

# GUAM BOARD OF EXAMINERS FOR OPTOMETRY

Regular Board Meeting

Tuesday, February 25, 2025 at 8:30 AM Guam (ChST)

Join Zoom Meeting

<https://us06web.zoom.us/j/8737353227?pwd=WMu5EkCwvQZaeVDeaazDb6ayDoggy2.1>

Meeting ID: 873 7353 227

Passcode: 193421

## MINUTES

Agenda Item		Discussion/Decision	Responsible party	Reporting time frame	Status
I	CALL TO ORDER	Meeting Chaired by M. San Nicolas	Chair	8:35	Call to Order
II	Roll Call	<b>GBEO</b> <u>Present:</u> <input checked="" type="checkbox"/> Janes Anglim, O.D., Secretary <input checked="" type="checkbox"/> Ma'lene San Nicolas, O.D., Chairperson  <u>Virtually Present:</u> <input checked="" type="checkbox"/> John Kim, O.D., Vice-Chairperson <input checked="" type="checkbox"/> Julian Archer, O.D., Treasurer	GBEO	0835	Quorum Established
III	Proof of Publication	Reviewed and found to be in conformance with current laws. <i>Motion to Approve: J. Kim; 2<sup>nd</sup>: J. Archer.</i>		0836	Confirmed
IV	APPROVAL OF AGENDA	<i>Motion to Approve: J. Kim 2<sup>nd</sup>: J. Archer.</i>	GBEO	0837	Unanimously Approved
V	APPROVAL OF MINUTES	<i>Motion to Approve: J. Anglim; 2<sup>nd</sup>: J. Archer.</i>	GBEO	0837	Unanimously Approved
VI	TREASURER'S REPORT	No Report	Julian Archer	0838	No Report
VII	HPLO ADMINISTRATOR'S REPORT	No Report	HPLO	0838	No Report
VIII	OLD BUSINESS	<b>A. The practice act revision (TPA) – ongoing discussion</b> Discussion was made regarding the Practice Act and the rules and regulations, with an acknowledgment that there had been delays over the past month. M. San Nicolas noted that efforts are underway to regroup and resume meetings. <i>Tabled Pending Regrouping: M. San Nicolas.</i>	GBEO	0838	Tabled
		<b>B. Rules and regulations proposed revision 2.0 – ongoing discussion</b> <i>Tabled Pending Regrouping: M. San Nicolas.</i>	GBEO		Tabled
IX	NEW BUSINESS	<b>A. Complaints:</b>		0838	

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	<p><b>1. GBEO-CO-2025-001</b></p> <p>J. Kim clarified that S. Manibusan had reached out regarding the filing of a complaint, but he opted to discuss the matter with the board first. J. Kim mentioned that T. Keeler, although not present at the time, had previously advised that the board could proceed with the complaint even without the patient's approval. J. Kim referenced Section 9106, Subsection A3, which permits action if a licensee commits an act warranting suspension or revocation. According to T. Keeler's email, the board may initiate an informal investigation without a patient's initiation, but current laws and regulations do not permit inspections without notice or specific authorization. He recommended this issue be considered when updating the code and regulations. Questions were raised about how to proceed in the absence of inspection authority, and T. Keeler had suggested contacting the appropriate practitioner—originally stated as podiatrists but later clarified as optometrists—to notify them of the board's concerns and potential license suspension through an administrative adjudication hearing. As an alternative, he recommended proposing an office inspection. J. Kim expressed the desire to receive further clarification directly from T. Keeler, who was expected to join via Zoom but had not yet done so and invited other members to comment on the matter.</p> <p>In the ongoing discussion, it was acknowledged that J. Kim, who initially brought forth the complaint, would proceed with the investigation and gather necessary documentation, including patient records to substantiate the concerns. S. Manibusan was mentioned as having advised that the investigation move forward in this manner. The process would eventually need to become formal, involving the applicant in question, and potentially requiring the presence of T. Keeler once formal proceedings commence. There was some uncertainty expressed about whether T. Keeler involvement was necessary at that stage.</p> <p>It was determined that a memo to notify the provider would be drafted by J. Kim, and S. Manibusan confirmed that a template for such communication existed. J. Kim requested to review a draft of the letter and clarified whether the patient's name and relevant medical record details would be included. This was confirmed, with the possibility of including specific dates in question. Concerns were also raised about legal requirements regarding record retention and purging of records, though it was noted that the incident occurred just the previous year, making that possibility unlikely.</p>	GBEO		On-Going. More Information Next Meeting

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	<p>The board continued discussing procedural steps related to the complaint and investigation. M. San Nicolas stated that most healthcare facilities retain records for up to seven years, likely in compliance with a federal mandate, and that after this period, records typically go into storage, though access beyond seven years depends on whether they were purged. J. Kim requested that S. Manibusan send a draft of the notification letter for review and approval, with clarification that the letter should simply inform the provider of the complaint and the initiation of an informal investigation—without needing to identify the investigator in the draft.</p> <p>Further clarification was provided on the necessary steps: the complaint form must first be completed and submitted to S. Manibusan, who would then send a draft letter. Once finalized, the letter would be sent to the provider. Questions were raised regarding the expected response time from the provider, and whether they are required to submit both a written response and patient records. It was noted that providers are typically given a specific number of days to provide the requested documentation, which is usually dropped off to the HPLO office and then made available for pickup.</p> <p>Given that the provider in question had reportedly left his previous place of employment, the board discussed how best to serve the notice. It was suggested that the notice be sent to both his former and current places of employment. Members agreed that the provider's records should be checked to confirm whether he had submitted an official change of employment, especially since he was believed to have switched clinics in December.</p> <p>The board continued its deliberations on the complaint process, focusing on logistical and procedural issues surrounding the provider's change of employment and the securement of patient records. S. Manibusan agreed to consult the acting HPLO administrator for guidance and committed to sending the relevant document to J. Kim. The concern was raised that the provider, having left the clinic where the incident occurred, might disassociate from the matter entirely, potentially complicating efforts to access the necessary patient records, which are presumed to remain at the former place of employment.</p> <p>To address this, members proposed sending two separate letters: one directly to the provider and another to the clinic where the records are held. This would ensure that the clinic does not dismiss the request based on the provider's departure. Clarification was provided that medical</p>			

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	<p>records belong to the clinic, not the individual provider, even after the provider leaves. Thus, a specific request must be made to the clinic to access or sequester the patient's record.</p> <p>While some believed a patient-initiated complaint would simplify this process by tying the record directly to patient rights, it was reiterated that under Guam law, the board can proceed with an investigation even without the patient's complaint, as long as there is sufficient basis to believe the licensee may have committed an actionable violation. The board emphasized the need for different language in each letter, given the distinct audiences—one letter addressing the provider regarding the investigation and the other addressing the clinic with a directive to preserve and provide the relevant patient records.</p> <p>It was also confirmed that all records remain under the control of the clinic, not the individual provider, and that communication must reflect that legal structure. M. San Nicolas noted that it may be required to name the patient in the letter for identification of the correct record. Plans were made to CC appropriate individuals, including T. Keeler and B. Sablan, to ensure procedural compliance.</p> <p>J. Kim inquired whether there is a statute of limitations on enforcement or investigation, indicating a need for further clarification on the allowable time frame for such proceedings.</p> <p>M. San Nicolas addressed the question of whether there is a statute of limitations applicable to enforcement or investigative actions. It was confirmed that, at present, there are no specific timelines outlined within the board's own statutes or regulations, meaning there is no formal limitation period in effect. While this absence allows ongoing investigation without restriction, it was acknowledged that the lack of defined timeframes could be problematic and may need to be addressed during future revisions of relevant laws and regulations.</p> <p>The discussion also highlighted the importance of deferring to federal statutes in the absence of local provisions, reinforcing that if a federal standard exists regarding timelines or limitations, the board must adhere to it until such time that Guam law is updated. The issue was recognized as one that warrants further research and potential incorporation into future legislative changes. With that, the discussion surrounding the complaint was concluded.</p>			

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		<p>The board proceeded to discuss the topic of clinic inspections, referencing guidance previously provided by T. Keeler. M. San Nicolas reflected on the only instance such inspections had been conducted, which occurred in the 1990s when the board mandated the presence of tonometers in clinics. At that time, members with backgrounds in optical practice helped enforce compliance by organizing inspections, sending formal notices to clinics outlining the purpose and scope of the inspections—including both equipment checks and record reviews—and coordinating in-person visits within a designated timeframe. However, the effort was never repeated due to subsequent board member reluctance and turnover.</p> <p>The historical context was emphasized to illustrate the evolution of clinical practice on the island. While optical shops were once dominant, the current healthcare landscape features more clinics with higher levels of optometric care. Because of this shift, any future inspections must be handled with impartiality and consistency. The board emphasized that selecting only one clinic for inspection could be viewed as biased; instead, inspections should cover all clinics or providers equally. In cases where a clinic hosts multiple providers, records should be sampled across the group—for example, reviewing a set number of charts per provider—to ensure fairness and comprehensiveness.</p> <p>This discussion was tied to the ongoing complaint, which may necessitate inspection of specific patient records. It was noted that any record reviews must be preceded by official letters stating the intent of the inspection. Furthermore, future regulatory revisions could include provisions allowing unannounced record reviews, though currently, transparency and even application remain essential to avoid the appearance of targeting individual clinics.</p> <p>J. Kim indicated intent to move forward within the coming weeks by completing the necessary complaint form and collecting patient-specific information from SDA. The matter was slated for continued discussion at the next board meeting in March.</p>			
X	NEXT BOARD MEETING	Next Scheduled Meeting: March 25, 2025	GBEO	0857	Set Date
XI	ADJOURNMENT	Motion to Adjourn: J. Anglim; 2 <sup>nd</sup> : J. Kim.	GBEO	0858	Adjourned

Minutes Drafted by: FLAME TREE Freedom Center, Inc.

Date Submitted:

Submitted by the GBEO Secretary:

*James C. [Signature]*

Date:

*8/26/25*

Approved by the GBEO with or without changes:

*[Signature]*

Date:

*8/26/25*

Certified by or Attested by the Chairperson:

*[Signature]*

Date:

*8/26/25*