of the Employer, and
- B. The outside employment does not conflict with the Employee's obligations or interfere with the Employee's performance of his/her duties under this contract of employment, and
- C. The outside employment is not, or does not appear to be, adverse to or in conflict with the interests of the corporation.

I, \_\_\_\_\_, request permission to engage in secondary or outside employment. I have read the CHCC's Policy/Conditions of Employment, Section 8. Outside Employment above and understand that my secondary or outside employment must not conflict nor interfere with the duties and responsibilities of my position at the CHCC and I will comply with the aforesaid Policy/Conditions of Employment.

Signature of Requestor/Employee: \_\_\_\_\_

Legal Counsel's Signature: \_\_\_\_\_  Recommended  Not Recommended

Chief Executive Officer/Signature: \_\_\_\_\_  Approved  Not Approved

Distribution: ● one copy each – Employee ● Assigned Department /Unit ● HR

# APPENDIX E



## Commonwealth Healthcare Corporation

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
1 Lower Navy Hill Road, Navy Hill, Saipan, MP 96950



### CONDITIONS OF EMPLOYMENT

The following conditions pertain to the employment contract and are incorporated into it. The employee must read these terms before signing the contract. The signing of the contract will show assent to each of the terms set out below. The Employee confirms that s/he shall comply with these Conditions of Employment.

#### 1. PRE-EMPLOYMENT CONDITIONS STANDARDS:

- A. The Employer requires that all persons employed by the CNMI be certified as physically capable of performing the duties of the position. They must be free from communicable diseases and any present medical condition that would prevent them from successfully and safely performing the essential elements of the position.
- B. The Employee shall be examined after receiving an offer of employment by medical personnel authorized by the Employer to conduct such examinations for employment purpose, and the results shall be recorded on forms prescribed by the Manager of Human Resources and will be subsequently filed in the Employee's official and confidential medical record at the Commonwealth Health Center. All of the rights afforded to an Employee under the Americans with Disabilities Act of 1990 will apply.
- C. At the time of application, applicants for any position will be notified that any offer of employment is contingent upon a negative urine test for illegal or unprescribed controlled pharmaceuticals. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. Testing shall be conducted in conformity with the CNMI Drug testing procedures applicable to CNMI government employees.

#### 2. COMPENSATION AND WORK SCHEDULE:

- A. **Compensation:** The Employee shall earn his salary on the basis of a twelve-month (12) work year consisting of twenty-six (26) bi-weekly pay periods. In cases of early termination, the gross pay will be reduced by the period in which no service is rendered.
- B. **Work Schedule:** The Employee's work schedule is based on the essential duties set forth in the attached job description. The Employee's workday and workweek may vary from time to time according to the needs of the Corporation. The Employee's specific assignment may also require shifts, night duty, irregular, split or on-call schedules unless otherwise specified in the employment contract.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_



Every effort will be made to maintain a consistent and reasonable five (5) day, forty (40) hour workweek. However, subject to fiscal necessity, the Employer may reduce the number of work hours and compensation or salary without need to amend this contract.

The Employee agrees by acceptance of this employment to the schedule variations that may be required by the needs of the job, as determined by the Employer.

If the Employer determines there is a fiscal necessity, the Employer may reduce the Employee's work hours from a regular 40-hour workweek to a lesser number of hours, such as a 32-hour workweek. During any such period of budgetary constraint, the Employee's biweekly pay will be reduced to reflect the reduction in hours worked.

Additionally, the Employee's use of annual and sick leave will be restricted during any such period of fiscal necessity. The paid leave hours taken during a week by the Employee will be added to any regular hours that the Employee works during that week, and the total hours may not exceed the maximum number of hours per week that the Corporation has established (such as 32 per week), unless the Employee an exception from the reduced workweek hours requirement.

Unless a lesser notice period is established by legislation, the Employer will provide a written 30-day notice of the Corporation's intent to decrease work hours.

- C. **Work Hour Reduction, Reduction in Force, Furlough, or Other Fiscal Austerity Measures:** The terms of this contract shall be superseded by any legislation enacted to reduce the payroll obligations of the Commonwealth Healthcare Corporation by way of work hour reduction, government shutdown, furlough, or other measures adopted for the express purpose of fiscal austerity. The parties to this contract agree that the Employer shall not be liable for any reduction in pay or benefits due to such legislation.
- D. **Overtime:** As noted in the special terms and conditions of the contract, this position is either covered under the Fair Labor Standards Act of 1938, as amended (FLSA), for overtime and compensatory time purposes or is exempt from such coverage. An Employee who is not exempted from payment of overtime by the federal FLSA shall be paid overtime or given Compensatory Time-Off at the rate of one and one-half (1 ½) times the regular rate of pay for hours actually worked in excess of forty (40) hours a week; provided, however, that no Employee shall work more than 40 hours per week without written approval in advance by the Employer. Any such overtime approval shall be on forms prescribed by the Employer. The Employee understands and agrees by acceptance of this employment that Compensatory Time-Off may be used to replace overtime payments as authorized by the Fair Labor Standards Act. An employee who is exempted from payment of overtime by the federal FLSA shall not be paid overtime unless such payment is authorized by the Employer.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_



E. **On-Call or Other Differential Payment:** Eligibility for On-Call assignment and authorization for On-Call or other differential payments are determined by the Employer as a matter of policy and will not be included as terms to these Conditions of Employment or the Employment Contract. On-Call time is not work time and will not be compensated as work time or compensatory time. Time called back to work for those Employees who are not exempt from payment of overtime will be considered work time and will be compensated as overtime as explained in paragraph 2.D, above.

F. **Effective Dates:**

(1) **Appointment/Contract Start Date:** Appointments or contracts and the Conditions of Employment for all employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the Employee reports to work to the post of assignment in the Commonwealth.

(2) **Separation Date:** Separation upon completion of the contracted term of employment shall be effective on the last day of the term of employment, as stated in the appointment letter or contract or, if terminal leave is used, the date that leave ends, whichever date is later.

(3) **Early Termination:** Early termination of an appointment or contract by the Employer, with or without cause, or through resignation, shall be effective on the date of termination stated in the termination or resignation letter. Repatriation travel time is outside the contract period and will not be compensated.

3. **EMPLOYEE CONDUCT: GENERAL COMPLIANCE WITH RULES AND REGULATIONS:** The Employee and the Employee's dependents are subject to the laws, policies, rules and regulations of the Commonwealth that concern personal and work-related conduct and activities while employed by the Employer.

4. **MANDATORY PARTICIPATION IN THE FEDERAL SOCIAL SECURITY SYSTEM:** Public Law 17-82, the CNMI Pension and Recovery Act of 2012, requires mandatory participation in the Federal Social Security System for any employee who is a citizen or lawful permanent resident of the United States.

5. **LEAVE:**

A. **Annual Leave:** Annual leave shall accrue to the Employee at the rate of four (4) hours per pay period or as otherwise specified in the Special Terms and Conditions of the Employment Contract.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_

- (1) The Employee employed in the first year of the Contract shall be entitled to use Annual Leave only after having been employed for a continuous period of ninety (90) calendar days without a break in service. This restriction does not apply to Employees re-employed on an immediately subsequent contract or appointment.

The Employee will be charged Leave Without Pay (LWOP) for any leave taken prior to the initial ninety (90) days.

- (2) Annual Leave may be used only upon prior written approval of the Employee's immediate supervisor.
- (3) Annual Leave must be utilized during the contract/appointment period. No cash payment will be made for any unused annual leave during any period of employment. In the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued annual leave by means of payroll extension and shall not be entitled to receive a single lump-sum payment for total accrued annual leave on termination.
- (4) If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment within the corporation, accrued and unused Annual Leave credits from the prior contract/appointment, not to exceed 360 hours, may be carried over to the new contract/appointment period. Any accrued and unused annual leave in excess of 360 hours will be converted to sick leave.
- (5) The accumulation of accrued and unused annual leave cannot exceed 360 hours on January 1 of any new calendar year. Any accrued and unused annual leave in excess of 360 hours at this time will be converted to sick leave.

B. **Sick Leave:** Sick leave shall accrue to the Employee without limit at the rate of four (4) hours per pay period.

- (1) The Employee is entitled to use Sick Leave from the time Sick Leave first accrues.
- (2) Sick leave with pay shall be allowed whenever the employee is compelled to be absent from duty because of illness or injury or because of quarantine of the Employee's family or residence. Use of sick leave is appropriate for medical, dental or optometry examination or treatment, or for any mental health examination, counseling or treatment; or when required for the treatment and medical/dental referral escort of the Employees' minor dependant or ward.
- (3) The Employer may require a doctor's certification when the Employee has missed more than three (3) continuous days of work. The Employer may also require proof of illness for any claimed period(s) of less than three days as appropriate.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_

(4) The Employee may apply for sick leave to attend to an immediate family member who requires his or her presence due to an illness or injury. For leave in excess of two (2) consecutive days, such request shall be supported by a certified statement from an attending physician that the Employee is needed to care for the immediate family member. Such use of Sick Leave will be in accordance with the Corporation's policy and is subject to the approval of the Human Resources Manager.

(5) Upon completion of the present employment contract or termination of employment, Employee will not be paid for accrued and unused Sick Leave credits, but if the Employee agrees to another contract or appointment within three years of finishing the prior contract or from separation, whichever is later, the Sick Leave will be re-credited to the Employee's account.

(6) Where an offer and acceptance for a new period of employment is agreed upon under a new contract within the corporation. All accrued and unused Sick Leave credits from the prior contract will be carried over to the new contract period.

(7) Sick Leave may be accumulated without limit, but has no cash sell-back value and cannot be converted to annual leave.

C. **Leave Without Pay:** Leave Without Pay may be taken only after obtaining the prior written approval of the Employer, except in cases of emergency. Any leave without pay taken without the Employer's approval will be considered Absent without Leave.

D. **Administrative Leave With Pay:** Administrative Leave is absence authorized under emergency conditions beyond the control of management (e.g., typhoons), or for participation in civic activities of interest to the corporation, or to attend employment related examinations or professional development activities, or for such other special purposes as the Employer may determine. Administrative Leave with pay will be granted only in exceptional circumstances determined by the Employer.

E. **Other Leaves:** The Employee may be eligible for other leaves as determined by the Employer.

6. **EXPATRIATION AND REPATRIATION (applicable to Off-Island Hire Only):**

A. **Travel:** Travel expenses shall be paid by the Employer as follows:

(1) Economy air transportation costs by the shortest direct route for the Employee and the Employee's dependents from the point of recruitment to the duty station.

(2) No salary will be paid during the period of travel. The paid contractual period of employment will begin on the first day of work.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_



**B. Repatriation:**

- (1) Upon completion of the agreed upon period of service under this contract or any subsequent employment contract entered into upon the expiration of this contract, the Employer shall pay all return travel expenses to the point of recruitment, to the same extent and subject to the same limitations as enumerated in section 6.A above.
- (2) The Employer will provide a one-way economy ticket to the point of recruitment for the employee and each authorized dependent. This ticketing benefit will only be provided upon the Employee's full separation from employment.
- (3) The Employer will be discharged of this responsibility if repatriation benefits are not utilized within six (6) months of the Employee's date of separation.
- (4) An Employee who has separated from employment and has utilized contractual repatriation benefits will not be eligible for expatriation or repatriation benefits on the new contract if rehired within six (6) months from the date of separation.

C. **Check-out:** Before repatriation benefits are given and the final paycheck is issued, the Employee must obtain signatures from the Department of Finance, and Commonwealth Healthcare Corporation, the Commonwealth Utilities Corporation and the Office of Human Resources as evidence that the Employee has no outstanding debts owed to the Government.

D. **Early Termination of Contract:** "Early termination" occurs where the Employee resigns or willfully abandons his/her position or is terminated for cause prior to the end of the contract term.

- (1) If an Employee terminates the contract within the first year:
  - a) The Employer will not be liable for any repatriation expenses.
  - b) The Employee must repay the cost to the Employer of the Expatriation benefits and other costs paid by Employer related to recruitment.
  - c) If other arrangements are not initiated by the employee, the Employer will deduct the expatriation expenses from the Employee's remaining paychecks.
- (2) If an Employee on a two-year contract terminates the contract after completing one year service, the Employer will not be liable for any repatriation expenses and the Employee will not have to repay the expatriation cost. Accrued annual leave may be used to reach the one year of service.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_

7. **JOB DESCRIPTION:** In order to be a valid and binding agreement, this contract (unless it is for renewal) must have attached a detailed job description of the Employee, a complete application and other pertinent documents such as a college transcript, professional licenses and training certificates.
8. **OUTSIDE EMPLOYMENT:** The Employee may provide services to persons other than the Employer only if full disclosure is made by the Employee to the Employer and:
- A. The Employee receives the prior written approval of the Employer, and
  - B. The outside employment does not conflict with the Employee's obligations or interfere with the Employee's performance of his/her duties under this contract of employment, and
  - C. The outside employment is not, or does not appear to be, adverse to or in conflict with the interests of the corporation.
9. **INSURANCE:**
- A. **Workmen's Compensation:** In the event of on-the-job related injury or illness, he Employee shall be entitled to benefits under the Workmen's Compensation Insurance Contract in force for the Northern Mariana Islands Government. The Employee is responsible for reporting any on-the-job work related injury or illness to the Employee's Supervisor as soon as possible.
  - B. **Health and Life Insurance:** Group life insurance coverage is available to all employees who work at least twenty (20) hours per week; provided, however, that should a group life insurance policy be in effect covering employees not meeting the stated requirements, such as coverage shall immediately be afforded such employees. Group health insurance coverage is available to all employees of corporation. Brochures and other information concerning nature and extent of coverage, cost to the employee and manner of processing claims shall be available at the Northern Mariana Islands Settlement Fund.
  - C. **Limitation on Insurance:** The Employee is advised that the Corporation provides no insurance except that referred to in paragraphs A and B above, and the Corporation assumes no liability for loss or damage to personal property or vehicles in the workplace.
10. **ADDITIONAL TERMS AND CONDITIONS:** Upon mutual agreement of the Employer and Employee, any special terms and conditions may be placed in the section provided on the contract to the extent that they are not inconsistent with, and in no way purport to amend, these conditions of employment. No additional amendments will be made or attached to these terms and conditions.

(Revised: 04/01/2015)

Employee's Initial: \_\_\_\_\_

**11. RENEWAL OF THE CONTRACT:**

- A. This contract expires and terminates on the final day of the contract period. It is not automatically renewable, nor does it create any obligation to renew the contract.
- B. If the Employer decides not to offer a new period of employment and not to execute a new employment contract, that decision cannot be appealed, regardless of the reason, if any, for the decision.

**12. EARLY TERMINATION AND RESIGNATION:**

- A. The Employer may terminate the Employee without cause upon sixty (60) days notice in advance of termination of employment.
- B. The Employer may terminate the Employee with cause upon seven days advance notice of termination of employment.
- C. When resigning, the Employee must give notice of sixty (60) days in advance of termination of employment. The Employee's Appointing Authority may waive this requirement of advance notice at the time of resignation.

**13. AGREEMENT TO CONDITIONS OF EMPLOYMENT:**

I have read the terms and conditions of these Conditions of Employment and confirm that I understand them. By my signature, I agree to abide by them as part of the terms and conditions of my employment.

Date: \_\_\_\_\_

\_\_\_\_\_  
**EMPLOYEE**

**For the Commonwealth Healthcare Corporation:**

Date: \_\_\_\_\_

\_\_\_\_\_  
**MANAGER, HUMAN RESOURCES**