

GUAM BOARD OF MEDICAL EXAMINERS

Wednesday, August 14, 2024 at 4:00 PM

Join Zoom Meeting:

<https://us06web.zoom.us/j/82855717296?pwd=djXT5TNkHCstqsGyQnGiGTa1bfyNna.1>

Meeting ID: 828 5571 7296

Passcode: 196336

MINUTES

Topic	DECISION(S) / ACTION(S) MADE		Responsible Party	1624	Status
I.	Call to Order	Meeting Chaired by: Dr. Berg		Chair	Called to Order
		A. Roll Call: GBME <i>Present at HPLO Conference Room</i> <i>Present Virtually at Remote location:</i> <input checked="" type="checkbox"/> Nathaniel B. Berg, M.D., Chairperson <input type="checkbox"/> Annette David, M.D., Member <input checked="" type="checkbox"/> Luis G. Cruz, M.D. <input checked="" type="checkbox"/> Alexander D Wielaard, M.D. <input checked="" type="checkbox"/> John Sidell, Medical Director of GMH	OTHERS PRESENT: <i>Present at HPLO Conference Room:</i> Baltazar (Tre) Hattori III, HPLO Robin Marquardt, Public Kathleen Marquardt, Public <i>Present Virtually at Remote location:</i> Zennia Pecina, HPLO Breanna Sablan, HPLO Graham Botha, OAG	Chair	Quorum Established
		B. Election of Board Officers The Chair stated that the Election will be postponed pending updates regarding membership.		Chair	Postponed
		C. Confirmation of Public Notice		Chair	Confirmed
II.	Adoption of Agenda	<i>Motion to Adopt the Agenda: Dr. Berg.</i>		GBME	Adopted
III.	Review and Approval of Minutes	Draft Minutes dated July 16, 2024. Dr. Berg reviewed the minutes from the previous meeting and noted a need for clarification. He discussed his report on the issue of re-entry into practice, which he and B. Hattori attended at a conference in Washington, D.C. Dr. Berg clarified that the conference addressed alternative pathways to licensure, focusing on individuals outside traditional training or those who have paused their careers. He emphasized that the topic involves finding methods to license qualified individuals who do not fit the standard pathways, such as professors from esteemed institutions abroad. Dr. Berg noted that this topic intertwines with re-entry to practice, highlighting the overlap between the two issues. <i>Motion to Approve as amended: Dr. Berg</i>		GBME	Unanimously Approved as Amended,

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IV.	Treasurer's Report	Dr. Berg announced that the treasurer's report would be combined with the HPLO administrator's report, as the treasurer's position was held by a member of the public. He mentioned that the role could be elected or appointed at a later time. Dr. Berg then transitioned to the HPLO administrator's report, handing over the floor	GBME	Report was Integrated into HPLO Administrators Report
V.	HPLO Administrator's Report	<p>Z. Pecina began the administrator's report by welcoming attorney Graham Botha, who was newly assigned to the medical board. She then provided updates on upcoming events, noting that while the board had been accepted as a member of IAMRA, they were still awaiting the processing of the membership payment by the Department of Administration (DOA). Due to the delay, participation in the IAMRA symposium scheduled for September 20th in Baltimore, Maryland, was deemed too soon, and the board would instead aim to attend the event in 2025. Pecina also mentioned an upcoming board attorneys workshop in Reno, Nevada, on November 7th and 8th, which was not funded, and expressed the hope of securing funding for future training opportunities, particularly for attorney Botha or other interested parties.</p> <p>Z. Pecina continued the administrator's report by discussing the new board member virtual training sessions scheduled for August 20th, September 25th, and October 11th. She noted the challenge of these sessions being held from 1 to 3 p.m. Eastern time, which corresponds to 3 to 5 a.m. Guam time, and mentioned that she was seeking clarification from FSMB about the possibility of on-ground training to maximize the orientation experience. Z. Pecina also mentioned that they are exploring membership in the Council on Licensure, Enforcement, and Regulation (CLEAR), which aligns with IAMRA, and that B. Hattori would soon elaborate on the benefits of joining CLEAR.</p> <p>Regarding rules and regulations, Z. Pecina explained that their office compared national model practice acts across various boards, including nursing, medical, pharmacy, and optometry, with the optometry model being particularly thorough. They integrated elements from these models to ensure consistency across all boards as they amend their rules and regulations. The goal is to finalize these amendments by August and submit them to the legislature, possibly as a unified submission. Z. Pecina encouraged the board members to review the medical board's draft, which B. Hattori would be sending out, and to provide feedback.</p> <p>Z. Pecina highlighted several proposed additions to the board's rules and regulations to ensure consistency across all boards. These include provisions for dealing with impaired physicians, defining terms of office, addressing vacancies—particularly stipulating that the board should appoint individuals if the governor does not do so within a specified timeframe—handling system disorders, issuing subpoenas, incorporating FBI fingerprinting for criminal background checks in collaboration with compact states, and ensuring that each board includes a public member. She noted that B. Hattori would distribute a revised draft with track changes for review and encouraged feedback from the board members on whether they wish to keep or modify the</p>	HPLO	Noted, Physician's Assistants and Podiatrists will be Under the GBME

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	<p>proposed changes. Once finalized, the medical board’s regulations will be ready for submission to the legislature or the adjudication process.</p> <p>Additionally, Z. Pecina addressed disciplinary cases, clarifying that the medical board currently has only four pending cases, contrary to media reports suggesting there are around 60. Of these, two cases have been referred to the Office of the Attorney General, while the remaining two are still under the board's consideration.</p> <p>Z. Pecina informed the board that their grant proposal for disaster preparedness, submitted through FSMB, was approved and the funds have already been received. They are now working with the Department of Administration (DOA) to allocate these funds to their accounts and initiate the grant activities. She also noted that Ohio has become the 13th state to adopt the physician assistant compact.</p> <p>Z. Pecina then addressed the issue of physician assistants and podiatrists, emphasizing that, nationally, these professions typically fall under the jurisdiction of medical boards. However, due to amendments made by the allied health board in 2022 or 2023, both professions were removed from their jurisdiction with the intention of transferring them to the medical board. This has led to a situation where physician assistants and podiatrists are currently not under any board's oversight. Z. Pecina mentioned that they are awaiting feedback from Speaker Therese Tirlahi, but suggested that, as the medical board is already amending its laws, they could integrate these professions into their regulations. She requested input from the board on whether they should include physician assistants and podiatrists under the medical board or have them returned to the allied health board, as there was a previous misconception that the medical board did not want to oversee these professions.</p> <p>Dr. Berg proposed that he and Z. Pecina should sit down together to review the rules and regulations once they are finalized, given their experience with such matters. He suggested the possibility of holding a special meeting to discuss these regulations, questioning whether it would require a formal public meeting or if they could meet informally since no voting would take place. Dr. Berg mentioned that his understanding was that regulatory discussions might not necessitate a public forum with standard announcements, but he deferred to attorney Botha for clarification on the matter.</p> <p>Graham Botha clarified that the requirement for an open meeting depends on the number of members present. He explained that if less than a quorum is convened, it is not considered a formal meeting. However, if a quorum, which in this case would be four or more members, is present, the gathering would be subject to the open government law, regardless of the discussion topic, as it could influence decisions made in future meetings.</p>			

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	<p>Dr. Berg agreed with Graham Botha's input and suggested that he and Z. Pecina should meet to review the rules and regulations thoroughly before holding a special meeting. He expressed a preference for this dedicated meeting to be in person, despite the potential inconvenience of adding extra meetings, due to the critical nature of the task. Dr. Berg emphasized the importance of reviewing the document sentence by sentence before submitting it to the legislature, indicating his support for this approach.</p> <p>He also raised an important issue regarding the board's authority to request medical records. Dr. Berg mentioned that facilities should not be able to deny such requests on the grounds of HIPAA violations and suggested that attorney Botha could assist in clarifying this matter. He proposed that the board might need to explicitly clarify in Guam law that the GBME has the authority to request and obtain medical records when needed, ensuring that this authority is clearly defined and upheld going forward.</p> <p>Dr. Berg reiterated the need to clarify the board's authority to request medical records, emphasizing the importance of resolving this issue in the context of an ongoing case and ensuring it is clearly defined in future legislation. He believed that formal clarification within the rules and regulations, once passed by the legislature, would facilitate the board's ability to obtain records.</p> <p>Additionally, Dr. Berg raised a concern about the board's options for legal counsel, particularly if the Attorney General's office is unable to provide it. He questioned whether it might be possible to include provisions in the rules and regulations for outsourcing legal services to expedite cases if necessary. Dr. Berg suggested addressing this issue to ensure the board has viable options for legal support and then indicated that he would turn the discussion over to the other board members.</p> <p>Dr. Berg expressed his opinion on the jurisdiction of various professions. He argued that physician assistants, due to their direct supervision by physicians, should be under the medical board. Similarly, he stated that podiatrists, being podiatric surgeons who perform surgeries, should also fall under the Guam Board of Medical Examiners. Dr. Berg noted that this had been previously decided but seemed to have been misunderstood by the speaker's office. He suggested that this issue could be clarified without requiring a formal vote, as it was a discussion point to be communicated to higher authorities.</p> <p>Dr. Berg then invited Dr. Willard, Dr. Sidell, and Dr. Cruz to provide their input on this matter, particularly considering their experience and appointments at hospitals. He emphasized the importance of their perspectives in the context of the board's decision and ongoing discussions about integrating physician assistants and podiatrists into the medical board.</p>			

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	<p>Dr. Weiland responded, indicating that he had no objections to Dr. Berg's proposal and agreed with the plan. Dr. Cruz also expressed support, stating that it makes sense for physician assistants and podiatrists to be under the medical board since they work closely with physicians and perform similar functions, especially in primary care and assisting in various medical fields.</p>		
VI.	<p>Chairperson's Report</p> <p>Dr. Berg delivered the chairperson's report, acknowledging the benefit of IAMRA, particularly given the board's unique position as a territory outside the continental U.S. He emphasized that IAMRA's relevance would be particularly significant for their board. He also mentioned FARB (Federation of Association of Regulatory Boards), which encompasses various regulatory boards and focuses on regulatory practices broadly, not limited to specific professions. Dr. Berg suggested that while the initial impression of FARB might seem dry, it could help improve their board's functionality by learning from other boards' practices. He proposed taking a more active role in FARB, despite the challenge of encouraging more physician community members to join the board.</p> <p>Dr. Berg noted that the next big international meeting is scheduled for the following year, which occurs every other year, and expressed hope that they would be able to participate. He mentioned that the location for the meeting would be more appealing and that they would seek scholarships to attend.</p> <p>Dr. Berg also referred to previous board members who had attended training in Dallas on scholarships from the FSMB (Federation of State Medical Boards), highlighting the value and enlightenment gained from understanding FSMB's role. He emphasized that FSMB serves as the national governing body for medical boards and recommended the trip to Dallas as it provides valuable insights into the national scene and the board's role. He shared his own positive experience with orientation and encouraged board members to attend, even if it meant adjusting to inconvenient schedules, as it would benefit their understanding and representation in the national context.</p> <p>Dr. Berg welcomed Mr. Botha, expressing appreciation for his participation and encouraging him to continue contributing to the discussions. He noted the importance of consistent representation, especially given the recent short-term assignments from the Attorney General's office and expressed hope that Mr. Botha would remain involved long-term. Dr. Berg also acknowledged Mr. Botha's familiarity with the office, contrasting it with others who are newer to Guam or the office and have needed time to orient themselves.</p> <p>Dr. Berg discussed ongoing efforts related to re-entry into practice and alternative methods of licensure, mentioning an upcoming meeting in Washington, D.C., on September 9th. This meeting, though brief, is crucial as it pertains to re-entry into practice guidelines, which have been developed in collaboration with the Federation of State Medical Boards (FSMB). Dr. Berg highlighted the variability in re-entry requirements across</p>	Dr. Berg	<p>Noted, Attorney Graham Botha was Welcomed and Will Review Legislative Changes to Ensure Compliance to Guam Law</p>

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	<p>Dr. Berg emphasized that there is no current public threat as the physician is not practicing and recommended that the case remain on hold until GMH reaches a decision.</p> <p>Z. Pecina raised a question about the case, noting that the individual did not renew their license, which is automatically reported to the Medical Professional Discipline Board (MPDB) when an investigation is pending. Dr. Berg responded by questioning whether the individual was aware of the board's investigation while their case was still under review by GMH. He highlighted the complexity of the situation, including the individual's agreement to refrain from practicing while their appeal was processed and their failure to renew their license. Dr. Berg sought legal advice from Mr. Botha on whether the failure to renew should be reported if the individual was not informed of the ongoing investigation. He noted that although the case had been on the board's agenda, no action was taken due to the lack of immediate public threat and the investigation being conducted by a fellow government agency.</p> <p>Attorney Botha suggested examining the situation further, noting that if a physician's privileges were summarily suspended, their license renewal would be impacted regardless of their request. He implied that no renewal would proceed until the investigation was resolved. Dr. Berg agreed, noting that by not renewing their license, the physician effectively resigned from their position at GMH, which should be considered a reportable event since the physician was under investigation. He proposed discussing the matter further offline with Attorney Botha to determine the appropriate course of action. Z. Pecina concurred, stating that the only action required at this point would be to continue the discussion with Attorney Botha outside the meeting.</p> <p><i>Motion to Remove Case From Agenda: Dr. Berg: 2nd: Dr. Wielaard</i></p>		
	<p>3. GBME-CO-2022-010 – Received: 06/21/2022.</p> <p>Dr. Berg reported on case GBME-CO-2022-010, noting that Mr. Botha's input would be crucial. The case has been forwarded to the Attorney General's office, and Dr. Berg presumed Mr. Botha had not yet reviewed it. He briefly summarized the case, highlighting a conflict where the board requested medical records from a facility, which has not provided them due to concerns about HIPAA violations. The facility is not refusing to comply but is constrained by its rules and regulations regarding record disclosure.</p> <p>Dr. Berg noted that despite the board's request for medical records related to a complaint, the facility has not provided them due to HIPAA concerns. The case has been forwarded to the AG's office, and Dr. Berg inquired if Mr. Botha had reviewed it. Mr. Botha confirmed he had not yet reviewed the case. Dr. Berg reassured the member of the public present that the board intends to resolve the case as swiftly as possible, despite it not being on the agenda for public input.</p>	Dr. David	In Progress Awaiting Legal Counsel. Medical Records Pertaining to the Case Have Not Been Submitted to the Board

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	<p>Dr. Berg explained that while the board cannot physically compel the facility to provide the medical records, they are committed to obtaining and reviewing the records as swiftly as possible. He expressed hope that with the Attorney General's office's assistance, the records could be obtained before the next meeting, allowing for a thorough review. Dr. Berg assured the member of the public that the board is making every effort to resolve the case promptly despite the complications encountered. He emphasized that the facility is not intentionally obstructing the process but is constrained by its interpretation of record release regulations. The next step involves waiting for the Attorney General's office to enforce the relevant laws to secure the records.</p> <p>Dr. Wielaard added that he had previously looked into the case involving GRMC and attempted to facilitate progress. He noted that there seems to be a misunderstanding about whether the medical records had been provided. Dr. Wielaard offered to help clarify the situation, as the board's description of the request differed from the group's understanding of what had been provided. He expressed his intention to address the discrepancy and assist in moving the case forward.</p> <p>Dr. Berg requested that Dr. Wielaard contact Dr. David to clarify concerns regarding the provision of medical records, as Dr. David had previously indicated they were not received. Dr. Berg also asked if B. Hattori could confirm whether the records had been provided. B. Hattori clarified that while medical records had indeed been received, Dr. David was requesting documents related to an institutional review. GRMC's records department had responded that these records were privileged under Title 6 of the GCS. B. Hattori noted that Dr. David sought to understand if there was a law that supersedes this regulation, which would allow the board to access these documents for investigative purposes.</p> <p>Dr. Berg clarified that the issue was not related to HIPAA but rather to institutional records, which GRMC claimed were not available for general review or by individuals not directly involved in the institutional review. The board believed this restriction did not apply to their ability to access records for the purposes of their investigation. Dr. Berg apologized for any confusion caused by previously using the term "medical records" instead of specifying that they sought all documentation related to the case, including the institutional review. The hospital had declined to provide this documentation based on legal counsel's opinion, which was not considered peer review and thus not protected. The board sought the Attorney General's opinion on whether these records could be accessed despite the hospital's stance.</p> <p>Z. Pecina noted that the board's rules and regulations grant the power to subpoena records, which might not have been fully considered by Dr. David. Dr. Berg acknowledged that there is a contradiction between the board's regulations and the legal stance taken by GRMC, which has refused to provide the institutional</p>			

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	<p>review documents. He emphasized that the Attorney General’s Office needs to clarify the legal issue, and the board plans to discuss this with Attorney Botha to resolve it.</p> <p>Dr. Berg concluded that the case will remain in its current status while awaiting clarification on the legal aspects. He indicated that Dr. David will be responsible for reviewing the case for the board. Dr. Willard was asked to forward the clarified concerns to their legal counsel and to provide a point of contact for Mr. Botha to potentially communicate directly with the hospital’s attorney. This step aims to ensure that all relevant information and concerns are properly communicated and addressed.</p> <p>Dr. Wielard expressed his willingness to help clarify and facilitate the provision of necessary documents. He emphasized the importance of understanding exactly what is needed to assist effectively.</p> <p>Dr. Berg then suggested that the board might consider updating the rules and regulations to include language that either requires or encourages representation from the medical directors or chief medical officers of both hospitals on the board. This would ensure that the board is well-informed and can address issues more effectively, especially given the limited number of hospitals. He proposed developing appropriate language for this inclusion based on further board input.</p> <p>Z. Pecina suggested adopting a structure similar to that used for nursing boards, where representatives are selected from various sectors, such as community hospitals, government hospitals, public health, and potentially a PA. This approach would ensure diverse representation and expertise.</p> <p>Dr. Berg agreed and proposed defining "hospital" in terms of bed capacity to ensure clarity. He emphasized the importance of having representation from both hospitals on the board and expressed a commitment to refining the language to achieve this goal.</p> <p>He then noted that the board had made significant progress in their agenda and mentioned that once a case is reported to the National Practitioner Data Bank (NPDB), it would be removed from their list. He also suggested closing the case related to GMH investigation, as the individual involved no longer holds a license.</p>		
	<p>4. GBME-CO-2023-004 – Received: 07/31/2023</p>	Dr. Berg	No Report
	<p>B. Accusation: GBME-001-2023 Dr. Berg reported that the case concerning Dr. David has been forwarded for further discussion with the Attorney General’s office. He clarified that he is recused from discussing the case directly but is addressing</p>	B. Sablan	Ongoing Pending AG’s Input.

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	<p>the administrative aspects. He confirmed that the discussion will involve Dr. David, Z. Pecina, and Mr. Botha, and there are no further issues to address at this time.</p> <p>Z. Pecina noted that a recommendation was to be read today, but due to insufficient members to vote—because Dr. David and Dr. Berg are recused—this case must be tabled. Dr. Berg confirmed that with only three members present, a vote cannot proceed. He requested Mr. Botha to review the case to identify any potential issues beforehand, in hopes of avoiding delays. The case will be reconsidered next month when Dr. David can participate.</p> <p>Dr. Berg indicated that the complainant for the case in question seems more interested in discussing the findings rather than pursuing the complaint. The complainant is currently off-island, and efforts are underway to arrange a meeting upon their return. Dr. Berg emphasized that there is no active push for this case from the complainant and that the goal is to have a clear discussion once they are back. This leaves the board with three active cases, with one pending the Attorney General's input.</p>		
VIII	<p>New Business</p> <p>A. Application for Full Licensure:</p> <p>1. Henry J. Hasson <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>2. Roderick R.L. Paras Dr. Berg noted that Roderick R.L. Paras, who was born in the Philippines, needs to provide proof of his ability to work in the U.S. This can typically be a passport, green card, or work visa. Dr. Berg requested B. Hattori to remind GRMC of this requirement, emphasizing that this documentation is necessary as his record is otherwise clean. <i>Motion to Approve Pending Proof of Availability to Work in the US: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>3. Dzung Trinh <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>4. Thomas V. Aubuchon <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>B. Application(s) for Reinstatement of Licensure:</p> <p>1. Norak P. Chhieng <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>2. Rada I. Ivanov <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i></p> <p>C. Application(s) for Limited Licensure</p>	<p></p> <p>GBME</p> <p>GBME</p> <p>GBME</p> <p>GBME</p> <p></p> <p>GBME</p> <p>GBME</p> <p></p>	<p></p> <p>Unanimously Approved</p> <p>Unanimously Approved Pending Proof of Availability to Work in the USA</p> <p>Unanimously Approved</p> <p>Unanimously Approved</p> <p></p> <p>Unanimously Approved</p> <p>Unanimously Approved</p> <p></p>

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		1. Jannise E. Schimpf <i>Motion to Approve: Dr. Sidell; 2nd: Dr. Berg</i>	GBME		Unanimously Approved
IX.	Announcement	Next regularly scheduled board meeting: Wednesday, September 11, 2024 at 4:00 pm.	GBME		Set Meeting Time
X.	Adjournment	<i>Motion to Adjourn: Dr. Berg; 2nd: Dr. Wielaard</i>	GBME	1742	Adjourned

Minutes Drafted by: FLAME TREE Freedom Center, Inc.

Date Submitted:

Submitted by the GBME Secretary:


Date:

Approved by the GBME with or without changes:



Date: 9/12/2024

Certified by or Attested by the Chairperson:



Date: 9/12/2024