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CHAPTER 86
GUAM BEHAVIORAL HEALTH AND WELLNESS CENTER

2013 NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center pursuant to P.L. 32-024:4.

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- § 86109. Guam Drug and Alcohol Detoxification, Rehabilitation, and Prevention Grant Program.
- § 86110. [Repealed]
- § 86111. Mental Health and Substance Abuse Services Fund.

§ 86101. Policy.

It is hereby declared to be the public policy of the territory of Guam, to provide comprehensive inpatient and community-based outpatient mental health, alcohol and drug programs and services for the people of Guam, and to continually strive to improve, enhance, and promote the physical and mental well-being of the people of Guam who experience the life-disrupting effects of mental illness, alcoholism and drug abuse or are at risk to suffer those effects and who need such assistance and; to provide such assistance in an efficient and effective manner in order to minimize community disruption and strengthen the quality of personal, family and community life.

It shall be the public policy of the government of Guam to encourage the development of privately-funded community based programs for mental health, drug and alcohol abuse, in particular those programs that employ qualified local residents. As those services become developed and/or available in the Territory, the government of Guam may gradually phase out of such operations.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85101. Codified as 10 GCA § 86101.

§ 86102. Definitions.

For purposes of this Chapter, the following definitions shall apply unless otherwise specifically provided.

(a) Department. Department means the Guam Behavioral Health and Wellness Center (GBHWC).

(b) Director. Director means the administrative head of the Department.

(c) Council. Council means the Council on Mental Health and Substance Abuse.

(d) Mental Illness. Mental Illness means those diseases and conditions which the manifestations of which seem mostly to affect a person's behavior, feelings, thinking and perception and view of the world around him to the extent that his mental health is substantially impaired, including the mentally retarded.

(e) Alcoholism. Alcoholism means a category for persons whose alcohol intake is great enough to damage their physical health, or their personal or social functioning or when it has become a prerequisite to normal functioning.

(f) Drug Abuse. Drug Abuse means the use, without compelling medical reason, of drugs which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

(g) Treatment. Treatment means the broad range of emergency, outpatient, intermediate care including diagnostic evaluation; medical psychiatric, psychological, and social service care; vocational rehabilitation and career counseling which may be extended to mentally ill clients, alcoholics, and drug abusers.

(h) Community-Based Services. Community-Based Services means the provisions of mental health, alcohol and drug abuse services in a non-institutional setting that is located within (or as close to) the client's community.

(i) Prevention. Prevention means a proactive, interdisciplinary, and multi-cultural approach designed to empower the individual with social competencies to enable him to cope with life stresses and promote a

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healthy functioning life-style. It is proactive in that it spans the deliberate activity before the onset of the problem. It is interdisciplinary in that it spans the traditional human service delivery systems. It is multi-cultural as it recognizes the diversity of values of the multi-ethnic people of Guam and neighboring Pacific Islands. In empowering people, it enhances their natural support system or, when this support is absent, provides a means of enabling them to help themselves, moving them from dependency toward personal autonomy in ways that are acceptable to them.

(j) Provider. Provider means a professional employed in the field of mental health, drugs and alcohol.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85102. Codified as 10 GCA § 86102. Subsection (a) amended by P.L. 32-024:3 (May 6, 2013).

§ 86103. Creation of Department.

There is within the government of Guam the Guam Behavioral Health and Wellness Center. The Council, by an affirmative vote of four (4) members, shall select and, with the approval of *I Maga'låhi* (the Governor), appoint the Director of the Guam Behavioral Health and Wellness Center, with the advice and consent of *I Liheslatura* (the Legislature). The Director shall be responsible for the day-to-day operations of the Department. The Director's salary shall be as provided by Title 4, Guam Code Annotated, Chapter 6, Article 2, § 6206.1.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85103. Codified as 10 GCA § 86103. Amended by P.L. 32-024:3 (May 6, 2013).

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§ 86104. Effective Date of Transfer.

(a) Effective October 1, 1983, all working capital, accounts payable and receivable, all books, records, obligations, assets, liabilities, agreements and privileges pertaining to the operations of the existing Community Mental Health Center and Mental Health and Substance Abuse Agency shall be transferred to the Guam Behavioral Health and Wellness Center.

(b) Upon the transfer of functions, all independent contractors and contract employees of the Mental Health and Substance Abuse Agency and the Community Health Center shall have the option of completing any

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existing contracts upon which they may be retained. No person who accepts a transfer to the Department shall, during the remainder of the term of his existing contract, which term shall in no event be extended:

(1) be removed from his employment except for cause; or

(2) have his salary or any of his benefits of government employment, if any, reduced except as such salary and benefits that may be reduced uniformly for all government employees.

(c) Upon the transfer of functions, all classified employees of the Mental Health and Substance Abuse Agency and all classified employees except the nurses of the inpatient unit of the Community Mental Health Center of the Guam Memorial Hospital Authority shall be transferred to the Department in the same grade and step as they held at the time of transfer. They shall continue to be members of the classified service. The nurses of the inpatient unit of the Community Mental Health Center shall remain classified employees of the Guam Memorial Hospital Authority at the same grade and step.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85104. Codified as 10 GCA § 86104.

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§ 86105. Powers and Duties.

(a) (1) The Department, adhering to Federal regulations, local physical needs, feasibility and appropriateness, shall provide mental health, alcohol and drug abuse treatment services. The Department shall establish and adopt regulations concerning fees it may charge for such services, which may be based on ability-to-pay standards as established by the Guam Memorial Hospital Authority's 'Limit of Liability' Program. Such services shall include:

(A) 24-hour crisis intervention services to include as needed a mobile crisis team and a hot-line;

(B) partial hospitalization and aftercare services to include transitional homes for the mentally ill;

(C) outpatient services to include as needed team services for children, the elderly and adults;

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(D) individual, group, and family counseling services;

(E) inpatient services to include but not be limited to acute psychiatric and alcohol and drug detoxification services. The department may contract in writing for the provision of inpatient services with any qualified providers. The department shall be responsible for insuring that the medical care standards and quality controls for inpatient services provided above are met.

(2) The Department shall provide mental health, alcohol and drug abuse prevention programs and services. Such programs and services shall include:

(A) affecting policy to change conditions to minimize the availability of drugs and other negative influences;

(B) training significant individuals, such as parents, teachers, commissioners, and parish priests, with prevention skills;

(C) providing information via clearinghouse for drug and alcohol information;

(D) promoting alternatives to drug and alcohol use, particularly among the youth; and

(E) education to include dissemination of accurate information, as well as enhancing social competencies.

(3) There is established a Treatment Center within the Department whose head will be a classified employee who will report directly to the office of the Director. The head of the Treatment Center shall have responsibility for the treatment and prevention services outlined in § 86105(a)(1) and (2) of a qualified mental health professional with clinical experience and at least a master degree in health administration, social work, psychology or related field as determined by the Civil Service Commission.

(b) (1) The Department shall apply for, receive and administer federal funds available from the U. S. Department of Health and Human Services, now or in the future for mental health, alcohol and drug abuse treatment and prevention programs. The Department is the exclusive governmental agency with the power and duty to apply for and receive such funds. The Department in applying for mental health, alcohol and/or drug abuse grants from all sources is required to coordinate the

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development of such grant proposals with the Guam Health Planning and Development Agency to insure programs and services secured through such grant applications are in harmony with the plans developed by the Department. This shall not preclude nor prevent private sectors providers from applying for federal funds for which they are eligible.

(2) The Department shall develop and administer written policies and procedures to ensure that the mental health, alcohol and drug abuse programs that receive federal funds comply with those parts of federal law particularly applicable to mental health, alcohol and drug abuse programs.

(3) The Department shall develop and adopt written policies, procedures, and regulations to ensure that the administration of federally-funded mental health, alcohol and drug abuse programs complies with standards set by the territory of Guam as a condition to the receipt of federal funds.

(4) The Department, pursuant to the Administrative Adjudication Act, shall develop procedures and adopt rules in regards to monitoring and evaluating grants, subsidies, or purchase of service agreement. Applicants to whom a grant or subsidy has been made, or a purchase of service agreement awarded, shall agree to comply with such rules and procedures.

(c) The Department and the Guam Health Planning and Development Agency (GHPDA), pursuant to the Administrative Adjudication Act, shall work jointly to adopt the standards and procedures for licensure of mental health, regulations shall be adopted within 18 months after the effective date of this Act, after which no mental health, alcohol and drug abuse treatment program shall be operated on Guam without a license from the Department. These standards shall be used in the Certificate of Need Review when such review is required by law. Denial of a license by the Department may be appealed to GHPDA. The Department Director shall assist in reviewing the credentials of mental health, drug and alcohol professionals.

(d) (1) (A) The Department shall annually review and amend, as necessary, the present territory of Guam Mental Health Five-Year State Plan: 1981-1986. Hereinafter the Department shall publish a Three-Year Plan and amend it annually.

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(B) The Department shall develop and publish specific plans and projects for achieving the objectives established in the annual update to the Three-Year Plan.

(C) The Department shall implement the Guam Three-Year Plan, as it is annually amended.

(D) The Three-Year Plan, as it is annually amended, shall constitute the mental health component of the Territorial Health Plan prepared by Guam Health Planning and Development Agency. The Director of the Department shall execute an inter-agency agreement with GHPDA to govern the procedure by which the mental health plan shall be prepared for inclusion in the Territorial Health Plan.

(2) By December 31, 1986, the Department shall establish and publish a Three-Year Plan that describes the Department's objectives through 1989 in planning, evaluating, monitoring, and developing mental health, alcohol and drug abuse services on Guam. The provisions in subsection (1) of this section that are applicable to the annual update of the present Five-Year Plan shall be applicable to the Three-Year Plan.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85105. Codified as 10 GCA § 86105.

2013 NOTE: Pursuant the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

§ 86106. Auxiliary Fund.

There is established separate and apart from any other government funds, a Department Auxiliary Fund, in which monies and assets from fund raising activities and charitable contributions shall be deposited. The Council shall adopt rules and regulations as to what would constitute authorized expenditures for the patients. The Department's Fiscal Officer shall be custodian of the Fund and shall invest these monies in bank accounts insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and may spend the funds as needed, for patient needs or programs in mental health, alcohol and drug abuse, as outlined in the Department's Three-Year Plan. Independent records and accounts shall be maintained in connection therewith. The Director shall be the certifying officer for the fund. An annual audit shall be conducted and

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a report of the Fund activities shall be submitted to the Governor, the Speaker of the Legislature, the Chairman of the Committee on Health, Welfare and Ecology, and the Chairman of the Committee on Ways and Means within thirty (30) days when the audit is completed.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85106. Codified as 10 GCA § 86106.

§ 86107. Council on Mental Health and Substance Abuse.

(a) There is within the Department an Advisory Council for Mental Health, Alcohol and Drug programs and services known as the Advisory Council. The Council shall consist of seven (7) members appointed by the Governor and confirmed by the Legislature. The members of the Council shall serve for three (3) years; provided that of the members first appointed, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years and three (3) shall serve for three (3) years.

(b) The Council shall annually elect a Chairperson, Vice-Chairperson and Recorder from among its membership. The Council shall meet at least once a month at such time and place as the Chairperson may designate. Meetings shall be well publicized and shall be open to the public. Executive sessions are permitted only in accordance with the Open Government Law. Four (4) members shall constitute a quorum of the Council for the transaction of business. The concurrence of four (4) members present shall constitute official action of the Council.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85107. Amended by P.L. 17-025:19 (Oct. 6, 1983). Codified as 10 GCA § 86107.

§ 86108. Duties of Council.

The Council shall review and approve the plans and programs of the Department and for that purpose shall have the following duties:

- (a) Review and approve the Department's annual budget;
- (b) Review and approve the Department's Three Year Plan and its annual update;
- (c) Periodically review available services and facilities to determine mental health, drug and alcohol program needs;
- (d) Utilize the support and assistance of interested persons, including recovered clients, to encourage potential clients to undergo treatment voluntarily;

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(e) Review and comment on all new and renewed Federal grants application.

(f) Perform such acts as may be reasonably necessary to accomplish the purpose for which it was formed, subject, however, to the following conditions:

(1) Adopt such rules and regulations pursuant to the Administrative Adjudication Law as may be necessary for the exercise of the Department's powers, performance of its duties and administration of its operations.

(2) Set fees, pursuant to the Administrative Adjudication Law, for appropriate types of services, appropriate types of medication formulary, and appropriate types of supplies, except in so doing, such fees shall not be retroactive as to services, medications and supplies furnished prior to the effective date of the enactment of such fees.

(3) The schedule of fees shall be sufficient to recover the operating costs and fixed costs and to generate such revenue as is necessary to make the Department quasi-self-sustaining. The costs of any medical care and services rendered to any person under a medically indigent or assistance program as defined within Chapter 2 of this Title and/or Medicaid/medicare, shall be paid by the Department of Public Health and Social Services. Annual Analysis Report to *I Liheslaturan Guåhan* [the Legislature].

As a means of assuring the People of Guam that the Department is cost effective in the delivery and performance of healthcare services mandated by law, the Council will establish monitors to measure the quality and appropriateness of services rendered, and the productivity and financial performance of the Department. The results of this measure shall be submitted to *I Liheslaturan Guåhan* [The Legislature] concurrently with any fee adjustments.

(4) The Council shall submit to *I Liheslaturan Guåhan*, for approval, a budget for the use of any funds collected through the implementation of a fee schedule.

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85108. Codified as 10 GCA § 86108. Subsection (f) added by P.L. 26-170:5 (Jan. 5, 2003).

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2012 NOTE: Pursuant the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

NOTE: The legislative intent for the enactment of subsection (f) is explained in P.L. 26-10:1 (Jan. 5, 2003).

§ 86109. Guam Drug and Alcohol Detoxification, Rehabilitation, and Prevention Grant Program.

(a) There is hereby created a Guam Drug and Alcohol Detoxification, Rehabilitation, and Prevention Grant Program within the Guam Behavioral Health and Wellness Center for the purpose of providing annual grants to local non-profit organizations providing drug and alcohol detoxification, rehabilitation, and prevention services.

(b) The Grant Program shall be funded annually by appropriation from *I Liheslaturan Guåhan* and administered by the Director of the Guam Behavioral Health and Wellness Center beginning in Fiscal Year 2006.

(c) All grants shall be approved by a grant review panel consisting of the Director of the Guam Behavioral Health and Wellness Center, the Director of the Department of Public Health and Social Services and the Director of the Bureau of Plans and Statistics.

(d) The Director shall establish criteria that takes into consideration both sexes for the grant reviews of local non-profit organizations providing drug and alcohol detoxification, rehabilitation, and prevention services by October 1, 2005.

(e) The proportionate distribution of grant funds shall be a consideration in awarding grants to local non-profit drug and alcohol detoxification, rehabilitation, and prevention organizations servicing adult male, adult female and adolescent patients.

(f) The Guam Behavioral Health and Wellness Center, no later than May 1st of each year, shall provide to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* an expenditure and performance report of grants issued to local non-profit organizations of the Guam Drug and Alcohol Detoxification, Rehabilitation, and Prevention Grant Program and shall include recommendations with reference to additional legislation or other action it deems necessary to carry out its purpose.

SOURCE: Added by P.L. 28-061:2 (June 30, 2005).

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2013 NOTE: This section was originally codified from GC § 85109, entitled, "Legislative Process." Repealed by P.L. 18-048:13 (Jan. 2, 1987).

P.L. 32-024:2 (May 6, 2013) renamed the Department of Mental Health & Substance Abuse to the Guam Behavioral Health and Wellness Center. Reference to the Department of Mental Health & Substance Abuse was changed to Guam Behavioral Health and Wellness Center pursuant to P.L. 32-024:4.

§ 86109.1. Residential Treatment Program.

There is established within the Guam Behavioral Health and Wellness Center a program entitled the Residential Treatment Program, to provide transitional living services for mentally ill and mentally retarded clients, to provide adequate and continuing supervision and counseling to clients released to the community and to acquaint and assist clients with various support agencies and programs. The Residential Treatment Program shall be fully operational within sixty (60) days of enactment of this section. In evaluating clients for admission to such Program, the Department shall not require the consent of those mentally ill or retarded clients who are a physical threat to themselves, their families, or the public, but shall require the recommendation of such clients' parent(s), of the Superior Court of Guam, or of a licensed physician.

SOURCE: Added by P.L. 20-093:1 (Sept. 14, 1989).

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§ 86110. [Untitled.]

[Repealed.]

SOURCE: Added by P.L. 17-021:2 (Aug. 18, 1983) as GC § 85110. Codified as 10 GCA § 86110. Repealed by P.L. 18-048:13 (Jan. 2, 1987).

§ 86111. Mental Health and Substance Abuse Services Fund.

(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Mental Health and Substance Abuse Services Fund (hereinafter Fund). The Fund shall be separate and apart from all other funds of the government of Guam, shall be kept in separate bank account, and shall not be subject to any transfer authority of *I Maga'lahren Guåhan* or any inter-fund transfers.

(b) All proceeds from the collection of any fees by the Guam Behavioral Health and Wellness Center shall be deposited into the Fund.

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(c) Notwithstanding the general provisions of § 22406 of Title 5 GCA which require that unused and de-appropriated funds revert to the General Fund, or any other provision of Guam law to the contrary, all de-appropriated or unused funds appropriated from the Mental Health and Substance Abuse Services Fund shall, in all circumstances, and whether in whole or in part, be returned to the Mental Health and Substance Abuse Services Fund.

(d) Notwithstanding the provisions of § 22103, § 21107, and § 21110 of Title 5 GCA or any other provision of Guam law to the contrary, all interest earned on the Mental Health and Substance Abuse Services Fund shall be returned to the Mental Health and Substance Abuse Services Fund.

(e) The Director of Administration shall submit a report on a quarterly basis to the Speaker of *I Liheslaturan Guåhan* of the revenues and interest earned, collected and expended from the Mental Health and Substance Abuse Services Fund and shall post such report on the Department's website.

(f) Expenditures from Fund; Authorized. All expenditures from the fund shall be authorized and appropriated pursuant to the annual Fiscal Year Budget Act of the Executive Branch, applicable law, rules and regulations, and as may be further provided or required pursuant to the Permanent Injunction ordered by the U.S. District Court of Guam mandating GBHWC to provide necessary and timely services to its clients. Expenditures from the Fund by GBHWC shall be for, but is not limited to, its costs of operations, personnel, contractual services, the development of programs and services, the timely payment of debt obligations, capital improvements, and any other purposes approved and appropriated for pursuant to the annual fiscal year budget appropriation act of the Executive Branch, and applicable law, rules and regulations.

(1) Any appropriation or expenditure authorization not utilized by the end of a fiscal year shall not lapse and shall continue to be available and may be expended in the next fiscal year, subject to availability of funds, unless otherwise specifically precluded or prohibited pursuant to law.

(2) The Guam Behavioral Health and Wellness Center shall prioritize the timely payment of all outstanding debt obligations to the Guam Memorial Hospital Authority.

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(g) Fund Administration. The Director of Administration shall be the disbursing and certifying officer for the Fund, and shall comply with the provisions of Chapter 14 of Title 4, Guam Code Annotated. The Director of Administration shall maintain appropriate records of the Fund and shall provide accounting and auditing services for the Fund.

(h) Submission of Detailed Report of Deposits and Expenditures on a Quarterly Basis. The Director of the Department of Administration, in conjunction with the Director of the Guam Behavioral Health and Wellness Center, shall submit to the Speaker and the Chairperson of the Committee on Health & Human Services of *I Liheslaturan Guåhan*, or its equivalent successor, and *I Maga'lahaen Guåhan* a detailed report of the revenue received and deposited into the Fund and all expenditures from the Fund on a quarterly basis.

SOURCE: Added by P.L. 31-233:XII:31 (Sept. 7, 2012). Subsections (f)-(h) added by P.L. 31-239:4 (Dec. 6, 2012), effective upon DMHSA [Department of Mental Health and Substance Abuse] receiving certified status from the Centers for Medicare and Medicaid Services, pursuant to P.L. 31-239:6.

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