

1 Title 26 Guam Administrative Rules and Regulations, Chapter 4, Article 4 (“Rules and
2 Regulations Governing the Issuance of Health Certificates”) is hereby repealed in its entirety
3 and re-enacted to read as follows:
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15 **RULES AND REGULATION GOVERNING**
16 **THE ISSUANCE OF**
17 **HEALTH CERTIFICATES**
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41 **DIVISION OF ENVIRONMENTAL HEALTH**
42 **DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**
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44 **MANGILAO, GUAM 96910-6304**
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1 **RULES AND REGULATIONS GOVERNING**
2 **THE ISSUANCE OF HEALTH CERTIFICATES**

3 **Title 26**

4 **Chapter 4**

5 **Article 4**

- 6
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- 8 **§4402. Authority.**
- 9 **§4403. Purpose.**
- 10 **§4404. Definitions.**
- 11 **§4405. Health Certificate Required.**
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- 23 **§4417. Presentation of Health Certificate, Temporary Health Certificate, Interim**
- 24 **Health Certificate, and Certificate of Management Certification.**

1 **§4418. Suspension or Revocation of Health Certificate.**

2 **§4419. Administrative Penalties**

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4 **§4421. Effective Date.**

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6 **APPENDIX I**

7 ~~**APPENDIX II**~~ _____

1 "RULES AND REGULATIONS GOVERNING
2 THE ISSUANCE OF HEALTH CERTIFICATES

3 Title 26 GAR

4 Chapter 4

5 Article 4

6 General Provisions and Definitions

7 §4401. **Short Title.** These rules and regulations may also be cited as the 'Health Certificate
8 Regulations'.

9 §4402. **Authority.** §22104, Chapter 22 of Title 10 Guam Code Annotated, authorizes the
10 Director of the Department of Public Health and Social Services to establish, by rules and regulations,
11 the requirements and fees for the issuance of a Health Certificate.

12 §4403. **Purpose.** These rules and regulations are established to ensure that the holder of a
13 Health Certificate is free of communicable diseases that could potentially spread to fellow employees or
14 their clients as a result of the holder's work activities and/or possesses the minimum knowledge in
15 preventing the spread of communicable diseases at the Health-Regulated Establishment where the
16 holder is employed.

17 §4404. **Definitions.** Wherever in these rules and regulations the following words appear, they
18 shall have the following definition:

19 (a) 'Category' shall mean the following types of establishments and their activities that are
20 regulated by the Department by these rules and regulations, and other rules and regulations of the
21 Department, which require a Health Certificate:

- 22 (1) Eating and Drinking Establishment
23 (2) Food Establishment;
24 (3) Cosmetic Establishment;
25 (4) Institutional Facility;

1 (5) Laundry and Dry Cleaning Establishments;

2 (6) Swimming Pool

3 (7) Hotel; and

4 (8) Tattoo Shop.

5 (b) '**Certificate of Management Certification**' shall mean a certification issued by the
6 Department or any authorized institution, as determined by the Director, to a person employed, or
7 designated, as a manager or supervisor within any Health-Regulated Establishment who has
8 demonstrated his or her knowledge of applicable governing rules and regulations, including but not
9 limited to, sanitation, employee hygiene, cleaning and sanitizing procedures, and rodent and insect
10 control, as determined by the Director.

11 (c) '**Cosmetic Establishment**'. (1) Cosmetic establishment shall mean any premises or
12 portions thereof, wherein any of the following is practiced for compensation:

13 (A) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
14 permanent waving, tinting, applying tonic to, or dyeing human hair;

15 (B) Shaving, clipping, trimming or cutting human hair;

16 (C) Giving facial, scalp, neck or body massages or treatments with oils,
17 creams, lotions, or other preparations to the hands, scalp, face, or neck by hand or
18 mechanical appliance; and

19 (D) Manicuring or pedicuring.

20 (2) As used in these rules and regulations, cosmetic establishment shall include:

21 (A) "Shop," which shall mean any establishment or facility where
22 cosmetology is practiced for fee or charge for hire. The term includes, but is not
23 limited to barber shops, beauty shops, beauty salons, beauty parlors, hair styling salons,
24 or other establishments where cosmetology is practiced for reimbursement;

25 (B) "School of Cosmetology," which shall mean any establishment or facility

1 where the practice of cosmetology is taught for a fee. The term includes, but is not
2 limited to barber colleges or other closely related institutions or establishments teaching
3 cosmetology for reimbursement;

4 (C) "Massage Parlor," which shall mean any establishment or facility
5 occupied and used for the purpose of practicing massage for compensation, provided
6 that when any massage parlor is situated in any building for residential or sleeping
7 purposes, the massage parlor shall be set apart and shall not be used for any other
8 purpose; and

9 (D) "Therapeutic Massage Establishment," which shall mean any premise
10 intended, occupied and used for the purpose of practicing massage therapy for
11 compensation.

12 (e) **'Department'** shall mean the Department of Public Health and Social Services.

13 (f) **'Director'** shall mean the Director of the Department of Public Health and Social Services
14 or his designated and authorized representative.

15 (g) **'Eating and Drinking Establishment'** shall mean any mobile food service establishment;
16 vending machine; restaurant; coffee shop; public or private school cafeteria; lunchroom; luncheonette;
17 lunch-stand; lunch-counter; in-plant or employee eating establishment; soda fountain; bar; cafe; tavern;
18 short order cafe; sandwich stand; drink stand; cafeteria or similar facility connected with an institution;
19 any other eating establishment within in an organization, club, veteran's club, boarding house, guest
20 house, political subdivision, stall, stand, and booth; and a concession within any public market which
21 gives, sells, or offers for sale, or promotes food to the public, guests, patrons, or employees; and as
22 well as kitchens in which food is prepared on the premises for serving elsewhere, including catering
23 functions.

24 (h) **'Food Establishment'** shall mean every establishment or place which is used or occupied
25 as a bakery; confectionery; cannery; dairy; creamery; packing house; grocery; supermarket; meat or

1 poultry market; fruit or vegetable market; delicatessen; beverage plant; slaughter house; poultry
2 processing plant; fish processing plant; frozen food processing plant; bottling plant; food refrigeration
3 locker plant; ice plant; ice cream or frozen dessert plant; public market; food warehouse; or any
4 structure used for the production, processing, manufacture, preparation for sale, canning, bottling,
5 packing, packaging, storage, sale or distribution, of any food.

6 (i) **'Health Certificate'** shall mean a certificate issued by the Department to a person
7 employed within any Eating and Drinking Establishment, Food Establishment, Institutional Facility,
8 Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning Establishment, Hotel, Swimming
9 Pool, or any other establishment under the provisions of any other rules and regulations promulgated
10 by the Director to properly carry out the laws of Guam relating to environmental health.

11 (j) 'Hotel' shall mean any structure of any portion of any structure, including any lodging
12 house, rooming house, dormitory (including a dormitory housing for contract employees), health spa,
13 bachelor hotel, studio hotel, motel, private club, containing four (4) or more guest rooms and which is
14 occupied or is intended or designed for occupancy, by four (4) or more guests, whether rent is paid in
15 money, goods, labor, or otherwise, and whether with or without meals. It does not include any penal
16 institution, hospital, clinic, nursing home, school, laboratory, or child care facility.

17 (k) **'Health-Regulated Establishment'** shall mean any of the following: Eating and
18 Drinking Establishment, Cosmetic Establishment, Food Establishment, Institutional Facility, Laundry
19 and Dry Cleaning Establishment, Swimming Pool, Hotel, Therapeutic Massage Establishment, Massage
20 Parlor, Tattoo Shop, Temporary Food Service Establishment, and any other facilities governed by the
21 Department pursuant law.

22 (l) **'Institutional Facility,'** as used in these rules and regulations, shall include:

23 (1) "Adult Group Day Care Center," which shall mean a place maintained and
24 operated by an individual, organization, or agency whether for profit or not for the purpose of
25 providing protective and supportive care for two or more elderly and/or disabled adults, not

1 related to the facility's owner/operator by blood or marriage within the third degree of
2 consanguinity, for a specified time period of ten (10) hours or less in each twenty-four (24)
3 hour day. At the end of the specified time period, the participant is discharged to the custody
4 of his/her family, guardian, or sponsor;

5 (2) "Child Care Facility," which shall mean any person or place which receives or
6 arranges placement of one or more children who are not related to such person, whether for
7 gain or otherwise, apart from the parents or guardian, with or without the transfer of the right
8 of custody for the purpose of providing regular care or training for such child or children
9 during either the day or night, or both. Except as otherwise provided, the term "Child Care
10 Facility" includes, but is not limited to, all facilities defined by the Department as "family day
11 care homes," "foster family homes," "group day care homes," "residential treatment facilities,"
12 "day care center," "day nurseries," "nursery school," "kindergarten school," "day care homes,"
13 or similar institutions or units regardless of name;

14 (3) "Penal Institution," which shall mean any jail, detention center, prison camp,
15 home, juvenile detention home or cottages, or other facility used as a holding facility, jail, or
16 residential custodial facility. This definition does not include hospitals or childcare facilities or
17 adult group day care center;

18 (4) "School," which shall mean any establishment that provides care and education to
19 students from kindergarten through Grade 12 and any college, trade school, university, or any
20 other educational institutional of higher learning;

21 (5) "Hospital," which shall mean any building, structure, institution or place whether
22 organized for profit or not, devoted primarily to the maintenance and operation of facilities for
23 the diagnosis, evaluation, treatment, and provision of medical or surgical care for three (3) or
24 more non-related individuals admitted for overnight stay or longer in order to obtain medical
25 services; including obstetric, psychiatric, and nursing care of illness, disease, injury, or

1 deformity, whether physical or mental; and regularly making available at least clinical
2 laboratory service, diagnostic radiology services, and treatment facilities, or surgery, obstetrical
3 care or other definitive medical treatment;

4 (6) "Clinic," which shall mean any building; structure; institution or place; public or
5 private; whether organized for profit or not, devoted primarily to the maintenance and
6 operation of facilities for the medical or dental evaluation, diagnosis, or treatment of human
7 illness, injury or deformity; or the veterinary medical or veterinary dental evaluation, diagnosis,
8 or treatment of animal illness, injury or deformity;

9 (7) "Nursing Home," which shall mean any facility established, for profit or non-
10 profit, which provides nursing care and related medical services twenty-four (24) hours per day
11 for two or more individuals because of illness, disease, or mental or physical infirmity. It
12 provides care for these persons not in need of hospital care but requiring nursing care or related
13 medical services, which medical services shall be administered by a professional nurse, a
14 physical therapist, or an occupational therapist; or other licensed medical practitioners,
15 depending upon the service required; and

16 (8) "Laboratory," which shall mean any building, structure, institution or place,
17 whether organized for profit or not, devoted primarily to the maintenance and operation of
18 facilities for the examination or testing of humans or animals, living or dead, or any parts or
19 physiologic products thereof, for the purpose of detecting or confirming the presence of illness
20 or infirmity.

21 (l) **'Interim Health Certificate'** shall mean a provisional certificate issued by the Director to
22 a person employed within any ~~Eating and Drinking Establishment or Food Establishment~~ Health-
23 Regulated Establishment or any other establishment under the provisions of any other rules and
24 regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to
25 environmental health, who is waiting to attend a training course offered by the Department or another

1 entity authorized by the Department.

2 (m) **'Laundry or Dry Cleaning Establishment'** shall mean any place, building, structure,
3 room, or partition thereof, used in the business of dyeing; washing; starching; ironing; or dry cleaning
4 apparels, household linens, and other fabric articles, including any establishment providing laundering
5 equipment for use by customers for a fee such as a Laundromat, wash-o-mat, launderette, or coin
6 operated Laundromat.

7 (n) 'Massage Parlor' shall mean

8 ~~(o) 'Massage Therapy' shall mean the manipulation of the superficial tissues of the human~~
9 ~~body with the hand, foot, arm, or elbow by a massage therapist licensed by the applicable professional~~
10 ~~licensing board of Guam whether or not such manipulation is aided by hydrotherapy, including colonic~~
11 ~~irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body~~
12 ~~of a chemical or herbal preparation.~~

13 (p) **'Person Employed'** shall mean the following:

14 (1) In an "Eating and Drinking Establishment," any person employed for compensation
15 or otherwise who transports food or food containers, engages in food preparation or service,
16 or comes in contact with any food and food utensils or equipment;

17 (2) In a "Food Establishment," any person employed for compensation or otherwise
18 who transports, stocks, stores, packs, packages, processes, manufactures, cans, bottles, or
19 otherwise handles raw or processed foods;

20 (3) In an "Institutional Facility," any person employed for compensation or otherwise
21 at that facility; and

22 (4) In a "Cosmetic Establishment," any person employed for compensation or
23 otherwise who sings, shampoos, arranges, adorns, dresses, curls, waves, permanent waves,
24 tints, applies tonics, dyes, shaves, clips, trims or cuts human hair, gives facial, scalp, neck or
25 body massages or treatments with oils, creams, lotions, or other preparations to the hands,

1 scalp, face, or neck by hand or mechanical appliance, and manicures and pedicures;

2 (5) In a "Laundry or Dry Cleaning Establishment," any person employed for
3 compensation or otherwise who handles soiled or cleaned linens or other laundry items; and

4 (6) In a "Swimming Pool," any person...

5 (7) In a "Tattoo Shop," any person employed for compensation or otherwise at that
6 facility.

7 (q) **'Swimming Pool'** shall mean any artificial structure, basin, chamber or tank constructed
8 or impervious material used or intended to be used for swimming, diving, wading or recreation al
9 bathing. It does not include conventional bathtubs where the primary purpose is the cleaning of the
10 body or individual therapeutic tubs. A "public swimming pool" shall mean any swimming or wading
11 pool that is available for public use, whether for a fee or free of charge; or any swimming or wading
12 pool owned or used by any business, partnership, corporation, or person for the use of their customers,
13 clients, guest or employees including but not limited to a commercial pool, a community pool or a pool
14 at a hotel, motel, resort, auto park, trailer park, apartment house or other multiple rental unit, private
15 club, public club, public or private school, gymnasium or health establishment

16 (r) **'Tattooing'** shall mean to mark or color the skin by pricking and introducing
17 subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks and
18 figures.

19 (s) **'Tattoo Shop'** shall mean any premises where a tattoo artist does tattooing for a fee or
20 other consideration.

21 (r) **'Temporary Food Service Establishment'** shall mean any Eating and Drinking
22 Establishment which operates at a fixed location for a period of time not exceeding six (6) months in
23 conjunction with a carnival, fair, circus, exhibition, or other transitory gathering not of a permanent
24 nature, and shall include catering.

25 (s) **'Temporary Health Certificate'** shall mean a certificate issued to a person employed

1 within any temporary food service establishment under the provisions of these rules and regulations.

2 (t) 'Therapeutic Massage Establishment' shall mean a business which performs the
3 manipulation of the superficial tissues of the human body with the hand, foot, arm, or elbow by a
4 massage therapist licensed by the applicable professional licensing board of Guam whether or not such
5 manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or
6 mechanical device; or the application to the human body of a chemical or herbal preparation.

7 **§4405. Health Certificate Required.** Unless otherwise stated within these rules and
8 regulations, or any other rules and regulations promulgated by the Department relating to
9 environmental health, every person employed within an Eating and Drinking Establishment, Food
10 Establishment, Institutional Facility, Cosmetic Establishment, Tattoo Shop, Laundry or Dry Cleaning
11 Establishment, Hotel, Swimming Pool, or any other establishments under the provisions of any other
12 rules and regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to
13 environmental health, shall be required to obtain a Health Certificate.

14 **§4406. Exemption of Health Certificate.** The selling of the following articles shall not
15 require the obtaining of a Health Certificate:

16 (a) Fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live pigs; or

17 (b) Canned or bottled drinks, including alcoholic beverages, in the original container of
18 their manufacturer; or

19 (c) Candies or other confections in the original container of their manufacturer.

20 **§4407. Application for Health Certificate and Temporary Health Certificate.** (a) Any
21 person desiring to engage in employment requiring a Health Certificate or Temporary Health
22 Certificate under these rules and regulations shall make an application for a Health Certificate or
23 Temporary Health Certificate to the Department. The applicant shall be required to show a current
24 and valid photo identification or other evidence attesting to the applicant's true identity. The applicant
25 shall also be required to show a valid Social Security Card and documentation that attests approved by

1 ~~the Director attesting~~ to the applicant's United States citizenship, permanent resident alien, or non-
2 immigrant status, that authorizes the applicant to work in the United States by the U.S. federal
3 government. The following are acceptable forms of photo identification:

- 4 (1) Government of Guam Identification Card;
- 5 (2) Guam Driver's License;
- 6 (3) United States Military Identification Card;
- 7 (4) Passport; ~~and~~
- 8 (5) Credit card with photo; and
- 9 (6) Any other photo identification acceptable by the Department.

10 The following are acceptable forms of identification for permanent resident aliens or non-immigrant
11 applicants who are authorized to work in the United States:

- 12 (1) Passport; and
- 13 (2) Alien Registration Receipt Card (Green Card).

14 (b) Whenever an applicant is unable to apply to renew for a Health Certificate or Temporary
15 Health Certificate in person, the applicant may designate an authorized representative to make an
16 application for the applicant, provided the representative has the following information available:

- 17 (1) Signed and dated authorization letter from applicant, along with an explanation
18 of the applicant's relation to the representative;
- 19 (2) Completed, original application; and
- 20 (3) Copy of the representative's and the applicant's acceptable photo identification
21 cards.

22 (c) An applicant, ~~or duly authorized representative of the applicant,~~ applying for a Health
23 Certificate shall complete all application requirements and submit all necessary information at any time
24 but not more than one month before commencement of employment. An applicant, ~~or duly authorized~~
25 ~~representative of the applicant,~~ applying for a Temporary Health Certificate shall complete all

1 application requirements and submit all necessary information, not more than twenty (20) and not less
2 than five (5) working days, before commencement of employment, unless approved by the Director.

3 (d) A person applying for an additional Health Certificate for another category, or under the
4 conditions stated in Subsections (a) and (b) of §4412 of these rules and regulations, shall submit a
5 separate application and pay the appropriate fee for each additional Health Certificate.

6 **§4408. General Requirements for Health Certificate.** (a) Unless stated otherwise in these
7 rules and regulations, all new Health Certificate applicants shall submit an application approved by the
8 Department, pay all applicable fees, and shall:

9 (1) Be tested, or screened, and be free of infectious Tuberculosis within six (6)
10 months prior to its submission, and any other communicable diseases, as determined by the
11 Director, and

12 (2) Take and pass a training course provided by the Department, or an authorized
13 entity approved by the Department, specific to the category of the Health Certificate the
14 applicant is seeking under the provisions this and any other rules and regulations promulgated
15 by the Director to properly carry out Title 10 G.C.A. relating to environmental health.

16 (b) Renewing applicants, when applicable or as determined by the Director, shall be
17 required to be tested or screened for infectious Tuberculosis and other communicable diseases, and
18 pass a written examination.

19 **§4409. Training Course and Examination Requirements for Health Certificate.**

20 (a) Unless otherwise stated in these rules or regulations or any other separate rules and
21 regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to
22 environmental health, the following are further and specific requirements for any person desiring to
23 engage in employment requiring a Health Certificate under these and other rules and regulations of the
24 Department, and must be complied with to qualify for, and hold, a Health Certificate:

25 (1) Any applicant who has not previously been issued a Health Certificate by the

1 Department or whose previous Health Certificate has expired for more than ~~thirty (30)~~ sixty
2 (60) calendar days shall attend and pass a training course conducted by the Department, or any
3 other entity approved by the Department, before a Health Certificate is issued.

4 (2) Any applicant who fails to pass the training course shall be scheduled to attend
5 another training course at a later date, pay the re-testing fee and the Health Certificate fee, and
6 have the Interim Health Certificate's issued with a new expiration date. ~~expiration date~~
7 ~~extended to the date of the re-testing.~~

8 (3) Any applicant, who fails to pass his second consecutive training course for any
9 category ~~the category of Eating and Drinking Establishment or Food Establishment~~, after
10 failing the first training course, may be provided a Health Certificate at the discretion of
11 the Director. However, prior to the issuance of the Health Certificate by the Director, the
12 applicant's supervisor, who must be certified in accordance with §4415 if for Eating and
13 Drinking Establishment and Food Establishment categories, shall be required to enter into
14 a written agreement with the Department (Appendix I) if the supervisor agrees to do so.
15 ~~For food facilities not providing food directly to consumer, such as wholesalers,~~
16 ~~distributors, and any other food establishments specifically exempted through separate~~
17 ~~rules and regulations promulgated by the Director, the applicant's supervisor need not be~~
18 ~~certified in accordance with §4415, but shall be the applicant's immediate supervisor and~~
19 ~~shall be required to enter into a written agreement with the Department (Appendix II).~~ A
20 Health Certificate issued under such condition shall have a distinguishing mark or symbol
21 printed on the certificate.

22 (4) There shall be no limit to the number of training course an applicant may take.

23 (b) The Director shall identify Health Certificate categories which will require the renewing
24 applicant to attend and pass a fresher training course. ~~A renewing applicant may be required to attend~~
25 ~~and pass a training course based on .however, the applicant shall take and pass a written examination~~

1 before the Department issues a renewal Health Certificate to the applicant.

2 (1) Any renewing applicant who attends the training course and does not pass the
3 examination shall be scheduled to attend a training course at a later date, pay the retesting fee
4 and the Health Certificate fee, and issued an Interim Health Certificate issued with a new
5 expiration date. ~~with an expiration date extended to the date of the re-testing.~~

6 (2) Any renewing applicant, who fails to pass his/her second consecutive training
7 course, after failing the first training course, may be provided a Health Certificate at the
8 discretion of the Director in the same manner and condition as §4409(a)(3). ~~However,~~
9 ~~prior to the issuance of the Health Certificate by the Director, the applicant's supervisor,~~
10 ~~who must be certified in accordance with §4415, shall be required to enter into a written~~
11 ~~agreement with the Department (Appendix I).~~

12 (3) As determined by the Director, a renewing applicant may forgo the training
13 course and take the examination only; however, if such applicant fails the examination,
14 he/she shall be required to take the training course.

15 (c) The Health Certificate issued pursuant to this section shall not be of the type provided in
16 §4411.

17 (d) The Director may revoke any Health Certificate issued in §4409(a)(3) or §4409(b)(2),
18 upon reasonable belief that the written agreement has been breached.

19 (e) Any person in possession of a valid and current Certificate of Management Certification
20 shall be exempt from its respective training course; however, he/she shall still be required to obtain a
21 Health Certificate.

22 (f) The Department, if it wishes, may authorize another Government of Guam entity to
23 provide or supplement the training courses required pursuant to these rules and regulations, provided a
24 written memorandum of agreement between the Department and the other entity is formally
25 established.

1 (g) In the event an entity authorized by the Department to provide a training course is unable
2 to provide the minimum standard of training that is acceptable to the Department in the issuance of
3 Health Certificates, or fails to timely provide the required training course, the Department may seek the
4 assistance of another approved entity in carrying out the provision of this section.

5 **§4410. Specific Requirements by Category.** Any person required to attend and pass a
6 training course as indicated in this section may be waived from such course if he or she possesses an
7 applicable current and valid certification that is recognized by the Department that attests to the
8 individual's adequate knowledge of disease prevention in the respective establishment category.
9 However, the individual must still submit the application and all supporting documents and obtain a
10 Health Certificate.

11 (a) **Eating and Drinking Establishment and Food Establishment.** The following
12 individuals shall obtain a Health Certificate:

13 (1) An employee of the establishment who regularly enters the food preparation area,
14 regardless of his/her position and duty, whose presence may likely contaminate food directly or
15 indirectly without the training; and

16 (2) Any employee of the establishment who may come in contact with food during the
17 course of that individual's work, including, but not limited to, a cashier.

18 (b) **Cosmetic Establishment.** No Health Certificate shall be issued or renewed unless the
19 applicant has undergone a physical examination performed by a healthcare professional using report
20 forms provided by the Department. ~~updated immunization for mumps, measles, rubella, tetanus,~~
21 ~~diphtheria, polio, and any other vaccinations and exams at the discretion of the Director. Records of all~~
22 ~~such examinations shall be kept in a file in the institution where the applicant is employed.~~

23 (c) **Institutional Facility.** No Health Certificate shall be issued or renewed unless the
24 applicant has undergone a physical examination performed by a healthcare provider using report forms
25 provided by the Department. ~~The applicant shall have updated immunization for mumps, measles,~~

1 rubella, tetanus, diphtheria, polio, and any other vaccinations and exams at the discretion of the
2 Director. Records of all such examinations shall be kept in a file in the institution where the applicant is
3 employed.

4 (d) **Hotel Sanitation.** All persons conducting housekeeping duties, such as changing of
5 linens and towels, shall be required to obtain a Health Certificate and attend and pass the training
6 course provided by the Department. However, that person shall not be required to be tested or
7 screened for infectious Tuberculosis or other communicable diseases.

8 (e) **Swimming Pool.** Every person responsible for the operation of a regulated swimming
9 pool shall be required to obtain a Health Certificate and attend and pass the training course provided by
10 the Department. However, that person shall not be required to be tested or screened for infectious
11 Tuberculosis or other communicable diseases.

12 (f) **Tattoo Shop.**

13 (1) All persons employed at the tattoo facility that clean, handle, operate, or otherwise
14 touch any tattoo equipment; or prepare, or assist in the preparation of the client; shall be
15 required to possess a Health Certificate and pass the training course provided by the
16 Department.

17 (2) In addition to the test or screening for active Tuberculosis, individual required a
18 Health Certificate shall also undergone a physical examination performed by a healthcare
19 professional using report forms provided by the Department. ~~and shall have an updated~~
20 ~~immunization for Hepatitis, mumps, measles, rubella, tetanus, diphtheria, polio, and any other~~
21 ~~vaccinations and exams at the discretion of the Director, and records of all such examinations~~
22 ~~shall be kept in a file in the institution where the applicant is employed.~~

23 (g) **Laundry or Dry Cleaning Establishment.** Health Certificate shall not be issued or
24 renewed unless the applicant has undergone a physical examination performed by a healthcare
25 professional using report forms provided by the Department and passes a training course provided by

1 the Department. Records of all such examinations shall be kept in a file in the institution where the
2 applicant is employed.

3 **§4411. Requirements for Temporary Health Certificate.** All persons applying for a
4 Temporary Health Certificate to work in a carnival, fair, or other temporary food concession will be
5 required to attend and pass a training course provided by the Department; however, test or screening
6 for Tuberculosis may not be required.

7 **§4412. Single Health Certificate for Multiple Locations per Category.** (a) Each
8 person may possess only one Health Certificate per category, regardless of the number of
9 different employed locations or businesses within that same category. The Health Certificate
10 shall state the category the holder is authorized to work and shall be valid at all locations
11 within that category.

12 (b) The Department may issue a single Health Certificate for categories of both Eating and
13 Drinking Establishment and Food Establishment if the Department determines that the application,
14 training, fee, and other applicable requirements are the same and issuing a single certificate will not
15 compromise the spirit and intent of these rules and regulations.

16 **§4413. Additional Health Certificate.** (a) Any person employed within an Eating and
17 Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic Establishment, Swimming
18 Pool, Laundry and Dry Cleaning Establishment, or Tattoo Shop, or any other health-regulated
19 establishments, who holds a Health Certificate within such category shall not be issued, upon
20 submission of a separate application with appropriate fee, a Health Certificate for other categories
21 without meeting the qualifications enumerated under each category. An exception to this requirement
22 could occur for Eating and Drinking Establishment and Food Establishment, which may be a single
23 Health Certificate in accordance to §4412(b).

24 **§4414. Interim Health Certificate.** (a) After submitting the application, payment, and
25 meeting all other requirements, an applicant who is required to attend and pass a training course shall

1 be issued an Interim Health Certificate for employment until the applicant's completion and passage of
2 the training course, whereupon he or she shall receive a Health Certificate.

3 (b) An Interim Health Certificate shall indicate the name of the applicant; category of the
4 Health-Regulated Establishment the certificate is for; ~~the name and location of employment~~; date, time,
5 and location of the training course; expiration date; and any other information as determined by the
6 Director. Expiration date shall not exceed more than three (3) working days after the date of the
7 training course.

8 (c) An applicant in possession of an Interim Health Certification who fails to attend the
9 training course shall be scheduled for another training course and granted an extension of the expiration
10 date, provided that no more than ten (10) working days have elapsed from the date of the original
11 training course. The extension of the new expiration date shall not exceed beyond the rescheduled
12 training course date.

13 (d) An applicant who fails to attend the rescheduled training course or whose Interim
14 Health Certificate has expired more than 14 working days from the date of the original training course
15 shall be considered a new applicant and shall be required to apply as a new applicant. Such applicant
16 may submit his/her initial physical test and/or tuberculosis test results with the application, provided the
17 testing or screening was within the six (6) months of submission of the new application.

18 (e) An Interim Health Certificate does not exempt the applicant from all other
19 requirements of these rules and regulations or any other rules and regulations promulgated by the
20 Director relevant to Health Certificates.

21 **§4415. Certificate of Management Certification and Health Certification.** (a) Unless
22 otherwise stated within these rules and regulations, or any other rules and regulations promulgated by
23 the Department relating to environmental health, every Eating and Drinking Establishment and Food
24 Establishment, excluding those facilities that do not provide food directly to consumers, such as
25 manufacturers, wholesalers, and distributors, and any other food facilities specifically exempted

1 through separate rules and regulations promulgated by the Director, shall have a designated manager or
2 supervisor who shall be certified under the provisions of these rules and regulations.

3 (b) Any person employed or designated as a manager or supervisor within an Eating and
4 Drinking Establishment and Food Establishment, excluding manufacturers, wholesalers, and
5 distributors, and any other food facilities specifically exempted, shall be required to take and pass a
6 prescribed course provided by the Department, or any other course approved by the Department,
7 before a Certificate of Management Certification, or an equivalent certification as approved by the
8 Director, is issued by the institution administering the course. The course shall require the candidate
9 for managerial certification to show evidence by examination of satisfactory knowledge [scoring
10 seventy Percent (70%) or higher] of rules and regulations governing food facilities including, but not
11 limited to, microbiology, food-borne diseases, food storage, food preparation and service, equipment
12 design and construction, employee hygiene, cleaning and sanitary procedures, and rodent and insect
13 control. Those candidates who fail to show evidence by examination of satisfactory knowledge
14 [scoring sixty-nine Percent (69%) or lower] shall repeat the course until the required minimum passing
15 score of seventy percent (70%) or higher is met. No restrictions are placed on the number of times a
16 designated manager or supervisor may take the course to obtain a passing score.

17 (c) The acquisition of the Certificate of Management Certification, or its equivalent as
18 approved by the Director, by a designated manager or supervisor is a requirement in addition to, and
19 not in lieu of, a Health Certificate.

20 (d) The Certificate of Management Certification shall be renewed every three (3) years.

21 (e) Any person renewing the Certificate of Management Certification may waive the
22 prescribed course in (b) of this section, and promptly take the examination to obtain the certification.
23 However, any person who waives the course and fails to show evidence by examination of satisfactory
24 knowledge [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course, and not
25 permitted to waive the course again, and shall meet the required minimum passing score of seventy

1 percent (70%) or higher, before certification is granted.

2 (f) Any person waiting to take the course in §4415(c) to renew his or her Certificate of
3 Management Certification shall not be penalized if his or her Certificate of Management Certification
4 expires prior to the date of the scheduled course, provided:

5 (1) That the course the person is waiting to attend is the most immediate course
6 available after the expiration of his Certificate of Management Certification, and

7 (2) He or she has taken the necessary steps to properly register for the course.

8 Any person with an expired Certificate of Management Certification in a situation described in this
9 section shall be considered to have a current and valid certification up until the date of the scheduled
10 course.

11 (g) The Department, if it wishes, may authorize another Government of Guam entity to
12 provide or supplement the Certificate of Management Certification course, provided a written
13 memorandum of agreement between the Department and the other entity is formally established.

14 **§4416. Fees.** A non-refundable fee shall be required of applicants at the time of application for
15 Health Certificates. In the event of failure to qualify for a Health Certificate, non-fulfillment, or
16 termination of employment, the fee shall not be refunded to the applicant.

17 (a) The annual fee for a Health Certificate for a person employed within an Eating
18 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
19 Establishment, Swimming Pool, Tattoo Shop, or any other establishment where an employee is
20 required a Health Certificate, shall be Ten Dollars (\$10.00).

21 (b) The annual fee for a Health Certificate for a person employed within an Eating
22 and Drinking Establishment, Food Establishment, Institutional Facility, Cosmetic
23 Establishment, Laundry an Dry Cleaning, Swimming Pool, Tattoo Shop, or any other
24 establishment where an employee is required a Health Certificate, who attends a training course
25 shall be Fifteen Dollars (\$15.00).

1 (c) The fee for the re-issuance of a Health Certificate for any amendments made to
2 the Health Certificate shall be Five Dollars (\$5.00)

3 (d) The fee for any reissuance (i.e., duplicate) of a Health Certificate and
4 Temporary Health Certificate due to loss or damage shall be Two Dollars (\$2.00).

5 ~~(e) The fee for an applicant who has failed to pass the training course and is~~
6 ~~required to attend another training course for re-testing shall be Ten Dollars (\$10.00). An~~
7 ~~applicant who has failed to pass the training course and is required to attend another training~~
8 ~~course for re-testing shall pay a fee of Ten Dollars (\$10.00) for such re-testing, and a fee of~~
9 ~~Five dollars (\$5.00) for a new Interim Health Certificate, provide he/she returns within ten (10)~~
10 ~~working days of the expiration date; otherwise, the fee for a new Interim Health Certificate~~
11 ~~reverts back to Ten Dollars (\$10.00).~~

12 **§4417. Effective Date of Health Certificate.** Unless indicated elsewhere in these rules and
13 regulations, or any other rules and regulations promulgated by the Director under Guam law relevant
14 to environmental health, all Health Certificates shall expire one (1) year after the date of application
15 ~~issuance~~ and for the category indicated on the certificate. Applications for renewal of a Health
16 Certificate shall not be accepted more than thirty (30) fifteen (15) days prior to its expiration, unless
17 authorized by the Director.

18 (b) All Temporary Health Certificates shall be valid for only six (6) months from the date
19 of application ~~issuance~~ and for the location indicated on the certificate, and can only be renewed upon
20 the renewal of the temporary food service establishment's Sanitary Permit.

21 **§4418. Presentation of Health Certificate, Interim Health Certificate, and Certificate of**
22 **Management Certification.** (a) Every person required to have a Health Certificate under §22101 of
23 Title 10 GCA, shall have the Health Certificate in that person's personal possession at all times during
24 his or her working hours.

25 (b) Unless exempted elsewhere in these rules and regulations or any other rules and regulations

1 promulgated by the Department, ~~Except for Cosmetic Establishments,~~ all valid copies of Health
2 Certificates, Interim Health Certificates, and Certificates of Management Certification shall be
3 conspicuously posted at facility of the employees. The location within the establishment where the
4 Health Certificates are to be posted is at the discretion of the establishment; however, it shall be readily
5 available when requested by the Director during inspection of the establishment. "Readily available"
6 shall mean that the documents are separated from all other records and made available for inspection in
7 reasonable amount of time.

8 ~~(e) — All Health Certificates for Cosmetic Establishments shall be placed in a conspicuous~~
9 ~~place designated by the Director.~~

10 **§4419. Suspension or Revocation of Health Certificate and Certificate of Management**

11 **Certification.** (a) The Director may suspend or revoke any Health Certificate, or Interim Health
12 Certificate issued under these rules and regulations, or any other rules and regulations promulgated by
13 the Director requiring a Health Certificate, for providing false information in his or her application,
14 violation of the provisions of these or any other related rules and regulations, or in the event the holder
15 of the Health Certificate has been determined to be harboring a communicable disease. The holder of
16 the suspended or revoked Health Certificate shall return the said certificate to the Department.

17 (b) The Director may suspend or revoke any Certificate of Management Certification issued
18 under these rules and regulations if doing so would be in the best interest of protecting the public's
19 health.

20 (c) Before any Health Certificate, Interim Health Certificate, or Certificate of Management
21 Certification is suspended or revoked, the person shall have a right to a hearing in accordance to the
22 Administrative Adjudication Law.

23 **§4420. Administrative Penalties.** (a) In accordance to Title 10 GCA, Chapter 22, §22106,
24 the Director may impose a fine for any health-regulated establishment that permits a person to perform
25 services without having in their possession a valid Health Certificate at the time the services are

1 performed. The monetary fine for the administrative violation is not to exceed Three Hundred Dollars
2 (\$300.00) for the first offense, and shall impose a fine of One Thousand Dollars (\$1,000.00) for a
3 second offense involving the same person occurring within one (1) year of the first offense.

4 (b) Any person who is required to obtain a Health Certificate under §4405 of these rules
5 and regulations shall be cited for administrative violation if they are found working at a health-
6 regulated establishment without a valid Health Certificate or not having the valid Health Certificate
7 in the person's personal possession during working hours. The Director shall assess the monetary
8 fine in accordance to law.

9 (c) When more than one person is cited within the same health-regulated establishment, at
10 the same time, for not possessing valid Health Certificates, each citation shall be considered a separate
11 administrative violation and the Director shall assess the required monetary fines to the establishment.

12 (d) Before imposing an administrative penalty against a person or a health-regulated
13 establishment, the Director shall issue a notice of intent to impose the penalty and provide the person or
14 health-regulated establishment an opportunity to request a hearing on the proposed penalty. The
15 request must be made within ten (10) days of the date that the notice is served upon the person or
16 health-regulated establishment.

17 (e) Any person or health-regulated establishment may seek review of any administrative
18 penalty imposed before the Superior Court of Guam. Such review shall be upon the record established
19 before the Director and *not de novo*. The Superior Court may sustain, modify or vacate any
20 administrative penalty it reviews.

21 (f) If any person, or a health-regulated establishment, fails to comply with an administrative
22 penalty order after it has become final, the Attorney General shall bring a civil action to enforce the
23 order and to recover the amount ordered or assessed, plus current interest from the date of the final
24 order or decision. To prevail in such an action, the Director need establish only that:

25 (1) notice was given as required;

- 1 (2) a hearing was granted to the defendant or that the defendant requested no hearing; and
2 (3) the penalty was imposed and has become final either because the administrative order
3 was not appealed to the Superior Court, or that after judicial review the administrative
4 order remains an unsatisfied obligation.

5 **§4421. Hearing.** (a) Any person employed whose Health Certificate, Temporary Health
6 Certificate, Interim Health Certificate, or Certificate of Management Certification is to be suspended or
7 revoked, shall be notified by the Director in writing of the Department's intention.

8 (b) Any person who receives a notice of intention as described in Subsection (a) of this
9 §4419 who wishes to appeal, shall request a hearing with the Director in writing no later than ten (10)
10 working days after the receipt of the notice.

11 (c) Upon receipt of a request for a hearing, the Director shall arrange to hear the appeal of
12 the person employed within twenty (20) working days of the receipt of the written request.

13 (d) The Director shall make final determination to repeal or stay any suspension or
14 revocation described in §4418 upon the completion of a hearing.

15 **§4422. Variances.** (a) The Director of the Department may grant a variance to a
16 requirement only if doing so will not endanger the health and welfare of the public and does not
17 contradict the spirit and intent of these rules and regulations.

18 (b) Any variance issued by the Director of the Department shall be put forth in writing
19 providing explanation for the variance and its approval with the signature of the Director and date and
20 filed accordingly for records.

21 **§4423. Effective Date.** These rules and regulations shall be immediately effective after the
22 ninety (90) calendar days have elapsed from the date of filing with the Legislative Secretary, pursuant
23 to Public Law No. 24-27. At that time, all other rules and regulations or parts of other rules and
24 regulations that conflict with these rules and regulations are repealed. The adoption of these rules and
25 regulations shall not prohibit the Department from delaying the implementation of all or certain sections

1 of these rules and regulations if the Department believes doing so would better effectuate its purpose;
2 provided, such delay shall not exceed 365 days of its effective date.

3 **§4424. Separability.** If any provision or application of any provision of these regulations is
4 held invalid, that invalidity shall not affect the other provisions or applications of these rules and
5 regulations.

1 I, _____, a holder of "Certificate of Management Certification" and
2 the supervisor of _____ at _____
3 enter into this voluntary agreement with the Department of Public Health and Social Services, in
4 accordance with §4409(a)(1)(B) of the Health Certificate Regulations, to provide the basic knowledge
5 and skill in the proper sanitary handling, preparing, and/or cooking of foods at the establishment to the
6 above employee. In a cooperative effort with the Department of Public Health and Social Services,
7 along with my responsibility and obligation to practice and promote food safety at the work-place, I
8 will ensure that the employee is taught the following so that the food commodity made available by this
9 establishment for human consumption may not endanger the health and welfare of the public:

10

11 (To be determined by DPHSS.)

12

13 I understand that any failing on my part to fulfill the agreement in properly training the above employee
14 may lead to the revocation of the employee's Health Certificate in accordance to §4418 of the Health
15 Certificate Regulations.

16

17

18

19

20 _____
EMPLOYEE-Print SIGNATURE DATE

21

22

23

24 _____
SUPERVISOR-Print SIGNATURE DATE

25

26

27

28 _____
DPHSS REPRESENTATIVE-Print SIGNATURE DATE

29

30

31

APPENDIX I

1 I, _____, the immediate supervisor of
2 _____ at _____ enter into this
3 voluntary agreement with the Department of Public Health and Social Services, in accordance with
4 §4409(a)(1)(B) of the Health Certificate Regulations, to provide the basic knowledge and skill in the
5 proper sanitary handling, preparing, and/or cooking of foods at the establishment to the above
6 employee. In a cooperative effort with the Department of Public Health and Social Services, along
7 with my responsibility and obligation to practice and promote food safety at the work place, I will
8 ensure that the employee is taught the following so that the food commodity made available by this
9 establishment for human consumption may not endanger the health and welfare of the public:

10

11 _____ (To be determined by DPHSS.)

12

13 I understand that any failing on my part to fulfill the agreement in properly training the above employee
14 may lead to the revocation of the employee's Health Certificate in accordance to §4418 of the Health
15 Certificate Regulations.

16

17

18

19

20 _____

EMPLOYEE Print SIGNATURE DATE

21

22

23

24 _____

SUPERVISOR Print SIGNATURE DATE

25

26

27

28 _____

DPHSS REPRESENTATIVE Print SIGNATURE DATE

29

30

31

32

APPENDIX II