A BILL FOR AN ACT

To further amend sections 401, 402, 403, 404, 407, 408 and 409 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-77 and 14-49 and adding a new section 411, to realign the name of the Plan, clarify the role of the Administrator, improve and expand the services of MiCare, expressly provide for legal counsel and jurisdiction over claims, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

Section 1. Section 401 of title 52 of the Code of the Federated States of Micronesia, as amended, is hereby amended to read as follows:

"Section 401. Short title. This chapter shall be known as the MiCare Health Insurance Plan."

Section 2. Section 402 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-77, is hereby further amended to read as follows:

"Section 402. Definitions. As used in this chapter:

(1) 'Administrator' means the MiCare Health Insurance Plan Administrator established by the provisions of this chapter.

(2) 'Agency' means any municipal, State or National Government public agency, institution or entity.

(3) 'Board' or 'Board of Directors' means the MiCare Health Insurance Plan Board of Directors established under the provisions
of this chapter.

(4) 'Business' means any quasi-public or private business entity which is duly licensed to do business under, and is doing business under, the laws of the Federated States of Micronesia or its political subdivisions, which is also a participant in the Social Security system of the Federated States of Micronesia, and which has been qualified to participate in the plan pursuant to the regulations promulgated by the Director under section 409 of this chapter.

(5) 'Costs of administration' means the following costs of administering the [p]Plan:

(a) wages or salaries for personnel engaged in administering the [p]Plan;

(b) necessary travel for personnel engaged in administering the [p]Plan;

(c) costs and expenses for training of personnel engaged in administering the [p]Plan;

(d) the costs of processing claims;

(e) the costs of printing informational booklets, claim forms, and other necessary materials;

(f) the costs of necessary supplies and equipment;

(g) the costs of communications necessary to the operation of the [p]Plan;
(h) the costs of professional services necessary to the operation of the Plan.

(6) 'Dependents' means:

(a) the members of an employee's enrolee's immediate family, including grandchildren, dependent parents, and dependent parents-in-law.

(7) 'Employee' means an employee of the National Government of the Federated States of Micronesia, an employee of a participating agency, or an employee of a participating business.

(8) 'Full-time employee' means an employee who works at least thirty-two hours of the regular and scheduled workweek.

(9) 'Full-time student' means a student who is a dependent of an enrollee and is currently enrolled in classes on a full-time basis [totaling 12 or more semester units] at an accredited post-secondary educational institution, or other educational institutional approved by MiCare.

(10) 'Participating agency' or 'participating agencies' means any public agency, public institution or other public entity, either municipal, State or National, participating in the plan pursuant to section 403 of this chapter.

(11) 'Participating business' or 'participating
businesses' means any business entity, whether quasi-public or privately owned, participating in the Plan pursuant to section 403 of this chapter.

(12) 'Plan' means the [National Government Employees'] MiCare Health Insurance Plan."

Section 3. Section 403 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 14-49 and 15-52, is hereby further amended to read as follows:

"Section 403. Eligibility.

(1) All full-time employees of the National Government of the Federated States of Micronesia shall participate in the Plan.

(2) Other persons who may participate in the Plan are:

(a) The full-time employees of each participating agency and business which has entered into a contract with the [Director, as Administrator of the Plan,] whereby such agencies or businesses have agreed to participate in the Plan.

(b) The dependents of full-time employees of the National Government, participating agencies and participating businesses;

(c) Members of an employee's household who are dependent upon the employee, but are not otherwise defined as "'_dependents_'" under the provisions of this
act, if the employee pays 100 percent of the premiums for such persons to the [p]Plan;
  (d) Government employees whose State or agency does not participate in the [p]Plan, and their dependents, if they pay 100 percent of the premiums for themselves and the dependents to the [p]Plan; and
  (e) Former enrollees in the [p]Plan, and their dependents, if they pay 100 percent of the premiums for themselves and their dependents to the plan; and
  (f) Full-time students enrolled at any post-secondary institution in the FSM, if the post-secondary institution has entered into a contract of participation with the plan and the students pay 100 percent of the premiums for themselves to the [p]Plan.”

(g) Subject to eligibility requirements and premium rates to be established by Regulations, FSM citizens residing outside FSM.”

Section 4. Section 404 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-77, is hereby further amended to read as follows:

"Section 404. Establishment of [Employees'] MiCare Health Insurance Fund.

(1) There is established a [National Government Employees'] Micare Health Insurance Fund, [hereinafter 'Employees' Health Insurance Fund'] which shall be
separate from the General Fund or other funds. All sums appropriated by Congress representing contributions of the National Government to the [p]Plan, all sums representing contributions of participating agencies to the [p]Plan, and all employee contributions to the [p]Plan, shall be deposited in the [Employees'] MiCare Health Insurance Fund. Any unexpended money in the [Employees'] MiCare Health Insurance Fund shall not revert to the General Fund or lapse at the end of the fiscal year, but shall remain in the Employees' Health Insurance Fund.

(2) The Board of Directors shall have the sole authority to administer the [Employees'] MiCare Health Insurance Fund in accordance with regulations promulgated under this act. The Board shall maintain [this Employees'] the MiCare Health Insurance Fund in a separate custodial trust account and may, from time to time, invest such moneys that are in excess of the amount deemed necessary for the operation of the [p]Plan during the reasonable future. Such investments shall be low-risk and made in consultation with [the Secretary of the Department of Finance] certified investment consultants. The investments shall at all times be made so that all of the assets of the [Employees'] MiCare Health Insurance Fund shall be readily convertible into
cash when needed for the purpose of this act. All income earned on these investments shall be deposited into the [Employees'] MiCare Health Insurance Fund."

Section 5. Section 407 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-77 and 14-49, is hereby further amended to read as follows "Section 407. Health Insurance Plan Board of Directors and Administrator.

(1) Creation. There is hereby established a [National Government Employees'] MiCare Health Insurance Plan Board of Directors to oversee the Plan and the assets of the [Employees'] MiCare Health Insurance Fund. There is also hereby established a new full-time position of [National Government Employees'] MiCare Health Insurance Plan Administrator. The Administrator shall be appointed by the Board.

(2) Composition. [The National Government Employees'] MiCare Health Insurance Plan Board of Directors shall consist of [not less than seven (7)] five (5) voting members, including one representative from each State of the Federated States of Micronesia, who shall be recommended by the Governor of the relevant State; and one representative from the National Government of the Federated States of Micronesia; [one representative from the private healthcare sector;] and
the Administrator. Each appointed member of the Board shall be appointed by the President with the advice and consent of the Congress. The Administrator shall serve as ex officio non-voting member of the Board. In the event of a deadlock or an evenly divided vote only, the Administrator may vote. All members of the Board shall be voting members of the Board.

(3) Terms. Each appointed member of the Board shall serve for a period of three (3) years, except that initial appointments to the Board shall be made as follows: two members for a period of one year; two members for a period of two years; and two members for a period of three years. Successors to the first appointees hereunder shall be appointed for terms of three years each. Vacancies other than by expiration of term shall be filled by the President by appointment, in the same manner as the original appointment was made, for the unexpired term. Appointed members shall not hold-over at the expiration of their terms, but may be re-appointed to consecutive terms in the manner set forth in this section.

(4) Organization. The Board shall provide for its own organization and procedure, except that the Board shall, at a minimum, designate a Chairman and a Secretary. The Secretary shall keep all records of, and actions taken
by, the Board. These records shall be open to the public for public inspection. The Secretary of Justice of the Federated States of Micronesia shall act as legal advisor to the Board, except the Board of Directors is authorized to retain private counsel in case of conflict of interest or under special circumstances. The Administrator may retain private counsel, as needed.

(5) Meetings. The Board shall meet at least once every 6 months. Meetings may be held at any time or place within the FSM to be determined by the Board upon the call of the Chairman or upon written request of any four (4) members. All meetings shall be open to the public and public notice of the time and place of such meetings shall be posted in public places and shall be announced on radio and television throughout the FSM and in newspapers of general circulation in the FSM. Four (4) members of the Board shall constitute a quorum for the transaction of business.

(6) Compensation. Members of the Board shall [be paid at a rate established by the Board when actually performing their duties under this chapter, provided that official and employees of the state government or the Government of the Federated States of Micronesia who are members of the Board shall not receive any compensation. All members shall be entitled] serve
without compensation as such, but shall be entitled to receive travel costs and per diem at standard National Government rates when actually attending Board meetings or engaged in the performance of duties authorized by the Board. Any employee of the National Government shall be granted leave with pay when actually attending Board meetings or engaged in the performance of duties authorized by the Board.

(7) General powers and duties.

(a) It shall be the responsibility of the Board to promote the soundness, stability, growth and development of the National Government Employees’ MiCare Health Insurance Plan and the National Government Employees’ MiCare Health Insurance Fund. To that end, the Board shall have overall responsibility for administration of the Plan, PROVIDED, however, that day-to-day operations of the Plan shall be the responsibility of Administrator. The Board shall have such other powers and duties as may be necessary to carry out the purposes of this chapter.

(b) Responsibility for the proper day-to-day operation of the Plan shall be vested in Administrator who shall have power to delegate duties and responsibilities to such employees of the Plan as the Administrator deems feasible and desirable to carry out
the provisions of this chapter, and subject to the
Boards approval, shall have the authority to negotiate
and enter into contracts and other legally binding
agreements for the Plan.

(c) [The Board shall periodically consult with,
and seek the advice of, interested members of the public
in each respective State of the Federated States of
Micronesia regarding the operation of the Plan and shall
endeavor to ensure that such consultations are done with
persons broadly representative of actual and potential
participants in the Plan, including representatives of
the medical profession and participating businesses].
The MiCare Health Insurance Plan shall conduct an annual
claim audit to identify possible claims frauds and
abuses by the Health Care Providers. Claim audit
findings shall be reported to the Board of Directors, to
the Public Auditor of the Federated of Micronesia and
the Department of Justice of the Federated States of
Micronesia for appropriate review and action.

(d) MiCare shall accept only physicians with FSM
medical licenses to provide services to MiCare members
with in the Federated States of Micronesia. Likewise,
the Administrator must ascertain that physicians
provided medical services to referral patients are
licensed in relevant jurisdiction.
(e) MiCare Health Insurance Plan may suspend or terminate service contracts with health care providers based on claim audit findings of non-compliance or other instances of non-compliance;

(f) The MiCare Health Insurance Plan shall establish a formulary with prices of all covered medicine and pharmaceutical supplies and Relative Unit Value (RUV) schedule to guide the on-island costs of medical services covered by MiCare Health Insurance Plan.

(g) MiCare reserves the right to refuse payment on any Medical claim with clear evidence of conflict of interest, including doctors providing consultations, diagnose or prescriptions to themselves or their family members.

(8) Time for Implementation.

(a) All nominations for all positions on the Board shall be transmitted to Congress within ninety (90) days of the date this act becomes law.

(b) The Board shall appoint an Administrator within 90 days of the date all Board members have been appointed by Congress. If no Administrator is appointed within this time, the Board shall submit to Congress a detailed account of the steps it is taking to appoint an Administrator and the reasons why it has not done so.
(c) Immediately upon the appointment of the Administrator, all employees of the Plan who hold a job title containing the word 'Chief' shall be given a new job title and the word 'Chief' shall be deleted from the job title.

Section 6. Section 408 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-77, is hereby further amended to read as follows:

"Section 408. Reporting.
Prior to the commencement of each regular May session of Congress, the Board, through the Administrator, shall prepare and submit to the President of the Federated States of Micronesia and to the Speaker of the Congress an annual report on the status of the MiCare Health Insurance Fund as of the date of the annual report, the amount of premiums collected and interest earned during the preceding fiscal year, the amount of money on deposit in the Employees' MiCare Health Insurance Fund as of the date of the annual report, the amount of money disbursed for claims during the preceding fiscal year, the number of claims paid during the preceding fiscal year, the costs of administration, and such other information as the Board may deem appropriate."

Section 7. Section 407 of title 52 of the Code of the Federated States of Micronesia, as amended by Public Law No.
12-77, is hereby further amended to read as follows:

"Section 409. Promulgation of regulations.

(1) The Board, with the approval of the President, or his designee shall promulgate regulations, pursuant to chapter 1 of title 17 of this code, governing the amount of the premium for insurance under the [p]Plan, the procedure for making claims under the [p]Plan, the amount and type of benefits under the [p]Plan, the policy limits under the [p]Plan, and such other matters as may be consistent with the contents and purpose of this chapter, including the implementation of those provisions of this chapter pertaining to participating agencies and participating businesses.

[(a) The Board shall promulgate no regulation allowing a claim for benefits under the plan to be denied on the grounds that the medical condition giving rise to the claim existed before the person making the claim began participating in the plan. Any such existing regulation is hereby retroactively repealed for a period of six months from the date this act becomes law.]

(2) The plan may:

(a) provide, arrange for, pay for, or reimburse the costs of medical, dental and vision treatment and care, hospitalization, surgery, prescription drugs,
medicine, prosthetic appliances, out-patient care, and other medical care benefits, in cash or the equivalent in medicines and supplies;

(b) provide life insurance benefits;

(c) contract with private sector insurance companies to provide benefits; [and]

(d) contract for other services as needed[.]; and

(e) establish and manage its own financial and personnel management rules and regulations."

Section 8. Title 52 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 411 under chapter 4, to read as follows:

"Section 411. Jurisdiction over Claims. The FSM Supreme Court trial division shall have original exclusive jurisdiction over any civil action to which the Plan or the Board is a Party."

Section 9. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 5/19/14 Introduced by: /s/ Florencio S. Harper
Florencio S. Harper (by request)