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**GUAM BOARD OF ALLIED HEALTH EXAMINERS**

**RULES AND REGULATIONS**

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## § 10101. CONSTRUCTION

(a) Whenever the context so requires, the masculine shall include the feminine and neuter, and conversely; the singular shall include the plural, and conversely; and the present tense shall include the future as well as the present.

(b) If any of the provisions of these Rules, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of these Rules which can be given effect without the invalid provision or application, and to this end the provisions of these Rules are severable.

(c) Headings are for organization, convenience and clarity. In interpreting these Rules, they shall be subordinated in importance to the other written materials, and shall not in any manner affect the scope, meaning, or intent of the provisions of these Rules.

## § 10102. DEFINITIONS

To the extent not otherwise defined by law, as used in these rules the terms and acronyms listed below shall have the following meanings:

(a) *Accredited educational institution* means any educational institution which grants an associate, baccalaureate, masters, or doctoral degree and is accredited by a professional accrediting body in the United States or by another accrediting agency recognized by the Board.

(b) *Advertising* includes, but is not limited to, business solicitations, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, Internet, social media, television and radio broadcasting, or any other means designed to secure public attention.

(c) *ASHA* means the American Speech, Language, Hearing Association, the recognized national association which sets educational, ethical, and practice standards for the field of Speech-Language Pathology.

(d) *Board* means the Guam Board of Allied Health Examiners.

(e) *Closed Files*. An administrative action which renders an incomplete or denied application file inactive.

(f) *Collaborative Practice Agreement* means an agreement by and between a clinical psychologist or a physician assistant and a Guam licensed physician practicing in the area of specialty, wherein the parties to such an agreement mutually agree, in writing, to the terms and conditions of the ordering and prescribing of Schedule Drugs II - V.

(g) *DPHSS* refers to the Department of Public Health and Social Services.

(h) *Clinical supervision* means the supervision of persons who are acquiring and completing clinical experience in accordance with Guam law. Clinical supervision is that aspect of instructional supervision which draws upon data from direct firsthand observation of actual teaching, or other professional events, and involves face-to-face and other associated interactions between the observer(s) and the person(s) observed in the course of analyzing the observed professional behaviors and activities and seeking to define and/or develop next steps toward improved performance. This includes but is not limited to the following: case consultation, the assessment and diagnosis of presenting problems, development and implementation of treatment plans, and the evaluation of the course of treatment.

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(i) *Consultant* means a credentialed professional who provides expert service, advice, or makes recommendations for a fee or pro bono by phone, internet, in person, or by other means to an individual licensed in Guam for the purposes of diagnosis and treatment.

(j) *Counseling* means a specialized, formal interaction between a Licensed Professional Counselor, or other Mental Health Professional, and a client in which a therapeutic relationship is established to help resolve symptoms of mental disorders, psychosocial stress, family problems or other difficulties which is designed to enhance problem solving skills and coping abilities as identified in a treatment plan.

(k) *Endorsement* means evidence of current licensure by a state or jurisdiction of the United States with equivalent requirements for licensure.

(l) *HPLO* refers to the Health Professional Licensing Office

(m) *Practice* means to do or attempt to do, or to hold oneself out or to allow oneself to be held out as ready to do, any act constituting a part of the healing arts for a fee, gift, reward or in anticipation of any fee, gift or reward whether tangible or intangible. Practice a healing art profession shall mean to use any title, words, abbreviation, or letters, or by any other means to represent directly or indirectly, publicly or privately, an ability or willingness to perform any of the acts constituting the practice of any allied health profession under the purview of the Board.

(n) *Practitioner* means a physician, podiatrist, veterinarian, optometrist, clinical psychologist or physician's assistance who is authorized to prescribe, order or administer drugs in connection with medical treatment to the extent provided by the rules and regulations of the practitioner's respective Board.

(o) *Prescription* means an order for drugs, treatment, services, or devices written, signed or transmitted by word of mouth, telephone, or electronically by a practitioner of the healing art.

(p) *Professional Counseling* means the use of psychotherapeutic techniques in the delivery of services to individuals and groups in order to diagnose and treat mental, emotional and nervous disorders, whether these are behavioral, cognitive or affective. Professional Counseling includes, but is not limited to:

(i) assessment and diagnosis of presenting problems through inquiry, observation, evaluation and integration of diagnostic information;

(ii) designing and developing treatment plans by incorporating and integrating recognized psychotherapeutic theories in establishing treatment goals and interventions collaboratively with clients; and

(iii) implementing and evaluating the course of treatment by incorporating psychotherapeutic theories to assist individuals and groups.

(q) *Psychotherapy* means a specialized, formal interaction between a Mental Health Professional and a patient or client (an individual, couple, family, or group) in which a therapeutic relationship is established to help resolve symptoms of a mental disorder, psychosocial stressor, family problem, or other difficulty, which is designed to enhance problem solving skills and coping abilities.

(r) *SLPA-B* means Speech Language Pathology Assistant, Bachelor's Level.

(s) *SLPA-M* means Speech Language Pathology Assistant, Masters Level.

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(t) *Supervision* with respect to the field of speech-language pathology means as follows:

(1) *Direct (initial) supervision* shall mean supervision whereby a licensed Speech-language Pathologist diagnoses the condition to be treated, disseminates the therapy information to the SLPA-B, and remains on the premises while the procedures are being performed by an SLPA-B. The supervising SLP will also follow the ASHA guidelines for training. The SLPA-B must demonstrate proficiency in order to allow for indirect supervision.

(2) *Indirect supervision* shall mean supervision whereby a licensed SLP authorizes the procedures that are being carried out, but need not be present on the premises when the authorized procedures are being performed by a SLPA-M. The licensee must be available on island by telecommunications.

(3) The supervising licensed speech-language pathologist of a SLPA-B or SLPA-M shall not supervise more than five individuals at one time. The licensed SLP sponsor will assume all responsibilities and will meet all sponsorship requirements for such individuals as set forth from time to time by the Board.

(u) *Supervision* other than clinical supervision or as defined with respect to the field of speech-language pathology shall be one of the following:

(1) *Direct supervision* means supervision whereby a licensee diagnoses the condition to be treated, approves the work to be performed and remains on the premises while the procedures are being performed.

(2) *Indirect supervision* means supervision whereby a licensee authorizes the procedures which are being carried out but need not be present on the premises when the authorized procedures are being performed. The licensee must be available on Island by telecommunications.

(v) *Therapy* can be used interchangeably with counseling and psychotherapy, to include:

(1) *Family therapy* means systematic interventions for the purpose of enabling family members to understand the behavior of individuals in relation to the ongoing operations of the family group. This approach enables family members to generate a wider range of options for coping with problems, and to learn problem solving skills.

(2) *Individual therapy* means planned interventions to help a client enlarge competencies and increase problem solving skills and coping abilities.

(3) *Group therapy* means the gathering together of unrelated individuals at the direction of a group facilitator or therapist for a therapeutic purpose.

(4) *Couples therapy* means therapeutic interventions with married or unmarried couples to resolve problems and conflicts in their relationship.

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**§ 10201. OPERATIONS**

**§ 10202. Officers**

At the first meeting following the start of the new calendar year the Board shall elect from its members the following officers:

(a) Chair – The Chair shall preside at all Board meetings and shall represent the Board. The Chair with the advisement of the Board may appoint another officer as a representative.

(b) Vice Chair – The Vice-Chair shall assist the Chair in the performance of the Chair's duties and shall assume other duties as assigned by the Chair and with the consent and approval of the Board; In the absence of the Chair, the Vice Chair shall assume the duties and the responsibilities of the Chair and shall preside over the meetings of the Board. In the event that the Chair should be unable to carry out the responsibilities of the office, the Vice Chair will serve the remainder of the Chair's term.

(c) Secretary – The Secretary together with the staff of the HPLO shall be responsible for correspondence from the Board, and for maintaining accurate minutes, records and accounts of all meetings. In the absence of the Chair and Vice Chair, the Secretary shall assume the duties and the responsibilities of the Chair and shall preside over the meetings of the Board.

(d) Treasurer – The Treasurer together with the staff of the HPLO and those departments and agencies responsible for the finances of the government of Guam shall be responsible for the oversight of the Board's finances. The Treasurer may also work with a third party to prepare for financial reports and audits.

**§ 10203. Board Meetings**

The time, place, and frequency of regular Board meetings shall be decided by the Board or at the call of the Chair except that at least one meeting shall be held at least every 60 days.

(a) Regular meetings of the Board shall be held at the time and place stated in the public notices of the meeting. The Chair shall set the items to be discussed on the agenda, subject to modification and approval of the Board.

(b) Special meetings may be called at the discretion of the Chair or at the request of two members of the Board. Notice of special meetings must be delivered personally, or by postal or electronic mail, to each member of the Board at least five (5) working days before the time of such meeting as specified in the notice unless waived in writing prior or subsequent to the meeting or by the member's actual presence at the meeting. The call and notice of special meeting shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered.

(c) All meetings, whether regular or special, shall be announced and notice thereof given in accordance with the Open Government Law.

(1) Public notice shall also be given to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam at least five (5)



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working days, and a second public notice at least forty-eight (48) hours, before the time of such meeting as specified in the notice.

(2) The five (5) days' notice and the forty-eight (48) hours' notice may be waived in the event of an emergency certified to in writing by the Board. The Board may also consider all necessary business in the event of an emergency. This Section shall not require the Board to give notice of its meetings by paid advertisements in any newspaper or over any broadcasting station. Written notice may be dispensed with as to any member who at, prior to or subsequent to the time the meeting convenes, files with the clerk or secretary of the Board a written waiver of notice, or who is actually present at a meeting at the time it convenes.

**§ 10204. Order of Business at Regular Meetings**

Subject to modification and approval of the Board, the order of business at meetings shall be as follows:

- (a) Call to order;
- (b) Proof of publication of notice of meeting;
- (c) Determination of quorum;
- (d) Adoption of agenda;
- (e) Reading and disposition of minutes of previous meeting(s);
- (f) Executive Officer's Report;
- (g) Treasurer's Report
- (h) Legal Counsel's Report;
- (i) Committee Reports:
  - (1) Finance & Budget,
  - (2) Statues, Rules and Forms,
  - (3) Disciplinary Investigation,
  - (4) Other;
- (j) Old Business;
- (k) New Business;
- (l) Applications for licensure and Renewal of licenses;
- (m) Communications and Correspondence;
- (n) Miscellaneous;
- (o) Calendaring of Next Meeting; and
- (p) Adjournment.

**§ 10205. Rules of Order**

Except during disciplinary hearings and where otherwise provided by law and in these rules all proceedings of the Board shall be governed by Robert's Rules of Order, latest revised edition.

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**§ 10206. Quorum and Voting**

(a) A quorum must be present to conduct a Board meeting. A quorum consists of a majority of the whole number of appointed members of the Board as of the time of the meeting.

(b) The vote of the majority present and authorized to vote shall constitute an official action of the Board. The majority vote shall consist of half of the vote plus one (1) of those members present.

(c) All members of the Board, including the Chair, are entitled to vote and to make or second motions. The Chair shall vote as a member of the Board.

**§ 10207. Committees**

Immediately following the election of Officers or in the event of a vacancy the Board shall appoint all standing committee chairs and co-chairs.

(a) Standing Committees shall include:

- (1) Finance and Budget;
- (2) Statutes, Rules, and Forms; and
- (3) Continuing Education.

(b) Whenever deemed necessary by the Chair special committees may be formed from the membership of the Board and may also include any persons licensed by the Board and volunteers with special expertise. The duties, powers, authority and membership of the Committee shall be determined by the Chair with the advice of the Board.

**§ 10208. Adjournment / Recess**

(a) The Board may adjourn or recess any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may also adjourn a meeting from time to time.

(b) If all voting members of the Board are absent from any regular or adjourned regular meeting the director of the HPLO, or the director's designee may, by telephone consult with the Chair, the Vice Chair, or in their absence any other officer of the Board, and declare the meeting adjourned to a stated time and place. At that time the director of the HPLO shall cause a written notice of the adjournment to be given in the same manner as provided in 5 GCA § 8108 for special meetings, unless such notice is waived as provided for special meetings.

(c) A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of the adjournment.

(d) When a regular or adjourned regular meeting is adjourned, the resulting adjourned regular meeting is a regular meeting for all purposes.

(e) When an order of adjournment of any meeting fails to state the hour or location at which the adjourned meeting is to be held it shall be held at the hour and location historically specified for regular meetings.

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**§ 10209. Board Meeting Participation By Video Teleconference**

(a) Board members are expected to make every effort to attend meetings in person. There are times, however, when personal attendance is not possible. Under exceptional circumstances, a board member may participate in a meeting of the Board by video teleconference provided that all persons participating in the meeting are able to hear one another other, and provided further that the provisions of the Open Government Law concerning public access to witness the meeting are observed.

(b) Participation in a board meeting by video teleconferencing constitutes presence in person at the meeting for purposes of establishing a quorum. Meetings may be chaired by video teleconference. Executive sessions and due process hearings shall not be conducted via video teleconference. Voting shall be by roll call only.

(c) A board member who intends to participate in a meeting by means of video teleconferencing shall submit a written request by electronic email to the Chair at least 48 hours in advance of the meeting, and a copy of the request shall be attached to the minutes of the meeting. The board member's location and means of attendance shall be noted on the agenda and recorded in the minutes. Board members participating by video teleconference shall identify themselves each time the board member addresses the Board.

(d) The chair may cause or direct the temporary disconnection or muting of a member's connection if it is causing undue interference with the meeting, and the chair's decision to do so shall be recorded in the minutes. In the event it is determined by the Chair that either the absent board member or the board members in attendance cannot be heard by one another, the video teleconference shall be terminated, and the absent board member shall not be permitted to vote, nor continue to be counted toward a quorum.

**§ 10210. Board Member Conflict of Interest**

(a) Any Board member who knows, or with reasonable investigation should know, that the member has a personal, private, or financial interest in any matter to be decided by the Board shall not vote for or against, discuss, decide, in any way participate in considering the matter, or seek to influence the votes or decisions of others on such matter.

(b) Prior to any determination of the matter, the Board member shall verbally disclose at the meeting, if any, the nature of such interest, and shall have such disclosure placed on the record in the minutes of the Board. Should a Board member be absent from that meeting or a portion of that meeting, the Board member shall verbally disclose the nature of the conflict at the next attended meeting and said disclosure shall be placed in the official records of the Board.

(c) The Board member must complete and file a Disclosure of Conflicts of Interest form with the Guam Election Commission within three (3) working days upon the Board member's recognition of said conflict.

**§ 10211. Removal from Office for Absences**

The unexcused absences of a member from three consecutive regular meetings of the Board shall constitute a cause for removal of the member from the Board, and the Governor may thereupon remove such a member from the board. The determination of whether a member's

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absence is excused or unexcused shall be made by the chair, and in the event of a dispute by the majority of the Board.

**§ 10212. Consultants and Volunteers**

The Board may retain the services of consultants on a paid or volunteer basis who may be vested with the authority to do the following:

(a) Investigate disciplinary complaints and other matters brought to attention of the Board when instructed or otherwise directed to do so by the Board or a subcommittee of the Board.

(b) Recommend whether and what type of disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Board.

(c) Recommend whether and under what terms a complaint, case, or disciplinary action might be settled. Any matter proposed for settlement must be approved by a majority vote of the Board in a regular or special meeting before it will become effective.

(d) Undertake any other matter that may be authorized by the Chair or by a majority vote of the Board.

**§ 10213. Public Records and Complaints**

(a) All requests, applications, notices, other communications, and correspondence shall be directed to the Board care of the HPLO. In order to be considered by the Board any requests or inquiries requiring a Board decision or official Board action, except documents relating to disciplinary actions or hearing requests, must be received in the HPLO fourteen (14) days prior to a scheduled Board meeting and will be retained by the HPLO and presented to the Board at the Board meeting. Where possible, the request, application, notice, or other communication shall be delivered via email to the Board members in advance of the meeting. Any request, application, notice, or other communication that is not timely received by the HPLO shall be set over to the next Board meeting.

(b) "Public record" means all Board records which are reasonably necessary to record the business and activities required to be done or carried on by the Board so that the status and condition of the Board's business and activities can be known to the public. Records which do not constitute "public records" include those received by the Board in confidence, sensitive personnel records, applications for licensure or certification, complaints against licensees or applicants, patient or client records, and records the disclosure of which would be detrimental to the best interests of the public. All records of the Board, except those made confidential by law and as provided herein, are open for inspection and examination during regular office hours, under the supervision of an employee of the HPLO.

(c) Copies of public records shall be provided to any person upon payment of the cost of copying.

(d) Complaints made against a licensed or certified practitioner become public information only upon the filing of a notice of charges by the Board or following final disposition without the filing of notice of charges.

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**§ 10214. Petition for Declaratory Ruling**

(a) The Board is authorized to issue declaratory rulings with respect to the applicability to any person, property, or state of facts any rule or statute enforceable by it. Such rulings may be issued provided:

(1) The petitioner demonstrates that he or she, or in the case of an organization its members, is or will be substantially affected by the rule in question;

(2) Sufficient facts are supplied in the petition to permit the Board to make a valid determination; and

(3) The request for declaratory ruling arises from an actual question or controversy.

(b) A petition for a declaratory ruling must be in writing and shall contain the following minimum information:

(1) A title reflecting that the petition seeks a declaratory ruling on a rule or rules.

(2) The petitioner's name, mailing address, email address, and telephone number.

(3) The name, mailing address, email address, and telephone number of all persons known to have an interest in the outcome of the declaratory ruling.

(4) A statement identifying all rules or statutes that may be involved in the petition, if known.

(5) A clear and concise statement of the precise factual situation involved.

(6) The exact question to which an answer is requested.

(7) The reason for submitting the petition.

(8) Full disclosure of the petitioner's interest.

(9) A statement as to whether the petitioner's case or question presented is presently under consideration by the Board, another board, or by any judicial or quasi-judicial body in any pending proceedings, and, if so, where.

(10) A certification and signature before a notary public or other person authorized by law to administer oaths that the information contained in the petition is true and correct to the best of petitioner's information and belief, and that the petition has not been filed for any improper purposes, or for delay or harassment.

(c) The Board is not bound by the exact phrasing of a request for declaratory ruling but may alter the question to either narrow or broaden its scope and application.

(d) Failure or refusal to completely disclose or provide the minimum information required by these rules shall be grounds for dismissal of the petition.

(e) Declaratory rulings shall not issue with respect to generalized grievances or matters that are currently pending before the Board or any judicial or quasi-judicial body in any proceeding, contested case, or litigation, nor may a petition for declaratory ruling be utilized as a means of collateral attack or appellate review of any final decision of the Board, or any judicial or quasi-judicial body.

(f) A declaratory ruling, if issued after argument and stated to be binding, is binding between the Board and the petitioner on the state of facts alleged, unless altered or set aside by a court.

(g) Declaratory rulings entered by the Board are subject to review in the Superior Court of Guam in the manner provided for the review of decisions in contested cases.

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(h) Guam law provides that the validity of any rule may be determined upon petition for a declaratory judgment addressed to the Superior Court of Guam, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The law further provides that the Board shall be made a party to the petition. *Provided*, however, that the declaratory judgment may be rendered by the Superior Court only after the petitioner has first requested the Board to pass upon the validity of the rule in question and the agency has either ruled adversely to the petitioner or has failed to rule within ninety (90) days.

**§ 10215. Petition for the Adoption, Repeal, or Change of Rule**

(a) Any person may petition the Board for the adoption of a new rule or for the repeal or change of any existing rule.

(b) In order to be considered, a petition for a rule change shall be in writing and contain the following minimum information:

(1) A title reflecting that the petition seeks the adoption of a new rule, or the modification or repeal of an existing rule or rules.

(2) The petitioner's name, address, and telephone number, and email address.

(3) A statement identifying all rules or statutes that may be involved should the relief sought in the petition be granted in whole or in part.

(4) A clear and concise statement or narrative as to why the new rule, or modification or repeal of an existing rule is needed, specifying:

(i) the legal authority for the proposed rule, modification or change;

(ii) the persons or class of persons it would affect and how it would affect them;

(iii) the benefits and disadvantages of the proposed rule, modification or repeal;

(iv) an economic impact statement as required by 5 GCA § 9301;

(v) any other reasons why the rule, modification, or repeal should be accepted by the Board;

(vi) the name and mailing address, email address, and telephone number of any person, firm, organization, and the identity of any class of persons known to the petitioner, who would be or could be adversely affected by the proposed rule, modification or repeal.

(5) The reason for submitting the petition, if not apparent from the face of the petition.

(6) Full disclosure of the petitioner's interest.

(7) A statement as to whether the issues presented by the petition are presently under consideration by the Board or by any judicial or quasi-judicial body in any pending proceedings, and, if so where.

(8) A certification and signature of Petitioner before a notary public or other person authorized by law to administer oaths that the information contained in the petition is true and correct to the best of petitioner's information and belief, and that the petition has not been filed for any improper purposes, or for delay or harassment.

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(c) At the next regularly scheduled Board meeting following submission of the petition for the adoption of a new rule or for the repeal or change of any existing rule, the Board shall:

(1) deny the petition, specifying the reasons therefor on the minutes of the meeting to be confirmed in writing by the Chair of the Board to the petitioner; or

(2) set the matter for hearing in accordance with the provisions of 5 GCA § 9301 within sixty (60) days of the date of the filing thereof or at the next available regularly scheduled board meeting.

**§ 10301. SCOPE OF PRACTICE OF PROFESSIONS LICENSED BY THE BOARD**

**§ 10302. Acupuncture and Oriental Medicine**

Acupuncture and Oriental Medicine is the science and art of examination and diagnosis based on Traditional Oriental Medicine, and treatment of symptoms and diseases by the insertion of needles into the respective three hundred sixty five (365) major trigger points of twelve (12) meridians, eight (8) extra trigger points of extra meridians, Ashi (regional or local) points, as well as other extra points on the human body, by piercing the skin of the body to control and regulate the flow and balance of vital energy in the body and to treat any ailment or disease of the mind, body, any wound, bodily injury or deformity. The term includes any therapy that uses manual, mechanical, thermal, electrical, or electromagnetic treatment based on the principles of Oriental Medicine to prevent or modify the perception of pain or to normalize physiological functions including pain control for the treatment of diseases or dysfunction of the Yin and Yang organic systems, and includes the application of acupuncture needles, electro-acupuncture, electro-dynamics stimulation, i.e., electro-stimulation, neuromuscular stimulation, etc., ultrasound, or diathermy devices, cold lasers, magnets, cupping, moxibustion, heat and cold therapy, i.e., heat and cold pads, heat lamp, infrared heat, etc., hydrotherapy, acupressure, Tui Na, Oriental massage, massage therapy, Chi-gong, breathing techniques, therapeutic exercise, manual traction, naturopathic techniques, and nutrition, including the incorporation of drugless substances and herbs as dietary supplements to promote health. Ordering blood and laboratory tests, x-rays or image tests to assist in making a diagnosis and monitoring a treatment plan is within the scope of practice of Acupuncture and Oriental Medicine.

**§ 10303. Audiology**

*Audiology* means the application of principles, methods and procedures for measurement, testing, evaluation, prediction, counseling, selling, instruction, habilitation or rehabilitation related to hearing aids or ear molds, including the fitting of such devices, or disorders of hearing for the purpose of evaluation, identifying preventing, rehabilitating, ameliorating or modifying such disorders and conditions in individuals.

**§ 10304. Chiropractic Medicine**

*Chiropractic* means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the

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human body, by the correction of misalignments or subluxation of the articulations and adjacent structures, more especially those of the vertebral column and pelvis, for the purpose of restoring and maintaining health. It shall include the use of all natural agencies to assist in the healing art, such as food, water, heat, cold, electricity and mechanical appliances. The use of X-ray procedures shall be limited to skeletal X-rays and shall exclude the therapeutic use of X-radiation, the use of contrast studies that introduce dyes, isotopes or similar contrast media through the skin, orally, via catheterization or retrograde into any body cavity. It shall exclude operative surgery, prescription, or use of drugs or medicine, and laboratory procedures involved in the penetration of human tissues.

**§ 10305. Clinical Psychology**

*Clinical psychology* is a subspecialty of psychology which is primarily concerned with assessing and alleviating emotional, mental and behavioral disorders in a hospital, institution or other clinical setting. The practice of clinical psychology includes:

(a) the rendering to individuals, groups, organizations or the public any psychological service involving the application of principles, methods and procedures of understanding, predicting and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions and inter-personal relationships; the methods and procedures of interviewing, counseling and psychotherapy; constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion and motivation, and of assessing public opinion;

(b) the application of said principles and methods, including, but not limited to, diagnosis, prevention and amelioration of adjustment problems, and emotional and mental disorders of individuals and groups, hypnosis, educational and vocational counseling, personnel selection and management, the evaluation and planning for effective work and learning situations, advertising and market research and the resolution of interpersonal and social conflicts; or

(c) psychotherapy by the use of learning, conditioning methods and emotional reactions, in a professional relationship, to assist a person or persons to modify feelings, attitudes and behavior which are intellectually, socially or emotionally mal-adjustive or ineffectual.

**§ 10306. Licensed Professional Counselor**

*Licensed Professional Counselors* use psychotherapeutic techniques to prevent, assess, evaluate, diagnose, develop treatment goals, plans and objectives, treat and evaluate outcomes for mental, emotional or behavioral disorders and associated distresses that interfere with mental health.

**§ 10307. Licensed Mental Health Counselor**

Licensed Mental Health Counselors are qualified to provide services to individuals, couples, families, and groups. They apply theories, principles, and methods of counseling and psychotherapy to define goals and develop plans of action aimed toward the prevention, treatment, and resolution of mental and emotional dysfunction and intra- or interpersonal difficulties. The practice of mental health counseling includes, but is not limited to, the assessment, diagnosis, and



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non-medical treatment of mental and emotional disorders, the application of psychoeducational techniques and measures aimed at the prevention of such disorders, and consultation to individuals, couples, families, groups, organizations, and communities.

**§ 10308. Marriage and Family Therapy**

(a) Marriage and Family Therapy means the rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

(b) Marriage and Family Therapists use psychotherapeutic techniques to prevent, assess, evaluate, diagnose, develop treatment goals, plans and objectives, treat and evaluate outcomes for mental, emotional or behavioral disorders and associated distresses that interfere with mental health.

(c) Marriage and Family Therapy includes, but is not limited to:

(1) assessment and diagnosis of presenting problems through inquiry, observation, evaluation, and integration of diagnostic information;

(2) designing and developing treatment plans by incorporating and integrating recognized psychotherapeutic theories, in establishing treatment goals and interventions collaboratively with clients; and

(3) implementing and evaluating the course of treatment by incorporating psychotherapeutic theories to assist individuals, couples, families and groups.

**§ 10309. Occupational Therapy**

*Occupational therapy* means the evaluation and treatment provided to people whose lives have been disrupted by physical injury, illness, developmental problems, the aging process, or psychosocial or cognitive difficulties. Treatment entails the assessment, evaluation and treatment to assist each individual to achieve or return to an independent and productive life through techniques which prevent disability, assisting the individual in recovery from illness or accident, and by promoting the development of functions which may have been impaired or delayed. The treatment provided may include, but shall not be limited to, the adaptation of the environment and the selection, design and fabrication of assistive and orthotic devices, and other technology to facilitate development and promote the acquisition of functional skills through purposeful activity.

**§ 103010. Physical Therapy**

*Physical therapy* means the utilization of scientific principles for the evaluation and treatment of any disability, injury or disease by the use of physical, chemical or mechanical means, including, but not limited to, heat, cold, air, light, sound, electricity, water, massage, therapeutic exercise and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting or alleviating dysfunction resulting from such disability, injury or disease; the performance of tests and measurements of neuromuscular function as an aid to the diagnosis or treatment of the human condition; performance of treatments on the basis of test findings;

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supervision of selective forms of treatment by trained, supportive personnel; and provisions of consultative services for health, education and community agencies, provided, however, that physical therapy shall not include the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization. Physical therapy and physical therapy services are not generic terms; they are the use of any intervention, including physical agent modalities/electrotherapy, that is provided by, or under the direction of, a licensed physical therapist.

**§ 103011. Physician Assistant.**

(a) *Physician assistant* means a Board licensed person, qualified by academic and practical training, who provides patient services under the indirect supervision of a licensed physician. A physician assistant is not an independent practitioner.

(b) *Direct Supervision of a Physician Assistant* means the opportunity or ability of the supervising physician(s) to exercise control over the services performed by the physician assistant. A supervising physician must be physically on the premises where the physician assistant is practicing, except in the case of home visits and extended care facilities when the physician must be available on island by telecommunication.

(c) *Supervising physician* means a licensed physician who is registered by the Board to supervise a specific physician assistant.

**§ 103012. Podiatric Medicine.**

*Podiatric medicine* means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot and ankle, including the tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

**§ 103013. Speech-Language Pathologist**

(a) The scope of practice for Speech-Language Pathologist includes:

(1) screening, identifying, assessing and interpreting, diagnosing, rehabilitating and preventing disorders of speech (e.g. articulation, fluency, voice,) and language;

(2) screening, identifying, assessing and interpreting, diagnosing, rehabilitating and preventing disorders of dysphagia (swallowing), and related disorders;

(3) screening, identifying, assessing and interpreting, diagnosing, and rehabilitating cognitive and communication disorders (e.g. individuals who have been diagnosed with mental deficiency, traumatic brain injury, aphasia, stroke or other neurological disorders);

(4) assessing, selecting, and developing augmentative and alternative communication systems, and providing training in their use;

(5) providing aural rehabilitation and related counseling services to hearing impaired individuals and their families;

(6) enhancing speech-language proficiency and communication effectiveness (e.g. accent reduction); and

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(7) screening of hearing and other factors for the purpose of speech-language evaluation or the initial identification of individuals with other communication disorders.

(b) A licensed Speech-Language Pathologist is professionally and legally responsible for patient/client care given by SLPA-B and SLPA-M under the Speech-Language Pathologist's supervision. If a Speech-Language Pathologist fails to adequately supervise the patient/client care by supportive personnel, as strictly provided and authorized pursuant to this Article, the Board may take disciplinary action against the licensee. Supervision of supportive personnel requires that the Licensed Speech-Language Pathologist:

- (1) assess the competence of supportive personnel to perform an assigned tasks;  
and
- (2) document sufficient in-service training and periodic evaluation of performance to assure safe performance of the tasks assigned to supportive personnel.

**§ 103014. Speech-Language Pathology Assistant**

(a) A Speech-Language Pathology Assistant (Bachelor's level) (SLPA-B) must work under the direct or indirect supervision of the supervising licensed SLP, and may only implement the therapeutic plan designed by the supervising licensed SLP in conjunction with treatment goals, and be responsible for all documentation of treatment which is co-signed by the supervising speech-language pathologist.

(b) A Speech-Language Pathology Assistant (Masters level) (SLPA-M) who does not possess a Certificate of Clinical Competence is required to work under the indirect supervision of a supervising licensed SLP, to confer with, and have all reports co-signed by the supervising licensed SLP. The Masters level Speech-Language Pathology Assistant is authorized to perform any of the following duties under the indirect supervision of a license Speech-Language Pathologist: diagnostic testing; interpreting evaluation results; documenting all evaluation results; developing written goals and objectives based upon evaluation results; teacher/parent reports; attending all informal/formal student meetings; maintaining a therapeutic and consultative case load; performing and documenting all therapeutic intervention; and designing or selecting appropriate therapy materials or augmentative or alternative communication systems or devices.

**§ 103015. Respiratory Therapy**

*Respiratory Therapy* means the treatment and the management of pulmonary diseases with medications and machines provided to patients whose condition or illness is that of breathing.

**§ 103016. Veterinary Medicine**

*Veterinary medicine* means veterinary surgery, obstetrics, dentistry means to diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental condition, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or therapeutic or diagnostic substance or technique, or the use of any manual or mechanical procedure for artificial insemination, testing for pregnancy or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above.

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**§ 103017. Nursing Home Administrator**

*Home Nursing Administration* means the leadership requirement to manage a home nursing institution.

**§ 103018. Clinical Dietitian or Nutritionist**

*Dietetics or Nutrition Practice* means the integration and application of principles derived from the sciences of food and nutrition to provide for all aspects of nutrition care for individuals and groups, including, but not limited to, nutrition services and medical nutrition care as defined in the Allied Health Practices Act. [Catherine, was there something else or different you wanted to suggest here?]

**§ 10401. PROCEDURES FOR LICENSURE**

**§ 10402. General Qualifications For Licensure**

(a) All steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation and required fees be filed simultaneously.

(b) The Board may request additional information directly from any source; however, it remains the applicant's responsibility to submit the documentation or cause to be submitted the documentation necessary to complete the application.

(c) Fees remitted to the Board are nonrefundable.

(d) Applicants shall inform the Board of any change in name or address. An applicant whose name has changed shall submit a certified copy of court order or other document evidencing the name change to the Board.

(e) Personal résumés will not be accepted in lieu of any part of the application and will not be reviewed.

**§ 10403. Application Review and Approval**

(a) Applications for licensure will be accepted throughout the year. A complete application consists of the original application, fees, and all supporting documentation.

(b) Incomplete applications – The Board retains complete discretion to determine the completeness of an application.

(c) A license will be issued only after all requirements have been met and upon approval by the Board.

(d) Failure of an applicant to timely complete all forms and to provide all information required by the Board and by the law shall be just cause for an application to be denied by the Board and for the file to be closed as set forth in these rules.

(e) An application shall be deemed abandoned and closed if the application has not been completed by the applicant on or before the 30th day from receipt of the deficiency notification.

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(f) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.

**§ 10404. Requirements Applicable to All Applicants for Licensure**

(a) All persons applying to become licensed by the Board shall provide the Board and attest to the veracity and authenticity of the following information and documentation under oath or declaration under penalty of perjury:

(1) his or her full name and all aliases or other names ever used, current address, social security number, and date and place of birth;

(2) a 2 x 2" passport style photograph taken within the preceding ninety (90) days.

(3) list of all jurisdictions, United States or foreign, in which the applicant is licensed or has ever applied for licensure to practice an allied health profession or is authorized or has applied for authorization to practice an allied health profession;

(4) list of all jurisdictions, United States or foreign, in which the applicant has been denied licensure or authorization to practice an allied health profession or has voluntarily surrendered a license or an authorization to practice an allied health profession;

(5) list of all sanctions, judgments, awards, settlements or convictions against the applicant in any jurisdiction, United States or foreign, that would constitute grounds for disciplinary action under the Allied Health Practice Act or the Board's rules and regulations;

(6) detailed educational history, including places, institutions, dates of attendance, and degree conferred or coursework toward a degree completed, beginning with secondary schooling and including all college, pre-professional, professional and professional postgraduate education;

(7) evidence of professional education, training and experience, as required by the applicant's area of discipline;

(8) detailed chronological life history, including places and dates of residence, employment and military service, United States or foreign;

(9) detailed employment history since college including the name, address, and contact information of the employer, and name of immediate supervisor;

(10) three (3) letters of recommendation from persons who have known the applicant at least three years, one of which must be a letter provided by the applicant's immediate supervisor of his or her most recent employer, or by a practice associate if the applicant is in private practice; and

(11) police clearance from the Guam Police Department if the applicant has resided on Guam for more than one (1) year; if the applicant has resided on Guam for less than one (1) year, police clearances from the applicant's most recent place of residence for the five years next preceding the date of application.

(c) It is the applicant's responsibility to request that required undergraduate and graduate degree transcripts be sent directly from the institution to the Board. Transcripts received from or

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delivered by the applicant shall not be considered. Transcripts must show the degree conferred and carry the official seal of the institution.

(d) For an applicant whose academic degree is not from an institution of higher learning accredited by a professional accrediting body in the United States or by another accrediting body recognized by the Board the burden is on the applicant to furnish satisfactory evidence that the course of instruction is equivalent to the course of instruction given by an accredited school.

(e) An applicant shall disclose the circumstances surrounding any of the following:

(1) conviction of any criminal law violation of any country, state, territory, province, or municipality, except minor traffic violations;

(2) the denial of an application for licensure by any state, province, or country;

(3) the discipline, loss, or restriction of license privileges by any state, province, or country;

(3) the discipline, loss, or sanction of privileges or membership in any professional society or association;

(4) any civil suit or settlement, including settlements made on behalf of the applicant, in which the applicant was a party including, without limitation, actions involving malpractice or claim of professional liability, breach of contract, antitrust activity, or other civil action that reflects upon the applicant's fitness to practice an allied health profession.

(f) If an applicant holds or has ever held a license to practice a profession licensed by the professional licensing board in any other state, territory, province, or country, the applicant shall cause to be submitted proof from each licensing board that demonstrates the applicant holds a license and whether it is in good standing presently or was at the time it became inactive.

(g) Whenever supervision is required as a condition of licensure, but the supervisory relationship is dependent upon employment, licensure may be granted subject to the submission of the supervisor form or other proof of the supervisory relationship to the Board no later than three (3) working days after the employment has begun. If any changes occur which affect the supervisor relationship, the changes must be reported to the Board within three (3) working days. In no event is an applicant for licensure authorized to practice before the supervisor form or other proof of the supervisory relationship is submitted to the Board.

**§ 10405. Additional Requirements for Specific Professions.**

In addition to the foregoing applicants for licensure shall provide:

(a) Audiologists must, at the time of initial application, present evidence of certification by American Speech, Language and Hearing Association ("ASHA") or its successor. Failure to maintain ASHA certification shall result in the automatic suspension of the audiologist's license.

(b) Occupational Therapists (OTs) and Occupational Therapist Assistants (OTAs) must, at the time of initial application, present evidence of certification by the American Occupational Therapy Certification Board (AOTCB) or the National Board for Certification of Occupational Therapy (NBCOT) or their respective successors. Failure to maintain certification by the AOTCB or the NBCOT or their respective successors shall result in the automatic suspension of the OT's or OTA's license.

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(c) Physical Therapists and Physical Therapy Assistants must, at the time of initial application, provide proof of membership or eligibility for membership in the American Physical Therapy Association (APTA) or its successor. Failure to maintain current membership or eligibility for membership in the APTA or its successor shall result in the automatic suspension of the Physical Therapists or Physical Therapy Assistants license.

(d) Physician Assistants must, at the time of initial application, present evidence of current certification by the National Commission on Certification of Physician Assistants, or its successor. Failure to maintain current certification by the National Commission on Certification of Physician Assistants or its successor shall result in the automatic suspension of the Physician Assistant's license.

(e) Physician Assistants and Podiatrists must also, at the time of initial application, provide proof or otherwise certify that they possess a current certificate in basic cardiopulmonary resuscitation ("CPR") or Basic Life Support ("BLS"). Failure to maintain CPR or BLS certification shall result in the automatic suspension of the Physician Assistant or Podiatrist's license.

(f) Speech-Language Pathology Assistants Bachelor and Masters Level – Supervisor Form. The SLPA-B or SLPA-M and supervisor must complete and submit the Supervisor Form provided by the Board. If any changes occur within the renewal year that affects both supervisor requirement (primary and secondary), the Supervisor Form must be revised and submitted before the SLPA-B or SLPA-M can practice. Primary Supervisor for SLP Assistants means the Guam licensed SLP who will be responsible for all worksite SLPA- B or M activities. The Secondary Supervisor will assume the Primary Supervisor responsibilities in case the Primary Supervisor is unavailable or off-island. Guam law does not currently recognize or authorize remote or off-island supervision.

(g) Licensed Professional Counselor; Licensed Mental Health Counselor; and Licensed Marriage and Family Therapist – **Proof of Certification? Supervision Form?**

### § 10406. Licensure By Endorsement

(a) The Board may issue a license by endorsement to any person who, at the time of application, holds a valid license in a profession subject to the jurisdiction of the Board from any state; *provided*, in the Board's opinion, the requirements for that original licensure are substantially equivalent to Guam's requirements.

(b) An applicant shall cause to be submitted from each state licensing Board proof from each state licensing board that demonstrates the applicant holds a license and whether it is in good standing presently or was at the time it became inactive. At least one license shall be current.

### § 10501. RENEWAL OF LICENSE

(a) Licenses expire biennially on December 31st of even numbered years, and may be renewed upon payment of a renewal fee and proof of completion of continuing education requirements as stated in these rules and regulations. The Board staff shall, no later than September 1st of each even-numbered year, mail a notice of renewal along with a renewal form to the licensee's latest address on file with the Board. Failure of the Board staff to send renewal notices and forms does not excuse the licensee from failing to file the forms, documentation, and fees

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required to renew their license. A new certificate or other evidence of current licensure may be mailed to all persons completing renewal requirements as stated herein.

(b) An individual licensed on or after October 1 of the renewal year is not required to renew or provide proof of continuing education until the following renewal term.

(c) In addition to payment of required fees and proof of continuing education, additional documentation is required of the following Allied Health professionals:

(1) Audiologists must, at the time of license renewal, present evidence of current certification by American Speech, Language and Hearing Association (“ASHA”) or its successor. Failure to maintain ASHA certification shall result in the automatic suspension of the audiologist’s license.

(2) Occupational Therapists (OTs) and Occupational Therapist Assistants (OTAs) must, at the time of license renewal, present evidence of current certification by the American Occupational Therapy Certification Board (AOTCB) or the National Board for Certification of Occupational Therapy (NBCOT) or their respective successors. Failure to maintain certification by the AOTCB or the NBCOT or their respective successors shall result in the automatic suspension of the OT’s or OTA’s license.

(3) Physical Therapists and Physical Therapy Assistants must, at the time of license renewal, provide proof of membership or eligibility for membership in the American Physical Therapy Association (APTA) or its successor. Failure to maintain current membership or eligibility for membership in the APTA or its successor shall result in the automatic suspension of the Physical Therapists or Physical Therapy Assistants license.

(4) Physician Assistants must, at the time of license renewal, present evidence of current certification by the National Commission on Certification of Physician Assistants, or its successor. Failure to maintain current certification by the National Commission on Certification of Physician Assistants or its successor shall result in the automatic suspension of the Physician Assistant’s license.

(5) Physician Assistants and Podiatrists must, at the time of license renewal, provide proof or otherwise certify that they possess a current certificate in basic cardiopulmonary resuscitation (“CPR”) or Basic Life Support (“BLS”). Failure to maintain current CPR or BLS certification shall result in the automatic suspension of the Physician Assistant or Podiatrist’s license.

(6) Speech-Language Pathologists and Speech Language Pathology Assistants.

(i) Speech-Language Pathologists must, at the time of license renewal, present evidence of current certification by American Speech, Language and Hearing Association (“ASHA”) or its successor. Failure to maintain ASHA certification shall result in the automatic suspension of the Speech-Language Pathologist’s license.

(ii) The SLPA-B or SLPA-M and supervisor will complete and submit a current Supervisor Form provided or otherwise approved by the Board upon renewal, and no later than three (3) working days upon any supervisory changes within a license renewal year. If any changes occur within the renewal year that affects both supervisor requirement (primary or secondary) the Supervisor Form must be revised and submitted before the SLP-A B or SLPA-M can practice.



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(iii) Exceptions to Licensure - All SLP's who are beginning their 9-12 month ASHA Clinical Fellowship Year (CFY) are exempted from licensure. CFY candidates shall submit a completed GBAHE Clinical Fellowship Year Supervisory Form, signed by the Guam-licensed SLP who will be supervising the CFY candidate according ASHA requirements. When the CFY year has been successfully completed, the candidate must then apply for licensure before they may be authorized to practice. If the SLP CFY candidate does not successfully complete ASHA's CFY requirements, the individual must apply for licensure under the SLP-Assistant -Master level license before they are permitted to practice.

(7) Licensed Professional Counselor; Licensed Mental Health Counselor; and Licensed Marriage and Family Therapist – Proof of Certification? Supervision Form?

(8) Clinical Dietitians must, at time of license renewal, provide evidence of current registration by the Commission on Dietetic Registration, the credentialing agency of the Academy of Nutrition and Dietetics.

(d) Continuing education credit hour requirements may be prorated for licenses issued less than two (2) years prior to the renewal period.

(e) A licensee who is unable to complete the requirements minimum hours of continuing education during a two (2) year period shall be ineligible for renewal of his or her license, unless in the judgment of the Board the licensee demonstrates good cause and obtains a waiver.

(f) Renewal fees shall be waived upon submission of proof that a licensee has been called to active duty outside of Guam with any branch of the United States armed services, not to exceed four (4) years or the duration of a national emergency, whichever is longer.

**§ 10601. REINSTATEMENT OF EXPIRED LICENSE**

(a) Expired licenses may be renewed within four (4) years of the date of expiration upon meeting the following conditions:

- (1) Payment of all past due fees;
- (2) Payment of the late renewal fee(s); and
- (3) Documentation of satisfaction of the continuing education requirements for the period of time the license was expired.

(b) A license that is expired beyond four (4) years requires the submission of a new application for a license, including supporting documentation.

**§ 10701. CONTINUING EDUCATION**

(a) Minimum continuing education requirements. In order to qualify for renewal of a license, a minimum of thirty (30) credit hours of continuing education must be earned during each two (2) year licensure period, at least twenty (20) of which must be directly related to the licensee's specific area of practice, except as follows:

- (1) For Podiatrist and Physician Assistants, fifty (50) credit hours of continuing education, of which a minimum of thirty (30) credit hours must be directly related to the licensee's profession within each two (2) year licensure period;

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(2) For Clinical Psychologist, Licensed Professional Counselor, Licensed Mental Health Counselor, and Marriage and Family Therapist, forty (40) contact (credit) hours directly related to the practice of Clinical Psychology, Professional Counseling, Mental Health Counseling, or Marriage and Family Therapy within each two (2) year licensure period;

(3) For Speech-Language Pathology:

(A) For Speech-Language Pathologists, a minimum of thirty (30) credit hours, a minimum of twenty (20) of which must be directly related to the practice of speech language pathology.

(B) For Bachelor's Level Speech-Language Pathology Assistants (SLPA-B), a minimum of fifteen (15) hours must be directly related to speech language pathology.

(C) For Masters Level Speech-Language Pathology Assistants (SLPA-M), a minimum of twenty (20) hours continuing education hours, fifteen (15) of which must be directly related to speech language pathology and five (5) of which may be indirectly related to speech-language pathology.

(4) For Clinical Psychologists authorized to prescribe a minimum of twenty (20) credit hours in psychopharmacology in addition to the minimum forty (40) continuing education credit hours within each two (2) year licensure period.

(b) Professional Ethics. At least two (2) of the directly related, contact, or clock hours must pertain to professional ethics.

(c) Clock hour defined. A clock hour, credit hour, or contact hour is defined as fifty-five (55) minutes spent in a continuing education activity. CEUs shall be reported in terms of credit hours.

(d) Licenses issued less than three years before renewal period. Continuing education credit hours requirement may be prorated for licenses issued less than two (2) years prior to the renewal period. Individuals licensed on or after October 1 of the renewal year are not required to provide proof of continuing education until the following renewal term.

(e) Carry-Over. Credit hours acquired in excess of the licensee's reporting period's requirement may be carried forward from one reporting period to the next, provided that a licensee may carry forward no more than one-half (1/2) of the required credit hours, only one of which, if earned in professional ethics, may be counted toward satisfying the two (2) hours professional ethics requirement. Hours in excess of one-half (1/2) of the minimum requirements per reporting period may not be carried forward.

**§ 10702. Acceptable Continuing Education**

(a) Acceptable continuing education may include:

(1) Attendance at conferences and educational events sponsored by national, state, regional, or local professional associations in the field or events directly related to the practice of the licensee's profession for no more than one (1) credit hour for each hour of conference or educational event attended.

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(2) Online live or prerecorded presentations prepared by a professional association or educational institution and approved by the Board shall be calculated as one (1) credit hour for every hour viewed or listened to, limited to ten (10) credit hours;

(3) Cross-disciplinary offerings from medicine, law, administration, education, and the behavioral sciences may be accepted if they are demonstrably related to the provision of treatment or patient services not otherwise directly related to the licensee's profession, discipline, and scope of practice;

(4) In-service training provided by the licensee's employer using presenters from the staff or from outside agencies. Providers seeking approval for continuing education credit for persons attending in-service training shall provide the syllabus and handout materials for the in-service training to the Board.

(5) Credit for college or university coursework toward the next level degree in the field, i.e., from bachelors to masters, masters to doctorate?

(b) Teaching or Lecturing. Licensees who teach academic courses or deliver lectures on subjects directly related to their profession or to professional ethics in general, whether to other licensed professionals in their profession, or to members of the general public, may be given one credit hour spent in preparation per hour teaching or lecturing, limited to a total of no more than five (5) credit hours each for non-professional audience, ten (10) credit hours each for professional audience in a two year renewal period. Licensees who seek credit for teaching or lecturing shall submit, with the required certification of attendance form, the course syllabus, lecture outline, or statement describing the subject matter and handout materials. If the program does not cover a readily recognized topic applicable to the licensee's profession, the licensee must attach a statement of how the course relates to his or her profession or area of practice. Once credit has been given for teaching a course or delivering a lecture, no further credit shall be given for a subsequent delivery of the same material to a different audience.

(c) Preparation for the first time of a professional paper published in a recognized professional journal, no more than ten (10) credit hours.

(d) The following shall not be approved:

(1) activities that may be characterized as dealing primarily with personal self-improvement unrelated to professional competence;

(2) activities primarily intended to sell services or equipment; or

(3) repeat live, video, audio, or other electronically communicated courses for which the licensee has already obtained continuing education credit in the same or a prior reporting year.

(e) The term "directly related" refers to subject matter within the licensee's defined scope of practice.

(f) The term "indirectly related" refers to health care and health professions generally, but are subjects not within the licensee's defined scope of practice.

(g) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement for the year in which the reactivation or reinstatement is being sought.

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(h) The Board retains sole discretion to audit claimed continuing education credits and to require licensees to provide receipts, proof of attendance, certifications, or other evidence of participation for credit hours claimed.

**§ 10801. FEES**

(a) The Guam Board of Allied Health Examiners' fees are as follows:

	<b>Initial Application</b>	<b>Biennial Renewal</b>
Acupuncture and Oriental Medicine.....	\$350.00	\$250.00
Audiology.....	\$250.00	\$200.00
Chiropractic Medicine.....	\$350.00	\$250.00
Clinical Psychology.....	\$350.00	\$250.00
Licensed Professional Counselor.....	\$250.00	\$200.00
Licensed Professional Counselor Intern.....	\$200.00	\$150.00
Licensed Mental Health Counselor.....	\$300.00	\$250.00
Licensed Mental Health Counselor Intern.....	\$200.00	\$150.00
Marriage and Family Therapist.....	\$300.00	\$250.00
Marriage and Family Therapist Intern.....	\$200.00	\$150.00
Occupational Therapy.....	\$250.00	\$200.00
Occupational Therapy Assistant.....	\$200.00	\$100.00
Physician Assistant.....	\$350.00	\$250.00
Physical Therapy.....	\$300.00	\$250.00
Physical Therapy Assistant.....	\$200.00	\$100.00
Podiatric Medicine.....	\$350.00	\$250.00
Speech-Language Pathologist.....	\$300.00	\$250.00
Speech-Language Assistant.....	\$200.00	\$150.00
Respiratory Therapist.....	\$250.00	\$200.00
Certified Respiratory Therapist.....	\$200.00	\$100.00
Veterinary Medicine.....	\$350.00	\$250.00
Nursing Home Administrator.....	\$250.00	\$200.00
Nutritionist.....	\$300.00	\$250.00
Clinical Dietician.....	\$200.00	\$100.00
Euthanasia Technician (annual).....	\$100.00	\$150.00

**Late Renewal Penalty**

Late up to one year.....	\$100.00
Late one year and a day to two years.....	\$200.00
Late two years and a day to three years.....	\$300.00
Late three years and a day to four years.....	\$400.00

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<b>Collaborative Practice Agreement for Prescriptive Authority</b>	
(Original).....	\$100.00
(Change of Collaborating Physician or Terms).....	\$100.00
<b>Name Change Certificate Request.....</b>	<b>\$ 75.00</b>
<b>Replacement (Lost) Identification Card.....</b>	<b>\$ 25.00</b>
<b>Reinstatement of Suspended License.....</b>	<b>\$300.00</b>
<b>Petition for Reinstatement of Revoked License.....</b>	<b>\$500.00</b>
<b>Verification of Guam License (Certificate of Good Standing)....</b>	<b>\$ 25.00</b>
<b>Returned Check Fee.....</b>	<b>\$ 25.00</b>

(b) All fees paid to the Board are not refundable.

(c) A license which is issued by the Board, but for which a check is returned (for example, insufficient funds, account closed, or payment stopped) is invalid. A license will be considered automatically suspended and the licensee in violation of Board rules until the Board receives and processes the renewal fee and returned check fee.

**§ 10901. DENIAL OF INITIAL LICENSE APPLICATION OR REFUSAL TO RENEW**

**§ 10902. Denial of Initial Application or Refusal to Renew – Statement of Issues**

An individual whose application for a license, privilege, or right has been denied or renewal refused shall be notified of the denial or refusal by the filing of a statement of issues. The statement of issues shall be a written statement specifying the statutes and regulations with which the respondent must show compliance by producing proof at the hearing, and in addition, any particular matters which have come to the attention of the Board and which would authorize a denial of grant or renewal of the license, privilege, or right. The statement of issues shall be verified which may be on information and belief.

**§ 10903. Service**

Service of the statement of issues shall be by certified mail, return receipt requested, addressed to the address submitted in the application for licensure or renewal of license, or by leaving a copy of the statement of issues and accompanying papers at his usual place of residence, or at his place of business, with some person of suitable age and discretion residing or working therein. If the applicant is off-island and service has not been perfected by other means then, after a reasonable time not to exceed more than thirty (30) days past mailing of the certified mail, if the applicant has not been served service shall be by first class mail addressed to the address submitted in the application for licensure or renewal of license. Service shall be presumed perfected five business days after mailing. It is the applicant or licensee's responsibility to notify the Board of any changes in address or contact information.

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**§ 10904. Response and Request for Hearing**

An applicant whose application has been denied or whose request for renewal has been refused and who desires to contest the denial or refusal shall file a response to the statement of issues and may request a hearing within fifteen (15) days of service. Failure to request a hearing will constitute a waiver of the right to a hearing.

**§ 10905. Practice Pending Final Determination**

An applicant whose initial application for licensure has been denied is not authorized to practice. Unless otherwise stated in the statement of issues, an applicant seeking renewal of an existing license may continue to practice pending the final determination of the Board.

**§ 10906. Hearing Procedures**

The hearing, if requested, shall be governed by the procedures governing Hearing Procedures for Disciplinary Complaints as provided in these rules.

**§ 101001. PRESCRIPTIVE AUTHORITY**

**§ 101002. Eligibility for Prescriptive Authority**

Any licensed Allied Health professional eligible by law to prescribe drugs and medications shall be eligible for prescriptive authority pursuant to Title 10 GCA § 12827 if the licensee submits to the Guam Board of Allied Health Examiners:

(a) For Clinical Psychologists, proof of completion of a nationally and professional recognized curriculum in the area of neuroscience, pharmacology, psychopharmacology, physiology, pathophysiology, appropriate and relevant physical and laboratory assessments, and clinical pharmacotherapeutics. Official transcripts shall be sent directly to the Board from the educational institution.

(b) Proof of passing a certifying examination in psychopharmacology developed by a nationally recognized body recognized by the Board.

(c) If required by law, a Collaborative Practice Agreement (CPA) executed by the Allied Health professional and a physician licensed on Guam in a form approved by the Board that includes at a minimum:

(1) A scope of practice.

(2) A list of psychotropic drugs the Allied Health professional is competent to prescribe and that may be routinely ordered and prescribed within his scope of practice.

(d) A valid Federal Drug Enforcement Administration (DEA) certificate.

(e) A current Guam Controlled Substances Registration Certificate from the Controlled Substances Program, Division of Environment Health, Department of Public Health and Social Services.

(f) When required by law before being authorized to prescribe, Allied Health professionals must obtain approval from the Guam Board of Allied Health Examiners (GBAHE) and the Guam Board of Medical Examiners (GBME). After an Allied Health professional receives authorization to prescribe the Board shall provide notice to the Guam Board of Examiners for Pharmacy (GBEP).

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(g) Revocation, expiration, or termination of a DEA Certificate or a Guam Controlled Substances Registration Certificate automatically terminates prescriptive authority.

**§ 101003. Termination of Collaborative Practice Agreement**

An Allied Health professional eligible by law to prescribe and who is required to have a Collaborative Practice Agreement (CPA) with a physician shall immediately inform the Board, GBME, and GBEP in writing of the termination or change of status of his or her CPA. Termination of a CPA immediately terminates prescriptive authority.

**§ 101004. Prescription Pads**

An Allied Health professional shall use prescription pads that are imprinted and display his or her name, professional address, telephone number, cellphone number, DEA number, and Guam Controlled Substances Registration Number.

**§ 101005. Revocation of Prescriptive Authority**

The Board may revoke an Allied Health professional's prescriptive authority for any violation of the Allied Health Practice Act and its rules and regulations or for exceeding his authority under his or her CPA.

**§ 101006. Renewal**

An Allied Health professional shall renew his or her Prescriptive Authority every two years at the same time he or she renews his or her license.

**§ 101101. CODES OF PROFESSIONAL CONDUCT / ETHICS**

(a) All licensees, registrants, and certificate holders shall comply with the following Codes of Professional Conduct:

(1) **OCCUPATIONAL THERAPY.** In the case of Occupational Therapists and Occupational Therapist Assistants licensed by the Board as provided in Articles 7 and 14 of Chapter 12, Title 10, the Code of Professional Conduct shall be the American Occupational Therapy Association (AOTA) Occupational Therapy Code of Ethics (2015), as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Occupational Therapists and Occupational Therapist Assistants and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the AOTA Occupational Therapy Code of Ethics (2015) and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(2) **ACUPUNCTURE AND ORIENTAL MEDICINE.** The Code of Professional Conduct for persons licensed to practice Acupuncture and Oriental Medicine shall be the National Certification Commission for Acupuncture and Oriental Medicine Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto.

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These Rules shall be known as the Code of Professional Conduct for the Practice of Acupuncture and Oriental Medicine and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the National Certification Commission for Acupuncture and Oriental Medicine Code of Ethics and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(3) **AUDIOLOGY.** The Code of Professional Conduct for Audiologists licensed by the Board shall be the Code of Ethics published by the American Speech-Language-Hearing Association (2016), as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Audiologist and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for the Practice of Audiology and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(4) **CHIROPRACTIC MEDICINE.** The Code of Professional Conduct for Chiropractors licensed by the Board shall be the American Chiropractic Association Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Chiropractors and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Chiropractors and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(5) **CLINICAL PSYCHOLOGY.** The Codes of Professional Conduct for Clinical Psychologists licensed by the Board shall be the Association of State and Provincial Psychology Boards (ASPPB) Code of Conduct (2018) *and* the American Psychological Association (APA) Ethical Principles of Psychologists and Code of Conduct (2017) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Codes of Professional Conduct for Clinical Psychologists and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Codes of Professional Conduct for Clinical Psychologist and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(6) **LICENSED PROFESSIONAL COUNSELING.** The Code of Professional Conduct for Licensed Professional Counselors licensed by the Board shall be the American Counseling Association Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Licensed Professional Counselors and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Licensed Professional Counselors and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(7) **LICENSED MENTAL HEALTH COUNSELING.** The Code of Professional Conduct for Licensed Mental Health Counselors licensed by the Board shall be the



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American Mental Health Counselors Association (AMHCA) Code of Ethics (Oct. 2015), as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Licensed Mental Health Counselors and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Licensed Mental Health Counselors and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(8) **MARRIAGE AND FAMILY THERAPY.** The Code of Professional Conduct for Marriage and Family Therapists licensed by the Board shall be the American Association of Marriage and Family Therapy (AAMFT) Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Marriage and Family Therapists and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Marriage and Family Therapists and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(9) **PHYSICAL THERAPY.** The Code of Professional Conduct for Physical Therapists licensed by the Board shall be the American Physical Therapy Association (APTA) Code of Ethics for the Physical Therapist; and the APTA Guide for Professional Conduct, as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. The Code of Professional Conduct for Physical Therapist Assistants licensed by the Board shall be the APTA Guide for Conduct of the Physical Therapist Assistant (PTA); and the APTA Standards of Ethical Conduct for the Physical Therapist Assistant, as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Physical Therapists and Physical Therapist Assistant, and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Physical Therapists and Physical Therapist Assistant, and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(10) **PHYSICIAN ASSISTANTS.** The Codes of Professional Conduct for Physician Assistants licensed by the Board shall be the National Commission on Certification of Physician Assistants (NCCPA) Code of Conduct for Certified and Certifying Physician Assistants (PAs) and PAs with the PA-C Emeritus Designation (last revised November 2019), to include the NCCPA Policies and Procedures for PA Disciplinary Matters (last revised August 2019) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto; and the Guidelines for Ethical Conduct for the Physician Assistant Profession (2013) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Codes of Professional Conduct for Physician Assistants and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Codes of Professional Conduct for Physician Assistants and any statute enacted by the Guam

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Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(11) **PODIATRY.** The Code of Professional Conduct for Podiatrists licensed by the Board shall be the American Podiatric Medical Association – Code of Ethics (2013) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Podiatrist and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Podiatrist and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(12) **SPEECH-LANGUAGE PATHOLOGY.** The Code of Professional Conduct for Speech-Language Pathologists and Speech-Language Pathology Assistants licensed by the Board shall be the American Speech-Language-Hearing Association (ASHA) Code of Ethics (2016) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Speech-Language Pathologists and Speech-Language Pathology Assistants and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(13) **VETERINARY MEDICINE.** The Code of Professional Conduct for Veterinarians licensed by the Board shall be the American Veterinary Medical Association Principles of Veterinary Medical Ethics (PVME) as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Veterinarians and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Veterinarians and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(14) **RESPIRATORY THERAPY.** The Code of Professional Conduct for Respiratory Therapists licensed by the Board shall be the American Association for Respiratory Care (AARC) Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Respiratory Therapy and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the American Association for Respiratory Care Code of Ethics and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(15) **NUTRITION AND DIETETICS.** The Code of Professional Conduct for Nutritionists and Clinical Dietitians licensed by the Board shall be the Academy of Nutrition and Dietetics Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Nutritionists and Clinical Dietitians and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict

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between the Code of Professional Conduct for Nutritionists and Clinical Dieticians and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(16) **NURSING HOME ADMINISTRATORS.** The Code of Professional Conduct for Nursing Home Administrators licensed by the Board shall be the American College of Health Care Administrators (ACHCA) Code of Ethics and the National Association for Home Care & Hospice (NAHC) Code of Ethics as adopted as of the effective dates of these rules, and any revisions made hereafter thereto. These Rules shall be known as the Code of Professional Conduct for Nursing Home Administrators and by reference thereto shall have the full force and effect of a regulation of the Board. In the event of a conflict between the Code of Professional Conduct for Nursing Home Administrators and any statute enacted by the Guam Legislature or any rule promulgated by this Board the more recent in time statute or rule shall control.

(b) Each applicant or licensee, registrant, or certificate holder is responsible for being familiar with and complying with the Code of Professional Conduct and Ethics of that individual's profession.

(c) Unethical conduct includes, but is not limited to, the following:

(1) Knowingly circulating untrue, fraudulent, misleading or deceptive advertising.

(2) Engaging in sexual activities with clients.

(3) Addiction to the habitual use of intoxicating liquors, narcotics, or other stimulants to such an extent as to incapacitate him from the performance of his professional obligations and duties.

(4) Failure of a licensee to inform clients fully about the limits of confidentiality in a given situation, the purposes – for which information is obtained, and how it may be used.

(5) Denial of a patient or client's reasonable request for access to any records concerning the patient or client. When providing patients or clients with access to records, the licensee shall take due care to protect the confidences of others contained in those records.

(6) Failure to obtain informed consent of patients or clients before taping, recording, or permitting third party observation of their activities.

(7) Failure to clarify the nature and directions of a licensee's loyalties and responsibilities and keep all parties informed of their commitments when a conflict of interest exists between a patient or client and the licensee's employing institution.

(8) Failure to fully inform consumers as to the purpose and nature of an evaluation, research, treatment, educational or training procedure, and freely acknowledging that patients', clients', students, or participants in research have freedom of choice with regard to participation.

(9) Failure to attempt to terminate a clinical or consulting relationship when it is reasonably clear that the relationship is not benefiting the consumer, patient, or client. Licensees who find that their services are being used by employers in a way that is not beneficial to the participants or to employees who may be affected, or to significant others, have the responsibility to make their observations known to the responsible persons and to propose modification or termination of the engagement.

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(10) Failure to make every effort to avoid dual relationships with patients or clients and/or relationships which might impair independent professional judgment or increase the risk of client exploitation.

(11) Failure to assist patient or clients in finding needed services by making appropriate referrals in those instances where payment of the usual fee would be a hardship.

(12) Failure to terminate service to patients or clients and professional relationships with them, when such service and relationships are no longer required. The licensee who anticipates the termination or interruption of service to patients or clients shall notify patients or clients promptly and seek the transfer, referral, or continuation of service in relation to the patients' or clients' needs and preferences.

(13) Setting fees that are unreasonable and not commensurate with the service performed.

(14) Engaging in the division of fees or agreeing to split or divide the fee received for professional services with any person for bringing or referring a patient or client.

(15) Veterinary liens for nonpayment of fees.

(A) A veterinarian who has provided services for the medical treatment or boarding of any animal considered a household pet such as a dog, cat, bird, rodent (including a rabbit), fish, snake, lizard, or turtle, that is traditionally kept for pleasure rather than for commercial purposes, may not refuse to return the animal to the owner merely because the owner is unwilling or unable to pay for the medical services rendered. The veterinarian's remedy for nonpayment is in the superior court before a judicial officer, not in holding an animal hostage.

(B) The release of the animal under these circumstances does not constitute a waiver by the licensee of the fee claimed.

(C) This rule does not apply to agricultural animals used for commercial purposes in the nature of horses, cattle, caribou, goats, pigs, and chickens.

**§ 101201. DISCIPLINARY PROCESS**

The Guam Board of Allied Health Examiners may revoke, suspend, condition, or limit in any manner any license, for any violation of the Allied Health Practice Act; or Code of Professional Conduct/Ethics applicable to the licensee's profession.

**§ 101202. Complaint Procedure**

(a) Proceedings to revoke, suspend, condition, or limit in any manner any license, or to fine any exempt government employee, may be initiated by the Board when it has reason to believe a licensee has committed a violation of the Allied Health Practice Act or the Rules, or by any person upon filing of a complaint.

(b) When the complaint is initiated by any person other than the Board, the complaint must contain:

(1) Name, address, telephone number, email address and any other contact information of the complaining party;

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(2) the name and address, if known, of any licensed or certified licensee or exempt government employee against whom the complaint has been filed;

(3) A plain and concise statement of the facts which indicate grounds for establishing that the individual licensed licensee has violated any provision of the Guam Allied Health Practice Act; or the Standards of Practice / Code of Conduct established by Guam law or in these Rules applicable to the licensee. Citation to specific laws or rules is not required.

(4) The proposed or desired outcome, if known.

(5) The signature and verification of the complainant either by sworn declaration before a person authorized by law to swear witnesses or by unsworn declaration made under penalty of perjury.

(c) As a general rule, anonymous complaints will not be considered.

**§ 101203. Disciplinary Investigative Committee**

(a) If a complaint is filed against a licensee or exempt employee, or the Board determines from other information that an investigation may be necessary, then, depending upon the availability of resources and subject to modification by the Board as may be required by the circumstances, the Board shall proceed as follows:

(1) The complaint or other information received will be reviewed by a Disciplinary Investigative Committee designated by the Board Chair, and in the absence or disqualification of the Board Chair, by the Vice-Chair of the Board. The Disciplinary Investigative Committee will consist of:

(A) One member of the Board who shall be selected on a rotating basis provided that if the complaint is first made to a Board member, then it shall be referred to that Board member; and

(B) The attorney for the Board.

(2) In addition to or in lieu of a board member, the Board may also employ investigators or utilize the services of volunteers to assist in the investigation of a disciplinary complaint.

(b) In the event a complaint is filed against a board member, that board member shall be walled off from any investigative committee and its files.

(c) If the Disciplinary Investigative Committee finds probable cause to believe a licensee has violated a statute or rule enforceable by the Board, any board member who participated on the Committee investigating shall not sit as a member of the Board to consider the merits at any disciplinary hearing on the same case.

**§ 101204. Informal Disposition Prior to Initiating Formal Action**

(a) If the Investigative Committee determines that a complaint or other information received by the Board may constitute a violation of the Allied Health Practice Act or these rules, the Investigative Committee's designee may without prejudice to initiating formal action, take such action as is deemed necessary to informally contact the licensee, any complainant, or any other party or parties, in an effort to resolve or informally settle any dispute. Such action may

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include, and not be limited to, settlement agreements and/or releases between the licensee, the Board, and/or other parties that sets out the terms of any resolution and settlement of the alleged violation. Informal disposition of disciplinary complaints are considered to be matters of public record.

(b) Informal Conference. The law authorizes the Board, at its discretion, to meet in informal conference in executive session outside the presence of the public with an accused licensee who seeks or agrees to such a conference. In no event shall license revocation and suspension should be dealt with in executive session but shall be conducted in an open hearing. The holding of an informal conference does not preclude an open hearing if the Board determines such is necessary or otherwise appropriate and in the public interest.

(c) Any disciplinary action agreed to in writing by the Board and the accused licensee is binding and is a matter of public record.

(d) If an informal settlement of any alleged violations of the statutes or rules enforceable by the Board cannot be reached, the Board may proceed to take formal action to determine whether probable cause exists for the issuance of a summons and Accusation or Statement of Issues by the Board.

**§ 101205. Deferred Action – Impaired Practitioner**

(a) The Board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice the licensee's profession and to enter an approved treatment and monitoring program. This Section shall not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act or an offense relating to a controlled substance in a court of law of the United States or any other state, territory, or country, or a conviction related to sexual misconduct.

(b) Failure to enter such agreement or to comply with the terms and make satisfactory progress in the treatment and monitoring program shall disqualify the licensee from the provisions of this Section, and the Board may activate an immediate investigation and disciplinary proceeding. Upon completion of the rehabilitation program in accordance with the agreement signed by the Board, the licensee may apply for permission to resume the practice of the licensee's profession upon such conditions as the Board determines necessary.

**§ 101206. Disciplinary Complaint (Accusation) and Notice of Defense**

(a) Preparation. If the Investigative Disciplinary Committee determines that probable cause exists for the filing of an Accusation or Statement of Issues ("Complaint"), legal counsel for the Board shall prepare the Complaint.

(b) Contents. The Complaint is a written statement of charges which sets forth in ordinary and concise language the acts or omissions with which the respondent is charged and the statutes, rules and regulations that the respondent is alleged to have violated.

(c) Verification. Unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held, the accusation and statement of issues shall be verified. The verification may be on information and belief.

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(d) Service. The Complaint must be served personally or by registered mail addressed to respondent at the latest address on file with the Board or by leaving a copy of the Complaint and Notice of Defense form and accompanying papers at respondent's usual place of residence or place of business, with some person of suitable age and discretion residing or working therein.

(e) Notice of Defense. The respondent shall within fifteen (15) days of service of the Complaint file with the Board and serve counsel for the Board its "Notice of Defense," admitting or denying the allegations and charges set forth therein. Failure to file a Notice of Defense within the time permitted by this rule without good cause shall be construed as a waiver of the right to a hearing and as an admission that the factual averments contained in the complaint are true.

**§ 101207. Emergency Action – Summary Suspension / Automatic Suspension**

(a) Summary Suspension. The Board is authorized to summarily suspend the license of a licensee without a hearing if:

(1) The Board finds that there is probable cause to believe that the licensee has violated a statute or rule that the Board is empowered to enforce and continued practice by the licensee would create imminent and serious risk of harm to others; or

(2) The licensee fails to obtain a Board ordered evaluation.

(b) The suspension shall remain in effect until the Board issues a stay of suspension or a final order in the matter after a hearing or as otherwise may be agreed between the Board and licensee.

(c) A respondent affected by a summary suspension shall be provided the opportunity to request a prompt adjudicative proceeding.

(1) The Notice of Defense form for requesting an adjudicative proceeding shall include the option of requesting a prompt adjudicative proceeding.

(2) A respondent affected by a summary action may request a prompt adjudicative proceeding, may elect a regularly scheduled adjudicative proceeding instead of a prompt adjudicative proceeding, or may waive the opportunity for adjudicative proceeding.

(3) Any request for a prompt adjudicative proceeding must be filed within fourteen (14) days of the service of the summary suspension.

(4) If requested by the respondent, a prompt adjudicative proceeding shall begin no later than twenty-one (21) days after receipt of the request or as otherwise may be agreed between the licensee and the Board.

(5) Regardless whether a prompt adjudicative proceeding is requested, the matter should be resolved as quickly as feasible in accordance with all other applicable rules.

(d) Automatic Suspension.

(1) Unless the Board orders otherwise, a license issued by the Board is automatically suspended if:

(A) A guardian of a licensee is appointed by order of competent jurisdiction;

(B) The licensee is committed by order of a court of competent jurisdiction;

or

(C) The licensee is determined to be mentally incompetent, mentally ill, chemically dependent or a person dangerous to the public by a court of competent jurisdiction within or without this jurisdiction.

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(2) A license that is automatically suspended remains suspended until the licensee is restored to capacity by a court of competent jurisdiction. Thereafter the licensee may petition the Board for reinstatement. The Board may terminate the suspension after a hearing or upon agreement between the Board and the licensee.

**§ 101208. Hearing Procedures Generally**

(a) Notice of Hearing. The Board shall deliver or mail a notice of hearing to the licensee at the last address on file with the Board at least ten (10) days prior to the hearing. The hearing shall not be prior to the expiration of the time within which the respondent is entitled to file a notice of defense. The notice to respondent shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before the Guam of Allied Health Examiners at (here insert place of hearing) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_, upon the charges made in the accusation or the statement of issues served upon you. You may be present at the hearing, may be but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to (here insert appropriate office of agency).

(b) Hearing Open to Public. Unless otherwise authorized by law, and except when necessary to protect the privacy of patients, clients, victims, and the confidences of minors, the hearing is open to the public.

(c) Counsel. A party may be represented by legal counsel at his or her own expense.

(d) Quorum. A quorum for purposes of these rules consists of a majority of the current members of the Board.

(e) Subpoena Authority. The Board is empowered by law to issue subpoenas to bring before it any person, and to issue subpoenas duces tecum to compel the production of documents and other tangible evidence, and to take testimony either orally or by deposition, or both, in the same manner as prescribed in civil cases in the courts of the Territory of Guam. Any member of the Board, investigating officer, hearing officer, or administrative law judge shall have the power to administer oaths to witnesses at any investigation, inquiry, or hearing which the Board is authorized to conduct.

**§ 101209. Hearing Officers**

(a) Hearing Officer. In all formal disciplinary hearings or contested cases, the Board shall appoint an attorney to serve as hearing officer who shall preside at the hearing and rule on questions of evidence and procedure. The hearing officer has the authority to:

(1) establish a date, time, and place for the hearing, and to continue or adjourn the hearing from time to time;



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(2) maintain order including when necessary the power to eject from the proceedings or otherwise condition the attendance of any person who may be causing a disruption that interfere with the orderly progress of the proceedings;

(3) make a record of the proceedings;

(4) establish reasonable time limits for the conduct of the proceedings;

(5) rule on the admissibility of evidence;

(6) hold a prehearing conference to clarify and if possible resolve or narrow the matters in dispute; establish the order of presentation; allow and establish time limits for the exchange of exhibits and names of witnesses; and for other purposes;

(7) issue subpoenas and subpoenas duces tecum, subject to the prepayment by the requesting party of reasonable costs of issuance of the subpoenas as may be set from time to time by the Judiciary of Guam; and

(8) enter any order on any other matter which will effectuate the conduct of the hearing and promote the administration of justice.

(b) A case may be heard by the Board with a hearing officer or, in the discretion of the Board, by the hearing officer alone. When the Board hears the case with a hearing officer, the hearing officer shall preside, rule on the admission and exclusion of evidence, and advise the Board on matters of law; the Board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the hearing officer. When the hearing officer hears a case alone he shall exercise all powers relating to the conduct of the hearing.

(c) If a contested case is heard before the Board, the hearing officer who presided at the hearing shall be present during the consideration of the case and if requested, shall assist and advise the Board. Where a contested case is heard before the Board, any member who did not hear the evidence in person may not participate in the decision unless the Board member certifies that he or she has reviewed the audio or video recording of the missed proceedings and has examined whatever documents and other things have been admitted into evidence.

**§ 101210. Discovery**

(a) Depositions of Witnesses Who are Unable or Who Cannot be Compelled to Attend Formal Hearing. Any party that desires to take a deposition of a witness who is unable or who cannot be compelled to attend a formal hearing shall comply with the procedures set forth at 5 GCA § 9218.

(b) Other Discovery by Agreement. Upon written application to the hearing officer, and only by mutual agreement, the parties may obtain other discovery from one another regarding any matter not privileged which is relevant to the subject matter of the Complaint, whether it relates to the charge of the Board or the defense of the respondent, in which case the following discovery may be permitted:

(1) Interrogatories to the complaining witness(es);

(2) Interrogatories to the respondent;

(3) An order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person;

(4) Discovery as may otherwise be agreed upon between the parties.

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(c) The hearing officer may impose such terms and conditions upon discovery as are just in order to protect a person from annoyance, embarrassment, oppression or undue burden or expense, including ordering the prepayment of costs and expenses as a condition of allowing discovery.

**§ 101211. Disqualification of Hearing Officer or Board Member**

(a) A Hearing Officer or Board member shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Where the request concerns a Board member, the Board shall determine the issue if it hears the case with the hearing officer, otherwise the hearing officer shall determine the issue. If the disqualification would prevent the existence of a quorum qualified to act in the particular case, a Board member shall not withdraw voluntarily or be subject to disqualification.

(b) Mere allegations of impartiality or a party's unilateral perceptions of bias are insufficient. The "appearance of impropriety" standard applicable to judges is insufficient to disqualify a Board member or Hearing Officer. In order to prove that a Board member or Hearing Officer is biased, there must be a concrete showing that actual bias exists such as where a Board member hearing the case or a Hearing Officer presiding over the case has a pecuniary interest in the outcome of the proceedings.

(c) Any party may request the disqualification of a Hearing Officer or Board member by filing an affidavit prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. A party to a formal action or contested case or respondent in a disciplinary action who intends to assert bias or conflict on the part of a Hearing Officer or Board member must do so by filing, at least seven (7) days before the scheduled hearing and received in the offices of the Board, an affidavit and suggestion of disqualification together with the underlying factual basis for the assertion. In the absence of proof of actual bias or prejudice demonstrated during the course of the proceedings, the failure to timely file an affidavit and suggestion of disqualification shall be deemed a waiver of such grounds as error in any appeal.

**§ 101212. Conduct of Hearings**

(a) Opening Statement. Each side may make a short opening statement.

(b) Presentation of Evidence. The Investigative Committee for the Board shall present its evidence, followed by the respondent, followed by rebuttal by the Investigative Committee.

(c) Witnesses. Witnesses will generally be called and examined in the following order:

- (1) Direct examination;
- (2) Cross examination;
- (3) Examination by the Board or Hearing Officer;
- (4) Re-direct examination;
- (5) Re-cross examination;
- (6) Re-examination by the Board or Hearing Officer.

(d) Rules of Evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence should be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs,

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regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Irrelevant and unduly repetitious evidence should be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in civil actions.

(e) Evidence: Notice of Defense Not Filed. If the respondent fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence, and affidavits may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that he is entitled to the Board action sought, the agency may act without taking evidence. Nothing herein shall be construed to deprive the respondent of the right to make any showing by way of mitigation.

(f) Burden of Proof. In disciplinary matters cases or other proceedings initiated by an Accusation the burden of proof shall be on the Board. In matters initiated by a statement of issues, including the denial of or refusal to renew a license or any other non-disciplinary matter wherein the applicant or licensee is seeking relief, the burden of proof shall be on the applicant or person seeking action by the Board.

(g) Rules of Privilege. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, except that documentary evidence and testimony which is otherwise admissible in a contested case shall not be rendered inadmissible because of any claim of privilege between licensee and client. All testimony regarding the medical or psychological condition of individuals and all patient or client records produced during the course of the contested case are confidential and may not be released to persons who are not parties or participants in the contested case.

(h) Closing Argument. Each side may make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.

(i) Record of Proceedings. Oral proceedings shall be recorded either by mechanized means or by a qualified court reporter. The record of oral proceedings must be maintained a minimum of seven (7) years from the date of entry of the final order.

**§ 101213. Pre- and Post-Hearing Stipulation, Settlement, and Consent Order**

Subject to final approval by the Board, informal dispositions of any matter may be made at any time by stipulation, agreed settlement, consent order or by any other method agreed upon by the parties. When approved by the Board, the final stipulation, agreed settlement, or consent order shall be reduced to writing, signed by the parties and the Board Chair, and made a part of the licensee's file. Informal dispositions are considered to be public record.

**§ 101214. Hearing Officer's Proposed Decision or Report and Recommendation**

(a) Upon completion of a hearing tried before a hearing officer alone, the hearing officer shall prepare a proposed decision or report and recommendation in such form that it may be adopted as the decision of the Board. The decision should contain a statement of facts found by the hearing officer, a recitation of the application of the facts found to the applicable statutes, rules,

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regulations, policies, and procedures, and a proposed recommendation as to the merits of the matters presented for review including recommended discipline if appropriate.

(b) To the extent possible, the hearing officer's proposed decision should be submitted to the Board within thirty (30) calendar days after the hearing is concluded. The proposed decision shall be communicated by the Board to the respondent or respondent's attorney in person or by first class mail. The proposed decision is a public record.

(c) The hearing officer is authorized to request one or both sides to prepare for the hearing officer's consideration a proposed decision including findings of fact, a determination of the issues presented, and the proposed penalty, if any.

(d) The Board shall not decide any case heard in the first instance by a hearing officer without affording the parties the opportunity to present either oral or written argument before the Board. Additional oral evidence may be presented before the Board only by agreement of the parties or for good cause shown. If additional oral evidence is introduced before the Board a Board member may not vote unless he or she heard the additional oral evidence either in person or by reviewing the audio or video record of the proceedings.

(e) The Board may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

(f) The Board may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer he shall prepare a proposed decision or report and recommendation upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing.

**§ 101215. Final Order of the Board**

(a) Final Order. A quorum for purposes of rendering a final decision and order pursuant to this rule consists of majority of the current members of the Board. The Board shall issue a final order within sixty (60) days of the date of receipt of the hearing officer's proposed decision. If the Board does not enter a separate written final decision and order within the time frame stated above, unless otherwise extended by agreement of the parties in writing, the proposed decision of the hearing officer shall be deemed the final order of the Board by operation of law.

(b) The Board may affirm in whole or in part, reject or modify the recommendation of the hearing officer; provided, however, the Board may reject or modify a recommendation of the hearing officer that supports the position of the respondent only if it is clearly established that the hearing officer's findings, inferences, conclusions or decisions are:

- (1) in violation of a constitutional, statutory or regulatory provision;
- (2) in excess of the statutory authority;
- (3) in violation of Board rule;
- (4) made upon unlawful procedure;
- (5) affected by other error of law;
- (6) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (7) unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

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(c) The respondent or respondent's attorney and each attorney of record shall be delivered a copy of the final order in person or by first class mail.

(d) The time limits set forth in this rule may be waived or extended by written agreement of the parties.

**§ 101216. Imposition of Discipline**

(a) Upon a finding that the respondent has violated any of the enumerated provisions of the Allied Health Practice Act, or any rule established by the Board, including the Standards of Professional Conduct & Ethics applicable to the licensee, the Board may impose any or all of the disciplinary penalties authorized by law including refusing to renew a license or certification, suspension or revocation of a license or certification, imposition of a private or public censure, probation, and the levy of administrative fines of not more than Ten Thousand Dollars (\$10,000.00) for each violation. Each day's violation is a separate offense.

(1) Advisory Censure and Chastisement – This is a written action issued to the licensee for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(2) Formal Reprimand – This is a written action issued to a licensee for one time and less severe violations. It is a formal disciplinary action.

(3) Probation – This is a formal disciplinary action which places a licensee on close scrutiny for a fixed period of time. The Allied Health Practices Action may be combined with conditions which must be met before probation will be lifted and/or which restrict the licensee's activities during the probationary period.

(4) Licensure Suspension – This is a formal disciplinary action which suspends a licensee's right to practice for a fixed period of time. It contemplates the conditional re-entry of the licensee into practice under the licensure previously issued.

(5) Licensure Revocation – This is the most severe form of disciplinary action which removes a licensee from the practice of his or her profession and terminates the license.

(6) Conditions – These include any actions deemed appropriate by the Board to be required of a disciplined licensee during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license, and may include but are not limited to restrictions on the right to practice, requiring the licensee to attend continuing education courses, or demonstrate licensee competency through a written or practical examination, or to work under the supervision of another licensee to be determined by the Board.

(7) Civil Penalty or Fine – Administrative fines not to exceed Ten Thousand Dollars (\$10,000.00) for each separate violation as authorized by 10 GCA § 12812(b)(7).

(8) Monetary redress to another party.

(9) Satisfactory completion of an educational, training, or other programs related to the licensee's discipline and ethics.

(10) Satisfactory completion of a treatment program or programs for alcohol dependency or substance abuse including post-treatment monitoring and reporting to the Board.

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(11) Payment of disciplinary costs, including the costs of investigation, the Board's attorneys' fees, hearing officer fees, court reporter and transcription services, and court costs if necessary to enforce or defend an order of the Board.

(b) Consideration of Factors in Mitigation or Aggravation. In determining whether a license should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions; and whether to levy an administrative fine; or impose a public or private censure; the Board shall consider all relevant factors, including, but not limited to the following:

- (1) the severity of the offense;
- (2) the danger to the public;
- (3) the number of repetitions of the offense or violation;
- (4) the length of time since the date of violation;
- (5) the number of complaints filed against the respondent;
- (6) the length of time the respondent has practiced;
- (7) the actual damage to the complainant or the public;
- (8) the pendency or results of related administrative or judicial proceedings;
- (9) the deterrent effect of the penalty imposed;
- (10) the effect of the penalty upon the respondent's livelihood;
- (11) any efforts or rehabilitation; and
- (12) any other mitigating or aggravating circumstances.

(c) Once ordered, probation, suspension, revocation, assessment of a civil penalty or fine, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to these rules, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties or fines assessed have been paid.

**§ 101217. Effective Date of Decision**

The decision shall become effective thirty (30) days after it is delivered in person or mailed to respondent or respondent's attorney unless a request for reconsideration is made before the Board, or the Board orders that the decision shall become effective sooner, or a stay of execution is granted. A stay of execution may be included in the decision, or if not included therein may be granted by the Board at any time before the decision becomes effective.

**§ 101218. Stay of Execution**

The Board may, in its discretion, stay the execution of its order to censure, place on probation, fine, revoke or suspend a license or certification. The stay may be conditioned on any provision the Board deems appropriate under the circumstances of any particular case. The filing of a request for reconsideration or notice of appeal does not itself stay enforcement of the Board's decision.

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**§ 101219. Reconsideration and Judicial Review**

(a) A respondent in a disciplinary or other contested case proceeding who is aggrieved by a final order of the Board may within 30 days after entry of the order file a request for rehearing. If the Board does not grant the request by the next regularly scheduled Board meeting following 30 days from filing of the request the request for reconsideration shall be deemed denied by operation of law. While encouraged, the filing of a request for reconsideration is not a prerequisite to judicial review.

(b) The case may be reconsidered by the Board on all the pertinent parts of the record and such additional evidence and arguments as may be permitted or may be assigned to a hearing officer. A request for reconsideration assigned to a hearing officer shall be subject to the procedure provided in 5 GCA § 9230. If additional oral evidence is introduced before the Board, a Board member may not vote unless he or she has heard the evidence in person or by audio or video recording.

(c) Judicial review is available by filing a petition in the Superior Court for a writ of mandate as provided by Guam law. A petition for writ of mandate must be filed within thirty (30) days after the last day on which reconsideration can be ordered.

**§ 101220. Record of Proceedings**

(a) Within thirty (30) days after request therefor, and upon payment of the expenses of preparation and certification by the petitioner, including projected costs of the preparation of transcripts of the proceedings, the Board shall prepare and deliver to the petitioner the complete record of the proceedings or such parts of the record as are designated by the petitioner. The complete record includes:

- (1) the pleadings;
- (2) all notices and orders issued by the Board;
- (3) any proposed decisions by the hearing officer;
- (4) the final decision of the Board;
- (5) a transcript of all proceedings;
- (6) the exhibits admitted or rejected;
- (7) the written evidence; and
- (8) any other papers in the case.

(b) Where petitioner, within ten (10) days after the last day on which reconsideration can be ordered, requests the Board to prepare all or any part of the record, the time within which a petition for writ of mandate may be filed in the Superior Court may be extended until five (5) days after its delivery to him.

**§ 101221. Reinstatement**

(a) Petition for Reinstatement. Reinstatement is a matter of discretion, not of right. A person whose license has been revoked may petition the Board for reinstatement or reduction of penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of denial of a similar petition, except in the case of a person convicted

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of a crime of moral turpitude in which case five (5) years must have elapsed since the conviction, and the person's civil rights have been restored.

(b) Basis for Reinstatement. In the petition for reinstatement, the applicant should state why the license or certification should be reinstated and should specifically set forth any changed circumstances which would justify reinstatement. Absent a demonstrable showing of changed circumstances a petition for reinstatement or reduction of penalty which is merely cumulative or duplicative of previous petitions shall be summarily denied. An applicant for reinstatement must include in the petition evidence that the current requirements for licensure and certification have been met.

(c) Board Action. Upon receipt of a petition for reinstatement the Board may in its discretion grant an applicant a hearing on reinstatement. The Board shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the Board. The Board shall decide the petition, and the decision shall include the reasons therefor.

(d) Burden of Proof. In any petition for reinstatement, the applicant shall have the burden of establishing to the reasonable satisfaction of the Board that the applicant is entitled to the specific relief requested.

(e) Terms and Conditions. In the event an application for reinstatement is granted, the Board may impose such probationary terms and conditions as are necessary in its judgment for the protection of the public.

**§ 101301. CHANGE OF ADDRESS OR NAME**

(a) Change of Address – Any person holding a license who has had a change of address shall file in writing with the Board a current mailing address, giving both old and new address. Such requests should be received via electronic mail or in the Board's administrative office no later than 30 days after such change has occurred and must reference the individual's name, profession, and license number.

(b) Change of Name – Any person holding a license who has changed their name shall file a statement with the Board and state their current name and their new name, together with proof of legal name change, i.e., marriage certificate, divorce decree, or court order. Such requests should be received via electronic mail or in the Board's administrative office no later than 30 days after the name change has occurred and must reference the individual's profession and license number. If the licensee desires to be issued a new license or certificate reflecting their change of name they shall also submit the required fee.

**§ 101401. MANDATORY RELEASE OF CLIENT RECORDS**

(a) Upon request from a patient or client or the patient or client's authorized representative, licensees shall provide a complete copy of the client's records which were maintained by the licensee.

(b) Requests for records shall be honored in a timely manner, but in no event more than three business days of receipt of the patient or client's written request.



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(c) The person requesting the records shall be responsible for the payment of a reasonable fee to the licensee for copying and mailing of the records.

(d) A licensee may not withhold the release of patient or client records for nonpayment of a professional fee. The release of patient or client records under these circumstances does not constitute a waiver by the licensee of the fee claimed.

**§ 101501. ADVERTISING**

(a) Policy Statement. The lack of sophistication on the part of many of the public concerning professional services, the importance of the interests affected by the choice of a licensee and the foreseeable consequences of unrestricted advertising by licensees which is recognized to pose special possibilities for deception, require that special care be taken by licensees to avoid misleading the public. Licensees must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by licensees is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.

(b) Advertising Content. The following acts or omissions in the context of advertisement by any licensee or certificate holder shall constitute unethical conduct, and subject the licensee or certificate holder to disciplinary action:

(1) Claims that the services performed, personnel employed, or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee or certificate holder is better than another when superiority of services, personnel, or equipment cannot be substantiated.

(2) The misleading use of an unearned degree.

(3) Promotion of professional services which the licensee knows or should know are beyond the licensee's ability to perform.

(4) Techniques of communication which intimidate or exert undue pressure or undue influence over a prospective client.

(5) Any appeals to an individual's anxiety in an excessive or unfair manner.

(6) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.

(7) The communication of personal identifiable facts, data, or information about a client without first obtaining client consent.

(8) Any misrepresentation of a material fact.

(9) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.

(10) Misrepresentation of credentials, training, experience, or ability.

(c) Failure to disclose the fact of giving compensation or anything of value to representative of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.

(d) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.

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(e) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a client in connection with the performance of professional services.

**§ 101601. MANDATORY/COMPULSORY REPORTING**

(a) Any person shall be permitted to report to the Board in writing any information he or she has reason to believe indicates an allied health professional is, or may be, medically incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of the licensee's profession.

(b) The following shall be required to report to the Board promptly and in writing any information that indicates a an allied health professional is, or may be, medically incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of the licensee's profession:

- (1) all professionals licensed under the Act;
- (2) all licensed health care providers;
- (3) all public and private hospitals and other health care institutions in Guam, including but not limited to hospitals, clinics, managed care organizations, etc.;
- (4) all government agencies with services of any kind involving health care and related activities;
- (5) all law enforcement agencies in Guam;
- (6) all courts in Guam; and
- (7) all peer review bodies on Guam.

(c) A licensee's voluntary resignation from his or her place of employment in an organization shall be promptly reported to the Board by the organization and the licensee if that action occurs while the licensee is under formal or informal investigation by the organization or a committee thereof for any reason related to possible incompetence, nonprofessional conduct, or mental or physical impairment.

(d) Malpractice insurance carriers and affected licensees are required to file with the Board a report of each final judgment, settlement, or award against insured licensees. Licensees not covered by malpractice insurance carriers shall be required to file the same information with the Board regarding themselves. All such reports shall be made to the Board promptly, i.e., within thirty (30) days of each final judgment, settlement, or award.

(e) Upon receiving reports concerning a licensee, or on its own motion, the Board shall be permitted to investigate any evidence that appears to show a licensee is, or may be, medically incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of an allied health profession.

(f) To assure compliance with compulsory reporting requirements, a licensed allied health professional may be subject to civil penalties for demonstrated failure to report up to Ten Thousand Dollars (\$10,000.00) per instance.

(g) The Board shall promptly acknowledge all reports received under this Section. Persons or entities reporting under this Section shall also be promptly informed of the Board's final disposition of the matter reported.

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**§ 101702. REPORTING OF MINOR INCIDENTS**

(a) The Guam Board of Allied Health Examiners believes that the protection of the public is not enhanced by the reporting of every minor incident that may be a violation of the Guam Allied Health Practice Act or a Board rule. This is particularly true when there are mechanisms in place in the allied health professional's practice setting to identify errors, detect patterns of practice, and take corrective action to remediate deficits in a licensee's judgment, knowledge, training, or skill. This rule is intended to provide guidance to licensees, peer review committees and others in determining whether a licensee has engaged in conduct that indicates the licensee's continued practice would pose a risk of harm to patients or others and should be reported to the board.

(b) A minor incident is defined by the Board as conduct by an allied health professional that may be a violation of the Allied Health Practice Act or a Board rule but does not indicate the licensee's continued practice poses a risk of harm to a patient or another person.

(c) An allied health professional involved in a minor incident need not be reported to the Board unless the conduct indicates the licensee:

(1) ignored a substantial risk that exposed a patient or other person to significant physical, emotional or financial harm or the potential for such harm;

(2) lacked a conscientious approach to or accountability for his/her practice;

(3) lacked the knowledge and competencies to make appropriate clinical judgments and such knowledge and competencies cannot be easily remediated; or

(4) has engaged in a pattern of multiple minor incidents that demonstrate the licensee's continued practice would pose a risk of harm to patients or others.

(d) Other factors that may be considered in determining whether a minor incident should be reported to the Board are:

(1) the significance of the allied health professional's conduct in the particular practice setting; and

(2) the presence of contributing or mitigating circumstances, including systems issues or factors beyond the licensee's control, in relation to the licensee's conduct.

(e) When evaluating whether multiple incidents constitute grounds for reporting it is the responsibility of the allied health professional's manager, supervisor or peer review committee to determine if the minor incidents indicate a pattern of practice that demonstrates the licensee's continued practice poses a risk and should be reported.

(f) Regardless of the time frame or number of minor incidents, if a licensee manager or supervisor believes the minor incidents indicate a pattern of practice that poses a risk of harm that cannot be remediated, the licensee should be reported to the Board.

**§ 101801. SEVERABILITY**

If any of these Rules and Regulations of the Guam Board of Allied Health Examiners, or any sentence, paragraph, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each rule and/or any portion thereof, is severable.

**GUAM BOARD OF ALLIED HEALTH EXAMINERS  
ADMINISTRATIVE RULES & REGULATIONS**

**§ 101901. EFFECTIVE DATE**

The effective date of these rules shall be 90 days following their submission to the Secretary of the Guam Legislature or as may otherwise be provided by law.