

I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) REGULAR SESSION

Bill No. 227 (LS)

Introduced by:

v.c. pangelinan

J.T. Won Pat, Ed.D.

AN ACT TO ADD A NEW §11112 TO DIVISION 1,
CHAPTER 11 OF TITLE 10 OF THE GUAM CODE
ANNOTATED RELATIVE TO EXPRESSIONS OF
SYMPATHY OR BENEVOLENCE IN CIVIL ACTIONS
AGAINST PHYSICIANS.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds
3 that laws have been enacted across the nation to protect medical professionals
4 in circumstances where communication has been exchanged between
5 physicians and patients or their families expressing sympathy concerning
6 pain, suffering, or death. The expressions of sympathy or benevolence has in
7 many instances conveyed a sense of responsibility on the part of the physician
8 that oftentimes builds trust between him or her and the patient and their
9 families. The trust established also creates a sense of compassion on both
10 parties and as a result, patients and/or their families are less inclined to
11 initiate a suit such as civil actions against the physician.

12 Therefore, it is the intent of *I Liheslaturan Guahan* to protect such
13 communication expressing sympathy or benevolent gestures from being used
14 against health professionals in medical malpractice actions.

15 Section 2. A new Section 11112 is hereby added Title 10 Guam Code

1 Annotated, Division 1, Chapter 11 to read:

2 **“§11112. Admissibility of Expressions of Sympathy or Benevolence.**

3 (a) In any civil action that is brought against a health professional, as defined
4 in 10GCA §11102, or in any arbitration proceeding that relates to the civil
5 action, a statement, writing, or benevolent gesture that:

6 (1) Expresses sympathy or a general sense of benevolence relating to the pain,
7 suffering, or death of the patient involved in the incident with the health
8 professional; and

9 (2) is made to the patient or to the family of the patient;

10 is inadmissible as evidence of an admission of liability. A statement of fault,
11 however, which is part of, or in addition to, any of the above shall be
12 admissible.

13 (b) As used in this Section:

14 “Benevolent gesture” means any action which conveys a sense of compassion
15 or commiseration emanating from human impulses.

16 “Family” means the spouse, reciprocal beneficiary, parent, grandparent,
17 stepmother, stepfather, child, grandchild, brother, sister, half brother, half
18 sister, adopted children of parent, or spouse’s parent of the injured party.”

19 **Section 3.** This Act does not affect the rights or duties that matured,
20 penalties that were incurred, and proceedings that were begun, before its
21 effective date.

22 **Section 4. Severability.** If any of the provisions of this Act or
23 the application thereof to any person or circumstance is held invalid, such
24 invalidity shall not affect any other provision or application of this Act which

- 1 can be given effect without the invalid provision or application, and to this
- 2 end the provisions of this Act are severable.