

DPHSS Draft COVID-19 Public Health Enforcement Rules Public Hearing
AGENDA
October 31, 2020, 2:00 p.m. to 4:00 p.m.

- I. Call to order
 - a. Time: 2:21 p.m.

- II. Roll Call
 - a. DPHSS: Director Arthur San Agustin, Deputy Director Laurent Duenas, Deputy Director Terry Aguon, Environmental Rosanna Rabago, Environmental Marilou Scroggs, Public Information Officer Janela Carrera
 - b. Legislature: Senator Jose “Pedo” Terlaje, Senator William Castro, Senator Telo Taitague, Senator Therese Terlaje

- III. Director’s Opening Remarks

- IV. Presentation of Draft Rules Governing the Enforcement of Public Health Guidances and Directives during the COVID-19 Public Health Emergency.
 - a. Presented by Deputy Director Terry Aguon

- V. Public Comment
 - a. Public comments/written testimonies may be submitted to DPHSS at publichealth@dphss.guam.gov. Last day to provide written testimony is November 4, 2020 at 4:00 p.m.
 - b. D. Hernandez
 - i. Issue is mainly with the fact that we have 37,000 people who are unemployed and many businesses who are shutting down. While I agree that people should follow the rules and regulations, at the same note, fining them is only going to make things more difficult rather than easier. Especially when it comes to their finances, many people are already struggling. With the PUA alone we make about \$1200 per month. Even at a \$100-\$250, for one or two violations that’s a huge chunk out of their pocket just to be able to try to afford it if they were to violate it. Again, I do agree on the fact that we should follow regulations, but as far as the fines, that’s my only issue. It’s just due mainly to our economic impact issue going on with many who are unemployed. With the fines and regulations as well, I do believe it should go through legislation and legislation should be the one to ultimately decide if this is something we should or shouldn’t do. That way we have a better process as far as through our government. Allowing legislation a chance to hear it, present their cases, debate upon it, and vote on it on whether we should or should not pass these regulations. And if it comes out that they do pass it, that would be good because other states have been doing similar ways, like the state of Alaska, they went to their state legislation to decide if they should impose any fines and went from there. I think Guam should follow suit

and follow examples of other states that have done this as far as fining people for violating any executive orders and allow the legislation a chance to debate upon it and make a decision based on that.

- c. Senator Pedro Terlaje
 - i. I have several concerns on the bill itself because it didn't mention who is going to do the enforcement – is it Public Health or are we going to get the assistance of the Police Department or law enforcement and the other issue that I'm concerned about is if a business is caught in violation on that one particular evening are we going to close down that business right down at the spot, on that same moment they are caught violating the rules. Those are the two concerns I'm kind of raising right now, the enforcement – Public Health assisted by the Guam Police Department; or if businesses will be closed right on the spot that evening or who's going to close it. Is Public Health authorized to close the business or take away the license? Those are the things we need to impart on the bill if necessary.
- d. T. Jones
 - i. Little background on me, I don't own a business or anything like that. I'm just an ordinary citizen for the most part, student at UOG, retired military, so I'm mostly speaking from the perspective of the person who will fall under the citizen sections of the rules. A couple of things that I saw that I wanted to bring up is that the bill itself or the proposal mentions 'private premises' and on the extreme end since that's fairly broad, it makes it sound that it could be possible that you can have a warrantless inspection of your home to see if there are violations of these regulations that DPH puts out. The other concern I have is that we've made rules and regulations just using traffic and driving as an example, they're fairly standard, people know them, they learn them through licensing and stuff like that but the response to the pandemic sometimes week to week or month to month has various things that come out that adjust and I can foresee that there's a distinct possibility that someone can be in violation of a DPH directive that they weren't aware of. And so there's a little bit of concern on my end for that. And in a broader sense, I appreciate all the hard work. This is a thankless job, to have to try to manage this thing and I do appreciate all the work everybody at DPH and our government is doing because you guys didn't cause the problem, you're just the person in the chair when it happens and that's just not fun and I understand that. I think that one of the things to look at is maybe looking at this in terms of, if this were say TB or some other type of infectious disease that we've dealt with throughout our lifetimes. Make a comparison to that and think if the things you're proposing are reasonable in comparison to all of the other types of illnesses and diseases that we as humans have dealt with over time.
- e. H. Ada
 - i. I wanted to point out that we're in unprecedented times with an unprecedented virus or pandemic that we're facing so a lot of the conventional things that we're trying to do or think about or use to combat this pandemic and trying to get ourselves back to normal don't fit the mold

so we need to start thinking outside the box. So a lot of the things that we think or know may work or things that we're used to doing haven't been working. We are at high infection rates, things aren't getting much better, so we got to think outside the box. Are fines and penalties outside the box? Maybe, maybe not. Are they the best things for us? Maybe, maybe not. But we got to start doing some things because what we're doing right hasn't been working or hasn't been working as well as we'd like it to work. So before we start throwing or casting stones at individuals that are trying to come up with solutions, if fines and penalties aren't solutions, then we need to add to the conversation and come up with solutions to help the community get out of the predicament we're in right now.

f. B. Snyder

- i. I'm here to give an oral testimony for the COVID-19 public health enforcement public hearing for October 31st, Saturday from 2-4 in consistence with executive order 2020-38 to become law and to implement the rules. First of all I only acquired the information via pdn.com and its specified about the fines for private violations of \$100 starting, then businesses violations to \$10,000. My concern is, how are they going to enforce it? Is there going to be a hotline number where people can call in if they see a violation because I don't there will be enough police enough to check or other people. So my concern or these are just ideas, having a hotline to call in about the violation. Another thing is the vaccines according to President Trump will be ready and available at the end of this year or the beginning of next year, so would that kill this bill? For example, if the vaccine is already implemented is this still going to be law or is this going to be obsolete because that wasn't in the material that I received through PDN on my phone. Another thing I'd like to mention is educating on the people more because some places that I've been they're wearing their mask wrong. If they could have a poster board of a full size version at the stores or these different places so they'll know how to wear their masks right. I know the governor is doing an excellent job to try her best, and you all are doing an excellent job and the Lt. Governor, trying your best to help the people and save I guess the lives of people on Guam, however, you have those that still don't want to follow her executive order. I understand they will say, It's my freedom, It's my right, I don't need to do this, I don't need to do that, and that was maybe the whole purpose too for this to become law. But with that said, I think it's important that the people know how to wear their mask correctly, and I think as far as the borders coming in, you know people coming in from the outer islands or from I don't know Korea or Japan. I know we live for the tourism to come into Guam and whatnot, however, these people coming in, how are we supposed to know if they have covid or not? There's no card saying that, okay you were tested, you're negative. Even if they isolate for 14 days, its not going to show sometimes the covid. So I think they need to be tested when they come in, not just come on in to Guam, Hafa Adai, welcome to Guam type thing. I think it needs to be more

stricter for the people coming in from other countries, and also the federal government. I mean their ship docks at Naval Station, how are we going to enforce this on Naval Station or all the other bases, if the ship docs, nobody's down there checking everybody if they have covid, or putting everybody in confinement or whatever it might be to ensure that everybody is going to be fine. I mean that if they're positive, it won't transmit to other people through the air. That's how it transmits, airborne. So my concern is those three things. Although covid started in March 2020, everyone is aware of the pandemic and how it takes lives and it doesn't discriminate. We all know that, I think we're all smart enough to understand, even a five year old. But we have some people that just don't understand the consequences when you pass on covid to other people, lives are taken. And I'm glad that this law is going to be enforced, and that the governor put it out in an executive order. That's very important. We also have to consider the small businesses. A lot of businesses closed because of this pandemic, so how are we going to get these businesses up and running for the economy? The economy needs to get back and running and in order to do so the small businesses also have to follow this. But how are you going to track it to know who's violating it, and who's not? I think there needs to be a hotline for someone to call in again because we don't want people to file bankruptcy because they don't have people coming to their stores, they don't have people coming to their shopping center, because it's almost having like phobia. I mean the mask is there to prevent you from catching it. That's the purpose. Wash your hands. You know little things and I know it's been said constantly by the governor, by you all. You put out brochures, all kinds of things. And I think one really being diligent to the point that okay I'm going to do this as is and follow the rules and the laws. But I think this needs to put forth, educate, but I don't know how much education we can do. It's on the media constantly, it's everywhere in the store, there's signs there's posters. I think it's airborne, if you're going to catch it, I hate to say it, but you're going to catch it. It's just like the flu, you can catch the flu by someone coughing, but I don't know. This law is good, but I find it too that it may hinder the businesses and other people because it's almost like paranoia now. As far as the churches are concerned, I am a Catholic, and I'm proud to be a Catholic, we do do our social distancing in church. We're 6ft apart or even more, now to the point where we have masks but we're out in our cars receiving holy communion. But I don't think the Governor has rights to stop me from going to church. The churches have done everything possible, but again some people catch it. It's hard to try to stop someone from catching it if they're not going to follow the public health guidelines on how to prevent catching it. But I think the most important part is everyone has to get tested, which you're doing a fine job at within the different villages. We also have to look at the schools. The schools need to go up and running. We cannot have the kids out of school and do it all virtual. I know DODEA has their children in the schools, the students are

getting tested, I don't know if they're getting tested every two weeks, I don't know how they're doing it, but I know their school is up and running and in the states as well some schools are already up and running. Kids are going to school, they're social distancing, and virtual learning for some. They get tested, their temperatures are checked. I think once we get the vaccine, I don't know if this law is going to be obsolete like I said, in other words no longer a law because the vaccine should be coming at the end of this year or beginning of next year. My personal aspect to this is people just have to wear their mask. If you're close to someone where your mask, if you have to remind someone hey 6ft apart get away 6ft. I had to do it several times, and I'm not being rude. But if you're not wearing your mask, you're not protecting me. If I don't wear my mask, I'm not protecting you. People just need to follow it and wear your mask constantly. Bottom line is, is the person gonna change their behavior to keep themselves safe.

g. K. Leon Guerrero

- i. My name is Ken Leon Guerrero. I'm a community advocate, have been for the past 12 years, and I'm also a candidate for the 36th Guam legislature, but more than that, I'm a citizen of Guam and I'm very concerned about the ramifications of this latest executive order. I'm concerned about the bypassing of the administrative adjudication process. I'm concerned about the bypassing the open government laws and this administration has not covered itself in a lot of glory when it comes to how it has been handling this pandemic and I would have thought that in a time like this the government would have wanted to do everything to restore trust and confidence in the government so that the people would be more willing to follow the guidance of the government. This executive order proclamations do the exact opposites. I am hearing from so many people who feel that this is overreach on the part of the administration and while I have every confidence in Art, I watched him operate for years, I'm not comfortable with the fact that all public input is discretionary. I mean for example this meeting right here, the way it was announced it was public health has decided that we would hold this hearing it wasn't a fact that it was a mandatory part of the governing process. There's a little phrase that everybody seems to be overlooking it's called consent of the governed. Government derives its power, authority, and ability to operate at the consent of the governed and when you cut the governed out of that consent process, you introduce fear, anxiety, doubt, suspicion, and you create the very conditions that you are trying to avoid. You want compliance with the, you want the people to comply with the orders, the people have been complying with the orders. All we have to do is look at our mortality rate. Our mortality rate is tracking the same this year in a pandemic as we did in 2018 and 2019. The number one cause of death right now is underlying conditions aggravated by COVID and if you look at the number one cause of death in 18 and 19 it was all the different comorbidities (cardiac disease, diabetes, high blood pressure, cancer). So,

the reason why there's a big difference between infection rate, death rate, and positive tests and this administration by cutting the people out of the process leads us to assume the worst and when we look at what we're building on, we're building on a series of dubious financial transactions involving millions of dollars of money that were supposedly put here to take care of the people and when those things happen they happen without public oversight. So, to continue down that road is going to create more suspicion about the action of the government. I mean I'm now hearing people say, and I'm one of them actually, that believes that were maintaining this level of lockdown purely for the federal funding purely for the justification the expensing the federal funding on payrolls and equipment to support the lockdown. I'm a little upset that we're talking about taking the leftover Cares Act money and using it to buy everybody lunch at a restaurant that they will have to eat in the parking lot. This is money that should be used to improve public health, strengthen public health because we've been battling this chronic disease longer than we've been battling the pandemic and we were losing the battle to chronic diseases. This pandemic just only you know stepped on the accelerator and so when I hear the we are focusing more on locking down, we're actually aggravating the very conditions that cause spread. We're taking generations of people and we're locking them in their homes. We're limiting their ability to go outside and exercise and get healthier. We're limiting contact with people we have a large population that has chronic diseases and we're locking them in houses together with multiple generations. That's not conducive to a healthy situation and when you consider that the largest spread is government of Guam. I mean we've a number of instances at churches, and at stores, and restaurants and stuff but we have had nowhere near the positive detection rate in those non-government events that we are seeing in government operation events. So, I think that for this operation to move forward and be credible with the public it needs to be open and transparent. Instead of having secret meetings with no notes taken, all the meetings between them positions advisory group and administration officials should be document should be videotaped just like this meeting is right now just like public hearings at the legislature session at the legislature board meetings at all the different autonomous agencies. That way the people go Guam can have insight into what the decision makers are thinking and how those thoughts are going to impact our quality of life. Right now, by meeting behind closed doors and secret rooms not disclosing any information the anxiety factor is going to shoot up the fear factor is going to shoot up the suspicion factors are going to shoot up through the roof. The government is going to lose credibility and you are going to start running into resistance against the most basic request which the people of Guam have complied with so far so my recommendation would be to, if we're going to maintain this executive order on the emergency shutdown, such as it is, we need to do it in an open and transparent manner. We need to have more public meeting

streamed, not less. We need to take public input into the processes regarding the decision making and the expenditures. I still can't believe the tax payers of Guam just spend a million dollars of Care money on a hospital that we could have gotten free from Joint region. So that is what causes the suspicion to drive. This is very similar in the eyes of the people to that 5-million-dollar payment to the Pacific Star with no contract, no quotes, no bidding. This is another one. How many more things like this are going to happen with the remaining Cares Act money because at the end of this year contrary to what administration official are saying, and the legislatures are saying, there's no guarantee that we're getting more money from the federal government. Even in Washington, they're not guaranteeing that there's going to be more money. They're talking about it but you know they've been talking about the green energy initiative for how long. So, what we need to do is be realistic in how our government governs. We need to be respectful that government derives its power from the content of the governed and include the governed in the decision-making process. That concludes my testimony.

VI. Zoom Chat/ Other Questions

Zoom Chat

- a. W. Castro: Could a DPHSS official kindly provide a definition on the record for "Stay at Home" order.
 - i. Deputy L. Duenas: Stay at home order means that everyone should stay at home as much as possible away from other people unless absolutely necessary - medical care, food, and essential work
 - ii. Wil C.: @Deputy L. Duenas Ok. We will issue fines based on this? I kindly request that a definition be inserted into the proposed Rules & Regulations.
- b. Iphone488-9354: What steps are next after the two public hearings are completed
- c. Kimanderson: I understand this hearing is about the penalties. Will the rules and guidelines be established before deciding on penalties?
- d. Iphone488-9354: will the rules and guidelines be the only items presented to the Governor? Does it need legislative action?
- e. W. Castro: For me, it would be difficult to see a fine because of an ambiguous understanding of "stay away from other people" such as if I am on my property exercising next door with my son and with no one within 100ft. That would not qualify under "medical care, food, and essential work." Also, does DPHSS intend to implement a "Shelter in Place" directive under the suspension of these new rule making power?
- f. W. Castro: is there a reason the administration is not working with the legislative leadership on this matter? I'm communicating with my oversight chair and just realized she/we have been removed from the process.
- g. W. Castro: will we have a copy of the proceedings/ summary minutes or copies of testimonies, etc.
- h. Iphone 488:9354: once your draft is approved, does the Govenor have plans to add anything else to it and does it need legislative approval?

- i. W. Castro: for the record, my Dad lives on the same property and in the same home, he has YET to catch COVID19 despite 2 of us having had it. This did not require a fine or special authority. It required due caution and individual responsibility. BUT I acknowledge that we are not all the same. So this is the balancing act. TY for all u do again. 300-9579+

Other Questions

- a. Do you have any intension of qualifying the application of these fees, like cordoning off a section? For example, if the virus is being proliferated in some parts of the island more so than the others, would there be a qualified application of certain rules or procedures like if it's in a hotspot?
- b. Is there a surujanu hotline, so that if we see GovGuam officials who are violating these procedures, rules, and regulations that we set for ourselves that we can call without fear of retaliation?

VII. Adjourn

- a. Closing remarks by Deputy Director Laurent Duenas and Rosanno Rabago
- b. Time: 4:21 p.m.