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.	6/15/26	Committee on Health and Veterans Affairs.	Request: 6/15/26 6/23/26			

COMMITTEE ON RULES

Vice Speaker V. Anthony Ada, Chairperson
I Mina'trentai Ocho Na Liheslaturan Guåhan
38th Guam Legislature

June 23, 2026

To: **Rennae V. C. Meno**
Clerk of the Legislature

From: **Vice Speaker V. Anthony Ada**
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 329-38 (COR)**

Håfa Adai!

Find the attached, Fiscal Note for the following bill:

Bill No. 329-38 (COR).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly copy the same to Management Information Services (MIS) for posting on our website.

Bureau of Budget & Management Research
Fiscal Note of Bill No. 329-38 (COR)

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.

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Public Health & Social Services	**Dept./Agency Head: Theresa C. Arriola, Director**
Department's General Fund (GF) appropriation(s) to date: Operations ($59,443,405); Health Insurance Premiums for Foster Children ($2,359,215); Child Protective Services Program ($2,220,129); Bureau of Social Services Administration ($7,558,215); Grants for Homelessness ($500,000)	$72,080,964
Department's Other Fund appropriation(s) to date: Environmental Health Fund ($1,586,489); Health Professional Licensing Office Revolving Fund ($333,181); Office of Vital Statistics Revolving Fund ($224,713); DPHSS Sanitary Inspection Revolving Fund ($481,089); Healthy Futures Fund for Guam Cancer Registry ($389,144)	$3,014,616
Total Department/Agency Appropriation(s) to date:	$75,095,580

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2025 Unreserved Fund Balance		$0	$0
FY 2026 Adopted Revenues	$0	$0	$0
FY 2026 Appro. (P.L. 38-60)	$0	$0	$0
Sub-total:	$0	$0	$0
Less appropriation in Bill	$0	$0	$0
Total:	$0	$0	$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2026 (if applicable)	FY 2027	FY 2028	FY 2029	FY 2030
General Fund	$0	$0	$0	$0	$0	$0
Special Fund	$0	$0	$0	$0	$0	$0
Total 1/	$0	$0	$0	$0	$0	$0

1. **Does the bill contain "revenue generating" provisions?** /X/ Yes / / No
   If Yes, see attachment
2. **Is amount appropriated adequate to fund the intent of the appropriation?** /X/ N/A / / Yes / / No
   If no, what is the additional amount required? $ _____ /X/ N/A
3. **Does the Bill establish a new program/agency?** /X/ Yes / / No
   If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
   Is there a federal mandate to establish the program/agency? / / Yes /X/ No
4. **Will the enactment of this Bill require new physical facilities?** / / Yes /X/ No
5. **Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:** /X/ Yes / / No
   / / Requested agency comments not received by due date / / Other:

Analyst: _____ **Date:** 6/23/2026
Abigail R. Ofeciar, BMA Supervisor

Director: _____ **Date:** JUN 23 2026
Lester L. Carlson, Jr., Director

Notes:
1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 329-38 (COR)

Bill No. 329-38 (COR) is an act to add a new Chapter 7A to Division 1 of Title 10 Guam Code Annotated (10 GCA); to add a new § 7101.1 to Chapter 7, Division 1, 10 GCA; to add a new § 2907.6 to Article 9, Chapter 2, Division 1, 10 GCA; to amend § 25101, § 25102, § 25104, and § 25105 of Chapter 25, Division 2, 10 GCA; and § 22101 of Chapter 22, Division 2, 10 GCA; and to direct conforming regulatory amendments to § 9302, Chapter 9, Article 3, Division 1 of Title 26 of the Guam Administrative Rules and Regulations (GARR), all relative to establishing a comprehensive statutory framework for home and community-based settings on Guam.

Per the proposed legislation's findings and intent, Guam's *Manåmko'* population, along with younger individuals living with physical, intellectual, developmental, and behavioral health disabilities, require intermediate level of supportive care relative to activities involved in daily living although not to the level of continuous skilled nursing services requiring institutional placement in a nursing home. It further states that the lack of a comprehensive statutory and regulatory framework for home and community-based settings has prevented private investment, effective government oversight, and the development of a continuum of care. As such, the proposed legislation seeks to address these findings through the formal codification of policies and rules and regulations consistent with federal Home and Community-Based Services (HCBS) standards through the proposed additions and amendments to relevant Chapters in the Guam Code Annotated. Per the proposed legislation, it intends to establish a comprehensive, standalone statutory framework for HCBS on Guam, with Assisted Living Residences as a primary subcategory. It further intends to establish a "transitional payment pathway through the Medically Indigent Program to support these services until a federal Medicaid HCBS waiver is fully operationalized" ensuring immediate access to a broader range of supportive living options.

The proposed legislation mandates the Department of Public Health and Social Services (DPHSS), in consultation with the University of Guam Center for Excellence in Developmental Disabilities Education, Research, and Service (Guam CEDDERS), the Guam Legal Services Corporation, and a stakeholder group convened in connection with the development of Guam's Medicaid HCBS waiver program, to promulgate rules to implement the HCBS program within 180 days of enactment. Such rules shall be submitted to the Committee on Health and Veterans Affairs at least 60 days prior to promulgation for legislative review and comment, which means that DHSS only has 120 days to establish such rules. In addition, within 180 days of enactment, the Director of DPHSS shall also submit a written report to the Governor and the Legislature addressing several items pertaining to the HCBS program for Guam to include a budget request covering licensing, inspection, rulemaking, and administrative staffing required to discharge relevant HCBS responsibilities including all associated costs for consideration in the succeeding fiscal year budget. The DPHSS is also to establish relevant fee schedule for application, licensure, certification, renewal, and inspection; as well as maintain and publish a public registry of licensees under the HCBS program.

The proposed legislation does not appropriate any additional funding source to DPHSS, Guam CEDDERS, and other parties involved for the initial mandates of setting up the HCBS program, and only addresses the inclusion of a budget request for a succeeding fiscal year. The Bureau notes that both the DPHSS and Guam CEDDERS brought up funding concerns in their testimonies during the public hearing on the proposed legislation held on June 15, 2026. Upfront administrative costs and ongoing oversight costs are expected to be incurred by both DPHSS and Guam CEDDERS in the convening of the rulemaking committee although an exact fiscal impact cannot be determined at the time.

DPHSS also brought up concerns pertaining to the proposed legislation's application of the Medically Indigent Program (MIP) as funding mechanism to bridge federal Medicaid HCBS funding due to fundamental misalignment in eligibility criteria and financing structure. MIP serves individuals who are ineligible for Medicaid or Medicare and MIP is funded entirely from local appropriations and per DPHSS, MIP funding is already earmarked for existing services such as care provided at St. Dominic's Senior Care Home. DPHSS warns that without fundamental changes, coverage gaps and inequitable access may arise inadvertently. DPHSS also recommended that provision on fees be removed, or exempt individual or family homes (small residential settings), as fees are not typically applied to these settings under the Medicaid HCBS. The DPHSS' Division of Environmental Health also brought up funding concerns as well as statutory concerns with regards to the provisions of the proposed legislation as currently written. The testimonies provided by DPHSS are attached for reference.

The Bureau also notes that there are several technical errors on the proposed legislation in referencing proper citations from the GCA and the GARR.

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

LOURDES A. LEON GUERRERO
MAGA'HÅGAN GUÅHAN
GOVERNOR OF GUAM

JOSHUA F. TENORIO
SEGUNDO MAGA'LÅHEN GUÅHAN
LT. GOVERNOR OF GUAM

THERESA C. ARRIOLA, MBA
DIRECTOR

PETERJOHN D. CAMACHO, MPH
DEPUTY DIRECTOR

Senator Sabrina Salas Matanane
Chairperson, Committee on Health and Veterans Affairs
office.senatorbri@guamlegislature.gov

June 11, 2026

RE: BILL 329-38: 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, GUAMCODE ANNOTATED; TO ADD A NEW § 2907.5 TO ARTICLE9, CHAPTER 2, DIVISION 1, TITLE 10, GUAM CODEANNOTATED; TO DIRECT CONFORMING REGULATORYAMENDMENTS 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.

Håfa Adai Senator Salas Matanane:

The Guam Department of Public Health and Social Services (DPHSS) extends its sincere appreciation to Chair Salas Matanane for her continued leadership and for the thoughtful revisions to this bill. Particularly, DPHSS recognizes and greatly appreciates incorporating a more expansive array of home- and community-based services (HCBS) settings, strengthening person-centered language, and including citations to the federal regulations governing Medicaid-funded HCBS. These enhancements will better enable Guam to achieve our shared goal of improved care, quality of life, and independence for our Manåmko' and younger community members with disabilities.

DPHSS further commends the Chair's vision in advancing a comprehensive and innovative statutory framework for HCBS on Guam. The implementation of a robust HCBS system represents a transformative step for the island, positioning Guam to modernize its long-term care continuum in a manner that prioritizes individual dignity, autonomy, and integration within the community. By expanding community-based alternatives to institutional care, this legislation has the potential to generate meaningful and lasting positive impacts—not only for individuals with disabilities and older adults, but also for families, caregivers, and the broader community.

In response to the request for feedback sent to DPHSS on Thursday, June 4, 2026, the Department offers the following comments to reflect on the fiscal and administrative impact of the bill, support continued alignment with federal requirements and to further strengthen the quality, compliance, and accessibility of HCBS across Guam. Below, we identify specific revisions that will more closely match the bill's intent and approach to

compliance with federal requirements and programmatic objectives. DPHSS also proposes revisions throughout that aim to reduce administrative burden and improve access to HCBS on Guam.

I. General Comments and Recommendations

Bill No. 329-38 (COR) directs the Guam Department of Public Health and Social Services (DPHSS) to design, implement, and maintain a new regulatory and licensing framework for HCBS settings, requiring rulemaking, oversight systems, and coordination with existing statutes and administrative regulations. Administratively, DPHSS suggests areas in which the bill can reduce administrative burden of the proposed regulatory structure by reducing unnecessary oversight proposed that does not align with the typical structure and intent of HCBS. Fiscally, implementation creates upfront and ongoing oversight costs that will require appropriations to support.

DPHSS has concerns with the bill's current attempted application of the Medically Indigent Program (MIP), even on a temporary basis, as a funding mechanism to establish or support HCBS under Bill 329-38. Without additional foundational changes to MIP, it is not a viable bridge to the planned 1915(c) waiver due to fundamental misalignment in eligibility criteria and financing structure. MIP serves individuals who are ineligible for Medicaid or Medicare and meet strict income and resource thresholds. In contrast, the population eligible for HCBS under a 1915(c) waiver must meet Medicaid enrollment requirements. This divergence would result in coverage gaps and inequitable access that would then necessitate substantial regulatory, legislative, and administrative action to correct.

Further, MIP is funded entirely through local appropriations and is subject to annual budgetary constraints, limiting its scope and causing unpredictability in availability. The MIP appropriation is typically exhausted each year, primarily to cover care in St. Dominic's Senior Care Home and does not have funds remaining to cover new populations or settings.

If the bill's intention is to open the proposed assisted living residence located on the RanCare campus before the implementation of the Medicaid 1915(c) HCBS waiver using MIP dollars, it is key that this proposed regulatory structure recognizes that Medicaid and MIP populations are distinct. The §1915(c) HCBS waiver is projected to be implemented in just a few months, making a short-term admission of primarily MIP-participating individuals with an intended transition to primarily Medicaid-enrolled individuals unsustainable for the intended population. The public comment period for this waiver begins on June 15, 2026.

II. Bill Text Comments

Section 1

- DPHSS recommends removal of references to home health and hospice services within statutory provisions intended to establish Medicaid-funded HCBS, as these services are authorized and administered under distinct state plan authorities and are not typically considered HCBS.
- The current drafting of Bill 329-38 could create confusion regarding Guam's intended approach to establishing HCBS by referencing multiple Medicaid authorities—specifically §§1915(c), 1915(i), and 1915(k)—without delineating scope, sequencing, or fiscal parameters. As written, this can suggest that Guam intends to quickly and broadly implement HCBS across multiple authorities and populations, including prior to approval of the §1915(c) waiver. DPHSS has deliberately pursued a phased and intentional approach through the §1915(c) waiver to implement and grow the program in a manner that is data-informed and operationally viable and achieves cost efficiencies relative to institutional care.

§7A103

- "Federal HCBS Requirements." Bill 329-38 currently defines "Federal HCBS Requirements" by referencing multiple Medicaid authorities, including §§1915(i) and 1915(k). Guam's near-term implementation strategy is to introduce HCBS through a §1915(c) waiver. Without additional clarification, this approach may create confusion regarding the scope and timing of HCBS implementation and could be interpreted as an intent to simultaneously pursue multiple HCBS

authorities. This, in turn, might raise stakeholder expectations for a rapid and broad expansion of HCBS that may not be operationally or fiscally sustainable under Guam's current Medicaid structure.

DPHSS recommends removing references to specific HCBS Medicaid authorities and replacing with a general definition of federal HCBS requirements.

- "HCB Settings." A definition of HCB settings when Medicaid financing is a component of the policy should not include "housing" because Medicaid does not cover the cost of room and board as a reimbursable service. DPHSS suggest replacing "housing" with "residential supports." Medicaid rules and regulations clearly distinguish between services that support an individual to live in the community (e.g., personal care, habilitation, and supports for activities of daily living) from the underlying cost of housing itself, including rent, utilities, or food.

  DPHSS recommends removing the prescriptive lists of services assigned to each setting, as person-centered planning should determine the specific services an individual needs or prefers. Alternatively, DPHSS recommends retaining the lists but adding qualifying language to clarify that they are illustrative rather than exhaustive—for example, by introducing them with phrasing such as "services may include."

- "Assisted Living Residence." Same as above. DPHSS suggests removing reference to "housing" and replace with "residential supports" or similar language.

  DPHSS also recommends removing citations to 42 U.S.C. § 1396n(c), (i), and (k) because these provisions establish the legal authorities for delivering HCBS, not the standards used to evaluate the quality and compliance of HCBS settings. 42 C.F.R. § 441.301(c)(4), the federal HCBS Settings Rule, provides the appropriate and consistent framework for assessing setting quality and compliance across all HCBS authorities.

- "Independent Living Residence." Independent living residences, such as an individual's or family home, are generally not subject to licensure or certification under Medicaid HCBS because they are private, non-provider-controlled settings. Medicaid covers the services delivered, not the residence itself, and oversight is directed at providers rather than individuals' homes. Applying licensures to private residences would conflict with HCBS principles of autonomy and choice and impose unnecessary burden on individuals and families. In addition, DPHSS recommends removing individual and family homes from the posting requirement as postings on private residences may violate HIPAA and privacy protections.

- "Residential Care Residence." DPHSS suggests removing reference to "room, board" as Medicaid cannot cover room and board in any residential setting.

- "Supported Living and Transitional Housing." DPHSS seeks to clarify a recurring concern regarding the definition of "supported living and transitional housing" in Bill 329-38. In the bill text, this appears to be referencing the intended assisted living residence on the RanCare campus. This building is intended as the initial setting for the §1915(c) HCBS waiver under which participants must meet an institutional level of care (e.g., they would require a hospital or nursing facility level of care were it not for access to HCBS). §1915(c) HCBS waivers do not provide Medicaid-funded services for individuals only or primarily experiencing homelessness.

  Thus, the current language appears to inadvertently conflate housing interventions with HCBS service delivery. Clarifying this distinction is critical to designing settings that are properly equipped for the specific needs of residents and facilitating availability of federal matching funds for HCBS.

- "Palliative or Hospice Setting." DPHSS suggests removing as these services are not considered HCBS. Palliative and/or hospice care is an optional benefit under the state plan.

§7A105

- Subsection (b)(2) - DPHSS recommends including Adult Day Services and Adult Day Health within Tier I to reduce administrative burden and barriers to entry for prospective providers, as these are non-residential services and are distinct from the primarily residential settings otherwise listed in this category. Additionally, DPHSS suggests revising "four (4) or more individuals" to "four (4) to nine (9) individuals" to ensure consistency within the tiered framework, as settings serving ten (10) or more individuals are classified under Tier III in the current draft.
- Subsection (b)(3) – DPHSS recommends clarifying whether "medication administration services" includes delegation of medication administration and/or oversight of self-administration. These functions are common in smaller residential settings reflected in Tiers I and II, and without clarification, the requirement may impose unintended and disproportionate regulatory burden on smaller providers. A clearer definition would help ensure requirements are appropriately scaled to the level of care provided.

§7A106

- Suggest removing reference to "adult protective services registry" as the Division for Senior Citizens (DSC) has not received the funding necessary to establish a central registry.

§7A110

- DPHSS suggests shortening the 10 day response time frame for complaints. Standard regulatory practice typically establishes response times based on the severity of the allegation, with 24-hour responses expected in cases of imminent risk to health and safety.

§7A114

- DPHSS suggests adding, "but not limited" to after including to allow for identification and adoption of additional trainings to tailored to meet the needs of the unique populations served by HCBS.

§7A115

- While DPHSS supports accessible complaint mechanisms, establishing and maintaining both a toll-free line and online portal would require significant time and financial resources, including dedicated staffing, system administration, and IT. To reduce burden, DPHSS recommends leveraging existing complaint intake systems or implementing a phased approach that begins with a single, centralized intake method. Clarification of minimum functional and staffing requirements, as well as adequate budget allocation, would be necessary for both feasibility and long-term sustainability.

§ 7A117

- The proposed penalty of up to $10,000 per violation per day is unusually severe and may be disproportionate to the nature of certain violations. DPHSS recommends either reducing the maximum penalty or establishing a tiered penalty structure that aligns with the severity and risk level of the violation. As drafted, the provision could be interpreted to apply the maximum penalty to relatively minor or technical deficiencies—such as a single expired fire extinguisher—potentially creating undue deterrence for prospective providers.

§ 7A120

- DPHSS suggests revising this provision to explicitly include additional categories of required documentation, such as service delivery logs, medication administration records, incident reports, nursing and other clinical assessments, and any records required under applicable local or federal regulations.

§ 7A124

- DPHSS has significant concerns regarding the intent and potential implications of this provision as it relates to potential unintended consequences of both overextending MIP funding and the availability of Medicaid funding. As drafted, this section may be interpreted to allow existing residential settings that currently provide non-Medicaid-or-MIP-funded services to receive MIP funding during the transition period while signaling eventual Medicaid reimbursement. There are distinct regulatory structures around eligibility, services, and oversight of Medicaid and MIP that may not be in alignment with the intent and implementation of current locally funded on-island settings (e.g., those operated by the Guam Behavioral Health and Wellness Center [GBHWC] and the Department of Integrated Services for Individuals with Disabilities [DISID]).

  A stable transition to a federally compliant HCBS continuum of services and supports requires clear delineation of the scope of funding and intent.

§ 7A125

- Subsection (4) – DPHSS recommends adding "operational costs," or similar language, to help ensure the report captures the full scope of resources needed to sustain facility operations, including utilities, maintenance, and ongoing building support for GovGuam-operated HCBS settings.

§ 7A126

- DPHSS notes that fees are not typically applied to individual or family homes under Medicaid HCBS, as these are private, non-provider-controlled or owned settings. DPHSS recommends removing this requirement or exempting smaller residential settings owned or leased by the individual or their family.

§ 25105

- DPHSS suggests limiting this requirement to specific regulated setting types, as it should not apply to individual or family homes. Alternatively, language such as "excluding typical family homes" could be added to clarify that private residences are not subject to these reconstruction requirements, consistent with HCBS practices.

§ 22101

- DPHSS suggests limiting this requirement to specific provider-operated or large residential settings. Family members or individual personal care providers delivering services in a private home are not typically subject to health certificate requirements under HCBS. DPHSS also recommends confirming whether this requirement aligns with current practice under existing programs, such as the DISID caregiver program.

Un Dångkulu na si Yu'os Ma'åse.

THERESA C. ARRIOLA, MBA

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT

LOURDES A. LEON GUERRERO
MAGA'HÅGAN GUÅHAN
GOVERNOR OF GUAM

JOSHUA F. TENORIO
SEGUNDO MAGA'LÅHEN GUÅHAN
LT. GOVERNOR OF GUAM

THERESA C. ARRIOLA, MBA
DIRECTOR

PETERJOHN D. CAMACHO, MPH
DEPUTY DIRECTOR

June 13, 2026

Senator Sabrina Salas Matanane
Chairperson, Committee on Health and Veterans Affairs
38th Guam Legislature
163 Chalan Santo Papa
Hagåtña, Guam 96910

TESTIMONY ON BILL 329-38 (COR)

Hafa Adai, Senator Sabrina Salas Matanane and members of the Committee on Health and Veterans Affairs. My name is Theresa C. Arriola, Director of the Department of Public Health and Social Services (DPHSS). Thank you for the opportunity to provide testimony on Bill No. 329-38 (COR), relative to establishing a comprehensive statutory framework for Home and Community-Based Settings (HCBS) on Guam.

The Division of Environmental Health (DEH) within DPHSS is mandated under §21102 of Chapter 21, Title 10 Guam Code Annotated to promulgate rules and regulations necessary to ensure the sanitary operation of health-regulated establishments. While DEH supports the Legislature's goal of creating a dedicated, independent statutory framework for Guam's HCBS to serve individuals with disabilities and our *manåmko'*, we respectfully raise the following concerns, which we believe must be addressed before the bill is enacted, to ensure that the mandate is legally sound and can be effectively executed.

As introduced, Bill No. 329-38 (COR) assigns significant new regulatory responsibilities to DPHSS and, by extension, to DEH, without identifying any appropriation or funding source to support implementation. These responsibilities include, but are not limited to:

- Annual announced inspections and a minimum of two (2) unannounced inspections per licensed or certified setting per year (§7A114).
- Complaint-driven investigations within ten (10) business days, and immediate response to imminent danger complaints [§7A114(b)].
- Maintenance of a public online registry of all licensed and certified settings (§7A127).
- Promulgation of implementing rules within 180 days of enactment (§7A123).
- Conforming regulatory amendments to Title 26, Guam Administrative Rules and Regulations (§9302), within 180 days (Section 5).

DEH currently operates under significant staffing constraints. The addition of a new category of regulated settings without commensurate staffing or budgetary authorization constitutes an unfunded mandate that risks further reducing the oversight of all regulated entities. DEH respectfully urges the Legislature to include in the final bill or in accompanying budget action an initial appropriation sufficient to fund the equivalent of at least two (2) additional Environmental Public Health Officer positions dedicated to HCBS inspections.

As currently written, Bill No. 329-38 (COR) does not confer clear authority on DEH to regulate the sanitary operations of HCBS. DEH's authority to inspect and regulate establishments for compliance with public health and sanitation standards is grounded in Title 10 GCA Chapter 21. Chapter 21 lists the categories of establishments subject to that authority. HCBS, as newly defined in Chapter 7A in the proposed bill, are not enumerated within 10 GCA Chapter 21. Without a clear grant of authority in Chapter 21, any DEH inspection or enforcement action in HCBS may be legally vulnerable to challenge.

The bill proposes amendments to the following provisions of Title 10 Guam Code Annotated to include references to HCBS:

- §25101 (Definitions, Chapter 25) - Amending the definition of "client" to include persons in HCBS.
- §25102 (Disease Control; Employees, Chapter 25) - Extending communicable disease worker restrictions to HCBS.
- §25104 (Disease Control; Clients, Chapter 25) - Extending communicable disease client notification duties to HCBS settings.
- §25105 (Procedure When Reconstructing, Chapter 25) - Applying construction and remodel review requirements to HCBS.
- §22101 (Health Certificates, Chapter 22) - Requiring health certificates for persons employed in HCBS.

While DEH supports the intent of extending communicable disease controls and health certificate requirements to HCBS, these proposed amendments create an internal conflict within the bill itself.

Title 10 GCA Chapter 25 governs "Institutional Facilities." Its scope, definitions, and regulatory standards are specifically designed for institutional settings such as hospitals, nursing homes, clinics, laboratories, penal institutions, schools, and child care facilities. This is directly contradicted by the bill's own definitions. Proposed §7A103(d) defines a "Home and Community-Based Setting" as:

> *"[A] non-institutional, community-based setting that provides housing or supportive services, or both, to one (1) or more residents, individuals, or program participants, consistent with Federal HCBS Requirements."*

Furthermore, proposed §7A104(b) expressly provides that HCBS are not "institutional facilities." Amending Chapter 25 to insert HCBS alongside hospitals, nursing homes, and penal institutions is therefore internally inconsistent with the bill's own definition. It risks creating a legal

confusion in which HCBS are simultaneously defined as non-institutional under Chapter 7A and treated as institutional for purposes of Chapter 25. This inconsistency could expose DEH enforcement actions to legal challenge and undermine the bill's stated intent to establish HCBS as a distinct, non-institutional regulated facility.

If the Legislature intends for HCBS to be subject to DEH's sanitary inspection and environmental health enforcement authority, DEH suggests limiting such requirements to provider-operated or large residential settings where the level of public health risk justifies regulatory oversight. These requirements should not be imposed on individual homeowners, family caregivers, and personal care providers operating in personal residence.

DEH appreciates the sponsors' efforts to address a critical gap in Guam's health care and long-term care system. We stand ready to work with the Legislature to ensure that, when enacted, this bill creates a legally sound and adequately resourced mandate that protects the health, safety, and dignity of all residents in Home and Community-Based Settings on Guam.

Un Dångkulu na si Yu'os Ma'åse.

THERESA C. ARRIOLA, MBA