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UFISINAN TODU GUAM
Received by the
Office of Senator
Dennis G. Rodriguez, Jr.

July 12, 2018
#

Peter John Camacho, Administrator
Guam Memorial Hospital
850 Gov Carlos G. Camacho Road
Tamuning, GU 96913

Guam Memorial Hospital Authority
ADMINISTRATION OFFICE

COPY / HA / Dr. Duenas

JUL 12 2018 / 2:30

Duenas

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RE: NOTICE OF CONSTRUCTIVE DISCHARGE

Dear CEO Mr. Camacho and CMO Dr. Duenas,

I am writing to inform the Guam Memorial Hospital Authority ("GMHA"), that this letter should be accepted as a formal notice of constructive discharge and my separation of employment with the GMHA. This notice is effective immediately, due to GMHA's substantial and material breeches of contract, violations of its own bylaws, and violations of territorial and federal laws governing work environments and handling of whistleblower claims in manner that is so abusive and hostile that I am unable to tolerate continued employment at the GMHA for the following:

I looked forward to working at Guam Memorial Hospital ("GMH") as the assistant director of medical services. After several months of discussion, it was finalized that I would be hired purely as an administrative position and not include clinical portion.

On 12/19/2016, I was hired as a GG1 unclassified Employee. My titles were assigned as follows:

1. Assistant Associate Administrator of Medical Services
2. Physician Quality Improvement/Compliance Officer
3. Director of Medical Education
4. Director of Pediatric Intensive Care Unit effective (1/1/2017)

Upon my initial hiring, GMH hired me only as an administrator, and declined to hire me as a physician, and offered no contract for me to take call, see patients, or perform clinical duties. Shortly thereafter, on 1/18/2017, the CEO of GMH, Peter John Camacho, asked me to be the Division Chief of ProSupport in its full capacity. In this role, I report to the Board of Trustees, all committees, performed evaluations, and managed the division. The Division of Pro Support included the following departments:

1. Pharmacy
2. Respiratory therapy

3. Lab
1. Radiology
2. Urgent Care
3. Specialty Services (Neurology, Cardiology)
4. Social Work
5. Education
6. Dietary

I undertook many measures in all of these areas to improve the hospital's health care and finances, but my guidance was either ignored or suppressed, ultimately resulting in executives alienating me from decisions, and retaliating against me. Examples are delineated below.

In 3/2017, I discovered anesthesia cases were being done by outside anesthesia providers, but the CEO and CFO Ms. Benita Manglona, discouraged me from reporting this to the board of trustees because some of the physicians are very vocal.

I also identified revenue loss in which Physicians took a call fee and also a physician fee, which is considered "double-dipping". I also was notified by few staff at GMH that some physicians are keeping the physicians fee despite the contract clearly states "bill to GMH", and some physicians are billing house patients as their own private physicians. I discussed this at length with then assistant CFO Edward Birn. I reported the finding to the CEO, CMO, CFO, and proposed changes but executives continued to allow double-dipping in certain contracts because the CFO said "keep things peaceful until they (legislature) pass modernization plan. These physicians support us".

Above are just few examples of my following appropriate chain of command to bring my concerns in regards to mismanagement of government funds, possible fraud and abuse.

In Jan 4, 2018, The Joint Commission (TJC) came to inspect GMH, and GMH was cited on numerous fronts and lost accreditation. Some of most notable citations were on Leadership, an aspect of GMH unrelated to funding per se. Executives tried to state that this accreditation loss was due to "funding" but the compliance officer (Danielle Manglona) and I replied that this was misleading, and that GMH should be transparent and take accountability. GMH executives told the legislature that they could not release the TJC report, and wanted me and my staff to testify that the accreditation loss was due to funding. I was not asked to attend the meeting since we stated clearly that we would not lie about the report or say that it was all related to funding. Shortly afterwards, in early Feb, the media obtained the full report, and upon receipt of which, the legislature asserted that GMH administration misled them as to the cause of the loss of accreditation.

In Feb 2018, I declined to parrot the "talking points" provided to the hospital executives by the Governor's media crew. After the incident regarding my refusing to speak the "talking points", the executives started to alienate me from executive meetings. Decision were made without me, and I was never invited to join the discussions or share any opinion.

On Feb 12, 2018, To respond to Sen. Dennis Rodriguez's call to investigate GMH, Dr. Lizama and Dr. Duenas held another press conference. I was asked not to speak there.

On Feb 13, 2018 Dr. Safabaksh ("Dr. Safa"), a nephrologist who has been long been verbally and physically abusive to staff and to myself, was verbally abusive to me over a patient's care. Many prior reports were swept under the rug. The reason provided for no action towards Dr. Safa was that "He is too powerful and connected." I reported him again for his violent behavior. The Medical Executive Committee launched an investigation on Dr. Safa. I told Dr. Duenas and the CEO, that no matter how powerful or how rich he is, we have "zero-tolerance" policy for violence and we must act on it. We had suffered this abusive behavior too long and it must be dealt with. They told me to "just stay away from him". I resubmitted all the incident reports and statement from the staff complaining about Dr. Safa's behavior. All of these incident reports submitted by nurses and myself were dismissed without any investigation for several months, so I brought it to the light again. Dr. Safa, in retaliation stated that he would report me to CMS, and also he would pull out U.S. Renal contract from GMH. I told the CEO and CMO that this is "taking patients as hostage" and should never be allowed.

Around this time, a member of the board of trustee approached me and warned me. In his words, "There's a talk of getting rid of you. You better go with the flow. All of these new physicians are driven out like this, and they will come for your reputation. Be careful, let it go, it's not worth it."

On March 7, 2018, Dr. Duenas and CEO pushed for compensating physicians \$120/hr to entice them to come to required assigned committees and meetings. I was absolutely opposed the idea since I already identified physician leaders willing to lead meetings for free. My opposition is clear and Chairman/Trustee Lizama asked to withdraw this proposal. This is another example of financial mismanagement at GMH.

On March 9, 2018 GMH executives held paychecks allegedly due to GMH not having funding. However the DOA staff confirmed that we had enough funds to cover employee paychecks for the day. He further explained that this decision did not come from DOA and was decided by CEO, CFO, Dr. Duenas and Dr. Lizama. I called Dr. Duenas and told him that holding paychecks is illegal. At 4:45pm, they release pay checks. The CEO didn't want to even discuss this with me in person.

The tension between the rest of the executives and myself became so tangible, a lot of GMH staff were worried about me.

On Apr 13, 2018, Dr. Duenas calls me to a meeting, which I recorded. He served me with the memo saying that I am relieved of administrative duties because there is "critical need for pediatrics" coverage. I told him this was a demotion, that it felt retaliatory. He replied that he didn't see it that way. I asked him to evaluate my performance as an administrator, and he replied, "it was excellent". Tremendous, but the course of action was decided and that the administration can do whatever they want. The stated rationale makes no sense because other pediatric hospitalists can attend to and finish their GMH rounds by 9-10 AM, and are still able to return to their regular jobs outside clinic. I proposed rounding in the morning, and being back to

my administrative duties by 10 AM. Dr. Duenas replied this could absolutely not be allowed. I offered to help and volunteer, but I could not accept this memo. I refused, and he acknowledged my refusal. I asked him if this had anything to do with me being vocal and transparent with disagreement I had with the administration. He said that's a possibility but cannot confirm and that he didn't think so. I asked for a meeting with CEO, EEO, and the lawyers, and he said he would arrange it. Dr. Fojas (Dept chair of pediatrics) later confirmed there was no coverage needs for the peds hospitalists.

Around this time, the members of MEC alerted me that Dr. Duenas, CEO PJ Camacho was asking to look into my privileges. They were worried that they will come after my privileges and they told me "now is the time to go".

On Apr 24, 2018 I was called to the Credentialing Committee and was asked about my peritoneal dialysis privileges. I asked the chairperson of credentialing committee and Dr. Duenas if my privilege is being investigated. Both of them, and several members of MEC including the president had stated that MEC was NEVER questioning my qualification and credentials. They wanted to ask few questions. They asked me about my PD privileges and if I was willing to withdraw my privilege.

As all the executives know, prior to starting at GMH, I asked Dr. Duenas if it is ok for me to apply for peritoneal dialysis privilege since there is no pediatric nephrologist in Guam. When the critical patients arrived in need of dialysis, I had difficult time having anyone consult on pediatric patients. I wanted to consult Children's Hospital Los Angeles or Loma Linda University pediatric nephrologist and write orders on the specialist's behalf. Dr. Duenas said this is absolutely allowed since we have no peds nephrologist. He went on further and said that since Guam lacks subspecialist, most primary doctors telephone consult and write orders so it shouldn't be a problem. He said as long as I document the consultant's recommendation then it is ok for me to apply and maintain the privileges.

On April 23, the credentialing committee asked me to withdraw my privileges. I said if GMH is coming up with new guidelines and criteria for how to grant PD privileges, I would absolutely comply. This request for withdrawing of the privilege shouldn't just be given to me, but to all of us who has pediatric PD privileges. I urged that the GMH credentialing committee needs better criteria on how to grant privileges, and apply it in uniformly to all staff. (asking for case numbers, proctoring etc) in all the procedure related privileges.

I further requested that withdrawing privileges results in reporting and disclosures to new employers so I would rather not do that and let it expire. I told them that MEC never requested for my privileges to be withdraw, so why was this being done to me and if they were looking at the other provider's telephone consult privileges granted in the past. The Credentialing committee chair Dr. Jeff Cruz could not state that they were looking at other providers credentialing. He also said that's ok to let it expire and he said he will be committed to come up with better process of granting privileges.

On Apr 26, 2018, the CEO walked into the medical staff office and asked the interim manager (Dan Leon-Guerreo) asking if I relinquished my PD privileges. The CEO has nothing to do with

my privileges, it is decided exclusively by the medical staff. The CEO is never involved with Medical Staff affairs, to the point he's never attended any meetings for the last 3 years, yet he keeps asking if my privileges have been relinquished, an action inappropriate for his role.

April 27, 2018, I was warned by Dr. Last to "do yourself a favor, don't fight [these complaints]. Next time it will be your privileges, It will be revoked". At this point, I felt threatened and I couldn't even discuss my side of the story at all.

May 2, 2018, in a meeting with Dr. Duenas informed me I was absolutely not going to be reassigned any administrative duties. I pointed out the discrepancy that there is NO critical need for pediatric coverage, but he waved it aside. In fact, I was never hired as a physician so obligating me to serve in that capacity was simply not possible. Nothing was done to assuage my concern that this was a demotion and retaliatory, due to my speaking out my differences in opinion. I also asked for a meeting with CEO, but I never entertained.

On May 2, 2018, during a subcommittee of legislature with San Augustin to repeal a sales tax, while on the record and under oath, GMH executives lied about me in response to Sen. San Nicolas's questions. They stated that the position of Director of Pro Support that I had occupied was "vacant for years," and that role was fulfilled by Dr. Duenas, Director of Medical Services. When asked about the removal, CEO said it was confidential personnel matter. When questioned by Senator Teralje, Dr. Duenas stated that I was still the Assistant Medical Director at the time, when in fact I had been relieved of my admin duties that morning.

On May 17, 2018 an ad hoc committee from medical staff stated that my removal from the position seemed retaliatory. They meet Dr. Duenas who asserts that my removal had nothing to do with the findings of the ad hoc committee, though it appeared to the committee members it did.

On May 31, GMH Medical Staff called me saying that they would revoke my privilege if I don't reconcile with Safa, despite my telling them multiple times that feeling threatened and scared to be in the same room with him. They refuse my claim. Dan LG from medical staff says that if I don't reach out to professional mediation process they will terminate my privileges.

In early June, I Received a text from a physician saying that that the CFO, Ms. Manglona, called him few days ago. Ms. Manglona reportedly tried to pit me versus the this physician, telling the physician that I was trying to undermine him. This physician said this was high-school level retaliation and was appalled.

June 7th, I received an email from Jeff Cruz, the chairman of credential committee. Although he said it is ok for me to let the privilege expire, and MEC was not requesting investigation on privilege, he insisted that I should withdraw my privilege.

June 11th, I testified in front of the legislature regarding many of the above outlined incidents. Immediately after the testimony on the same night, GMH released a press response to my testimony saying it was "materially false and a misrepresentation of the facts" and falsely alleging that it was due to my being upset that "my duties were recently removed"

On June 12, GMH holds press conference targeting me, clear tangible retaliation against me in my role as a whistleblower. They essentially called me a liar and attributed the failure of TJC accreditation removal on me. Yet my administrative skills were praised prior to me coming out in public.

On June 15 Dr. Dhanraj gives testimony to the legislature alleging similar practices occurring in the radiology department, confirming the overall mismanagement and lack of accountability at GMH.

Around this time peds nurses informed me that GMH admin was asking them to air in public previous grievances against me. This is a clear retaliatory measure, but fortunately all nurses voted no, correctly identifying this as pure politics designed to damage my reputation. The nurses were really upset with this tactic. The manager informed the administration that they would not release it in public. The press later discovered this retaliatory tactic and wrote an article about it.

On June 18, at a healthcare oversight hearing, I was invited to speak by Senator Rodriguez, and I testified to GMH's character assassination. During this hearing, It came out to light that GMH admins hid the CMS reports from oversight committee and also from their own board of trustees.

On the same day, I was also informed of another retaliatory tactic with GMH planning on bringing up with the Guam Licensing Board.

On June 20, at a budget hearing at the legislature, the legislature blasted them for being incompetent and negligent, in large part due to issues I had raised.

On June 21, I received an email from PJ (CEO) saying that he never reached out to me after 4/13 incident despite my request to meet with the CEO, with the following reasons. First, he asserts he didn't want to intimidate me, and he also alleged the thought I was going to contact him but never did. In fact, Dr. Duenas on 5/2 went to PJ's secretary to have a meeting with me scheduled. I was there and I have evidence of such. It is a curious tactic to allege that I never contacted him requesting to meet. This seems like a transparent and false attempt to clear his name in regards to his role in the whistleblower efforts directed against me.

On June 26, the admin sent me a certified mail in regards to Dr. Safa's investigation, utilizing a runner sent straight to my house. Having people come directly to my house gave me a bad feeling. They know exactly where I live.

On July 3-12th, I had multiple communication with GMH staff and from the medical director in mainland that there were NPDB report in regards to myself being a disruptive physician and withdrawing the privilege under investigation. I was never granted due process.

The information outlined above constitute the reasons why I can no longer tolerate continued employment at GMH. I cannot possibly stay in GMH and continue my work with multiple and steady flow of attacks on my character, my competency, and I will not compromise my ethical values and standards in the performance of my duties just appease the hospital administration.

Effectively immediately, I am severing my employment with the Guam Memorial Hospital due to the hostile and intolerable working conditions created by the management team that I suffer each time I report for duty. I believe the correct term for this is 'constructive discharge.'

You may contact my representative Robert E. Koss, GFT Union 734-4390 or email rkoss@gftunion.com for any and all remaining employment matters that may arise following receipt of this notice.

A handwritten signature in black ink, appearing to read 'Kozue Shimabukuro', with a stylized, flowing script.

KOZUE SHIMABUKURO, MD