

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
103-36 (COR)	Amanda L. Shelton Tina Rose Muña Barnes Mary Camacho Torres	AN ACT TO <i>ADD</i> A NEW CHAPTER 29 TO DIVISION 2 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO TELEHEALTH AND TELEMEDICINE SERVICES DURING PUBLIC HEALTH EMERGENCIES.	4/5/21 2:21 p.m.						

I MINA 'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 103-36 (COR)

Introduced by:

Amanda L. Shelton 
Tina Rose Muña Barnes 
Mary Camacho Torres 

**AN ACT TO ADD A NEW CHAPTER 29 TO DIVISION 2
OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE
TO TELEHEALTH AND TELEMEDICINE SERVICES
DURING PUBLIC HEALTH EMERGENCIES.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that COVID-19 has impacted Guam’s healthcare system, reorganizing hospital and
4 outpatient clinic procedures to promote adherence to social distancing measures and
5 limit potential exposure to patients and providers.

6 *I Liheslatura* further finds that telehealth is emerging as an effective and
7 sustainable solution for prevention, precaution, and treatment to stem the spread of
8 COVID-19. During this global push for mandatory social distancing, Guam
9 residents, doctors, and all other healthcare providers are in need of telehealth and
10 telemedicine services to reduce potential exposures. Hospitals around the world are
11 quickly adopting telehealth and telemedicine services to treat quarantined patients
12 who have tested positive for COVID-19.

13 *I Liheslatura* further finds that opportunities for patients with insurance to
14 access telehealth services increases the availability of providers to safely treat

1 patients with and without COVID-19 and simultaneously minimize the use of
2 personal protective equipment (PPE) supplies.

3 *I Liheslatura* further finds that the Community Health Centers (CHCs) under
4 Department of Public Health and Social Services are the only Federally Qualified
5 Health Centers on Guam, serving a patient population that is 95.7% uninsured,
6 underinsured, on Medicaid, or on the Medically Indigent Program. The CHCs serve
7 many patients with chronic medical conditions and such patients, who may have
8 limited health literacy, require frequent visits in order to maintain a state of good
9 health and would benefit from additional telehealth “check-ins” via telephone.

10 *I Liheslatura* further finds that the CHCs are in the process of upgrading
11 patient telehealth services such as utilizing video conferencing via mobile app,
12 which will decrease the demand for face-to-face clinic visits.

13 *I Liheslatura* further finds that new regulations must be developed to reduce
14 the spread of COVID-19 during public health emergencies, especially during times
15 when social distancing and face masks are highly recommended, and when our
16 people are unable to travel in most cases due to pandemic travel restrictions.
17 Recently, the government of the Republic of the Philippines has suspended the entry
18 of all foreign nationals in effort to mitigate the spread of COVID-19 in the country.
19 The State of Hawaii has in place ten- (10) day quarantine restrictions on incoming
20 travelers. Such restrictions from jurisdictions frequented by our people for medical
21 care, though warranted and necessary to ensure public safety and health, have
22 presented costly barriers to off-island medical care for our people.

23 It is, therefore, the intent of *I Liheslaturan Guåhan*, in an effort to limit
24 potential exposure of patients and providers to COVID-19, preserve Guam’s PPE
25 and cleaning supplies, alleviate the patient caseload at Guam’s healthcare
26 institutions, and provide an avenue for insured patients to seek less costly medical
27 care, to establish the authority and practice standards for telehealth and telemedicine

1 services during public health emergencies in Guam by adding a new Chapter 29B to
2 Division 2 of Title 22, Guam Code Annotated.

3 **Section 2.** A new Chapter 29B is hereby *added* to Division 2 of Title 22,
4 Guam Code Annotated, to read:

5 **“CHAPTER 29B**

6 **TELEHEALTH AND TELEMEDICINE SERVICES DURING PUBLIC**
7 **HEALTH EMERGENCIES**

8 **§ 29301. Definitions.**

9 **§ 29302. Authority.**

10 **§ 29303. Practice Standards: Telehealth.**

11 **§ 29304. Same: Telemedicine.**

12 **§ 29305. Venue and Records.**

13 **§ 29306. Exemptions.**

14 **§ 29307. Reimbursement for Telehealth and Telemedicine Services.**

15 **§ 29308. Rulemaking.**

16
17 **§ 29301. Definitions.**

18 (a) *Telehealth* means a broad collection of electronic and
19 telecommunications technologies that support healthcare delivery and virtual
20 medical, health and education services from distant locations.

21 (b) *Telemedicine* means the practice of medicine using technology
22 to deliver care at a distance. It occurs using a telecommunications
23 infrastructure between a patient (at an originating or spoke site) and a
24 physician or other practitioner licensed to practice medicine (at a distant or
25 hub site).

26 (c) *Remote patient monitoring service* means the delivery of home
27 health services using telecommunications technology to enhance the delivery

1 of home health care, including monitoring of clinical patient data such as
2 weight, blood pressure, pulse, pulse oximetry, blood glucose, and other
3 condition-specific data, medication adherence monitoring, and interactive
4 video conferencing with or without digital image upload.

5 (d) Telehealth provider means any licensed or certified individual
6 who provides healthcare and related services using telehealth.

7 **§ 29302. Authority.**

8 The Department of Public Health and Social Services (“Department”)
9 is responsible for regulating all policies regarding telehealth and telemedicine
10 services in Guam. The Guam Board of Medical Examiners (“Board”) shall
11 seek approval from the Department to practice telehealth and telemedicine
12 services in Guam. This Chapter shall apply only during public health
13 emergencies, as defined by 10 GCA § 19104.

14 **§ 29303. Practice Standards: Telehealth.**

15 (a) A telehealth provider has the duty to practice in a manner
16 consistent with his or her scope of practice and the prevailing professional
17 standard of practice for a healthcare professional who provides in-person
18 healthcare services to patients in Guam.

19 (b) A telehealth provider may use telehealth to perform a patient
20 evaluation. If a telehealth provider conducts a patient evaluation sufficient to
21 diagnose and treat the patient, the telehealth provider is not required to
22 research a patient’s medical history or conduct a physical examination of the
23 patient before using telehealth to provide healthcare services to the patient.

24 (c) A telehealth provider shall not use telehealth services to
25 prescribe a controlled substance unless the controlled substance is prescribed
26 for the following:

27 (1) the treatment of a psychiatric disorder;

1 (2) inpatient treatment at a hospital approved by the Board and
2 the Department;

3 (3) the treatment of a patient receiving hospice services; or

4 (4) the treatment of a resident of a nursing home facility.

5 (d) A telehealth provider and a patient may be in separate locations
6 when telehealth is used to provide healthcare services to a patient.

7 (e) A nonphysician telehealth provider using telehealth and acting
8 within his or her relevant scope of practice, as established by Guam law or
9 rule, is not in violation of the practice of medicine or osteopathy or an attempt
10 to practice medicine or osteopathy without a license to practice in Guam.

11 **§ 29304. Same: Telemedicine.**

12 (a) Each insurer proposing to issue individual or group accident and
13 sickness insurance policies providing hospital, medical and surgical, or major
14 medical coverage on an expense-incurred basis; each corporation providing
15 individual or group accident and sickness subscription contracts; and each
16 health maintenance organization providing a health care plan for health care
17 services shall provide coverage for the cost of such health care services
18 provided through telemedicine services, as provided in this section.

19 (b) An insurer may offer a health plan containing a deductible,
20 copayment, or coinsurance requirement for a health care service provided
21 through telemedicine services, provided that the deductible, copayment, or
22 coinsurance does not exceed the deductible, copayment, or coinsurance
23 applicable if the same services were provided through face-to-face diagnosis,
24 consultation, or treatment.

25 (1) No insurer, corporation, or health maintenance
26 organization shall impose any annual or lifetime dollar maximum on
27 coverage for telemedicine services other than an annual or lifetime

1 dollar maximum that applies in the aggregate to all items and services
2 covered under the policy, or impose upon any person receiving benefits
3 pursuant to this section any copayment, coinsurance, or deductible
4 amounts, or any policy year, calendar year, lifetime, or other durational
5 benefit limitation or maximum for benefits or services, that is not
6 equally imposed upon all terms and services covered under the policy,
7 contract, or plan.

8 (c) An insurer shall not exclude a service for coverage solely
9 because the service is provided through telemedicine services and is not
10 provided through face-to-face consultation or contact between a health care
11 provider and a patient for services appropriately provided through
12 telemedicine services.

13 (d) Nothing shall preclude the insurer from undertaking utilization
14 review to determine the appropriateness of telemedicine services, provided
15 that such appropriateness is made in the same manner as those determinations
16 are made for the treatment of any other illness, condition, or disorder covered
17 by such policy, contract, or plan. Any such utilization review shall not require
18 pre-authorization of emergent telemedicine services.

19 (e) No insurer shall impose any annual or lifetime dollar maximum
20 on coverage for telemedicine services other than an annual or lifetime dollar
21 maximum that applies in the aggregate to all items and services covered under
22 the policy, or impose upon any person receiving benefits pursuant to this
23 section any copayment, coinsurance, or deductible amounts, or any policy
24 year, calendar year, lifetime, or other durational benefit limitation or
25 maximum for benefits or services, that is not equally imposed upon all terms
26 and services covered under the policy, contract, or plan.

1 (f) The requirements of this Section shall apply to all insurance
2 policies, contracts, and plans delivered, issued for delivery, reissued, or
3 extended in Guam, during a public health emergency.

4 **§ 29305. Venue and Records.**

5 (a) Venue. For the purposes of this Section, any act that constitutes
6 the delivery of healthcare services is deemed to occur at the place where the
7 patient is located at the time the act is performed or in the patient’s country of
8 residence. Venue for a civil or administrative action initiated by the
9 Department, the Board, or a patient who receives telehealth or telemedicine
10 services from a telehealth provider outside of Guam may be located in the
11 patient’s country of residence.

12 (b) Records. A telehealth and telemedicine provider shall document
13 in the patient’s medical record the healthcare services rendered using
14 telehealth and telemedicine according to the same standard as used for in-
15 person services. Medical records, including video, audio, electronic, or other
16 records generated as a result of providing such services, are confidential
17 pursuant to 10 GCA § 80118.

18 **§ 29306. Exemptions.**

19 The provisions of this Chapter shall not prevent or prohibit:

20 (a) The provision of telehealth or telemedicine services by a
21 healthcare professional who is not licensed to provide healthcare
22 services in Guam but who holds an active license to provide healthcare
23 services in another jurisdiction, and who provides healthcare services
24 using telehealth or telemedicine services to a patient located in another
25 jurisdiction, provided that the service is rendered:

26 (1) in response to an emergency medical condition; or

1 (2) in consultation with a healthcare professional
2 licensed in Guam who has ultimate authority over the diagnosis
3 and care of the patient.

4 (b) The giving or use of massages, steam baths, dry heat
5 rooms, infrared heat or ultraviolet lamps in public or private health
6 clubs and spas;

7 (c) The manufacture or sale of proprietary medicines in Guam
8 by licensed pharmacists or druggists;

9 (d) The advertising or sale of commercial appliances or
10 remedies;

11 (e) The domestic administration of family remedies;

12 (f) Any person from the rendering of first aid or medical
13 assistance in an emergency in the absence of a person licensed to
14 practice medicine or osteopathy under the provisions of this Chapter;
15 and

16 (g) Any person from performing services in the lawful
17 conduct of his or her particular profession or business under Guam law.

18 **§ 29307. Reimbursement for Telehealth and Telemedicine Services.**

19 (a) A contract between a health insurer issuing major medical
20 comprehensive coverage through an individual or group policy and a
21 telehealth provider, as defined in § 29301, must be voluntary between the
22 insurer and the provider and must establish mutually acceptable payment rates
23 or payment methodologies for services provided through telehealth and
24 telemedicine. Any contract provision that distinguishes between payment
25 rates or payment services provided without the use of telehealth or
26 telemedicine and the same services provided without the use of telehealth or
27 telemedicine must be initiated by the telehealth or telemedicine provider.

1 (b) An insurer shall not be required to reimburse the treating
2 provider or the consulting provider for technical fees or costs for the provision
3 of telemedicine services; however, such insurer shall reimburse the treating
4 provider or the consulting provider for the diagnosis, consultation, or
5 treatment of the insured delivered through telemedicine services on the same
6 basis that the insurer, corporation, or health maintenance organization is
7 responsible for coverage for the provision of the same service through face-
8 to-face consultation or contact.

9 **§ 29308. Rulemaking.**

10 Notwithstanding any provision of the Guam Administrative
11 Adjudication Law, the Guam Board of Medical Examiners may, within ninety
12 (90) days of the enactment of this Act, promulgate additional rules and
13 regulations, as necessary, to administer this Chapter, and shall transmit such
14 rules and regulations to the Speaker of *I Liheslaturan Guåhan*.”

15 **Section 3. Effective Date.** This Act *shall* be effective upon enactment.

16 **Section 4. Severability.** If any provisions of this Act or its application to
17 any person or circumstances is found to be invalid or contrary to law, such invalidity
18 shall not affect other provisions or applications of this Act that can be given effect
19 without the invalid provision or application, and to this end the provisions of this
20 Act are severable.