### BILL NO. 103-36 (COR)

<table>
<thead>
<tr>
<th>BILL NO.</th>
<th>SPONSOR</th>
<th>TITLE</th>
<th>DATE INTRODUCED</th>
<th>DATE REFERRED</th>
<th>CMTE REFERRED</th>
<th>PUBLIC HEARING DATE</th>
<th>COMMITTEE REPORT FILED</th>
<th>FISCAL NOTES</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>103-36</td>
<td>Amanda L. Shelton</td>
<td>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.</td>
<td>4/5/21</td>
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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.

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

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

I Liheslatura further finds that opportunities for patients with insurance to access telehealth services increases the availability of providers to safely treat
patients with and without COVID-19 and simultaneously minimize the use of personal protective equipment (PPE) supplies.

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

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

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

It is, therefore, the intent of *I Liheslaturan Guåhan*, in an effort to limit potential exposure of patients and providers to COVID-19, preserve Guam’s PPE and cleaning supplies, alleviate the patient caseload at Guam’s healthcare institutions, and provide an avenue for insured patients to seek less costly medical care, to establish the authority and practice standards for telehealth and telemedicine
services during public health emergencies in Guam by adding a new Chapter 29B to Division 2 of Title 22, Guam Code Annotated.

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

“CHAPTER 29B

TELEHEALTH AND TELEMEDICINE SERVICES DURING PUBLIC HEALTH EMERGENCIES

§ 29301. Definitions.

§ 29302. Authority.

§ 29303. Practice Standards: Telehealth.

§ 29304. Same: Telemedicine.

§ 29305. Venue and Records.

§ 29306. Exemptions.

§ 29307. Reimbursement for Telehealth and Telemedicine Services.

§ 29308. Rulemaking.

§ 29301. Definitions.

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

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

(c) Remote patient monitoring service means the delivery of home health services using telecommunications technology to enhance the delivery
of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data, medication adherence monitoring, and interactive video conferencing with or without digital image upload.

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

§ 29302. Authority.

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

§ 29303. Practice Standards: Telehealth.

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

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

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

(1) the treatment of a psychiatric disorder;
inpatient treatment at a hospital approved by the Board and the Department;

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

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

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

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

§ 29304. Same: Telemedicine.

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

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

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

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

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

(e) No insurer shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.
(f) The requirements of this Section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in Guam, during a public health emergency.

§ 29305. Venue and Records.

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

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

§ 29306. Exemptions.

The provisions of this Chapter shall not prevent or prohibit:

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

(1) in response to an emergency medical condition; or
(2) in consultation with a healthcare professional licensed in Guam who has ultimate authority over the diagnosis and care of the patient.

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

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

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

(e) The domestic administration of family remedies;

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

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

§ 29307. Reimbursement for Telehealth and Telemedicine Services.

(a) A contract between a health insurer issuing major medical comprehensive coverage through an individual or group policy and a telehealth provider, as defined in § 29301, must be voluntary between the insurer and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth and telemedicine. Any contract provision that distinguishes between payment rates or payment services provided without the use of telehealth or telemedicine and the same services provided without the use of telehealth or telemedicine must be initiated by the telehealth or telemedicine provider.
(b) An insurer shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact.

§ 29308. Rulemaking.
Notwithstanding any provision of the Guam Administrative Adjudication Law, the Guam Board of Medical Examiners may, within ninety (90) days of the enactment of this Act, promulgate additional rules and regulations, as necessary, to administer this Chapter, and shall transmit such rules and regulations to the Speaker of I Liheslaturan Guåhan.”

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

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