



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

EDWARD MANIBUSAN
Attorney General

LILLIAN A. TENORIO
Deputy Attorney General

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OAGSB: 2018-09

Rep. Jose I. Itibus
Chairperson
House Standing Committee on Health
House of Representatives
20th Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Re: SB 20-82: "To amend 3 CMC § 2177(a) to include the CHCC Diabetes Care and Control Center as a program recipient of the Tobacco Control Fund; and for other purposes."

Dear Chairman Itibus:

Thank you for requesting the comments of the Office of the Attorney General on Senate Bill 20-82: "To amend 3 CMC § 2177(a) to include the CHCC Diabetes Care and Control Center as a program recipient of the Tobacco Control Fund; and for other purposes" (the "Bill"). I have reviewed the Bill and have two comments.

The Bill purports to amend 3 CMC § 2177(a) as follows:

"(a) for Department of Public Health activities relating to the monitoring of morbidity and mortality from cancer and other tobacco-related illnesses in the CNMI including the Diabetes Care and Control Center activities;"

First, it is unclear whether the proposed amendment would effectuate legislative intent. The findings and purpose of the legislation attempts to justify adding CHCC Diabetes Care and Control Center ("CHCC DCCC") as a program recipient of the Tobacco Control Fund based on a generalized link between diabetes and tobacco. However, as written, the proposed amendment is unclear on whether all CHCC DCCC activities or only CHCC DCCC activities related to tobacco will be funded. Moreover, in the event that the Legislature wishes to fund all CHCC DCCC activities, there will be conflict within the statute, as all program recipients of the Tobacco Control Fund are specifically related to addressing or ameliorating the negative effects of tobacco use.

Second, by specifically adding CHCC DCCC, the amendment implicates a canon of statutory interpretation—*expressio unius est exclusio alterius*, the expression of one thing is the exclusion of another. The doctrine of *expressio unius est exclusio alterius* “creates a presumption that when a statute designates certain persons, things, or manners of operation, all omissions should be understood as exclusions.” *Boudette v. Barnette*, 923 F.2d 754, 756–57 (9th Cir. 1991); *Silvers v. Sony Pictures Ent., Inc.*, 402 F.3d 881, 885 (9th Cir. 2005). Thus, specifically citing to CHCC DCCC may inadvertently limit or exclude other program recipients designated under the Department of Public Health.

In the event the Legislature wishes to specifically identify CHCC DCCC as a program recipient, this office recommends the following changes. First, the purpose and findings should clearly state legislative intent is limited to funding CHCC DCCC activities related to tobacco. Second, the amendment should be changed to read as follows:

“(a) for Department of Public Health activities, including the Diabetes Care and Control Center activities, relating to the monitoring of morbidity and mortality from cancer and other tobacco-related illnesses in the CNMI;”

Thank you for soliciting comments on the Bill.

Sincerely,



EDWARD MANIBUSAN
Attorney General

cc: Deputy Attorney General
All Members, House of Representatives