

GUAM BOARD OF MEDICAL EXAMINERS

VIRTUAL BOARD MEETING

Wednesday, March 09, 2022 4:00 P.M

Join Zoom Meeting <https://zoom.us/j/96263445288?pwd=aEtkeG0yZ050ZUFOaD0ewZm1lSWsldz09>

Meeting ID: 962 6344 5288 Passcode: 564129

MINUTES

| Topic | DECISION(S) / ACTION(S) MADE | | Responsible Party | Reporting Timeframe | Status |
|-------------------------------------|---|--|-------------------|---------------------|--------------------|
| I. Call to Order | A) Roll Call: GBME <input checked="" type="checkbox"/> Nathaniel B. Berg, M.D., Chairperson <input checked="" type="checkbox"/> Phil Flores, Vice-Chairperson, Treasurer & Public Member <input checked="" type="checkbox"/> Arania Adolphson, M.D., Secretary <input type="checkbox"/> Annie Bordallo, M.D., Medical Director <input checked="" type="checkbox"/> Annette David, M.D., Member <input checked="" type="checkbox"/> Luis G. Cruz, M.D., Member (joined @ 1612) <input type="checkbox"/> Scott Shay, M.D., member | | Chair | 1607 | Quorum Established |
| II. Adoption of Agenda | Confirmation of Public Notice advertised in the Pacific Daily News. <input checked="" type="checkbox"/> Eddy Reyes, FLAME TREE Freedom Center | | Chair | 1607 | Confirmed |
| III. Review and Approval of Minutes | Reviewed draft Minutes, dated 9 February 2022. <i>Motion to approve: Dr. Adolphson; 2nd Dr. Berg.</i> | | GBME | 1607 | Adopted |
| IV. Treasurer's Report | a) The Treasurer, P. Flores, provided an overview: 1) Of the first 8 months compared to last year (allocated: ~\$94K; spent ~\$22K; Balance ~\$71K). 2) Revenues collected in FY2021: collected ~\$83K; through March 2022, collected ~\$29K. 3) Although GBMWE collected this revenue, the revenues go into the General Fund to fund HPLLO operations (i.e., not solely dedicated to GBME). 4) GBME spends less money than it collects. Therefore, in discussions with Senator San Agustin, he has requested a realistic forecast of what GBME needs to meet its obligations in order to obtain a commitment from the Government of Guam. The GBME noted that the Dr. Berg and he would continue discussions with Senator San Agustin to arrive at a realistic and justifiable budget. 5) Upon the request of Dr. David, P. Flores requested that HPLLO provide the financial information | | P. Flores | 1608 | Noted |

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| V. HPLO Administrator's Report | <p>presented to the GBME members</p> <p>a) The Acting HPLO Administrator, B. Sablan, reported:</p> <ol style="list-style-type: none"> 1) The HPLO has implemented internal policies to handle complaints and disciplinary actions, which include keeping complainants updated in a timely manner. This information will be provided separately to the GBME members. 2) The information from one of the complaints, which was misplaced, was found and the investigation is on-going. The GBME noted that HPLO did not have any lapse in its control. The GBME discussed and established a policy that, under no circumstances, will any file be physically removed from HPLO premises; therefore, GBME will be required to review files on-site. Dr. David proposed to make a motion to establish a policy; however, Dr. Berg did not feel it necessary at this time. In the meantime, the GBME reiterated that physical files must always remain in the HPLO office. In addition, the Vice-Chair suggested that all files submitted electronically should be encrypted. 3) Draft legislation regarding the publishing of background information of physicians is being reviewed by Senator San Agustin. <ol style="list-style-type: none"> i. Dr. Berg reported that he met with San Agustin on this complicated issue as it pertains to moral turpitude, so it is important to understand what the Senator aims to accomplish with this legislation. He invited the GBME members to participate in this discussion with the Senator, and Dr. David expressed an interest to participate. Dr. Berg expressed grave concerns and feels that GBME could lose its autonomy to make a consensus judgement based on its professional expertise. Based on his experience on the Board, in all cases, except one, all physicians licensed in Guam were already licensed in another jurisdiction. If anyone had a pending case against him/her in another jurisdiction, the GBME would table its decision until that jurisdiction concluded its investigations and actions before taking an action locally. He stated that the GBME conducts a thorough review of an applicant's practice prior to approving a license. Regarding malpractice claims, often times, insurance companies settle claims before a physician has the opportunity to defend his/her case. He stated that he had grave reservations about the suggestion to post all background information (allegations, misconduct, such as DUI, family violence) of a physician on the website even though a physician may have completed all remedies to correct the misconduct. He also expressed concern when the public reacts to a story by the media pertaining allegations, which is only alleged, but results in an opinion that the accused should automatically lose his/her license. So, he feels it should be the responsibility of the GBME to forewarn physicians of the risk associated with posting their past on the website. ii. Asst AG Weinberg stated that the law does not require all past history; however, the GBME should consider establishing criteria that should be published, e.g., felonies, malpractice to include related misdemeanors, postings of physician statements, etc.), which he believes that the | | B. Sablan Acting Administrator | 1612 | Noted |

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| VI. Chairperson's Report | <p>Speaker could support. He further stated that public opinion has changed over-time which Board actions across all jurisdictions are being more scrutinized, compared to the past. Furthermore, he stated that the draft legislation in current form would be difficult to implement and would require training.</p> <p>iii. Dr. David stated that the intent is to provide transparency and accountability, so that disciplinary actions related to medical practice should be transparent and easily accessible to allow consumers of medical services to help them make informed choices. She stated that approximately 40 jurisdictions provide access to a full history of disciplinary actions. She stated that she would support an effort, which identifies criteria, which would become available to the public via the website. Her view of the public hearing is that the Legislature wants to assist the GBME, as a partner, to achieve mutual agreement on this issue that is reasonable and consistent.</p> <p>iv. In its current form, Dr. Berg stated that the Federation of State Medical Boards (FSMB) has reviewed the draft legislation and has assessed that he draft legislation is not feasible and is considered a "bad law"; therefore, based on the FSMB assessment, he stated advised that the GBME support FSMB's position, as it would be difficult to maintain the requirements administratively. P. Flores stated that the argument could be challenged since funding is available (not being spent); therefore, the GBME should take into consideration the human and financial resources necessary to meet a future mandate. Dr. Berg stated that GBME is currently working to secure attorneys and professional investigators to help close-out the current complaints. Asst AG Weinberg informed the GBME that the current statute already authorizes the health profession to contract attorneys and investigators, subject to the available funding; however, must be updated to change the formal name of the appropriate body. Dr. Adolphson stated that the GBME application fees are comparable to other states, while some states have tiered processes and/or increased its fees.</p> <p>v. P. Flores suggested that HPLO provide and the GBME members: 1) listen to the recording of the legislative hearing; 2) review the draft legislation; 3) recommend criteria to guide the GBME on what should be placed on the website; 4) propose wording to the draft legislation. He stated that the GBME consider a process to ensure complainants are duly informed, with established deadlines to ensure progress is being made to close-out the complaints, with the assistance of HPLO in keep track and reminding the GBME of the timelines.</p> <p>a) Emergency Issued Licenses. The Chair informed the GBME that the three (3) individuals have responded to the Request for Proposals for attorney services. The following emergency licenses were issued.</p> <p>(1) Thendrex H. Estrella – GMHA</p> | Chair & HPLO Administrator | 17:02 | Noted |

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| VII. Old Business | a) COMPLAINTS: | (2) Scott K. Erickson – GMHA | GBME | 17:03 | Noted | | |
| | | (1) GBME-CO-19-010 – Received: (A. Adolphson). Dr. Adolphson reported the she is currently awaiting the reports from the off-island investigators . HPLO will send a request to the investigators with the aim to provide a report by next month. | | | | Dr. Adolphson | Tabled |
| | | (2) GBME-CO-19-012 – Received: 12/06/2019 (A. Bordallo). The Chair stated that this case will require legal review. The applicant will be informed that his application is currently pending the outcome of the criminal charges and the GBME's investigations; therefore, the application is on-hold, no that this is considered a "new" application. Advise the applicant application is on hold. Renewal. The Chair requested HPLO to contact Dr. Bordallo to determine if she could provide a report by end of the month. | | | | Dr. Bordallo (not present) | Tabled |
| | | (3) GBME-CO-19-013 – Received: 12/06/2019 (A. Bordallo) | | | | | |
| | | (4) GBME-CO-19-014 – Received: 12/06/2019 (A. Bordallo) | | | | | |
| | | (5) GBME-CO-19-015 – Received: 12/06/2019 (A. Bordallo) | | | | | |
| | | (6) GBME-CO-19-016 – Received: 12/06/2019 (A. Bordallo) | | | | | |
| | | (7) GBME-CO-19-017 – Received: 12/06/2019 (A. Bordallo) | | | | | |
| | | (8) GBME-CO-20-001 – Received: 01/16/2020 (A Bordallo) | | | | Dr. Adolphson | Closed |
| | | (9) GBME-CO-20-005 – Received: 09/18/2020 (A. Adolphson). Awaiting assignment of attorney | | | | Dr. David | Closed |
| | | (10) GBME-CO-2021-005 – Received: 06/07/2021 (A. David). Dr. David stated that, upon review of the final report, she has assessed that there was no violation of the Medical Practice Act. Essentially, the complaint stemmed from a need to better understand the expectations and improve internal communications. | | | | <i>Motioned to close case: Dr. David, 2nd. Dr. Berg.</i> | Closed |
| | | (11) GBME-CO-2021-006 – Received: 06/07/2021 (A. David). Dr. David stated that, upon review of the final report, she has assessed that there was no violation of the Medical Practice Act. Essentially, the complaint stemmed from a need to better understand the expectations and improve internal communications. | | | | <i>Motioned to close case: Dr. David, 2nd. Dr. Berg.</i> | Closed |
| | | (12) GBME-CO-2021-007 – Received: 06/07/2021 (A. David). Dr. Berg requested HPLO to contact concerned party to provide a response by 15 March. | | | | | Tabled |
| | | (13) GBME-CO-2021-008 – Received: 06/07/2021 (A. David). Dr. Berg requested HPLO to contact concerned party to provide a response by 15 March. | | | | | Tabled |
| (14) GBME-CO-2021-009 - Received: 09/15/2021 (S. Shay). The GBME noted that Asst AG | Dr. Shay | Closed | | | | | |

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| | Weinberg and B. Sablan (HPIO), met with the complainant and physician regarding a HIPAA violation, which was concluded that, although fraud was committed; there was no violation of the Medical Practice Act. <i>Motion to close: Dr. Berg; 2nd. P. Flores.</i> | | | |
| | (15) GBME-CO-2021-010 – Received: 11/08/2021 (L. Cruz). Dr. Cruz reported that, although medical files were received from the patient (complainant) on the emergency room visit, he did not receive any files from the U.S. Naval Hospital (USNH). The Chair stated that a letter will be USNH Commanding officer requesting a copy of the pertinent records. Since the Physician is licensed in Guam, there is no question of jurisdiction. | Dr. Cruz | | Tabled |
| | (16) GBME-CO-2021-011 – Received: 11/17/2021 (A. David). Dr. David reported that a conference with the complainant was held on 25 January 2022. On 3 March 2022, a consent to release the information was requested, but has yet to be received. Although the original document was initially lost and subsequently found, she expects the physician to respond by 15 March 2022. lost then found. Given that this a complex case with a long history, she recommends that the GBME obtain an investigator. | Dr. David. | | Tabled |
| | (17) GBME-CO-2022-001 – Received: 01/19/2022 (P. Flores). Mr. Flores reported that a letter to withdraw complaint is anticipated to be received. In addition, he is awaiting review of the court records pertaining to the DUI. The applicant's license has yet to be granted. | P. Flores | | Tabled |
| | (18) GBME-CO-2022-002 – Received: 01/06/2022 (S. Shay). NOTE: Applicant currently not practicing in Guam. Awaiting an update. | Dr. Shay | | Tabled |
| | (19) GBME-CO-2022-003 – Received: 01/24/2022 (L. Cruz). NOTE: Applicant self-reported DUI; case has yet to be adjudicated. | Dr. Cruz | | Tabled |
| | (b) REINSTATEMENT LICENSE: (1) Abner P. Pasatiempo, M.D. – Psychiatry – On-going. <i>Motion to table pending legal review and the investigation is completed: Dr. Adolphson; 2nd. Dr. Berg. NOTE: Legal Counsel to draft a letter to the applicant.</i> | GBME | 17:36 | Tabled |
| | (c) Application(s) for Full Licensure: (1) John D. Ghernan. The Chair suggested that the applicant be requested to send a letter to his State Medical Board requesting that the GBME be informed of any restrictions imposed before the GBME acts on the application. Since the GBME will rely on the outcome of restrictions placed on the applicant from another jurisdiction, Asst AG Weinberg recommended the GBME await the completion of any probationary period before the GBME decides to license the physician in Guam. <i>Motion to table: Dr. Berg; 2nd. Dr. Adolphson</i> | GBME | 17:36 | Tabled |
| | (2) James Levine. Dr. Adolphson reported that all documentation, except the Certificate of Completion | | | Conditionally |

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| VII New Business | <p>of Internship and Certification of Residency, have been provided. <i>Motion to conditionally approve: Dr. Adolphson; 2nd. Dr. Berg.</i></p> <p>(a) COMPLAINT(S)</p> <p>(1) GBME-CO-2022-004 – Received 02/02/2022 (P. Flores). The Chair reported that it is anticipated that the concerned party is anticipated to rescind the complaint. <i>Motion to close pending receipt of letter to rescind the complaint: Dr. Berg; 2nd. P. Flores.</i></p> <p>(2) GBME-CO-2022-005 – Received 02/04/2022 Rescind the complaints. The Chair reported that it is anticipated that the concerned party is anticipated to rescind the complaint. <i>Motion to close pending receipt of letter to rescind the complaint: Dr. Berg; 2nd. P. Flores.</i></p> <p>(3) GBME-CO-2022-006 – Received 02/10/2022 (A. David). NOTE: Dr. Berg recused himself from this agenda item. Dr. Cruz reported that he is awaiting response from physician and this complaint will require the assistance of an attorney and investigator. Since there are allegations of sexual assault/misconduct and it is considered a public safety issue, Dr. David suggested the following safeguards be considered: 1) physician not allowed to see female patients; 2) physician allowed to see female clients with a chaperone present. 3) Suspension of license. Dr. Adolphson stated that female staff were also subject to allegations years ago, she recommended that the physician be restricted from treating female clients. Asst Atty Weinberg stated that, since legal and investigative services would have to be procured, he advised against a “suspension” since it would start a 30-day clock for a formal hearing to be convened. Therefore, cautioned the GBME to avoid risks that could jeopardize the Administrative Adjudication Act since the complaint are allegations at this point. <i>Motion to approve continuation of treatment of females under chaperone supervision: Dr. David; 2nd. Dr. Cruz (Dr. Adolphson voted “nay” and Dr. Berg recused)</i></p> <p>(4) GBME-CO-2022-007 – Received: 02/10/2022 (A. Bordallo)</p> <p>(5) GBME-CO-2022-008 – Received: 02/22/2022 (A. Adolphson). Dr. Adolphson reported that she is awaiting receipt of consent for records release and the records.</p> <p>(b) APPLICATION(S) FOR FULL LICENSURE:</p> <p>(1) Scott L. Erickson. <i>Motion to approve: Dr. Berg; 2nd. P. Flores.</i></p> <p>(2) Allyson A. Jarvis. <i>Motion to approve: Dr. Berg; 2nd. P. Flores.</i></p> | <p>GBME</p> <p>Mr. Flores</p> <p>Dr. Shay</p> <p>Dr. Cruz</p> <p>Dr. Bordallo</p> <p>Dr. Adolphson</p> <p>GBME</p> | <p>17:38</p> <p>18:00</p> | <p>Approved</p> <p>Conditionally Approved</p> <p>Conditionally Approved</p> <p>Conditionally Approved</p> <p>Tabled</p> <p>Tabled</p> <p>Approved</p> <p>Approved</p> <p>Approved</p> |

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| | (3) <i>Shiva Gupta</i> <i>Motion to approve: Dr. Berg; 2nd: P. Flores.</i> | GBME | 18:17 | Approved | | | | | | | | | | | | | | | | |
| | (4) James Levine. Dr. Adolphson reported that all documentation, except the Certificate of Completion of Internship and Certification of Residency, have been provided. <i>Motion to conditionally approve: Dr. Berg; 2nd: P. Flores.</i> | | | GBME | 18:16 | Conditionally Approved | | | | | | | | | | | | | | |
| | (5) Jorge Gonzalez-Cruz. Mexico / US passport issue. The Chair reported that he had a liability judgement in 2010 (~\$200K); did not appear to be grossly negligent. <i>Motion to conditionally approve pending receipt of legal proof to practice in the USA: Dr. Berg; 2nd: P. Flores.</i> | | | | | GBME | 18:15 | Conditionally Approved | | | | | | | | | | | | |
| | (c) FULL LICENSURE RENEWALS 2021-2023: (1) Shaun H. Park. <i>Motioned to approve: Dr. Berg; 2nd: Dr. David</i> | | | | | | | GBME | 18:16 | Tabled | | | | | | | | | | |
| | (d) Collaborative Practice Agreement: Robin M. Egan. The Chair reported that Ms, Egan currently has a temporary Physician Assistant license under Dr. Yang; however, a complaint has been lodged against Dr. Yang and her; therefore, recommended that the application be tabled until the investigation has been completed. Also agreed to recommend to the GBAHE that it grant a 30-day extension until the GBME is able to complete its review. <i>Motion to table: Dr. Berg; 2nd: Dr. Adolphson.</i> | | | | | | | | | GBME | 18:17 | Approved | | | | | | | | |
| | (e) Full Licensure Renewals 2021-2023: | | | | | | | | | | | GBME | 18:17 | Approved | | | | | | |
| | (1) David W. Camacho, M.D. M-1130. <i>Motion to approve: Dr. Berg; 2nd: Mr. Flores</i> | | | | | | | | | | | | | GBME | 18:17 | Approved | | | | |
| | (2) Edna F. Ganacias-Acuna, M.D. M-1751. <i>Motion to approve: Dr. Berg; 2nd: Mr. Flores</i> | | | | | | | | | | | | | | | GBME | 18:17 | Approved | | |
| | (3) Phillip R. Taggart, M.D. MC-007. <i>Motion to approve: Dr. Berg; 2nd: Mr. Flores</i> | | | | | | | | | | | | | | | | | GBME | 18:17 | Approved |
| | (4) Eyal Margalit, M.D. M-1878. <i>Motion to approve: Dr. Berg; 2nd: Mr. Flores</i> | | | | | | | | | | | | | | | | | | | GBME |
| (5) Aftab Chaudhry, M.D. M-1711. <i>Motion to approve: Dr. Berg; 2nd: Mr. Flores</i> | GBME | 18:17 | Approved | | | | | | | | | | | | | | | | | |
| (f) INTERSTATE MEDICAL LICENSING COMPACT (IMLCC) APPLICANTS. NOTE: With IMLCC, there are 40 states and territories, who are part of the IMLCC, which recognizes and allows a physician licensed in their home state is eligible to be licensed and practice in a IMLCC state. This practice is designed to be facilitate and expedite the process of practicing in another IMLCC recognized state/territory. Therefore, those applicants listed below are eligible to practice on Guam. (Berg; Adolphson) (1) Mark A. Passerman. <i>Motion to approve: Dr. Berg; 2nd: Dr. Adolphson.</i> | | | GBME | 18:17 | Approved | | | | | | | | | | | | | | | |

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| | (2) Benito W. Aubergine. <i>Motion to approve: Dr. Berg; 2nd: Dr. Adolphson.</i> | | | Approved |
| | (3) Jeffrey Shellenberger. <i>Motion to approve: Dr. Berg; 2nd: Dr. Adolphson.</i> | | | Approved |
| | (4) Premod John. <i>Motion to approve: Dr. Berg; 2nd: Dr. Adolphson.</i> | | | Approved |
| | <p>(g) General Discussion: Shishin Miyagi, M.D. – Report pursuant to 10 CGA § 12212(c). The Chair stated that the GBME had already investigated the case and cleared him of this self-reported incident. The Chair reported that, although Dr. Miyagi has agreed to settle the case, he maintains his innocence; however, the insurance company elected to settle the malpractice claim in the amount of ≈\$100K. Asst AG Weinberg stated that this was a settlement between the Plaintiff and the Employer. The GBME noted that the settlement will eventually be included in the National Practitioner Data Bank. The GBME acknowledged the settlement agreement.</p> | | | GBME |
| IX. Other Business | <p>Next regularly scheduled board meeting: Wednesday, April 13, 2022 at 4:00 pm virtually via ZOOM. Noted that the Dr. Berg, Dr. David, Mr. Flores and Asst AG Weinberg are anticipated to be off-island; therefore, tentatively scheduled the next meeting to be held on April 20, 2022 The GBME noted that Ciana Galindo will soon be ending her employment at the HPLC office. The Chair, on behalf of the GBME, expressed his sincere appreciation to Ciana for a job well done in keeping the Board on track and informed.</p> | GBME | 1821 | Noted |
| X. Adjournment | <i>Motion to Adjourn: Dr. David; 2nd: P. Flores</i> | GBME | 1824 | Adjourned |

Reviewed by:  4.13.22

Secretary / Date

Approved by:

 4/13/22
 Chairperson / Date

Minutes By: FLAME TREE Freedom Center, Inc.