

1

§4416. Effective Date of Health Certificate.

2

§4417. Presentation of Health Certificate, Temporary Health Certificate, Interim Health Certificate, and Certificate of Management Certification.

3

4

5

§4418. Suspension or Revocation of Health Certificate.

6

§4419. Administrative Penalties

7

§4420. Hearing.

8

§4421. Effective Date.

9

§4422. Separability.

10

APPENDIX I

11

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 shall be known and may be cited as the
8 'Health Certificate Rules and Regulations'.

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

12 §4403. **Purpose.** These rules and regulations are established to ensure that the holder of a
13 Health Certificate is free of certain communicable diseases that could potentially spread to fellow
14 employees and clients through holder's work activities. These rules and regulations will also make it
15 necessary for the holder of a Health Certificate to acquire minimum knowledge in the proper sanitation
16 practices for their respective activities.

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

19 (a) **'Eating and Drinking Establishment'** shall mean any mobile food service
20 establishment; vending machine; restaurant; coffee shop; public or private school cafeteria; lunchroom;
21 luncheonette; lunch-stand; lunch-counter; in-plant or employee eating establishment; soda fountain; bar;
22 cafe; tavern; short order cafe; sandwich stand; drink stand; cafeteria or similar facility connected with
23 an institution; any other eating establishment within in an organization, club, veteran's club, boarding
24 house, guest house, political subdivision, stall, stand, and booth; and a concession within any public

1 market which gives, sells, or offers for sale, or promotes food to the public, guests, patrons, or
2 employees; and as well as kitchens in which food is prepared on the premises for serving elsewhere,
3 including catering functions.

4 (b) **'Category'** shall mean the following types of establishments and their activities
5 regulated by the Department in these rules and regulations, and other rules and regulations of the
6 Department, which requires a separate Health Certificate:

7 (1) Eating and drinking establishment/Food establishment;

8 (2) Cosmetic establishment;

9 (3) Food establishment;

10 (4) Institutional facility;

11 (5) Laundry and dry cleaning establishments; and

12 (6) Tattoo shop.

13 (c) **'Certificate of Management Certification'** shall mean a certification issued by the
14 Department or any authorized institution, as determined by the Director, to a person employed, or
15 designated, as a manager or supervisor within an eating and drinking establishment who has
16 demonstrated his knowledge of rules and regulations governing eating and drinking establishments
17 including, but not limited to, bacteriology, food-borne diseases, food storage, food preparation and
18 service, equipment design and construction, employee hygiene, cleaning and sanitary procedures, and
19 rodent and insect control, or its equivalent as determined by the Director.

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

22 A) Singeing, shampooing, arranging, adorning, dressing, curling, waving,
23 permanent waving, tinting, applying tonic to, or dyeing human hair,

24 B) Shaving, clipping, trimming or cutting human hair,

1 C) Giving facial, scalp, neck or body massages or treatments with oils,
2 creams, lotions, or other preparations to the hands, scalp, face, or neck by hand or
3 mechanical appliance; and

4 (D) Manicuring or pedicuring.

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

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

10 (B) "Schools of Cosmetology", which shall mean any establishment or
11 facility where the practice of cosmetology is taught for fee or charge. The term
12 includes, but is not limited to barber colleges or other closely related institutions or
13 establishments teaching cosmetology for reimbursement;

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

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

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

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

1 (g) **'Food Establishment'** shall mean every establishment or place which is used or occupied
2 as a bakery; confectionery; cannery; dairy; creamery; packing house; grocery; supermarket; meat or
3 poultry market; fruit or vegetable market; delicatessen; beverage plant; slaughter house; poultry
4 processing plant; fish processing plant; frozen food processing plant; bottling plant; food refrigeration
5 locker plant; ice plant; ice cream or frozen dessert plant; public market; food warehouse; or any
6 structure used for the production, processing, manufacture, preparation for sale, canning, bottling,
7 packing, packaging, storage, sale or distribution, of any food.

8 (h) **'Health Certificate'** shall mean a certificate issued by the Director to a person employed
9 within any eating and drinking establishment, food establishment, institutional facility, cosmetic
10 establishment, tattoo shop, laundry or dry cleaning establishment, or any other establishment under the
11 provisions of any other rules and regulations promulgated by the Director to properly carry out the laws
12 of Guam relating to environmental health.

13 (i) **'Health-Regulated Establishment'** shall mean any of the following: Eating and Drinking
14 Establishment, Cosmetic Establishment, Food Establishment, Institutional Facility, Laundry and Dry
15 Cleaning Establishment, Tattoo Shop, and Temporary Food Service Establishment.

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

17 (1) "Adult Group Day Care Center", which shall mean a place maintained and
18 operated by an individual, organization or agency whether for profit or not for the purpose of
19 providing protective and supportive care for two (2) or more elderly and/or disabled adults, not
20 related to the facility's owner/operator by blood or marriage within the third degree of
21 consanguinity, for a specified time period of ten (10) hours or less in each twenty-four (24)
22 hour day. At the end of the specified time period, the participant is discharged to the custody
23 of his/her family, guardian or sponsor;

24 (2) "Child Care Facility", which shall mean any person or place which receives or

1 arranges placement of one (1) or more children who are not related to such person, whether for
2 gain or otherwise, apart from the parents or guardian, with or without the transfer of the right
3 of custody for the purpose of providing regular care or training for such child or children
4 during either the day or night, or both. Except as otherwise provided, the term "Child Care
5 Facility" includes, but is not limited to, all facilities defined by the Department as "family day
6 care homes", "foster family homes", "group day care homes", "residential treatment facilities",
7 "day care center", "day nurseries", "nursery school", "kindergarten school", "day care homes",
8 or similar institutions or units regardless of name;

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

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

16 (5) "Hospital", 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 diagnosis, evaluation, treatment and provision of medical or surgical care for
19 three (3) or more non-related individuals admitted for overnight stay or longer in order to
20 obtain medical services, including obstetric, psychiatric and nursing care of illness, disease,
21 injury or deformity, whether physical or mental, and regularly making available at least clinical
22 laboratory service, diagnostic radiology services and treatment facilities, or surgery, obstetrical
23 care or other definitive medical treatment;

24 (6) "Clinic", which shall mean any building, structure, institution or place, public or

1 private, whether organized for profit or not, devoted primarily to the maintenance and
2 operation of facilities for the medical or dental evaluation, diagnosis, or treatment of human
3 illness, injury or deformity, or the veterinary medical or veterinary dental evaluation, diagnosis,
4 or treatment of animal illness, injury or deformity;

5 (7) "Nursing Home", which shall mean any facility established, for profit or non-
6 profit, which provides nursing care and related medical services twenty-four (24) hours per day
7 for two (2) or more individuals because of illness, disease or mental or physical infirmity. It
8 provides care for these persons not in need of hospital care but requiring nursing care or related
9 medical services, which medical services shall be administered by a professional nurse, a
10 physical therapist or an occupational therapist, or other licensed medical practitioners,
11 depending upon the service required; and

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

17 (k) 'Interim Health Certificate' shall mean a provisional certificate issued by the Director
18 to a person employed within any eating and drinking establishment, food establishment, or any other
19 establishment under the provisions of any other rules and regulations promulgated by the Director to
20 properly carry out Title 10 G.C.A. relating to environmental health, who is awaiting the attendance of a
21 training course offered by the Department.

22 (l) 'Laundry or Dry Cleaning Establishment' shall mean any place, building, structure,
23 room or partition thereof, used in the business of dyeing, washing, starching, ironing or dry cleaning
24 wearing apparel, household linens and other fabric articles, including any establishment providing

1 laundrying equipment for use by customers for a fee such as a Laundromat, wash-o-mat, launderette or
2 coin operated Laundromat.

3 (m) **'Massage Therapy'** shall mean the manipulation of the superficial tissues of the human
4 body by a Massage Therapist licensed by the Board with the hand, foot, arm, or elbow, whether or not
5 such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any
6 electrical or mechanical device; or the application to the human body of a chemical or herbal
7 preparation.

8 (n) **'Person Employed'** shall mean the following:

9 (1) In "Eating and Drinking Establishments", any person employed for
10 compensation or otherwise who transports food or food containers, engages in food
11 preparation or service, or comes in contact with any food and food utensils or equipment;

12 (2) In "Food Establishments", any person employed for compensation or otherwise
13 who transports, stocks, stores, packs, packages, processes, manufactures, cans, bottles or
14 otherwise handles raw or processed foods;

15 (3) In "Institutional Facilities", any person employed for compensation or
16 otherwise at that facility; and

17 (4) In "Cosmetic Establishments", any person employed for compensation or
18 otherwise who sings, shampoos, arranges, adorns, dresses, curls, waves, permanent waves,
19 tints, applies tonics, dyes, shaves, clips, trims or cuts human hair, gives facial, scalp, neck or
20 body massages or treatments with oils, creams, lotions, or other preparations to the hands,
21 scalp, face, or neck by hand or mechanical appliance, and manicures and pedicures;

22 (5) In "Laundry or Dry Cleaning Establishments", any person employed for
23 compensation or otherwise who handles soiled or cleaned linens or other laundry items; and

24 (6) In "Tattoo Shops", any person employed for compensation or otherwise at that

1 facility.

2 (o) 'Tattooing' shall mean to mark or color the skin by pricking and introducing
3 subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks and
4 figures.

5 (p) 'Tattoo Shop' shall mean any premises where a Tattoo Artist does tattooing for a fee
6 or other consideration.

7 (q) 'Temporary Food Service Establishment' shall mean any eating and drinking or food
8 establishment which operates at a fixed location for a period of time not exceeding six (6) months in
9 conjunction with a carnival, fair, circus, exhibition or other transitory gathering not of a permanent
10 nature, and shall include catering.

11 (r) 'Temporary Health Certificate' shall mean a certificate issued to a person employed
12 within any temporary food service establishment under the provisions of these rules and regulations.

13 **§4405. Health Certificate Required.** Unless otherwise stated within these rules and
14 regulations, or any other rules and regulations promulgated by the Department relating to
15 environmental health, every person employed within an eating and drinking establishment, food
16 establishment, institutional facility, cosmetic establishment, tattoo shop, laundry or dry cleaning
17 establishment, or any other establishments under the provisions of any other rules and regulations
18 promulgated by the Director to properly carry out Title 10 G.C.A. relating to environmental health,
19 shall be required to obtain a Health Certificate.

20 **§4406. Exemption of Health Certificate.** The selling of the following articles shall not
21 require the obtaining of a Health Certificate:

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

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

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

2 **§4407. Application for Health Certificate and Temporary Health Certificate.** (a) Any
3 person desiring to engage in employment requiring a Health Certificate or Temporary Health
4 Certificate under these rules and regulations shall make an application for a Health Certificate or
5 Temporary Health Certificate to the Department. The applicant shall be required to show a current
6 and valid photo identification or other evidence attesting to the applicant's true identity. The applicant
7 shall also be required to show a valid Social Security Card, and documentation approved by the
8 Director attesting to the applicant's United States citizenship, permanent resident alien or non-
9 immigrant status, authorizing the applicant to work in the United States by the U.S. Immigration and
10 Naturalization Services. The following are acceptable forms of photo identification:

- 11 (1) Government of Guam Identification Card;
- 12 (2) Guam Driver's License;
- 13 (3) United States Military Identification Card;
- 14 (4) Passport; and
- 15 (5) Any other photo identification acceptable by the Department.

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

- 18 (1) Passport; and
- 19 (2) Alien Registration Receipt Card (Green Card).

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

- 23 (1) Signed and dated authorization letter from applicant, along with an explanation
24 of the applicant's relation to the representative;

- 1 (2) Completed, original application; and
- 2 (3) Representative's and applicant's acceptable photo identification cards.

3 (c) An applicant, or duly authorized representative of the applicant, applying for a Health
4 Certificate shall complete all application requirements and submit all necessary information at any time
5 but not more than one (1) month before commencement of employment. An applicant, or duly
6 authorized representative of the applicant, applying for a Temporary Health Certificate shall complete
7 all application requirements and submit all necessary information, not more than twenty (20) and not
8 less than five (5) working days, before commencement of employment.

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

12 **§4408. Requirements for Health Certificate.** (a) All new Health Certificate applicants shall
13 submit an application approved by the Department, and shall be tested, or screened, and be free of
14 infectious Tuberculosis within six (6) months prior to its submission, and any other communicable
15 diseases, as determined by the Director.

16 (b) Excluding persons employed at eating and drinking and food establishments, renewing
17 applicants may be required to be tested or screened for infectious Tuberculosis and other
18 communicable diseases, as determined under the provisions of any other rules and regulations
19 promulgated by the Director to properly carry out Title 10 G.C.A. relating to environmental health.

20 **§4409. Additional Requirements for Health Certificate.**

21 (a) The following are further requirements for any person desiring to engage in employment
22 requiring a Health Certificate under these rules and regulations, and must be complied with to qualify
23 for, and hold, a Health Certificate:

- 24 (1) **Eating and Drinking Establishment and Food Establishment.** Any

1 applicant who has not previously been issued a Health Certificate by the Department or whose
2 previous Health Certificate has expired for more than thirty (30) calendar days shall attend and
3 pass a training course conducted by the Guam Community College that has been approved by
4 the Department, before a Health Certificate is issued.

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

8 (B) Any applicant, who fails to pass his second consecutive training course,
9 after failing the first training course, may be provided a Health Certificate at the
10 discretion of the Director. However, prior to the issuance of the Health Certificate by
11 the Director, the applicant's supervisor must be certified in accordance with §4414, and
12 shall be required to enter into a written agreement with the Department (Appendix I).
13 For retail stores, wholesalers, distributors, and any other food establishments
14 specifically exempted through separate rules and regulations promulgated by the
15 Director, the applicant's supervisor need not be certified in accordance with §4414, but
16 shall be the applicant's immediate supervisor and shall be required to enter into a
17 written agreement with the Department (Appendix II). A Health Certificate issued
18 under such condition shall have a distinguishing mark or symbol printed on the
19 certificate.

20 (C) The Health Certificate issued in Subpart (B) of Item (1), Subsection (a)
21 of this §4409, shall not be of the type provided in §4411.

22 (D) The Director may revoke any Health Certificate issued in Subpart (B)
23 of Item (1), Subsection (a) of this §4409, upon reasonable belief that the written
24 agreement has been breached.

1 (E) Any person in possession of a valid Certificate of Management
2 Certification shall be exempt from the training course.

3 In the event the Guam Community College is unable to provide the minimum standard of
4 training that is acceptable to the Department in the issuance of Health Certificates, or fails to
5 provide the training course within thirty days of the submission of application for Health
6 Certificate to the Department, the Department may seek the assistance of any other
7 educational, governmental, or commercial institution in carrying out the provision of this
8 section.

9 (2) **Cosmetic Establishment.** (A) All persons employed at a cosmetic
10 establishment, except the following, shall be required to attend a training course approved by
11 the Department before a Health Certificate is issued:

12 (i) Those in possession of a valid license issued by the Guam
13 Board of Professional Licensure;

14 (ii) Massage Therapists; and

15 (iii) Masseurs and Masseuses.

16 (B) Unless otherwise stated in any other separate rules and regulations
17 promulgated by the Director to properly carry out Title 10 G.C.A. relating to
18 environmental health, no Health Certificate shall be issued or renewed unless the
19 applicant has updated immunization for mumps, measles, rubella, tetanus, diphtheria,
20 polio, and any other vaccinations and exams at the discretion of the Director. Records
21 of all such examinations shall be kept in a file in the institution where the applicant is
22 employed.

23 (3) **Institutional Facility.** Unless otherwise stated in any other separate rules and
24 regulations promulgated by the Director to properly carry out Title 10 G.C.A. relating to

1 environmental health, no Health Certificate shall be issued or renewed unless the applicant has
2 undergone a physical examination using report forms provided by the Department. The
3 applicant shall have updated immunization for mumps, measles, rubella, tetanus, diphtheria,
4 polio, and any other vaccinations and exams at the discretion of the Director. Records of all
5 such examinations shall be kept in a file in the institution where the applicant is employed.

6 (4) **Tattoo Shop.** (A) All persons employed at a tattoo shop, except the
7 following, shall be required to attend a training course approved by the Department before a
8 Health Certificate is issued:

9 (i) Those in possession of a valid license issued by the Guam
10 Board of Professional Licensure.

11 (B) Unless otherwise stated in any other separate rules and regulations
12 promulgated by the Director to properly carry out Title 10 G.C.A. relating to
13 environmental health, no Health Certificate shall be issued or renewed unless the
14 applicant has undergone a physical examination using report forms provided by the
15 Department. The applicant shall have updated immunization for mumps, measles,
16 rubella, tetanus, diphtheria, polio, and any other vaccinations and exams at the
17 discretion of the Director. Records of all such examinations shall be kept in a file in the
18 institution where the applicant is employed.

19 (5) **Laundry or Dry Cleaning Establishment.** Unless otherwise stated in any
20 other separate rules and regulations promulgated by the Director to properly carry out Title 10
21 G.C.A. relating to environmental health, no Health Certificate shall be issued or renewed unless
22 the applicant has undergone a physical examination using report forms provided by the
23 Department. Records of all such examinations shall be kept in a file in the institution where the
24 applicant is employed.

1 **§4410. Requirements for Temporary Health Certificate.** Any person applying for a
2 Temporary Health Certificate to work in a carnival, fair or other temporary food concession will not be
3 required to attend a training course, as indicated in Item (1) of Subsection (a), §4409 of these rules and
4 regulations, or obtain TB test or screening. However, they shall be provided with brief oral and written
5 information and instructions on proper food handling, storage, preparation, and serving from the
6 Department.

7 **§4411. Single Health Certificate for Multiple Locations per Category.** Each person
8 is required to possess only one Health Certificate per category, regardless of the number of
9 different employed locations or businesses. The Health Certificate shall state the category the
10 holder is authorized to work in, and the name of all businesses employment at for that category.
11 Such Health Certificate shall be valid at all locations indicated within each category. Any
12 amendments to the business listing of employment shall require the re-issuance of a new Health
13 Certificate reflecting the change.

14 **§4412. Additional Health Certificate.** (a) Any person employed within an eating and
15 drinking establishment/food establishment, institutional facility, cosmetic establishment, tattoo shop, or
16 laundry and dry cleaning establishment, or any other regulated establishments, who holds a Health
17 Certificate within such category shall not be issued, upon submission of a separate application with
18 appropriate fee, a Health Certificate for other categories without meeting the qualifications enumerated
19 under each category.

20 **§4413. Interim Health Certificate.** (a) Aside from the provision set forth in Item (1) of
21 Subsection (a) of §4409, an applicant required to attend a training course offered by the Department
22 shall be granted an Interim Health Certificate for employment until the applicant's completion and
23 passage of the training course, whereupon he shall receive a Health Certificate.

24 (b) An Interim Health Certificate shall indicate the name of the applicant; name and

1 location of employment; date, time, and location of the training course; expiration date, and any other
2 information as determined by the Director. Expiration date shall not exceed more than three (3)
3 working days after the date of the training course.

4 (c) An applicant in possession of an Interim Health Certification who fails to attend the
5 training course shall be scheduled for another training course and granted an extension of the expiration
6 date, provided that no more than five (5) working days have elapsed from the date of the original
7 training course. The extension of the new expiration date shall not exceed beyond the rescheduled
8 training course date.

9 (d) An applicant who fails to attend the rescheduled training course or whose Interim
10 Health Certificate has expired more than five (5) working days from the date of the original training
11 course, shall be considered a new applicant and shall be required to apply as a new applicant. Such
12 applicant may submit his initial physical test results with the application, provided the testing or
13 screening was within the six (6) months of submission of the new application.

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

17 **§4414. Management Sanitation Training and Health Certification.** (a) Every eating and
18 drinking establishment and food establishment, excluding retail stores, wholesalers, distributors, and
19 any other food establishments specifically exempted through separate rules and regulations
20 promulgated by the Director, with five (5) or more employees shall have a designated resident manager
21 or supervisor who shall be certified under the provisions of these rules and regulations.

22 (b) Any person employed or designated as a manager or supervisor within an eating and
23 drinking establishment and food establishment, excluding retail stores, wholesalers, distributors, and
24 any other food establishments specifically exempted through separate rules and regulations

1 promulgated by the Director, shall be required to take and pass a prescribed course approved by the
2 Department, conducted by the Guam Community College, before a Certificate of Management
3 Certification, or an equivalent certification as approved by the Director, is issued by the institution
4 administering the course. The course shall require the candidate for managerial certification to show
5 evidence by examination of satisfactory knowledge [scoring seventy Percent (70%) or higher] of rules
6 and regulations governing eating and drinking establishments including, but not limited to,
7 bacteriology, food-borne diseases, food storage, food preparation and service, equipment design and
8 construction, employee hygiene, cleaning and sanitary procedures and rodent and insect control.
9 Those candidates who fail to show evidence by examination of satisfactory knowledge [scoring sixty-
10 nine Percent (69%) or lower] shall repeat the course until the required minimum passing score of
11 seventy percent (70%) or higher is met. No restrictions are placed on the number of times a designated
12 manager or supervisor may take the course to obtain a passing score.

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

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

17 (e) Any person renewing the Certificate of Management Certification may waive the
18 prescribed course in (c) of this section, and promptly take the examination to obtain the certification.
19 However, any person who waives the course and fails to show evidence by examination of satisfactory
20 knowledge [scoring sixty-nine Percent (69%) or lower] shall be required to attend the course, and not
21 permitted to waive the course again, and shall meet the required minimum passing score of seventy
22 percent (70%) or higher, before certification is granted.

23 (f) Any person waiting to take the course in Subsection (c) of this §4414 to renew his/her
24 Certificate of Management Certification shall not be penalized if his/her Certificate of Management

1 Certification expires prior to the date of the scheduled course, provided:

2 (1) That the course he/she is awaiting to attend is the most immediate course
3 available after the expiration of his Certificate of Management Certification, and

4 (2) He/She has taken the necessary steps to properly register for the course.

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

8 **§4415. Fees.** The following fees shall be required of applicants at the time of application for
9 Health Certificates. In the event of failure to qualify for a Health Certificate, non-fulfillment or
10 termination of employment, the fee shall not be refunded to the applicant:

11 (a) The annual fee for a Health Certificate for a person employed within an eating
12 and drinking establishment, food establishment, institutional facility, cosmetic establishment, or
13 any other establishment where an employee requires a Health Certificate through rules and
14 regulations promulgated by the Director, shall be Ten Dollars (\$10.00).

15 (b) The annual fee for a Health Certificate for a person employed within an eating
16 and drinking establishment, food establishment, institutional facility, cosmetic establishment, or
17 any other establishment where an employee requires a Health Certificate through rules and
18 regulations promulgated by the Director, who attends a training course shall be Ten Dollars
19 (\$10.00) and Fifteen Dollars (\$15.00), to paid to the Department and the Guam Community
20 College, respectively.

21 (c) The fee for the re-issuance of a Health Certificate under §4411 for any
22 amendments made to the Health Certificate shall be Five Dollars (\$5.00)

23 (d) The fee for a Temporary Health Certificate for a person employed with a
24 temporary food service establishment shall be Five Dollars (\$5.00).

1 (e) The fee for any duplicate Health Certificate and Temporary Health Certificate
2 due to loss or damage shall be Two Dollars (\$2.00).

3 (f) The fee for an applicant who has failed to pass the training course and is
4 required to attend another training course for re-testing shall be Ten Dollars (\$10.00), to be
5 paid to the Guam Community College.

6 **§4416. Effective Date of Health Certificate.** (a) Unless indicated elsewhere in these rules
7 and regulations, or any other rules and regulations promulgated by the Director under Guam law
8 relevant to environmental health, all Health Certificates shall expire One (1) year after the date of
9 issuance and for the location indicated on the certificate. Applications for renewal of a Health
10 Certificate shall not be accepted more than fifteen (15) days prior to its expiration.

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

14 **§4417. Presentation of Health Certificate, Temporary Health Certificate, Interim**
15 **Health Certificate, and Certificate of Management Certification.** (a) Every person required to
16 have a Health Certificate under §22101 of Title 10 GCA, shall have the Health Certificate in that
17 person's personal possession at all times during his or her working hours.

18 (b) Except for cosmetic establishments, all valid copies of Health Certificates, Temporary
19 Health Certificates, Interim Health Certificates, and Certificates of Management Certification shall be
20 conspicuously posted. The location within the establishment where the Health Certificates are to be
21 posted is at the discretion of the establishment; however, it shall be readily available when requested by
22 the Director during inspection of the establishment. "Readily available" shall mean that the documents
23 are separated from all other records and made available for inspection in reasonable amount of time.

24 (c) All Health Certificates for cosmetic establishments shall be placed in a conspicuous

1 place designated by the Director.

2 **§4418. Suspension or Revocation of Health Certificate.** (a) The Director may suspend or
3 revoke any Health Certificate, Interim Health Certificate, or Temporary Health Certificate issued under
4 these rules and regulations, or any other rules and regulations promulgated by the Director requiring a
5 Health Certificate, for violation of the provisions of these or any other related rules and regulations, or
6 in the event the holder of the Health Certificate has been determined to be harboring a communicable
7 disease.

8 (b) The Director may suspend or revoke any Certificate of Management Certification
9 issued under these rules and regulations when the holder or persons under his supervision repeatedly
10 fails to comply with rules and regulations for eating and drinking establishments.

11 (c) Before any Health Certificate, Interim Health Certificate, Temporary Health Certificate,
12 or Certificate of Management Certification is suspended or revoked, the person shall
13 have a right to a hearing with the Director.

14 **§4419. Administrative Penalties.** (a) The Director may impose a fine for any health-
15 regulated establishment that permits a person to perform services without having in their possession a
16 valid Health Certificate at the time the services are performed. The monetary fine for the administrative
17 violation is not to exceed Three Hundred Dollars (\$300.00) for the first offense, and shall impose a fine
18 of One Thousand Dollars (\$1,000.00) for a second offense involving the same person occurring within
19 one (1) year of the first offense.

20 (b) Any person who is required to obtain a Health Certificate under §4405 of these rules
21 and regulations shall be cited for administrative violation if they are found working at a health-regulated
22 establishment without a valid Health Certificate or not having the valid Health Certificate in the
23 person's personal possession during working hours. The Director shall assess the monetary fine in
24 accordance to the amount and manner in §4419(a) of these rules and regulations.

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

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

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

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

17 (1) notice was given as required;

18 (2) a hearing was granted to the defendant or that the defendant requested no hearing; and

19 (3) the penalty was imposed and has become final either because the administrative order
20 was not appealed to the Superior Court, or that after judicial review the administrative
21 order remains an unsatisfied obligation.

22 **§4420. Hearing.** (a) Any person employed whose Health Certificate, Temporary Health
23 Certificate, Interim Health Certificate, or Certificate of Management Certification is to be suspended or
24 revoked, shall be notified by the Director in writing of the Department's intention.

1 (b) Any person who receives a notice of intention as described in Subsection (a) of this
2 §4419 who wishes to appeal, shall request a hearing with the Director in writing no later than ten (10)
3 working days after the receipt of the notice.

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

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

8 **§4421. Effective Date.** These rules and regulations shall be immediately effective after the
9 ninety (90) calendar days have elapsed from the date of filing with the Legislative Secretary, pursuant
10 to Public Law No. 24-27. At that time, all other rules and regulations or parts of other rules and
11 regulations that conflict with these rules and regulations are repealed.

12 **§4422. Separability.** If any provision or application of any provision of these regulations are
13 held invalid, that invalidity shall not affect the other provisions or applications of these rules and
14 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 _____
SUPERVISOR-Print SIGNATURE DATE
24
25
26
27 _____
DPHSS REPRESENTATIVE-Print SIGNATURE DATE
28
29
30

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**