









I Mina'trentai Ocho Na Liheslaturan Guåhan
 BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
329-38 (COR)	Sabrina Salas Matanane William A. Parkinson Shawn Gumataotao Frank Blas Jr. Joe S. San Agustin Tina Rose Muña-Barnes V. Anthony Ada Christopher M. Dueñas	AN ACT TO ADD A NEW CHAPTER 7A TO DIVISION 1 OF TITLE 10, GUAM CODE ANNOTATED; TO ADD A NEW § 7101.1 TO CHAPTER 7 OF DIVISION 1 OF TITLE 10, GUAM CODE ANNOTATED; TO ADD A NEW § 2907.6 TO ARTICLE 9, CHAPTER 2, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED; TO DIRECT CONFORMING REGULATORY AMENDMENTS TO TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS; AND TO AMEND § 25101, § 25102, § 25104, § 25105, AND § 22101 OF DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A COMPREHENSIVE STATUTORY FRAMEWORK FOR HOME AND COMMUNITY-BASED SETTINGS ON GUAM.	6/2/26 8:22 a.m. 6/15/26 8:59 a.m.						

I MINA'TRENTAI OCHO NA LIHESLATURAN GUAHAN
2026 (SECOND) Regular Session

Bill No. 329-38 (COR)

Introduced by:

Sabrina Salas Matanane 
William A. Parkinson 
Shawn Gumataotao 
Frank Blas Jr. 
Joe S. San Agustin 
Tina Rose Muna Barnes 
V. Anthony Ada 
Christopher M. Duenas 

AN ACT TO ADD A *NEW* CHAPTER 7A TO DIVISION 1 OF TITLE 10, GUAM CODE ANNOTATED; TO ADD A *NEW* § 7101.1 TO CHAPTER 7 OF DIVISION 1 OF TITLE 10, GUAM CODE ANNOTATED; TO ADD A *NEW* § 2907.6 TO ARTICLE 9, CHAPTER 2, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED; TO DIRECT CONFORMING REGULATORY AMENDMENTS TO TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS; AND TO *AMEND* § 25101, § 25102, § 25104, § 25105, AND § 22101 OF DIVISION 1, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A COMPREHENSIVE STATUTORY FRAMEWORK FOR HOME AND COMMUNITY-BASED SETTINGS ON GUAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Mina'trentai Ocho Na*

Liheslaturan Guahan finds that Guam's revered Manamko' population is expanding significantly, reflecting a global trend toward increased longevity and a growing need for diverse long-term care options. According to data from the United States

1 Census Bureau, the population of individuals aged sixty-five and older on Guam has
2 seen a steady increase, a demographic shift that necessitates a robust and flexible
3 continuum of care. A substantial number of these Manâmkos, together with younger
4 individuals living with physical, intellectual, developmental, and behavioral health
5 disabilities, require an intermediate level of supportive care. This level of care
6 provides essential assistance with activities of daily living but does not rise to the
7 level of continuous skilled nursing services or require institutional placement in a
8 nursing home.

9 *I Liheslaturan Guåhan* further finds that the current absence of a
10 comprehensive statutory and regulatory framework specifically tailored for home
11 and community-based settings has hindered private investment, effective
12 government oversight, and the development of a full continuum of care. This missing
13 framework has limited the availability of diverse options such as independent living,
14 residential care, adult family care, group homes, supported and transitional housing,
15 service-enriched housing, adult day services, community-based habilitation, and
16 palliative or hospice services. Research from the Center for Health Care Strategies
17 emphasizes that states and territories with clear regulatory pathways for Home and
18 Community-Based Services (HCBS) are better positioned to attract providers and
19 ensure high-quality, person-centered care that meets federal standards.

20 It is the finding of *I Liheslaturan Guåhan* that this Act is necessary to formally
21 codify and regulate these settings in a manner consistent with federal Home and
22 Community-Based Services standards and the landmark United States Supreme
23 Court decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999). The *Olmstead* decision
24 established that the Americans with Disabilities Act, 42 U.S.C. § 12132, requires
25 public entities to provide community-based services to persons with disabilities
26 when such services are appropriate, the affected persons do not oppose community-
27 based treatment, and the placement can be reasonably accommodated. By

1 establishing this framework, Guam affirms its policy preference that services be
2 provided in the most integrated setting appropriate to the needs of qualified
3 individuals, promoting person-centered planning, privacy, autonomy, and
4 community integration.

5 *I Liheslaturan Guåhan* finds that other jurisdictions, such as California and
6 Hawaii, have successfully implemented tiered licensing and certification systems for
7 community-based residential settings. For instance, the California Residential Care
8 Facilities for the Elderly Act provides a model for regulating non-medical facilities
9 that provide care, supervision, and assistance with daily activities. By adopting a
10 similar tiered approach, Guam can ensure that larger-capacity settings receive
11 appropriate licensure while smaller, lower-risk settings like adult family care homes
12 are governed by a streamlined certification process, all while maintaining rigorous
13 safety and quality standards without imposing unnecessary institutional
14 requirements.

15 It is the intent of *I Liheslaturan Guåhan* to establish a comprehensive,
16 standalone statutory framework for Home and Community-Based Settings on Guam,
17 including Assisted Living Residences as a primary subcategory. This framework is
18 intended to coordinate with, but remain distinct from, the existing nursing home
19 regulatory regime, which shall remain in force for facilities providing continuous
20 skilled nursing care. Through this Act, *I Liheslaturan Guåhan* seeks to ensure that
21 all residents in HCBS settings enjoy robust tenant protections, choice of providers,
22 and a high quality of life in the community. This legislation further intends to
23 establish a transitional payment pathway through the Medically Indigent Program to
24 support these services until a federal Medicaid HCBS waiver is fully
25 operationalized, ensuring that Guam's most vulnerable residents have immediate
26 access to a broader range of supportive living options.

1 (d) "Home and Community-Based Setting" or "HCBS Setting" means
2 a non-institutional, community-based setting that provides housing or
3 supportive services, or both, to one (1) or more residents, individuals, or
4 program participants, consistent with Federal HCBS Requirements. The term
5 includes each of the subcategories enumerated in subsection (e) of this
6 Section. The term does not include nursing homes regulated under Chapter 7
7 of this Title, hospitals, skilled nursing facilities, intermediate care facilities,
8 or institutions for mental disease.

9 (e) "Subcategories of HCBS Settings" means the following ten (10)
10 categories of settings, each of which shall be subject to licensure or
11 certification under this Chapter consistent with the tier assigned by the
12 Department:

13 (1) "Assisted Living Residence" means a residential HCBS
14 Setting that provides housing, meals, personal care services,
15 supervision, medication assistance, and access to on-call nursing
16 services to five (5) or more residents in apartment-style or congregate
17 units, where each resident retains a lockable private living space and
18 access to community life, consistent with the Medicaid HCBS state
19 plan and waiver authorities under 42 U.S.C. § 1396n(c), (i), and (k).

20 (2) "Independent Living Residence" means an HCBS Setting in
21 which an individual leases or owns a private residence and receives
22 community-based supportive services that promote independence and
23 community participation, without continuous on-site supervision.

24 (3) "Residential Care Residence" means a non-medical
25 residential HCBS Setting that provides room, board, supervision,
26 personal care, and habilitation services to adults who are unable to live

1 entirely independently due to age, disability, or chronic condition, in a
2 setting not exceeding the capacity established by Department rule.

3 (4) "Service-Enriched Housing" means a permanent housing
4 HCBS Setting in which on-site or readily available supportive services,
5 including but not limited to case management, wellness services, and
6 community participation supports, are made available to residents who
7 hold tenancy rights under landlord-tenant law.

8 (5) "Adult Family Care Home" means a small residential HCBS
9 Setting located in a private home in which the owner or a designated
10 caregiver provides personal care, supervision, and supportive services
11 to no more than four (4) unrelated adults, consistent with Medicaid
12 §1915(c) and §1915(i) authorities.

13 (6) "Group Home or Small Residential Setting" means an HCBS
14 Setting that provides housing, supervision, personal care, and
15 habilitation services to no more than eight (8) unrelated adults with
16 physical, intellectual, developmental, or behavioral health disabilities,
17 in a residential dwelling integrated in the community.

18 (7) "Supported Living and Transitional Housing" means an
19 HCBS Setting in which time-limited or ongoing supportive services are
20 provided to individuals transitioning from homelessness, institutional
21 placement, incarceration, or other restrictive settings to permanent
22 community living. Supported Living and Transitional Housing serving
23 three (3) or fewer individuals shall be subject to Tier I certification, and
24 Supported Living and Transitional Housing serving four (4) or more
25 individuals shall be subject to Tier II licensure, as provided in § 7A105.

26 (8) "Adult Day Services and Adult Day Health" means a non-
27 residential HCBS Setting that provides structured programs of personal

1 care, supervision, health monitoring, social engagement, and
2 community integration to adults during daytime hours, consistent with
3 Medicaid §1915(c) and §1915(k) authorities.

4 (9) "Community-Based Habilitation and Day Programs" means
5 a non-residential HCBS Setting that provides skill acquisition, skill
6 retention, community participation, supported employment, and
7 habilitation services to individuals with disabilities, consistent with
8 Medicaid §1915(c) and §1915(i) authorities.

9 (10) "Palliative or Hospice Setting" means an HCBS Setting,
10 residential or non-residential, that provides palliative care or hospice
11 services in a manner consistent with the principles of community
12 integration, person-centered planning, and dignity, and that is not
13 classified as an institutional facility.

14 (f) "Person-Centered Plan of Care" means an individualized plan
15 developed through a person-centered planning process consistent with 42
16 C.F.R. § 441.301(c)(1) through (c)(3), and "person-centered assessment"
17 means the assessment that informs such plan.

18 (g) "Personal Care Services" means assistance with activities of daily
19 living, including bathing, dressing, grooming, toileting, transferring,
20 ambulation, and eating, and with instrumental activities of daily living,
21 including meal preparation, light housekeeping, medication assistance, and
22 transportation.

23 (h) "Provider" means any natural person, partnership, corporation,
24 association, public entity, or other entity licensed or certified under this
25 Chapter to operate an HCBS Setting.

26 (i) "Resident," "Individual," and "Program Participant" each means a
27 person who receives services in an HCBS Setting under this Chapter. The term

1 "patient" shall not be used to describe persons receiving services under this
2 Chapter.

3 (j) "Setting" means a Home and Community-Based Setting as defined
4 in subsection (d). The term "facility" shall not be used to describe an HCBS
5 Setting except where a clinical or institutional context is being expressly
6 distinguished.

7 **§ 7A104. Applicability; Relation to Other Chapters.**

8 (a) This Chapter governs the licensure, certification, and regulation of
9 all Home and Community-Based Settings on Guam.

10 (b) Home and Community-Based Settings are not "institutional
11 facilities" within the meaning of Chapter 7 of this Title, and Chapter 7 shall
12 not apply to such settings except as expressly cross-referenced herein.

13 (c) Nothing in this Chapter shall be construed to require a setting that
14 is not an HCBS Setting to comply with this Chapter, or to authorize the
15 operation of an institutional facility without licensure under Chapter 7.

16 **§ 7A105. Licensure and Certification; Tiered Structure.**

17 (a) No person shall operate, advertise, or hold out a setting as a Home
18 and Community-Based Setting without first obtaining the appropriate license
19 or certification from the Department under this Chapter.

20 (b) The Department shall issue licenses and certifications under a tiered
21 structure as follows:

22 (1) Tier I — Certification, applicable to Adult Family Care
23 Homes, Independent Living Residences, Service-Enriched Housing,
24 and Supported Living and Transitional Housing serving three (3) or
25 fewer individuals;

26 (2) Tier II — Standard License, applicable to Group Homes or
27 Small Residential Settings, Residential Care Residences serving no

1 more than ten (10) residents, Adult Day Services and Adult Day Health,
2 Community-Based Habilitation and Day Programs, and Supported
3 Living and Transitional Housing serving four (4) or more individuals;
4 and

5 (3) Tier III — Comprehensive License, applicable to Assisted
6 Living Residences, Palliative or Hospice Settings, Residential Care
7 Residences serving more than ten (10) residents, and any HCBS Setting
8 serving more than ten (10) residents or providing medication
9 administration services.

10 (c) Each license or certification shall be valid for a term of two (2) years
11 and shall be renewable upon application, inspection, and payment of fees
12 prescribed by the Department.

13 **§ 7A106. Application; Qualifications of Providers.**

14 (a) An applicant for licensure or certification shall submit to the
15 Department an application on forms prescribed by the Department,
16 accompanied by the prescribed fee and documentation of: (1) ownership and
17 operational structure; (2) physical setting and means of compliance with the
18 qualities of HCBS settings at 42 C.F.R. § 441.301(c)(4); (3) staffing plan; (4)
19 policies on resident rights, grievances, and medication management; and (5)
20 emergency preparedness and infection control protocols.

21 (b) Each provider, administrator, and direct-care staff member shall
22 undergo a criminal background check and adult protective services registry
23 check prior to licensure or employment.

24 **§ 7A107. Nursing Services; On-Call Standard.**

25 (a) Nursing services in a Home and Community-Based Setting shall be
26 provided on an on-call basis appropriate to a home environment. On-site
27 nursing presence shall not be required.

1 (b) Each Tier II and Tier III setting shall have a written agreement with
2 a licensed registered nurse who is available by telephone or telehealth on a
3 twenty-four (24) hour basis to provide consultation, assessment, and direction
4 regarding resident health concerns.

5 (c) Nothing in this Chapter shall be construed to require a Home and
6 Community-Based Setting to staff a registered nurse on-site, or to satisfy the
7 staffing standards applicable to skilled nursing facilities under Chapter 7.

8 **§ 7A108. Medication Administration.**

9 (a) Medication may be self-administered by a resident, administered by
10 a family member, or administered by trained unlicensed personnel under the
11 delegation and oversight of a licensed nurse, consistent with rules
12 promulgated by the Department.

13 (b) The Guam Board of Allied Health Examiners shall be consulted on
14 the medication administration rules and may provide non-binding
15 recommendations limited to the subject of medication administration. The
16 Board's recommendations on all other subjects governed by this Chapter shall
17 be advisory only and shall not bind the Department.

18 **§ 7A109. Resident Rights.**

19 Each resident of a Home and Community-Based Setting shall have the
20 rights enumerated at 42 C.F.R. § 441.301(c)(4), including, without limitation,
21 the rights:

22 (a) to a lockable private living unit, with keys provided to the resident;

23 (b) to choose roommates in shared units;

24 (c) to control one's own schedule and activities, including access to food
25 at any time;

26 (d) to receive visitors of one's choosing at any time;

27 (e) to privacy in communication;

1 (f) to physical accessibility; and
2 (g) to freedom from coercion and restraint.

3 **§ 7A110. Service Planning; Person-Centered Process.**

4 Each resident shall have an individualized, person-centered service
5 plan developed with the resident's full participation, reviewed at least
6 annually, and modified upon a material change in circumstances. The plan
7 shall identify the resident's strengths, preferences, goals, and needed supports,
8 and shall comply with 42 C.F.R. § 441.301(c)(1) through (c)(3).

9 **§ 7A111. Physical Environment Standards.**

10 The Department shall by rule establish physical environment standards
11 for each subcategory of HCBS Setting, including life-safety, sanitation,
12 accessibility, and habitability standards. Such standards shall be appropriate
13 to a home environment and shall not impose institutional facility design
14 requirements upon HCBS Settings.

15 **§ 7A112. Staffing Standards.**

16 The Department shall by rule establish minimum staffing ratios and
17 training requirements for each tier and subcategory, taking into account the
18 acuity and number of residents served and the nature of services provided.

19 **§ 7A113. Training and Continuing Education.**

20 All direct-care staff shall complete an initial orientation of not less than
21 forty (40) hours and not less than twelve (12) hours of continuing education
22 annually, in subjects including resident rights, person-centered planning,
23 infection control, emergency response, and recognition and reporting of
24 abuse, neglect, and exploitation.

25 **§ 7A114. Inspection Regime.**

1 (a) The Department shall conduct, at minimum, one (1) announced
2 annual inspection and two (2) unannounced inspections per year of each
3 licensed or certified setting.

4 (b) The Department shall additionally conduct complaint-driven
5 inspections within ten (10) business days of receipt of any complaint alleging
6 risk to resident health, safety, or welfare, and immediately in cases of alleged
7 imminent danger of abuse, neglect, or exploitation.

8 (c) The Department is authorized by rule to apply risk-based
9 prioritization such that higher-capacity or higher-risk settings receive more
10 frequent unannounced inspections than the minimum specified in subsection
11 (a).

12 (d) Inspection reports shall be public records subject to redaction of
13 personally identifying information regarding residents.

14 **§ 7A115. Complaints; Investigation.**

15 The Department shall establish a toll-free complaint line and an online
16 complaint portal. Complainants shall not be required to identify themselves,
17 and retaliation against any resident, family member, employee, or other
18 person for filing a complaint is prohibited and shall constitute a separate
19 violation of this Chapter.

20 **§ 7A116. Enforcement; Sanctions; Judicial Review.**

21 (a) Upon a finding of violation, the Department may impose one (1) or
22 more of the following sanctions: written correction order; civil penalty;
23 probationary license; suspension; revocation; appointment of a temporary
24 manager; and emergency closure where resident safety is in imminent danger.

25 (b) A provider aggrieved by a sanction may seek administrative review
26 under the Administrative Adjudication Law, 5 GCA Chapter 9, and judicial
27 review under 5 GCA § 9240 and § 9241.

1 **§ 7A117. Civil Penalties; Criminal Liability.**

2 (a) Any person who violates any provision of this Chapter or any rule
3 promulgated hereunder shall be liable for a civil penalty of not more than Ten
4 Thousand Dollars (\$10,000) per violation per day.

5 (b) Any person who knowingly operates a Home and Community-
6 Based Setting without a required license or certification, or who knowingly
7 falsifies any record required by this Chapter, shall be guilty of a misdemeanor.

8 **§ 7A118. Government-Operator Firewall.**

9 (a) Settings owned, operated, or to be operated by the government of
10 Guam or any agency, instrumentality, public corporation, or autonomous
11 body thereof, including the Department itself, shall remain subject to all
12 provisions of this Chapter and to the Department's oversight.

13 (b) No officer, employee, contractor, or agent of the Department who
14 exercises any licensing, certification, inspection, investigation, or
15 enforcement authority under this Chapter shall hold any direct or indirect
16 financial interest in, or serve as an officer, director, employee, or agent of, any
17 Home and Community-Based Setting licensed or certified under this Chapter.

18 (c) Where the government of Guam or any agency, instrumentality,
19 public corporation, or autonomous body thereof, including the Department,
20 operates or contracts to operate a Home and Community-Based Setting, the
21 licensing, inspection, and enforcement functions of the Department under this
22 Chapter shall be carried out by a unit, division, designee, alternative
23 inspecting entity, or qualified independent inspector that is organizationally
24 and functionally separate from the operating unit, with separate supervisory
25 chains of command, separate reporting lines, independent inspection
26 authority, and separate budgets.

1 (d) The Director shall by rule prescribe the operational details of this
2 firewall and additional safeguards to prevent actual or perceived conflicts of
3 interest. During any interim period prior to the finalization of such rules, the
4 Director shall designate in writing an alternative inspecting entity or qualified
5 independent inspector for any setting in which the Department is the operator
6 or has a direct operational interest.

7 **§ 7A119. Reporting of Abuse, Neglect, and Exploitation.**

8 All providers and staff are mandatory reporters of suspected abuse,
9 neglect, and exploitation of residents and shall comply with applicable
10 reporting requirements of Title 10, Guam Code Annotated.

11 **§ 7A120. Resident Records; Confidentiality; Person-Centered**
12 **Documentation.**

13 (a) Each provider shall maintain individual resident records in
14 compliance with the Health Insurance Portability and Accountability Act, 45
15 C.F.R. Parts 160 and 164, any successor federal codifications or regulations
16 thereto, and with rules promulgated by the Department.

17 (b) Records maintained by each provider shall include, at a minimum,
18 the resident's person-centered assessment and person-centered plan of care
19 required by § 7A110, and any periodic reviews or modifications thereof.

20 (c) Records shall be retained for not less than seven (7) years after a
21 resident's discharge or death.

22 **§ 7A121. Transfers and Discharges; Exclusion of Individuals.**

23 A provider shall not transfer or discharge a resident, or exclude an
24 individual from a setting, except for:

25 (a) medical needs that cannot be met in the setting;

26 (b) substantial failure to pay;

27 (c) documented threat to the health or safety of others;

1 (d) closure of the setting; or

2 (e) the resident’s request.

3 Written notice of not less than thirty (30) days, and an opportunity to
4 appeal to the Department, shall be afforded, except in emergencies.

5 **§ 7A122. Federal Compliance; Tenant Protections in Provider-**
6 **Owned Settings.**

7 (a) All settings licensed or certified under this Chapter shall comply
8 with: (1) the federal HCBS Settings Rule, 42 C.F.R. § 441.301; (2) Title II of
9 the Americans with Disabilities Act, 42 U.S.C. § 12132, and its implementing
10 regulations at 28 C.F.R. Part 35; and (3) the requirements applicable to any
11 Medicaid HCBS waiver under 42 U.S.C. § 1396n(c), (i), and (k) into which
12 Guam enters, and any successor federal codifications or regulations thereto.

13 (b) In any provider-owned or provider-controlled residential setting, the
14 provider shall provide each resident with a legally enforceable written
15 residency agreement that establishes the tenant protections required by 42
16 C.F.R. § 441.301(c)(4)(vi)(A), including protections against eviction
17 comparable to those afforded under applicable landlord-tenant law, and any
18 successor federal codifications or regulations thereto.

19 **§ 7A123. Rulemaking; Consultation; Legislative Review.**

20 (a) The Department shall promulgate implementing rules under this
21 Chapter within one hundred eighty (180) days of the effective date of this Act.

22 (b) In developing such rules, the Department shall consult with: (1) the
23 University of Guam Center for Excellence in Developmental Disabilities
24 Education, Research, and Service (Guam CEDDERS); (2) the Guam Legal
25 Services Corporation; and (3) the stakeholder group convened in connection
26 with the development of Guam's Medicaid Home and Community-Based
27 Services waiver program.

1 (c) The Guam Board of Allied Health Examiners shall be consulted in
2 a non-binding capacity, limited to provisions governing medication
3 administration, medication storage, and on-call clinical nursing access. The
4 Board's recommendations shall be advisory only and shall not bind the
5 Department.

6 (d) Proposed rules shall be transmitted to the Committee on Health and
7 Veterans Affairs at least sixty (60) days prior to promulgation for legislative
8 review and comment. The Committee shall not have veto authority over the
9 proposed rules, and the Department may proceed to final adoption upon
10 expiration of the sixty (60) day review period.

11 **§ 7A124. Transition Period.**

12 Any setting in operation on the effective date of the Department's
13 implementing rules that meets the definition of a Home and Community-
14 Based Setting shall have twelve (12) months from the effective date of such
15 rules to apply for and obtain the appropriate license or certification. During
16 such transition period, the setting may continue to operate, provided it submits
17 a complete application within ninety (90) days of the effective date of the rules
18 and cooperates with Department inspection and technical assistance. Nothing
19 in this Chapter shall impair, suspend, or repeal any qualifying certificate,
20 license, or authorization previously granted under existing Guam law to any
21 assisted living residence.

22 **§ 7A125. Director's Report to I Liheslaturan Guåhan.**

23 Within one hundred eighty (180) days of the effective date of this Act,
24 the Director shall submit a written report to *I Liheslaturan Guåhan* and to the
25 Office of the *Maga'hågan Guåhan* addressing each of the following:

26 (1) the operationalization of the Medically Indigent Program coverage
27 established by § 2907.6 as added by Section 4 of this Act;

1 (2) the identification of additional federal funding pathways for Home
2 and Community-Based Settings on Guam, including all applicable Medicaid
3 waiver and state plan authorities, Medicare, and other applicable federal
4 sources;

5 (3) the status of any pending Medicaid Home and Community-Based
6 Services waiver application submitted by Guam under 42 U.S.C. § 1396n(c),
7 (i), or (k); and

8 (4) a specific implementation budget request covering licensing,
9 inspection, rulemaking, and administrative staffing required to discharge the
10 Department's responsibilities under this Chapter, including all associated
11 costs, for consideration in the immediately succeeding fiscal year budget
12 cycle.

13 **§ 7A126. Fees.**

14 The Department shall by rule establish reasonable application,
15 licensure, certification, renewal, and inspection fees, calibrated to tier and
16 subcategory, and not so high as to deter the development of small community-
17 based providers, including Adult Family Care Homes and Group Homes or
18 Small Residential Settings.

19 **§ 7A127. Public Registry.**

20 The Department shall maintain and publish online a current registry of
21 all settings licensed or certified under this Chapter, including the subcategory,
22 tier, license status, inspection history, and any sanctions imposed within the
23 preceding three (3) years.

24 **§ 7A128. Severability.**

25 If any provision of this Chapter or its application to any person or
26 circumstance is found to be invalid or inorganic, such invalidity shall not
27 affect other provisions or applications of this Chapter that can be given effect

1 without the invalid provision or application, and to this end the provisions of
2 this Chapter are severable.

3 **Section 3.** A New § 7101.1 is hereby *added* to Chapter 7 of Division 1 of
4 Title 10, Guam Code Annotated, to read:

5 **§ 7101.1. Scope; Home and Community-Based Settings.**

6 Home and Community-Based Settings, including Assisted Living
7 Residences as defined in Chapter 7A of this Title, are licensed and regulated
8 under Chapter 7A. The provisions of this Chapter shall not apply to such
9 settings. Nothing in this Chapter shall be construed to limit or supersede
10 Chapter 7A as to Home and Community-Based Settings.

11 **Section 4.** A new § 2907.6 is hereby *added* to Article 9, Chapter 2, Division
12 1, Title 10, Guam Code Annotated, to read:

13 **§ 2907.6. Home and Community-Based Settings; Transitional**
14 **Coverage.**

15 (a) Notwithstanding any other provision of this Article, the Program is
16 authorized to cover personal care services, attendant care, supervision,
17 medication assistance, habilitation services, person-centered case
18 management, and related supportive services rendered to eligible recipients in
19 Home and Community-Based Settings licensed or certified under Chapter 7A
20 of this Title, on a transitional basis, pending federal approval of a Medicaid
21 Home and Community-Based Services waiver under 42 U.S.C. § 1396n(c),
22 (i), or (k), or another federal HCBS authority covering the same services.

23 (b) This Section shall sunset and be of no further force or effect upon:
24 (1) approval by the Centers for Medicare and Medicaid Services of such a
25 waiver or authority covering services in Home and Community-Based
26 Settings on Guam, and operationalization of such waiver or authority for

1 Guam; and (2) written certification by the Department to I Liheslaturan
2 Guåhan and to the Office of the Maga'hågan Guåhan of the date on which
3 such waiver or authority becomes operational. Upon such certification, the
4 federal waiver or authority shall become the operative payment pathway for
5 such services.

6 (c) Nothing in this Section shall be construed to amend, modify, or
7 affect § 2907.4 of this Article governing skilled nursing and intermediate care
8 services.

9 **Section 5. Conforming Regulatory Amendments.** Within one-hundred
10 eighty (180) days of enactment of this Act, the Department of Public Health and
11 Social Services shall promulgate conforming amendments to Title 26, Guam
12 Administrative Rules and Regulations, § 9302, to ensure consistency between the
13 statutory Medically Indigent Program coverage established by § 2907.6 as added by
14 Section 4 of this Act and the implementing regulatory framework. The directed
15 amendments shall reflect the addition of services delivered in Home and
16 Community-Based Settings licensed or certified under Chapter 7A of Division 1 of
17 Title 10, Guam Code Annotated, as a covered service category, on the same
18 transitional basis and subject to the same sunset triggers as provided in § 2907.6.

19 **Section 6.** § 25101 Of Division 2 Chapter 25, Title 10, Guam Code
20 Annotated, is hereby *amended* to read:

21 **§ 25101. Definitions.**

22 As used in this Chapter:

23 (a) "child care facility" means any person or place which receives or
24 arranges placement of one (1) or more children who are not related to such
25 person, whether for gain or otherwise, apart from the parents or guardian, with
26 or without the transfer of the right of custody, for the purpose of providing

1 regular care or training for such child or children during either the day or
2 night, or both. Except as otherwise provided, the term "child care facility"
3 includes, but is not limited to, all facilities defined by the Department of
4 Public Health and Social Services as family day care homes, foster family
5 homes, group day care homes, residential treatment facilities, day care center,
6 day nurseries, nursery school, kindergarten school, day care homes,
7 intergenerational day care centers, or similar institutions or units regardless of
8 name;

9 (b) "penal institution" means any jail, detention center, prison, camp,
10 home, juvenile detention home or cottages or other facility operated by the
11 government of Guam and used as a holding facility, jail or residential
12 custodial facility. This definition does not include hospitals or child care
13 facilities;

14 (c) "school" means any establishment, public or private, for the care
15 and education of students from kindergarten through grade twelve (12) and
16 any college or university or educational institution of higher learning;

17 (d) "hospital" means any building, structure, institution or place, public
18 or private, whether organized for profit or not, devoted primarily to the
19 maintenance and operation of facilities for the diagnosis, treatment and
20 provision of medical or surgical care for three (3) or more non-related
21 individuals, hereinafter designated patients, admitted for overnight stay or
22 longer in order to obtain medical, including obstetric, psychiatric and nursing
23 care of illness, disease, injury or deformity, whether physical or mental and
24 regularly making available at least clinical laboratory services and diagnostic
25 x-ray services and treatment facilities for surgery or obstetrical care or other
26 definitive medical treatment;

1 (e) "clinic" means any building, structure, institution or place, public or
2 private, whether organized for profit or not, devoted primarily to the
3 maintenance and operation of facilities for the medical or dental diagnosis and
4 treatment of human illness, injury or deformity or the veterinary medical or
5 veterinary dental diagnosis and treatment of animal illness, injury or
6 deformity;

7 (f) "nursing home" means a facility established for profit or non-profit,
8 which provides nursing care and related medical services twenty-four (24)
9 hours per day of two (2) or more individuals because of illness, disease or
10 mental infirmity. It provides care for those persons not in need of hospital care
11 but requiring nursing care or related medical services, which medical services
12 shall be prescribed by a professional nurse or a physical therapist or an
13 occupational therapist, depending upon the service required. If children are
14 cared for, they shall have a separate unit;

15 (g) "laboratory" means any building, structure, institution or place,
16 public or private, whether organized for profit or not, devoted primarily to the
17 maintenance and operation of facilities for the examination or testing of
18 humans or animals, living or dead, or any parts or physiologic products
19 thereof, for the purpose of detecting or confirming the presence of illness or
20 infirmity; and

21 (h) "client" means any person attending, residing, observed, examined,
22 tested or treated, in any child care facility, penal institution, school, hospital,
23 clinic, nursing home~~or~~, laboratory~~,~~ or Home and Community-Based Setting
24 as defined in Chapter 7A of this Title.

25 **Section 7.** § 25102 Of Division 2 Chapter 25, Title 10, Guam Code
26 Annotated, is hereby *amended* to read:

1 **§ 25102. Disease Control; Employees.**

2 No person shall work in a school, child care facility, penal institution,
3 nursing home, hospital-~~or~~, clinic, or Home and Community-Based Setting as
4 defined in Chapter 7A of this Title, whether in his own or another's employ
5 knowing himself to have or having reason to believe that he has any
6 communicable disease. If an employer, owner, manager or person in charge
7 or control suspects that an employee has any such disease in a communicable
8 form or is a carrier of such disease, he shall notify the Director.

9 **Section 8.** § 25104 Of Division 2 Chapter 25, Title 10, Guam Code
10 Annotated, is hereby *amended* to read:

11 **§ 25104. Disease Control; Clients.**

12 The owner, manager or person in charge or control of any child care
13 facility, penal institution, school, hospital, clinic, nursing home-~~or~~, laboratory,
14 or Home and Community-Based Setting as defined in Chapter 7A of this Title
15 knowing or having reason to believe that a client has any communicable
16 disease shall notify the Director.

17 **Section 9.** § 25105 Of Division 2 Chapter 25, Title 10, Guam Code
18 Annotated, is hereby *amended* to read:

19 **§ 25105. Procedure When Reconstructing.**

20 When any child care facility, penal institution, school, hospital, clinic,
21 nursing home-~~or~~, laboratory, or Home and Community-Based Setting as
22 defined in Chapter 7A of this Title is constructed or extensively remodeled or
23 when an existing structure is converted for use as a child care facility, penal
24 institution, school, hospital, clinic, nursing home-~~or~~, laboratory, or Home and
25 Community-Based Setting as defined in Chapter 7A of this Title, then the

1 owner or person in charge or control shall comply with the provisions of §
2 21102 of this Title and regulations promulgated thereunder.

3 **Section 10.** § 22101 Of Division 2 Chapter 22, Title 10, Guam Code
4 Annotated, is hereby *amended* to read:

5 **§ 22101. Who Shall Have Health Certificates.**

6 Every person listed hereinafter in this Section shall obtain from the
7 Director every twelve (12) months a health certificate:

8 (a) any person employed as a handler of food or drink in any eating and
9 drinking establishment or at any food service establishment, as defined in
10 Chapter 23; or in any food establishment, as defined in Chapter 24;

11 (b) all persons employed in institutional facilities, as defined in Chapter
12 25; and all persons employed in Home and Community-Based Settings as
13 defined in Chapter 7A of this Title;

14 (c) all persons employed in barber shops, beauty shops and massage
15 parlors, as defined in Chapter 26; and

16 (d) all other persons as may be required by law or as may be required
17 by the Director, in his discretion, by regulation.

18 **Section 11. Severability.** If any provision of this Act or its application to any
19 person or circumstance is found to be invalid or contrary to law, such invalidity shall
20 not affect other provisions or applications of this Act that can be given effect without
21 the invalid provisions or application, and to this end the provisions of this Act are
22 severable. The Legislature would have passed this Act, and each section, subsection,
23 sentence, clause, phrase, or portion of it, irrespective of the fact that any one or more
24 sections, subsections, sentences, clauses, phrases, or portions of it be declared
25 invalid or unconstitutional, including its application to any person or circumstance.

1 If any provision of this Act is found to be inorganic, the provision shall be severed
2 from the remainder of this Act.

3 **Section 12. Effective Date.** This Act shall take effect upon enactment,
4 except that any provision governing rulemaking, inspection, or licensing under
5 Chapter 7A shall become effective in accordance with the implementing rules
6 promulgated by the Department within the one hundred eighty (180) day period
7 described in § 7A123. Nothing in this Act shall impair, suspend, or repeal any
8 qualifying certificate, license, or authorization previously granted to any assisted
9 living residence under existing Guam law.