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## ARTICLE 6
## GUAM PHARMACY PRACTICE ACT

**SOURCE:** Entire Article added by P.L. 16-123:24 (Dec. 28, 1982) as "Pharmacist and Pharmacy." Repealed and reenacted by P.L. 24-207:1 (May 13, 1998).

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**§ 12601. Title of Act.**

This Act shall be known as the 'Guam Pharmacy Practice Act.'

**§ 12602. Legislative Declaration.**

The practice of pharmacy in Guam is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this Act, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy, and to ensure the quality of drugs and related devices distributed on Guam. This Act shall be liberally construed to carry out these objectives and purposes.

**§ 12603. Statement of Purpose.**

It is the purpose of this Act to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy; the licensure of pharmacists; the licensure, control and regulation of all sites or persons in Guam that distribute, manufacture or sell drugs, or

devices used in the dispensing and administration of drugs, within Guam, and the regulation and control of such other materials as may be used in the diagnosis, treatment and prevention of injury, illness and disease of a patient or other individual.

**§ 12604. Practice of Pharmacy.**

For purposes of this Article the 'practice of pharmacy' means the interpretation, evaluation and implementation of medical orders; the dispensing of prescription drug orders; participation in drug and device selection, drug administration, drug regimen reviews, and drug or drug-related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care in all areas of patient care, including primary care; and the responsibility for compounding and labeling of drugs and devices, except labeling by a manufacturer, repackaged, or distributor of non-prescription drugs and commercially packaged legend drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records for them.

**§ 12605. Definitions.**

For purposes of this Article, the following words and phrases have been defined to mean:

(a) Administer means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion or any other means.

(b) Automated Pharmacy Systems include, but are not limited to, mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing or distribution of medications, and which collect, control, and maintain all transaction information.

(c) Beyond-Use Date means a date determined by a pharmacist and placed on a prescription label at the time of dispensing that is intended to indicate to the patient or care giver a time beyond which the contents of the prescription are not recommended to be used.

(d) Board of Pharmacy or Board means the Guam Board of Examiners for Pharmacy.

(e) Collaborative Pharmacy Practice is that practice of pharmacy whereby a pharmacist has jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain patient care functions authorized by the practitioner or practitioners under certain specified conditions and/or limitations.

(f) Compounding means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

(1) as the result of practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or

(2) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(g) Confidential Information means information accessed, maintained by or transmitted to the Pharmacist in the patient's records, or which is communicated to the patient as part of patient counseling, which is privileged and may be released only to the patient or, as the patient directs, to those practitioners, other authorized health care professionals and other pharmacists where, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; and to such other persons or governmental agencies authorized by law to receive such confidential information, regardless of whether such information is in the form of paper, preserved on microfilm or is stored on electronic media.

(h) Deliver or Delivery means the actual, constructive, or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(i) Device means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under Federal law to bear the label, 'Caution: Federal or State law requires dispensing by or on the order of a physician.'

(j) Dispense or Dispensing means the interpretation, evaluation and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent Administration to, or use by, a patient.

(k) Distribute means the delivery of a drug or device other than by administering or dispensing.

(l) Drug means:

(1) articles recognized as drugs in any official compendium, or supplement thereto, designated from time to time by the Board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals;

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals;

(3) articles, other than food, intended to affect the structure or any function of the body of human or other animals; and

(4) articles intended for use as a component of any articles specified in clauses (1), (2) or (3) of this Subsection.

(m) Drug Regimen Review includes, but is not limited to, the following activities:

(1) evaluation of the prescription drug order(s) and patient record(s) for:

(A) known allergies;

(B) rational therapy-contraindications;

(C) reasonable dose and route of administration; and

(D) reasonable directions for use;

(2) evaluation of the prescription drug order(s) and patient record(s) for duplication of therapy;

(3) evaluation of the prescription drug order(s) and patient record(s) for interactions:

(A) drug-drug;

(B) drug-food;

(C) drug-disease; and

(D) adverse drug reactions.

(4) evaluation of the prescription drug order(s) and patient record(s) for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes;

(n) Electronic Transmission means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(o) Emergency Situations for the purposes of authorizing an oral prescription drug order or a Schedule II controlled substance, means those situations in which the prescribing practitioner determines:

(1) that immediate administration of the controlled substance is necessary for proper treatment of the patient;

(2) that no appropriate alternative treatment is available, including administration of a drug which is not a Schedule II controlled substance; and

(3) that it is not reasonably possible for the prescribing practitioner to provide a written or electronic prescription drug order to be presented to the

person dispensing the substance, prior to the dispensing.

(p) Equivalent Drug Product means a drug product which has the same established name, active ingredient(s), strength or concentration, dosage form, and route of Administration and which is formulated to contain the same amount of active ingredient(s) in the same dosage form and to meet the same compendial or other applicable standards, (i.e. strength, quality, purity and identity,) but which may differ in characteristics such as shape, scoring, configuration, packaging, excipients (including colors, flavors, preservatives), and expiration time.

(q) Home Infusion Pharmacy means a pharmacy which compounds solutions for direct administration to a patient in a private residence, long term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.

(r) Intern means an individual who is:

(1) currently licensed by the Board to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist; or

(2) a graduate of an approved college of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee ('FPGEC') Certificate, who is currently licensed by the Board of Pharmacy for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist; or

(3) a qualified applicant awaiting examination for licensure; or

(4) an individual participating in a residency or fellowship program.

(s) Labeling means the process of preparing and affixing a label to any drug container, exclusive, however, of the labeling by a manufacturer, packer or distributor of a non-prescription drug or commercially packaged legend drug or device. Any such label shall include all information required by Federal and state law or rule.

(t) Long Term Care Facility means a nursing home, retirement care, mental care, or other facility or institution which provides extended health care to resident patients.

(u) Manufacturer means a person engaged in the manufacture of drugs or devices.

(v) Manufacturing means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical or biological synthesis, and includes any packaging or repackaging of the substance(s) or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons.

(w) Medical Order means a lawful order of a practitioner which may or may not include a prescription drug order.

(x) Non-Prescription Drug means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of Guam and the Federal government.

(y) Non-Resident Pharmacy means a pharmacy located outside Guam.

(z) Patient Counseling means the oral communication by the Pharmacist of information, as defined in the rules of the Board, to the patient or care giver, in order to ensure proper use of drugs and devices.

(aa) Person means an individual, corporation, partnership, association or any other legal entity including government.

(bb) Pharmaceutical Care is the provision of drug therapy and other patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process as defined in the rules of the Board.

(cc) Pharmacist means an individual currently licensed by the Board to engage in the practice of pharmacy.

(dd) Pharmacist-in-Charge means a pharmacist currently licensed in Guam who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of such pharmacy and personnel.

(ee) Pharmacy means any place within Guam where drugs are dispensed and pharmaceutical care is provided and any place outside of Guam where drugs are dispensed and pharmaceutical care is provided to residents of Guam.

(ff) Pharmacy Technician means personnel who assist in the practice of pharmacy under the personal and direct supervision of a pharmacist, and are registered with the Board as defined in § 12614 of this Act.

(gg) Practice of Telepharmacy means the provision of pharmaceutical care through the use of telecommunications and information technologies to patients at a distance.

(hh) Practitioner means an individual currently licensed, registered, or otherwise authorized by the jurisdiction to prescribe and, administer drugs in the course of professional practice in Guam.

(ii) Preceptor means an individual who is currently licensed as a Pharmacist by the Board of Pharmacy, meets the qualifications as a preceptor under the rules of the

Board, and participates in the instructional training of pharmacy Interns.

(jj) Prescription Drug or Legend Drug means a drug which is required under Federal law to be labeled with either of the following statements prior to being dispensed or delivered:

(A) 'Caution: Federal law prohibits dispensing without prescription'; or

(B) 'Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian'; or

(C) a drug which is required by any applicable Federal or state law or rule to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only.

(kk) Prescription Drug Order means a lawful order of a practitioner for a drug or device for a specific patient, including orders derived from Collaborative Pharmacy Practice, that is communicated directly to a pharmacist in a licensed pharmacy.

(ll) Primary Care is the first level of contact of individuals, the family, and the community with the health care delivery system, bringing health care as close as possible to where people live and work, and constitutes the first element of a continuing health care process. Areas of Primary Care where pharmacists provide Pharmaceutical Care include, but are not limited to, the following: chronic disease management; smoking cessation; maternal and child health; immunizations; family planning; self-care consulting; drug selection under protocol; treatment of common diseases and injuries; nutrition; and general health education and promotion.

(mm) Prospective Drug Use Review means a review of the patient's drug therapy and prescription drug order, as part of a drug regimen review, as defined in the rules of the Board, prior to dispensing the drug.

(nn) Significant Adverse Drug Reaction means any drug-related incident that may result in serious harm, injury or death to the patient.

(oo) Wholesale Distributor means any person engaged in wholesale distribution of drugs, including, but not limited to, manufacturers; repackagers; own label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions.

**SOURCE:** Added by P.L. 16-123:24 (Dec. 28, 1982). Repealed and reenacted by P.L. 24-207:1 (May 13, 1998). Subsection (o) amended by P.L. 36-031:4 (June 11, 2021).

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsections (m)(1), (m)(3) and (jj) were altered to adhere to the Compiler's alpha-numeric scheme.

### § 12606. Board of Pharmacy: Designation.

The responsibility for enforcement of the provisions of this Act is hereby vested in the Guam Board of Examiners for Pharmacy. The Board shall have all of the duties, powers and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers and authority as it may be granted from time to time by applicable law(s).

### § 12607. Membership.

The Guam Board of Examiners for Pharmacy shall consist of five (5) members, each of whom shall be pharmacists who possess the qualifications specified in § 12608.

### § 12608. Qualifications.

Each pharmacist member of the Board of Pharmacy shall at the time of appointment:

(a) be a resident of Guam for not less than two (2) years;

(b) be currently licensed and in good standing to engage in the practice of pharmacy in Guam;

(c) be actively engaged in the practice of pharmacy in Guam; and

(d) have two (2) years of experience in the practice of pharmacy in Guam after licensure.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme..

## § 12609. Appointment.

(a) *I Maga'lahen Guahan* shall appoint the members of the Board of Pharmacy in accordance with other provisions of this Section.

(b) Nominations for appointment to the Board of Pharmacy may be made to *I Maga'lahen Guahan* by any individual, association or any other entity. Such nominations shall be recommendations only and shall not be binding in any manner upon *I Maga'lahen Guahan*.

## § 12610. Terms of Office.

(a) Except as provided in Subsection (b), members of the Board of Pharmacy shall be appointed for a term of three (3) years, except that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(b) The terms of the members of the Board shall be staggered, so that the terms of no more than three (3) members shall expire in any year. Each member shall serve until a successor is appointed and qualified.

(1) The present members of the Board shall serve the balance of their terms.

(2) Any present Board member appointed initially for a term of less than thee (3) years shall be eligible to serve for two (2) additional full terms.

**§ 12611. Vacancies.**

Any vacancy which occurs in the membership of the Board for any reason, including expiration of term, removal, resignation, death, disability or disqualification, shall be filled by *I Maga'lahen Guahan* in the manner prescribed by § 12609.

**§ 12612. Removal.**

(a) A Board member may be removed pursuant to the procedures set forth in this Section (b), upon one (1) or more or the following grounds:

(1) the refusal or inability for any reason of a Board member to perform his duties as a member of the Board in an efficient, responsible and professional manner;

(2) the misuse of office by a member of the Board to obtain personal, pecuniary, or material gain or advantage for himself or another through such office;

(3) the violation by any member of the laws governing the practice of pharmacy or the distribution of drugs and/or devices.

(4) the absence of the member for three (3) consecutive Board meeting.

(b) Removal of a member of the Board of Pharmacy shall be in accordance with the Administrative Adjudication Law of Guam, or other applicable laws.

**§ 12613. Organization.**

(a) The Guam Board of Pharmacy shall elect from its members a Chairperson and such other officers as it deems appropriate and necessary to the conduct of its business. The Chairperson of the Board of Pharmacy shall preside at all meetings of the Board, and shall be responsible for the performance of all of the duties and functions of the Board required or permitted by this Act. Each additional officer elected by the Board shall perform those duties normally associated with his position and such other duties assigned to him from time to time by the Board.

(b) Officers elected by the Board shall serve terms of one (1) year commencing with the day of their election and ending upon election of their successors, and shall serve no more than four (4) consecutive full terms in each office to which they are elected.

(c) Department of Public Health & Social Services shall provide administrative services and support for the Board.

**§ 12614. Compensation of Board Members.**

Each member of the Board of Pharmacy shall receive as compensation Fifty Dollars ($50.00) for each day on which the member is engaged in performance of the official duties of the Board, and shall be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of such official duties.

**§ 12615. Meetings.**

(a) The Board of Pharmacy shall meet no less than four (4) times a year to transact its business. The Board shall meet at such additional times as it may determine. Such additional meetings may be called by the Chairperson of the Board or by two-thirds (2/3) of the members of the Board.

(b) The Board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate prior notice.

(c) Notice of all meetings of the Board shall be given in the manner and pursuant to requirements prescribed by the Administrative Adjudication Law and Guam statute.

(d) A majority of the members of the Board shall constitute a quorum for the conduct of a Board meeting and, except where a greater number is required by this Act or by any rule of the Board, all actions of the Board shall be by a majority of a quorum.

(e) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to law,

conduct any portion of its meeting in executive session, closed to the public.

**§ 12616. Rules.**

The Guam Board of Examiners for Pharmacy shall make, adopt, amend and repeal such rules as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act. Such rules shall be promulgated in accordance with the procedures specified in the Administrative Adjudication Law of Guam.

**§ 12617. Powers and Responsibilities**.

(a) The Board of Pharmacy shall be responsible for the control and regulation of the practice of pharmacy in Guam, including, but not limited to, the following:

(1) the licensing by examination or by license transfer of applicants who are qualified to engage in the practice of pharmacy under the provisions of this Act;

(2) the renewal of licenses to engage in the practice of pharmacy;

(3) the establishment and enforcement of compliance with professional standards and rules of conduct of pharmacists engaged in the practice of pharmacy;

(4) the determination and issuance of standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for licensure in Guam, and the specification and enforcement of requirements for practical training, including internship;

(5) the enforcement of those provisions of this Act relating to the conduct or competence of pharmacists practicing in Guam, and the suspension, revocation or restriction of licenses to engage in the practice of pharmacy;

(6) the licensure and regulation of the training, qualifications and employment of pharmacy interns and pharmacy technicians;

(7) the collection of professional demographic data;

(8) the right to seize any such drugs and devices found by the Board to constitute an imminent danger to the public health and welfare;

(9) establishing minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel and procedures for the storage, compounding and/or dispensing of such drugs or devices, and for the monitoring of drug therapy;

(10) establishing minimum standards for the purity and quality of such drugs, devices and other materials within the practice of pharmacy;

(11) the issuance and renewal of licenses of all persons engaged in the manufacture and distribution of drugs and devices;

(12) inspection of any licensed person at all reasonable hours for the purpose of determining if any provisions of the laws governing the legal distribution of drugs or devices or the practice of pharmacy are being violated. (The Board of Pharmacy, its officers, inspectors and representatives shall cooperate with all agencies charged with the enforcement of the laws of the United States, of Guam and of all other states relating to drugs, devices, and the practice of pharmacy); and

(13) establishing minimum standards for maintaining the integrity and confidentiality of prescription information and other patient health care information.

(b) The Board of Pharmacy shall have such other duties, powers and authority as may be necessary to the enforcement of this Act, and to the enforcement of Board rules made pursuant thereto, which shall include, but are not limited to, the following:

(1) the Board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare, of the public and/or whose activities assist and facilitate the work of the Board.

(2) The Board may receive and expend funds, in addition to its annual appropriation, from parties other than the government, provided:

(A) such funds are awarded for the pursuit of a specific objective which the Board is authorized to accomplish by this Act, or which the Board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(B) such funds are expended for the pursuit of the objective for which they are awarded;

(C) activities connected with or occasioned by the expenditures of such funds do not interfere with the performance of the Board's duties and responsibilities, and do not conflict with the exercise of the Board's powers as specified by this Act;

(D) such funds are kept in a separate, special account; and

(E) periodic reports are made concerning the Board's receipt and expenditure of such funds.

(3) The Board may establish a Bill of Rights for patients concerning the health care services a patient may expect in regard to pharmaceutical care.

(4) Any investigation, inquiry, or hearing which the Guam Board of Examiners for Pharmacy is empowered to hold or undertake may be held or undertaken by or before any member or members of the Board and the finding or order of such member or members shall by deemed to be the order of said Board when approved and confirmed as noted in § 12615(d).

(5) Embargo.

(A) Notwithstanding anything in this Act to the contrary, whenever a duly authorized representative of the Board finds, or has probable cause to believe, that any drug or device is adulterated or misbranded within the meaning of the Guam Food and Drug Act, he shall

affix to such drug or device a tag, or other appropriate marking, giving notice that such article is, or is suspected of, being adulterated or misbranded, has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the Board, its agent, or the Court. No person shall remove or dispose of such embargoed drug or device, by sale or otherwise, without the permission of the Board or its agent or, after summary proceedings have been instituted, without permission from the Court.

(B) When a drug or device detained or embargoed under Paragraph (A) of this Subsection (5) has been declared by such representative to be adulterated or misbranded, the Board shall, as soon as practical thereafter, petition the Judge of the Superior Court, in which jurisdiction the article is detained or embargoed, for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the Board shall direct the immediate removal of the tag or other marking.

(C) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a Board representative, and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the Court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a Board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the

owner of the drug or device on representation to the Court by the Board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(D) It is the duty of the Attorney General to whom the Board reports any violation of § 12617(b)(5) to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this Subparagraph (D) shall be construed to require the Board to report violations whenever the Board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(6) The Board may place under seal all drugs or devices that are owned by or in the possession, custody or control of a licensee at the time his license is suspended or revoked, or at the time the Board refuses to renew his license. Except as otherwise provided in this Section, drugs or devices so sealed shall not be disposed of until appeal rights under the Administrative Adjudication Law have expired, or an appeal filed pursuant to that Law has been determined. The court involved in an appeal filed pursuant to the Administrative Adjudication Law may order the Board, during the pendency of the appeal, to sell sealed drugs that are perishable. The proceeds of such a sale shall be deposited with that court.

(7) Except as otherwise provided to the contrary, the Board shall exercise all of its duties, powers and authority in accordance with the Guam Administrative Adjudication Law.

(8) In addition to the fees specifically provided for herein, the Board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this Act or rules adopted hereunder. Such services rendered shall include, but not be limited to, the following:

(A) issuance of duplicate certificates or identification cards;

(B) mailing lists, or reports of data maintained by the Board;

(C) copies of any documents;

(D) certification of documents;

(E) notices of meetings;

(F) licensure transfer;

(G) examination administration to a licensure applicant; and

(H) examination materials.

(9) Cost Recovery.

(A) If any order issues in resolution of a disciplinary proceeding before the Board of Pharmacy, the Board may request the hearing officer to direct any licensee found guilty of a charge involving a violation of any drug laws or rules, to pay to the Board a sum not to exceed the reasonable costs of the investigation and prosecution of the case and, in any case, not to exceed Twenty-five Thousand Dollars ($25,000.00).

(B) In the case of a pharmacy or wholesale distributor, the order may be made as to the corporate owner, if any, and as to any pharmacist, officer, owner or partner of the pharmacy or wholesale distributor who is found to have had knowledge of or have knowingly participated in one (1) or more of the violations set forth in this Section.

(C) The costs to be assessed shall be fixed by the hearing officer and shall not be increased by the Board; where the Board does not adopt a proposed decision and remands the case to a hearing officer, the hearing officer shall not increase any assessed costs.

(D) Where an order for recovery of costs is made and timely payment is not made as directed in the

Board's decision, the Board may enforce the order for payment in the Superior Court in the territory where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the Board may have as to any person directed to pay costs.

(E) In any action for recovery of costs, proof of the Board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (b)(2), (5), (8) and (9) were altered to adhere to the Compiler's alpha-numeric scheme.

## § 12618. Licensing: Unlawful Practice.

(a) Except as otherwise provided in this Act, it shall be unlawful for any individual to engage in the practice of pharmacy unless currently licensed to practice under any facet of the provisions of this Act.

(b) Licensed Practitioners authorized under the laws of Guam to compound drugs and to dispense drugs to their patients in the practice of their respective professions shall meet the same standards, record keeping requirements and all other requirements for the dispensing of drugs applicable to pharmacists.

(c) It shall be unlawful for any individual to assist in the practice of pharmacy unless currently registered as a pharmacy technician according to the provisions of this Act.

(d) Any individual who, after hearing, shall be found by the Board to have unlawfully engaged in the practice of pharmacy shall be subject to a fine to be imposed by the Board for each offense. Each such violation of this Act or the rules promulgated hereunder pertaining to unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor punishable upon conviction as provided in the criminal code of Guam.

## § 12619. Qualifications for Licensure by Examination.

(a) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(1) have submitted a written application in the form prescribed by the Board of Pharmacy;

(2) have attained the age of majority;

(3) shall not have been found guilty by a competent authority, United States or foreign, of any conduct that would constitute grounds for disciplinary action under the regulations of the Board or the Act (The Board should be authorized, at its discretion, to modify this restriction for cause, but it should be directed to use such discretionary authority in a consistent manner.);

(4) at the discretion of the Board, shall make a personal appearance before the Board or a representative thereof for interview, examination or review of credentials at the request of the Board (At the discretion of the Board, the applicant may be required to present his or her original education credentials for inspection at the time of personal appearance.);

(5) shall be held responsible for verifying to the satisfaction of the Board the validity of all credentials required for his or her licensure;

(6) have graduated and received the first professional undergraduate degree from a college or school of pharmacy that has been approved by the Board of Pharmacy;

(7) have graduated from a foreign college of pharmacy, completed a transcript verification program, taken and passed a college of pharmacy equivalency exam program and completed a process of communication ability testing, as defined under Board of Pharmacy regulations so that it is assured that the applicant meets standards necessary to protect public health and safety;

(8) have completed all internship or other program that has been approved by the Board of Pharmacy, or demonstrated to the Board's satisfaction that experience in the practice of pharmacy which meets or exceeds the minimum internship requirements of the Board;

(9) have successfully passed an examination or examinations as required by the Board of Pharmacy; and

(10) have paid the fees specified by the Board of Pharmacy for the examination and any related materials, and have paid for the issuance of the license.

(b) Examinations.

(1) The examination for licensure required under § 12615(a)(6) of the Act, shall be given by the Board at least once during each year. The Board shall determine the content and subject matter of each examination, the place, time and date of administration of the examination.

(2) The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The Board may employ, cooperate and contract with any organization or consultant in the preparation and grading of an examination, but shall retain the sole discretion and responsibility for determining which applicants have successfully passed such an examination.

(c) Internship and Other Training Programs.

(1) All applicants for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with, or after college attendance, or both, under such terms and conditions as the Board shall determine.

(2) The Board shall establish such licensure requirements for interns and standards for internship, or any other experiential program necessary to qualify an applicant for the licensure examination, and shall also determine the qualifications of preceptors used in practical experience programs.

**§ 12620. Qualifications for License Transfer. Reciprocity.**

In order for a pharmacist currently licensed in another jurisdiction to obtain a license as a pharmacist by license transfer in Guam, an applicant shall:

(a) have submitted a written application in the form prescribed by the Board of Pharmacy;

(b) have attained the age of majority;

(c) shall not have been found guilty by a competent authority, United States or foreign, of any conduct that would constitute grounds for disciplinary action under the regulations of the Board or the Act (The Board should be authorized, at its discretion, to modify this restriction for cause, but it should be directed to use such discretionary authority in a consistent manner.);

(d) at the discretion of the Board, shall make a personal appearance before the Board or a representative thereof for interview, examination or review of credentials at the request of the Board (At the discretion of the Board, the applicant may be required to present his or her original medical education credentials for inspection at the time of personal appearance.);

(e) shall be held responsible for verifying to the satisfaction of the Board the validity of all credentials required for his or her licensure;

(f) have possessed at the time of initial licensure as a pharmacist all qualifications necessary to have been eligible for licensure at that time in Guam;

(g) have engaged in the practice of pharmacy for a period of at least one (1) year, or have met the internship requirements of Guam within the one (1) year period immediately previous to the date of such application;

(h) have presented to the Board proof of initial licensure by examination and proof that such license is in good standing;

(i) have presented to the Board proof that any other license granted to the applicant by any other state has not been suspended, revoked or otherwise restricted for any reason except nonrenewal or for the failure to obtain the required continuing education credits in any state where the applicant is currently licensed, but not engaged in the practice of pharmacy; and

(j) have paid the fees specified by the Board.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

## § 12621. Qualifications for Registration to Practice Telepharmacy Across Guam/State Lines.

(a) An applicant applying for registration to engage in the practice of telepharmacy Across Guam/State Lines shall:

(1) present to the Board proof of licensure in another jurisdiction and proof that such license is in good standing;

(2) submit a written application in the form prescribed by the Board of Pharmacy;

(3) pay the fee(s) specified by the Board of Pharmacy for issuance of the license; and

(4) comply with all other requirements of the Board of Pharmacy.

(b) Application.

(1) The written application required under § 12617(a)(1) of this Act shall request of the applicant, at a minimum, the following information:

(A) name, address and current pharmacist licensure information in all other jurisdictions, including jurisdiction(s) of licensure and license number(s);

(B) name, address, phone number, and, if applicable, jurisdiction of licensure and license number of the site where the practice of telepharmacy will originate;

(C) a statement of the scope of patient services that will be provided;

(D) a description of the protocol or framework by which patient care will be provided, including any collaborative practice arrangements with other health care practitioners; and

(E) a statement attesting that the applicant will abide by the pharmacy laws and regulations of the jurisdiction in which the patient is located.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (b)(1) were altered to adhere to the Compiler's alpha-numeric scheme.

## § 12622. Renewal of Licenses.

(a) Each Pharmacist and Pharmacy Intern shall apply for renewal of his license biannually no later than the last day of September. A Pharmacist or Pharmacy Intern who desires to continue in the Practice of Pharmacy in Guam shall file with the Board an application in such form and containing such data as the Board may require for renewal of the license. If the Board finds that the applicant has been licensed, and that such license has not been revoked or placed under suspension, that the applicant has paid the renewal fee, has continued his pharmacy education in accordance with the rules of the Board, and is entitled to continue in the Practice of Pharmacy, the Board shall issue a license to the applicant.

(b) If a Pharmacist fails to make application to the Guam Board of Examiners for Pharmacy for renewal of his license within a period of three years from the expiration of his license, he must pass an examination for license renewal; except that a person who has been licensed under the laws of Guam and after the expiration of his license, has continually practiced pharmacy in another State under a license issued by the authority of such State, may renew his license upon payment of the designated fee.

(c) Each Pharmacist shall apply for renewal of his registration to Practice Telepharmacy Across Guam/State Lines annually, no later than the last day of September. A Pharmacist who desires to continue in the Practice of Telepharmacy Across Guam/State Lines shall file with the Board an application in such form and containing such data as the Board may require for renewal of the registration. If the Board finds that the applicant has been licensed to Practice Pharmacy in another state and registered to Practice Telepharmacy Across State Lines in that state, that such license and registration have not been revoked or placed under suspension, and that the applicant has paid the

renewal fee and is entitled to continue in the Practice of Telepharmacy Across State Lines, the Board shall issue a registration to the applicant.

**§ 12623. Continuing Pharmacy Education.**

The Board shall, by rule, establish requirements for continuing education in pharmacy, including the determination of acceptable program content and fees. The Board shall adopt rules necessary to carry out the stated objectives and purposes and to enforce the provisions of this Section, and to ensure continued competence.

**§ 12624. Intern/Extern Licensure.**

The Board of Pharmacy shall establish an internship program for the purpose of providing the practical experience necessary for licensure as a Pharmacist. The Board shall grant an Intern license to students in internship programs, authorizing those students to engage in the Practice of Pharmacy under the supervision of a Pharmacist. The Board of Pharmacy shall adopt rules regarding the licensure of Interns and the standards for internship programs.

**§ 12625. Registration of Pharmacy Technicians.**

(a) In order to be registered as a Pharmacy Technician in Guam, an applicant shall:

(1) Have submitted a written application in the form prescribed by the Board of Pharmacy.

(2) Have attained the age of eighteen.

(3) Have good moral character.

(4) Have paid the fees specified by the Board.

(5) Have been certified by the Pharmacist-in-Charge of the Pharmacy where the applicant is employed as having successfully completed a training program conducted pursuant to a Pharmacy Technician Training Manual prepared in accordance with any rules established by the Board.

(b) No Pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes shall be eligible to be registered as a Pharmacy Technician.

(c) The Board of Pharmacy shall, by rule, establish requirements for registration of Pharmacy Technicians.

**§ 12626. Discipline: Grounds, Penalties, and Reinstatement.**

(a) The Board of Pharmacy may refuse to issue or renew, or may suspend, revoke, restrict the licenses of, or fine any Person pursuant to the procedures set forth in this Act or upon one or more of the following grounds:

(1) Unprofessional conduct as that term is defined by the rules of the Board.

(2) Incapacity that prevents a licensee from engaging in the Practice of Pharmacy with reasonable skill, competence, and safety to the public.

(3) Being guilty of one (1) or more of the following:

(A) a felony;

(B) violations of the pharmacy or drug laws of Guam, or rules and regulation pertaining thereto, or of laws, rules, and regulations of any other state; or of the Federal government.

(4) Knowing or suspecting that a Pharmacist or Pharmacy Intern is incapable of engaging in the Practice of Pharmacy or that a Pharmacy Technician is capable of assisting in the Practice of Pharmacy, with reasonable skill, competence, and safety to the public, and failing to report any relevant information to the Board of Pharmacy.

(5) Misrepresentation of a material fact by a licensee in securing the issuance or renewal of a license.

(6) Fraud by a licensee in connection with the Practice of Pharmacy.

(7) Engaging, or aiding and abetting an individual to engage in the Practice of Pharmacy without a license; assisting in the Practice of Pharmacy or aiding and abetting

an individual to assist in the Practice of Pharmacy without having registered with the Board of Pharmacy; or falsely using the title of Pharmacist or Pharmacy Intern, or Pharmacy Technician.

(8) Failing to pay the costs assessed in a disciplinary hearing pursuant to this Act.

(9) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of any licensing examination.

(10) Being found by the Board to be in violation of any of the provisions of this Act or rules adopted pursuant to this Act.

(11) Divulging or revealing Confidential Information or personally identifiable information to a Person other than as authorized by the rules of the Board.

(b) Any Person whose license to practice pharmacy in Guam has been suspended, revoked, or restricted pursuant to this Act, whether voluntarily or by action of the Board, shall have the right, at reasonable intervals, to petition the Board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the Board. Upon investigation and hearing, the Board may, in its discretion, grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. The Board, also at its discretion, may require such Person to pass an examination or examinations for reentry into the Practice of Pharmacy.

(c) Nothing herein shall be construed as barring criminal prosecutions for violations of this Act.

(d) All final decisions by the Board shall be subject to judicial review pursuant to the Administrative Adjudication Law.

(e) Any individual or entity whose license to practice pharmacy is revoked, suspended, or not renewed shall return his license to the offices of the Guam Board of Examiners for Pharmacy within ten (10) days after receipt of notice of such action.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (a)(3) were altered to adhere to the Compiler's alpha-numeric scheme.

## § 12627. Procedure.

Notwithstanding any provisions of the Guam Administrative Adjudication Law, the Board may, without a hearing, temporarily suspend a license for not more than sixty (60) days if the Board finds that a Pharmacist, Pharmacy Intern, or Pharmacy Technician has violated a law or rule that the Board is empowered to enforce, and if continued practice by the Pharmacist or Pharmacy Intern would create an imminent risk of harm to the public. The suspension shall take effect upon written notice to the Pharmacist or Pharmacy Intern, specifying the statute or rule violated. At the time it issues the suspension notice, the Board shall schedule a disciplinary hearing to be held under the Administrative Adjudication Law within twenty (20) days thereafter. The Pharmacist or Pharmacy Intern shall be provided with at least ten (10) days notice of any hearing held under this Section.

## § 12628. Licensing of Facilities: Licensing.

(a) All Persons, engaging in the Practice of Pharmacy or in the manufacture, production, sale, or distribution of drugs or devices, or pharmacies where drugs or devices are dispensed, shall be licensed by the Board of Pharmacy, and shall annually renew their license with the Board. Where operations are conducted at more than one location, each such location shall be licensed by the Board of Pharmacy.

(b) The Board may by rule determine the licensure classifications of all persons licensed under Article V, and establish minimum standards for such persons.

(c) The Board shall establish by rule, under the powers granted to it under this Act and as may be required from time to time, under Federal law, the criteria which each person must meet to qualify for licensure in each classification. The Board may issue licenses with varying restrictions to such persons where the Board deems it necessary.

(d) Each pharmacy shall have a Pharmacist-in-Charge. Whenever an applicable rule requires or prohibits action by a Pharmacy, responsibility shall be that of the owner and the Pharmacist-in-Charge of the Pharmacy, whether the owner is a sole proprietor, partnership, association, corporation, or otherwise.

(e) The Board may enter into agreements with other states or with third parties for the purpose of exchanging information concerning the licensure and inspection of entities located in this jurisdiction and those located off island.

(f) The Board of Pharmacy may deny or refuse to renew a license if it determines that the granting or renewing of such license would not be in the public interest.

**§ 12629. Application.**

(a) The Board shall specify by rule the licensure procedures to be followed, including but not limited to specification of forms for use in applying for such licensure and times, places, and applicable fees.

(b) Applicants for licensure to distribute, manufacture, sell, purchase, and/or produce drugs or devices within Guam shall file with the Board of Pharmacy a verified application containing such information as the Board requires of the applicant relative to the qualifications for a license.

(c) Licenses issued by the Board pursuant to this Act shall not be transferable or assignable.

(d) The Board shall specify by rule minimum standards for responsibility of any person or Pharmacy that has employees or personnel engaged in the Practice of Pharmacy, manufacture, distribution, production, sale, or use of drugs or devices in the conduct of their business. If the licensed person is a Pharmacy located in Guam, that portion of the facility to which such license applies shall be operated only under the direct supervision of a Pharmacist licensed to practice in Guam.

**§ 12630. Notifications.**

(a) All licensed persons shall report to the Board of Pharmacy the occurrence of any of the following:

(1) Permanent closing.

(2) Change of ownership, management, location, or Pharmacist-in-Charge of a Pharmacy.

(3) Any theft or loss of drugs or devices.

(4) Any conviction of any employee of any Guam, State or Federal drug laws, or;

(5) Disasters, accidents, or any theft, destruction, or loss of records required to be maintained by Guam or Federal law.

(6) Occurrences of significant adverse drug reactions as defined by rules of the Board.

(7) Dissemination of confidential information or personally identifiable information; or

(8) Any and all other matters and occurrences as the Board may require, by rule.

**§ 12631. Grounds, Penalties and Reinstatement.**

(a) No Person or Pharmacy designated in this Act shall operate until a license has been issued to said Person by the Board.

(b) Except where otherwise permitted by law, it shall be unlawful for a manufacturer or a wholesale distributor to distribute or deliver drugs or devices to any person in Guam not licensed under this statute. Any person who shall distribute or deliver drugs or devices to a person not licensed shall be subject to a fine to be imposed by the Board not to exceed One Thousand Dollars ($1,000.00) for each offense in addition to such other disciplinary action the Board may take under this Act. Each such violation shall also constitute a misdemeanor punishable upon conviction as provided in the Criminal Code of Guam.

(c) The Board may suspend, revoke, deny, or refuse to renew the license of any Person or Pharmacy on any of the following grounds:

(1) The finding by the Board of violations of any Federal, State, or local laws relating to the Practice of Pharmacy, drug samples, wholesale or retail drug or device distribution, or distribution of controlled substances.

(2) Any felony conviction under Federal, State, or local laws.

(3) The furnishing of false or fraudulent material in any application made in connection with drug or device manufacturing or distribution.

(4) Suspension or revocation by Federal, State, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs or devices, including controlled substances.

(5) Obtaining any remuneration by fraud, misrepresentation, or deception.

(6) Dealing with drugs or devices that they know or should have known are stolen drugs or devices.

(7) Purchasing or receiving of a drug or device from a source other than a Person or Pharmacy licensed under the laws of Guam, except where otherwise provided.

(8) Wholesale drug distributors other than pharmacies dispensing or distributing drugs or devices directly to patients; or

(9) Violations of any of the provisions of this Act or of any of the rules adopted by the Board under this Act, or

(10) Divulging or revealing confidential information or personally identifiable information to a person other than as authorized by the rules of the Board.

(d) Reinstatement of a license that has been suspended, revoked, or restricted by the Board may be granted in accordance with the procedures specified by § 12626 of this Chapter.