



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
110-36 (COR)	Therese M. Terlaje Telena Cruz Nelson	AN ACT TO <i>AMEND</i> §41649 TO ARTICLE 16, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, TO <i>AMEND</i> §67.308.1 OF ARTICLE 3, CHAPTER 67, TITLE 9 AND TO <i>AMEND</i> §12605 (o) OF ARTICLE 6, CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FOR SCHEDULE II, III, IV AND V SUBSTANCES.	4/7/21 2:09 p.m.						

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

Bill No. 110-36 (COR)

Introduced by:

Therese M. Terlaje 
Telena C. Nelson 

AN ACT TO *AMEND* §41649 TO ARTICLE 16, CHAPTER 4, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, TO *AMEND* §67.308.1 OF ARTICLE 3, CHAPTER 67, TITLE 9 AND TO *AMEND* §12605 (o) OF ARTICLE 6, CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING ELECTRONIC TRANSMISSION OF PRESCRIPTIONS FOR SCHEDULE II, III, IV AND V SUBSTANCES.

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

2 **Section 1.** §41649 of Article 16, Chapter 4, Division 1, Title 26, Guam
3 Administrative Rules and Regulations, is hereby *amended* to read:

4 **“§41649. Printing and Signing of Prescriptions.** Where an oral order is not
5 permitted, paper prescriptions shall be written with ink or indelible pencil, ~~or~~
6 typewriter, or printed on a computer printer and shall be manually signed by the
7 practitioner and dated as of, and signed on, the day when issued. A computer-
8 generated prescription that is printed out or faxed by the practitioner must be
9 manually signed.

10 **§41649.1 Electronic Transmission of Prescriptions.**

1 (a) Except as otherwise prohibited by law, prescriptions may be transmitted
2 by electronic means from the prescriber to the pharmacy.

3 (b) Electronic Transmission shall be as defined in 10 GCA, Chapter 12,
4 Article 6, §12605 (n).

5 (c) An electronically transmitted prescription which meets the requirements
6 of this regulation shall be deemed to be a Prescription within the meaning of 26
7 GARR, Division 1, Chapter 4, Article 18, §41804 (x).

8 (d) An electronically transmitted prescription order shall include the name and
9 address of the prescriber, a telephone number for oral confirmation, date of
10 transmission and the identity of the recipient, as well as any other information
11 required by federal or local law or regulations. The prescriber's address, license
12 classification and federal registry number may be omitted if they are on file and
13 readily retrievable in the receiving pharmacy.

14 (e) An “interim storage device” means an electronic file into which a
15 prescription is entered for later retrieval by an authorized individual.

16 (f) Any interim storage device used for electronic signing and transmitting of
17 prescription orders shall meet all standards set forth by the U.S. Drug Enforcement
18 Administration (DEA).

19 (g) Any interim storage device shall, in addition to the above information,
20 record and maintain the date of entry and/or receipt of the prescription order, date of
21 transmission from the interim storage device and identity of the recipient of such
22 transmission. The interim storage device shall be maintained so as to ensure against
23 unauthorized access and use of prescription information, including dispensing
24 information.

25 (h) A pharmacy shall receive electronic prescription transmission for
26 controlled substances in accordance with regulations promulgated by the DEA.

1 (i) A pharmacy receiving an electronic image transmission prescription shall
2 either receive the prescription in hard copy form or have the capacity to retrieve a
3 hard copy facsimile of the prescription from the pharmacy's computer memory. Any
4 hard copy of a prescription shall be maintained on paper of permanent quality.

5 (j) An electronically transmitted prescription shall be transmitted only to the
6 pharmacy of the patient's choice. This requirement shall not apply to orders for
7 medications to be administered in acute care facilities.

8 (k) Any person who transmits, maintains or receives any prescription or
9 prescription refill, orally, in writing or electronically, shall ensure the security,
10 integrity, authenticity, and confidentiality of the prescription and any information
11 contained therein.”

12 **Section 2.** § 67.308.1 of Article 3, Chapter 67, Title 9, Guam Code
13 Annotated, is hereby *amended* to read:

14 **“§ 67.308.1. Prescriptions.**

15 (a) As used in this Section, “medical treatment” includes dispensing or
16 administering a narcotic drug for pain, including intractable pain; however, this does
17 not include dispensing any controlled substance to a fighting cock or a competitive
18 racing dog for their performance or appearance enhancement.

19 (b) A person may dispense a controlled substance only as provided in this
20 Section.

21 (c) Except when dispensed directly by a practitioner, other than a pharmacy,
22 to an ultimate user, a substance included in Schedule II, III, IV or V may not be
23 dispensed without the written or electronic prescription of a practitioner and
24 pursuant to rules adopted by DPHSS. Schedules III, IV or V substances may also be
25 dispensed through the oral prescription of a practitioner. A prescription for a
26 Schedule II, III, IV or V substance shall not be filled by a pharmacist after more than
27 seven (7) days ~~after~~ of its date of issuance; ~~however, refill(s) indicated on a~~

1 ~~prescription submitted within the seven (7) days for controlled substance listed in~~
2 ~~Schedule III, IV or V, may be filled after the seven (7) days of issuance.~~ Any original
3 prescription in need of being filled after the seven (7) days shall be renewed by a
4 practitioner. Refill(s) listed in Schedule III, IV or V, may be filled after the seven
5 (7) days of issuance.

6 (d) In an emergency, as defined by rules of DPHSS, a substance included in
7 Schedule II may be dispensed upon oral prescription of a practitioner, reduced
8 promptly to writing, signed by the practitioner, and filed by the pharmacy. The
9 pharmacy shall keep prescriptions in conformity with § 67.306. A prescription for a
10 substance included in Schedule II may not be refilled.

11 (e) Except when dispensed directly by a practitioner, other than a pharmacy,
12 to an ultimate user, a substance included in Schedule III or IV, which is a prescription
13 drug as determined under this Act, may not be dispensed without a written, electronic
14 or oral prescription of a practitioner. The prescription must not be refilled more than
15 six (6) months after its date unless renewed by the practitioner. No prescription for
16 a controlled substance listed in Schedule III or IV may be refilled more than five (5)
17 times.

18 (f) A substance included in Schedule V may be distributed or dispensed only
19 for a medical purpose, including medical treatment or authorized research.

20 (g) A practitioner may dispense or deliver a controlled substance to or for an
21 individual or animal only for medical treatment or authorized research in the
22 ordinary course of that practitioner's profession.

23 (h) No civil or criminal liability or administrative sanction may be imposed
24 on a pharmacist for action taken in reliance on a reasonable belief that an order
25 purporting to be a prescription was issued by a practitioner in the usual course of
26 professional treatment or in authorized research.

1 (i) An individual practitioner may not dispense a substance included in
2 Schedule II, III or IV for that individual practitioner’s personal use except in a
3 medical emergency.

4 (j) A prescription may not be issued in order for an individual practitioner to
5 obtain controlled substances for supplying the individual practitioner for the purpose
6 of general dispensing to patients.

7 (k) A prescription may not be issued for the “detoxification treatment” or
8 “maintenance treatment” unless the prescription is for Schedule III, IV or V narcotic
9 drug approved by the Food and Drug Administration specifically for use in
10 maintenance or detoxification treatment and the practitioner is in compliance with
11 §1301.28 of Title 21 Code of Federal Regulations.

12 (l) A prescription may be issued by a qualifying practitioner, as defined in
13 Section 303(g)(2)(G)(iii) of the Federal Controlled Substance Act (21 U.S.C. 823
14 (g)(2)(G)(iii)), in accordance with §1306.05 of Title 21 Code of Federal Regulations,
15 for a Schedule III, IV or V controlled substance for the purpose of maintenance or
16 detoxification treatment for the purposes of administration in accordance with
17 Section 309A of the Federal Controlled Substances Act (21 U.S.C. 829a) and
18 §1306.07(f) of Title 21 Code of Federal Regulations. Such prescription issued by a
19 qualifying practitioner shall not be used to supply any practitioner with a stock of
20 controlled substances for the purpose of general dispensing to patients.”

21 **Section 3.** § 12605 (o) of Article 6, Chapter 12, Title 10, Guam Code
22 Annotated, is hereby *amended* to read:

23 “(o) Emergency Situations for the purposes of authorizing an oral prescription
24 drug order or a Schedule II controlled substance, means those situations in which the
25 prescribing practitioner determines:

- 26 (1) that immediate administration of the controlled substance is
27 necessary for proper treatment of the patient,

1 (2) that no appropriate alternative treatment is available, including
2 Administration of a drug which is not a Schedule II controlled substance,
3 and

4 (3) that it is not reasonably possible for the prescribing Practitioner to
5 provide a written or electronic prescription drug order to be presented to the
6 person dispensing the substance, prior to the dispensing.”

7 **Section 4. Severability.** If a provision of this act or its application to any
8 person or circumstance is held invalid, the invalidity does not affect other provisions
9 or applications of the act that can be given effect without the invalid provision or
10 application, and to this end the provisions of this act are severable.