

**10 GCA HEALTH AND SAFETY
CH. 22 HEALTH CERTIFICATES**

**CHAPTER 22
HEALTH CERTIFICATES**

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§ 22101. Who Shall Have Health Certificates.

Every person listed hereinafter in this Section shall obtain from the Director every twelve (12) months a health certificate:

(a) any person employed as a handler of food or drink in any eating and drinking establishment or at any food service establishment, as defined in Chapter 23; or in any food establishment, as defined in Chapter 24;

(b) all persons employed in institutional facilities, as defined in Chapter 25;

(c) all persons employed in barber shops, beauty shops and massage parlors, as defined in Chapter 26; and

(d) all other persons as may be required by law or as may be required by the Director, in his discretion, by regulation. This Chapter shall not apply to any person by reason of his selling (1) fresh, unprocessed fruits, vegetables, nuts, eggs, live poultry or live pigs; or (2) canned or bottled drinks, including alcoholic beverages, in the original container of their manufacturer; or (3) candies or other confections in the original container of their manufacturer.

SOURCE: GC § 9520.

§ 22102. Form.

The Director shall prescribe the form of the Health Certificate that shall provide information, including the certificate holder's name, date of

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birth, photograph, authorized activity and the dates of issuance and expiration.

SOURCE: GC § 9520.1. Repealed/reenacted by P.L. 25-120:2.

§ 22103. Definitions.

The definitions of § 20101 of Title 10 shall apply to this Subchapter. In addition and unless the context clearly requires otherwise, the words and phrases listed below mean:

(a) *Person Employed* includes any owner, operator, manager or other person performing any functions covered by § 22101, whether for compensation or otherwise. The Director is authorized to determine what persons are included in this definition.

(b) *Health Regulated Establishment* means any establishment or facility subject to the permitting requirements of Division 2, Part 1 of Title 10 of the Guam Code Annotated.

(c) *Nonimmigrant* is a person who is *not* a citizen or a permanent resident alien of the United States as those terms are defined by the Immigration and Nationality Act, and it includes those persons whose admission to the United States is based upon a covenant of free association with the United States.

SOURCE: GC § 9520.2. Repealed/reenacted by P.L. 25-120:2.

§ 22104. Requirements.

Pursuant to the Administrative Adjudication Law, the Director shall establish and may modify by regulation, the requirements and fees for obtaining a Health Certificate. The requirements for a Health Certificate shall include:

- (1) a physical examination;
- (2) written, oral or practical examinations; *and*
- (3) minimum education standards and continuing education programs deemed necessary by the Director to prevent the spread of communicable diseases in any health-regulated establishment wherever such employment or activity places the employee in intimate contact with the customer or the customer's food or drink.

No Health Certificate shall be issued to any person who has *not* established through written documentation, as approved by the Director, that the person is a citizen of the United States, a permanent resident alien

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or a nonimmigrant who is authorized by the Immigration and Naturalization Service to be employed in the United States.

SOURCE: GC § 9520.3. Repealed/reenacted by P.L. 25-120:4.

§ 22105. Possession, Posting and Inspection of Health Certificates.

(a) Every person who is required by 10 GCA § 22101 to have a Health Certificate shall have the certificate in that person's personal possession at all times during their working hours.

(b) A valid copy, issued by the Department of Public Health and Social Services, of all Health Certificates shall be conspicuously posted at the place of employment or business.

Every person employed who is required by 10 GCA § 22101 to have a Health Certificate shall exhibit the certificate to the Director of the Department of Public Health and Social Services, or the Director's authorized representative of the Division of Environmental Health, upon demand made during that person's working hours.

Single Certificate Required. Each person is required to have only one (1) Health Certificate, regardless on the number of industries the person is employed by. The Health Certificate shall state which industries the certificate holder is authorized to work in. Each time a new industry is added to the authorized activities the certificate holder may engage in, the certificate shall be re-issued to include the newly authorized industry(ies). Such Health Certificate shall be valid in all businesses engaged in the industry in which the certificate holder is authorized to work.

SOURCE: GC § 6520.4. Repealed/reenacted by P.L. 25-120:5.

§ 22106. Administrative Penalties.

(a) A health-regulated establishment that permits a person to perform services without having in their possession a valid Health Certificate at the time the services are performed commits an administrative violation, and the Director may impose a fine of *not to exceed* Three Hundred Dollars (\$300.00) for a first offense, and shall impose a fine of One Thousand Dollars (\$1,000.00) for a second offense involving the same person occurring within one (1) year of the first offense.

If the Director cites more than one (1) person at the same time for that person's failure to have in their possession the Health Certificate, each citation is a separate administrative violation for the health-related activity.

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

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

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

(1) notice was given as required;

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

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

SOURCE: Added by P.L. 25-120:6.

§ 22107. Environmental Health Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Environmental Health Fund. The fund shall *not* be commingled with any other fund and shall be deposited into a separate account. All proceeds from fees and fines collected pursuant to this Subchapter shall be deposited into the fund and it shall be expended upon legislative appropriation solely in support of the functions of the Division of Environmental Health of the Department of Public Health and Social Services.

SOURCE: Added by P.L. 25-120:7.

§ 22108. Severability.

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If any provision, clause, sentence or paragraph of this Chapter, or the application thereof to any person or circumstances shall be held invalid, such invalidity shall *not* effect the other provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

SOURCE: Added by P.L. 25-120:8.

NOTE: P.L. 25-120:9 added the following: Effective Date. This Act shall take effect one hundred eighty (180) days after enactment.

§ 22109. Deferral of Payment.

The Director shall provided a grace period for payment of fees due for renewal of health certificates for a member of the National Guard or Reserves, or a dependent of a member of the National Guard or Reserves, while that member is on active service outside Guam and for the next one hundred eighty (180) days after completion of such service. No interest or penalties shall be assessed for any period prior to expiration of the one hundred eighty (180) days.

SOURCE: Added by P.L. 29-148:2 (Jan. 30, 2009).
