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**ARTICLE 8  
ALLIED HEALTH PRACTICE ACT**

**SOURCE:** Article 8 was enacted by P.L. 24-329:1.

- § 12801. Title, Purpose and Statement of Policy.
- § 12802. Definitions.
- § 12803. Guam Board of Allied Health Examiners.
- § 12804. Examinations.
- § 12805. Requirements for Licensure.
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- § 12823. Unlawful Practice of Allied Health Profession: Violation and Penalties.
- § 12824. Renewal of Licensure.
- § 12825. Rules and Regulations.
- § 12826. Funding and Fees.
- § 12827. Prescriptive Authority for Allied Health Professionals.

**§ 12801. Title, Purpose, and Statement of Policy.**

(a) Title. This Act may be cited or referred to as “The Guam Allied Health Practice Act of 1998.”

(b) Purpose. The primary purpose of this Act is to protect the public against unprofessional, improper, incompetent, unlawful, fraudulent or deceptive practices by persons who practice the healing art. This Act, therefore, shall provide for the proper guidelines, such as education requirements, continuing education requirements, licensing and renewal procedures, professional conduct and any other matter, which the Board deems appropriate in serving the interests of the community.

(c) Statement of Policy. The practice of allied health is a privilege granted by the people acting through their elected representatives. It is not a natural right of individuals. In the interests of public health, safety and welfare, and to protect the public from the unprofessional, improper, incompetent, unlawful, fraudulent and/or deceptive practice of allied health professions, it is necessary to provide laws and regulations to govern the granting and subsequent use of the privilege to practice allied health professions. The primary responsibility and obligation of the Guam Board of Allied Health Examiners is to protect the people of Guam.

**§ 12802. Definitions.**

(a) Professions. For purposes of this Act, the following allied health professions shall be licensed under the Guam Board of Allied Health Examiners:

- (1) Acupuncture shall mean the science and art of examination and diagnosis based on Oriental medical theory, treatment by stimulation of a certain point, or pints,

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on or near the surface of the body by the insertion of needles or stimulation by other sources to prevent or modify the perception of pain, or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body, including the techniques of electroacupuncture, cupping, and moxibustion or any combination of these.

(2) Audiology shall mean 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.

(3) Chiropractic shall mean 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 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.

(4) Clinical psychology shall mean the subspecialty in psychology which is primarily concerned with assessing and alleviating emotional, mental and behavioral disorders in a hospital, institution or other clinical setting.

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(5) Individual, marriage and family therapy shall mean the intervention of a licensed therapist in assisting clients in individual, marriage and family therapy.

(6) Occupational therapy shall mean 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.

(7) Physical therapy shall mean 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; 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

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modalities/electrotherapy, that is provided by, or under the direction of, a licensed physical therapist.

(8) Physician assistant shall mean 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.

(9) Podiatric medicine shall mean 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 non-surgical treatment of the muscles and tendons of the leg governing the functions of the foot.

(10) Speech-language pathology shall mean the application of principles, methods and procedures for the measurement, testing, evaluation, prediction, counseling, introduction, habilitation or rehabilitation related to the development and disorders of speech, voice, fluency or language, for the purposes of evaluating, identifying, treating, preventing, ameliorating or modifying such disorders and conditions in individuals or groups of individuals.

(11) Veterinary medicine shall mean 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;

(12) 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).’

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(13) Dietetics or Nutrition Practice shall mean 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 this Act.

(14) Home Nursing Administration means the leadership requirement to manage a home nursing institution.

(15) Other allied health professions shall mean those allied health profession not having separate Board of Examiners enacted by *I Liheslaturan Guahan* that the Board of Allied Health Examiners incorporates into the licensing procedure under this Act.

(b) Terms. The following terms shall have the following definitions:

(1) Applicant shall mean a person seeking licensure to practice an allied health profession on Guam.

(2) Board means the Board of Allied Health Examiners.

(3) Collaborative Practice Agreement shall mean 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.'

(4) Endorsement shall mean evidence of current licensure by a state or jurisdiction of the United States.

(5) License shall mean a certificate issued to an applicant by the Guam Board of Allied Health Examiners which indicates that the person whose name appears on the certificate has been found qualified to engage in the practice of an allied health profession as stated thereon.

(6) Licensee means any person currently licensed by the Guam Board of Allied Health Examiners.

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(7) Person shall mean any individual, firm, partnership, association, joint venture, cooperative or corporation, or any other group or combination, acting in concert, whether or not acting as a principal, trustee, fiduciary, receiver or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer or any other representative of such person, except that only individuals can be licensed under the rules and regulations.

(8) 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.

(9) Practitioner' shall mean 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(s).

(10) Prescription shall mean an order for drugs, treatment or devices written, signed or transmitted by word of mouth or telephone by a practitioner of the healing art.

(11) Supervision shall be one of the following:

(A) Direct supervision shall mean 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.

(B) Indirect supervision shall mean 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.

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(C) Exceptions. The definition of exceptions to the act shall include:

(i) those providing service in cases of emergency where no fee or other consideration is contemplated, charged or received;

(ii) personnel of the armed forces of the United States and of the United States Public Health Service or the Veterans Administration of the United States in the discharge of their official duties and/or within Federally controlled facilities;

(iii) those practicing any other of the healing arts in accord with and as provided by the laws of Guam;

(iv) those practicing the tenets of a religion or ministering to the sick or suffering by mental or spiritual means in accord with such tenets; provided, that no person should be exempt from the public health laws of Guam or the Federal government;

(v) a person administering a lawful domestic or family remedy to a member of his or her own family; and

(vi) those fully licensed to practice allied health in another jurisdiction of the United States who briefly render emergency treatment, or briefly provide critical services at the specific lawful direction of an institution or Federal agency that assumes full responsibility for that treatment or service.

**SOURCE:** Subsection (a)(xiii) repealed/reenacted by P.L. 25-192:2.

**2013 NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsections (a) and (b)(11) were altered to adhere to the Compiler's alpha-numeric scheme.

**§ 12803. Guam Board of Allied Health Examiners.**

(a) Creation. There is established, in and for the



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government of Guam, a Guam Board of Allied Health Examiners, composed of a representative from each of the professions being examined for licensure of which currently there are nine (9) members nominated and appointed by *I Maga'lahaen Guåhan*, with the advice and consent of *I Liheslaturan Guåhan*. *I Maga'lahaen Guåhan* shall appoint two (2) additional members, one (1) member for the Respiratory Therapist, and one (1) member for the Nutritionist/Clinical Dietician, and shall appoint additional members for any other allied health profession being examined for licensure that the Board includes in its licensing procedure, and specifically recommend to *I Maga'lahaen Guåhan* to appoint a board member representative. The Board shall examine applicants for licensure within the allied health professions not having separate Board of Examiners enacted by *I Liheslaturan Guåhan*.

The term of appointment shall be for a period of three (3) years, at the end of which *I Maga'lahaen Guåhan* shall either reappoint the member or nominate and appoint a new member, either of which case shall be with the advice and consent of *I Liheslaturan Guåhan*.

(b) Requirement. The members of the Board shall have practiced in their respective disciplines for at least five (5) consecutive years immediately preceding the appointment. All members shall be citizens or permanent residents of the United States who have resided in Guam for at least five (5) consecutive years immediately preceding the appointment. The members of the Board sitting as of the date of enactment of this Act who meet the requirements and limitations placed upon membership by this Act shall remain in office until the expiration of their respective terms. When a vacancy occurs, *I Maga'lahaen Guåhan* shall appoint a new member within sixty (60) days of the commencement of the vacancy, with the advice and consent of *I Liheslaturan Guåhan*.

Members of the Board shall receive a stipend and be compensated in the amount of Fifty Dollars (\$50.00) for attending a Board meeting, not to exceed One Hundred Dollars (\$100.00) per month.

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(c) Powers and Responsibilities. The Guam Board of Allied Health Examiners, within the context of this act and the requirements of due process, shall have the following powers and responsibilities:

- (1) promulgate rules and regulations;
- (2) develop and adopt its budget;
- (3) evaluate education and training of applicants;
- (4) select and administer licensing examination(s);
- (5) evaluate previous professional performance of applicants;
- (6) issue or deny initial licenses;
- (7) approve or deny applications for license renewal;
- (8) receive, review, and investigate reports and complaints received from law enforcement agencies, health care organizations, governmental agencies, insurers and other entities having information pertinent to the professional performance of licensees;
- (9) discipline licensees found in violation of the Allied Health Practice Act;
- (10) issue subpoenas, subpoenas duces tecum, administer oaths, receive testimony and conduct hearings;
- (11) institute actions in its own name and enjoin violators of the Allied Health Practice Act;
- (12) establish appropriate fees and charges to include support of active and effective pursuit of its legal responsibilities;
- (13) expand the allied health licensing process to include other allied health professions not having separate Board of Examiners enacted by *I Liheslaturan Guahan*, and inform *I Maga'lahaen Guahan* of the need to appoint a Board member to represent the Board enacted profession;
- (14) contract consultant(s) for special needs of the Board in the investigation of complaints, monitoring of a

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licensed person in terms of violation of this Act, and other monitoring/investigation that requires specialized skills which the Board is unable to obtain from the services of other government agencies; and

(15) Conduct Board meetings. A quorum must be present to conduct a board meeting. The vote of the majority present shall constitute an official action of the Board. The majority vote shall consist of half of the vote plus one of those members present.

(d) Immunity. There should be no liability, monetary or otherwise on the part of, and no cause of action for damages should arise against any current or former member, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness or any other person serving or having served the Board, either as a part of the Board's operation or as an individual, as a result of any act, omission, proceeding, conduct or decision related to his or her duties undertaken or performed in good faith and within the scope of the function of the Board.

(e) Indemnity. If a current or former member, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant or any other person serving or having served the Board requests the government to defend him or her against any claim or action arising out of any act, omission, proceeding, conduct or decision related to his or her duties undertaken or performed in good faith and within the scope of the function of the Board, and if such a request is made in writing at a reasonable time before trial, and if the person requesting defense cooperates in good faith in the defense of the claim or action, the government should provide and pay for such defense, and should pay any resulting judgment, compromise or settlement.

(f) Protected Communication.

(1) Every communication made by or on behalf of any person, institution, agency or organization to the Board, or to any person(s) designated by the Board relating to an investigation or the initiation of an investigation, whether

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by way of report, complaint or statement, shall be privileged. No action or proceeding, civil or criminal, shall be permitted against any such person, institution, agency or organization by whom or on whose behalf such a communication was made in good faith.

(2) The protections afforded in this provision shall not be construed as prohibiting a respondent, or his or her legal counsel, from exercising the respondent's Constitutional right of due process under the law.

(g) Removal. A member of the Board should be subject to removal only when he or she:

(1) ceases to be a licensed allied health professional;

(2) is found guilty of a felony by a court of competent jurisdiction;

(3) is found guilty of malfeasance, misfeasance or nonfeasance in relation to his or her Board duties by a court of competent jurisdiction;

(4) is found mentally incompetent by a court of competent jurisdiction;

(5) fails to attend three (3) successive Board meetings without just cause, as determined by the Board, or missed fifty percent (50%) or more of Board meetings per year;

(6) is found in violation of the Allied Health Practice Act; or

(7) terminated by the *I Maga'lahaen Guåhan*.

(h) Residency of Board Members. All members of the Board should hold full licenses in Guam, should be persons of recognized professional ability and integrity, and should have resided in Guam at least five (5) years and practiced in the jurisdiction long enough to have become familiar with policies and practice in the jurisdiction.

(i) Committee; Legal Counsel and Staff. The Board should be authorized to appoint committees from its membership and employ an executive secretary or director and other staff,

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including an adequate staff of investigators, to effectively perform its duties under the act. It should also be assigned adequate legal counsel by the Office of the Attorney General and/or be authorized to employ private counsel or its own full-time attorney.

(j) Expense and Per diem. Travel expenses and daily compensation should be paid for each Board member's attendance, in or out of Guam, for education or training purposes directly related to Board duties and approved by the Board.

(k) Electronic Communications. Telephone or other telecommunication conference should be an acceptable form of Board meeting for the purpose of taking emergency action to enforce the Allied Health Practice Act if the president alone or another officer and two (2) Board members believe the situation precludes another form of meeting. The Board should be authorized to establish procedures by which its committees may meet by telephone or other telecommunication conference system to take emergency action.

**SOURCE:** Subsections (a) and (b) amended by P.L. 30-195:3 (Aug. 28 2010), effective, Jan. 2, 2011, pursuant to P.L. 30-195:5.

**§ 12804. Examinations.**

(a) Notice Requirement. Public notice shall be given at least one hundred and twenty (120) days prior to the examination. Applicants for licensure by examination must submit application to the Board at least sixty (60) days prior to the scheduled examination. The Board may hold examinations as deemed necessary.

(b) Cost and Grading. Each applicant shall incur all expenses to proctor the examination. The preparation, administration and grading of examination shall be governed by rules as prescribed by the Board. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove competency to practice the profession in the judgment of the Board.

**§ 12805. Requirements for Licensure.**

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(a) Information Requirement. Any Board furnished applications, official transcripts or other documentation, as required by the Board, shall be submitted in English or accompanied by an English translation and is sent directly to the Board from the appropriate institution or governing agency. The applicant shall provide the Board and attest to the following information and documentation in a manner required by the Board:

(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) recent, less than ninety (90) days, signed photograph, a set of fingerprints of the applicant, if requested, and a sample of handwriting;

(3) originals of all documents and credentials required by the Board, or notarized photocopies or other verification acceptable to the Board of such documents and credentials;

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

(5) 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;

(6) 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;

(7) detailed educational history, including places, institutions, dates and program descriptions, of all his or her education, beginning with secondary schooling and

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including all college, pre-professional, professional and professional postgraduate education;

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

(9) any other information or documentation the Board determines necessary; and

(10) [Repealed.]

(b) General Requirements. The applicant for licensure must present the following to the Board:

(1) evidence of proficiency in the English language, as determined by the Board;

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

(3) three (3) letters of recommendation, originals or notarized copies, one (1) 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;

(4) a 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, a police clearance from the applicant's most recent place of residence; and

(5) [Repealed.]

(c) Licensure By Endorsement. Applicants for licensure by endorsement must, in addition to the requirements of Subsections (a) and (b) of this Section, include a letter provided by the licensing authority describing all complaints filed and disciplinary actions, if any, taken against the applicant. The Board may issue a license to an applicant who shows evidence of current licensure in good standing by another jurisdiction of the United States; provided, that the licensing requirements are equivalent to the standards set forth and approved by the Board.

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(d) Applicant Responsibility. Each applicant shall be responsible for the following:

(1) correspondence or communication with the Board;

(2) periodically contacting the Board concerning the status of the application;

(3) informing the Board in writing of intent to withdraw an application prior to the remittance of the applicable fee(s), a fee(s) remitted to the Board is non-refundable;

(4) informing the Board of any change in name or address (An applicant whose name has changed shall submit a certified copy evidencing the change to the Board. The Board upon receipt of such evidence and the required fee shall issue a duplicate license with the name change. All license renewals will be sent to the current address on file.);

(5) notifying the Board, in writing, of the loss of a current license (A duplicate license for the current renewal period shall be issued by the Board upon receipt of the required form and fee.);

(6) keeping in the licensee's possession a signed current Guam Board of Allied Health Examiners license; and

(7) conspicuously displaying their licenses in all offices where they regularly practice.

(e) The applicant shall be physically, mentally and professionally capable of practicing as an allied health profession in a manner acceptable to the Board, and should be required to submit to a physical, mental or professional competency examination, or a drug dependency evaluation, if deemed necessary by the Board.

(f) The applicant shall not have been found guilty by a competent authority, United States or foreign, of any conduct that would constitute grounds for disciplinary action under the regulations of the Board or this Act. The Board should be authorized, at its discretion, to modify this restriction for cause,



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but it should be directed to use such discretionary authority in a consistent manner.

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

(h) The applicant shall be held responsible for verifying to the satisfaction of the Board the validity of all credentials required for his or her licensure.

(i) The applicant shall have paid all fees and have completed and attested to the accuracy of all application and information forms required by the Board.

(j) (1) The Board is authorized to issue a Military Limited Volunteer Medical License to an applicant who:

(A) is licensed and in good standing as an allied healthcare provider in another state;

(B) maintains credentials within the military credentialing system and authorizes the Guam-based Military Credentialing Office to provide to the Guam Board of Allied Health Examiners the required verification documents and military commander's approval; and

(C) agrees to be subject to Board rules and regulations, including those regarding disciplinary action, license registration and renewal, and continuing medical education, throughout the duration of Military Limited Volunteer Medical licensure.

(2) A Military Limited Volunteer Medical License shall be issued

(A) at no charge to the applicant,

(B) is valid for a period of two (2) years, and

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(C) may be renewed and maintained according to registration requirements as prescribed by the Board.

(3) (A) The applicant who practices in the allied health fields on Guam under a license issued under this Subsection may only practice at a clinic or outreach event that primarily provides services for indigent populations, and

(B) the practitioner shall not receive direct or indirect compensation or payment of anything of monetary value in exchange for the medical services rendered by the practitioner to the indigent patients at the clinic or outreach event.

(4) The license shall be in effect upon receipt of the application packet by the Guam Board of Allied Health Examiners, subject to final review.

(5) This presumptive eligibility for licensure is contingent upon the appropriate military commander's authorization allowing the practitioner to practice in the community and the appropriate collaborative sharing of information between the Military Credentialing Office and the Guam Board of Allied Health Examiners.

**SOURCE:** Added by P.L. 24-329:1 (December 30, 1998). Subsection (a)(10) repealed by P.L. 32-088:3 (Nov. 27, 2013). Subsection (b)(5) repealed by P.L. 32-088:3 (Nov. 27, 2013). Subsection (j) added by P.L. 34-128:2 (Oct. 17, 2018).

**2018 NOTE:** Subsection/subitem designations altered/added pursuant to the authority granted by 1 GCA § 1606.

**§ 12806. Responsibilities of Licensure Applicants.**

Each applicant shall be responsible for the following:

- (a) correspondence or communication with the Board;
- (b) submission of all required documents;
- (c) periodically contacting the Board concerning the status of the application;
- (d) informing the Board in writing of intent to withdraw an application prior to the remittance of the

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applicable fee; fees remitted to the Board are non-refundable;

(e) informing the Board of any change in name or address (An applicant whose name has changed shall submit a certified copy evidencing the change to the Board. The Board upon receipt of such evidence and the required fee shall issue a duplicate license with the name change. All license renewals will be sent to the current address on file.);

(f) notifying the Board in writing of the loss of a current license (A duplicate license for the current renewal period shall be issued by the Board upon receipt of the required form and fee.); and

(g) keeping in the licensee's possession a signed current Guam Board of Allied Health Examiners license.

**2011 NOTE:** In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "numbers" to "Lowercase letters" in this section.

**§ 12807. Display of License.**

All practitioners must, upon receipt of license, conspicuously display their licenses in all offices where they regularly practice.

**§ 12808. License Period; Expiration and Renewal.**

(a) All licenses shall expire biennially on December 31st of each even numbered year, and may be renewed upon payment of a renewal fee and 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. A new certificate or other evidence of current licensure may be mailed to all persons completing renewal requirements as stated herein.

(b) An expired license may be renewed within four (4) years of the date of expiration by paying the current renewal fee in addition to any delinquent fees. An expired license beyond four (4) years of the date of expiration requires a new application for

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a license, subject to the qualifications and standards as set forth in this Article.

(c) The Board may waive the payment of the registration renewal fee of a licensee if the licensee is 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 shall be longer.

**§ 12809. Continuing Education Requirements.**

(a) A total of thirty (30) credit hours of continuing education within each two (2) year licensure period is required of each licensee to qualify for a renewal, except for licensees under Podiatry and Physician Assistants, which require fifty (50) credit hours of continuing education. At least twenty (20) of these credit hours must be in the licensee's specific area of practice. The Board shall prorate the continuing education credit hours requirement for licenses issued less than two (2) years prior to the renewal period.

(b) Continuing education hours may include:

(1) membership in national associations;

(A) membership in a national association of the licensee's practice area will provide four (4) credit hours within the renewal period; and

(B) other appropriate national professional association membership will provide two (2) credit hours for each, a maximum of four (4) credit hours within the renewal period;

(2) subscription to appropriate professional journals will provide two (2) credit hours per subscription, limited to five (5) subscriptions;

(3) attendance of a conference will provide one (1) credit hour for each hour of conference attended (The conference must be within the renewal period.);

(4) teaching, workshops and in-service will provide one (1) credit per hour of teaching, workshop or in-service (This is limited to ten (10) credit hours.);

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(5) speeches or presentation of papers will provide five (5) credit hours each for non-professional audience; ten (10) credit hours each for professional audience;

(6) publication in a professional journal, any publication within the field, will provide ten (10) credit hours;

(7) attendance at local association meetings will provide one (1) point per meeting, up to twelve (12) credit hours;

(8) videotapes, or other audio-visual materials prepared by a professional association or educational institution and approved by the Board, will provide one (1) credit hour for every hour viewed, limited to ten (10) credit hours; or

(9) others, as required by discipline.

(c) The Board, in its sole discretion, may require the licensee to provide receipts, attendance certification or other evidence of participation for credit hours claimed.

**§ 12810. Denial or Revocation of License; Grounds.**

The Board may deny licensure to an applicant or revoke a license from a licensee for reasons including, but not limited to, the following:

(a) fraud, bribery or misrepresentation in the application or procurement of a license or the periodic re-registration of a license;

(b) cheating on or attempting to subvert a licensing examination;

(c) conviction of a gross misdemeanor or felony, or a plea of guilty or nolo contendere to a gross misdemeanor or felony, whether or not related to the practice of the licensed profession;

(d) having been adjudicated mentally incompetent or insane by a court of competent jurisdiction;

(e) violation of any Guam, state, Federal or foreign law or regulation relating to controlled substances;

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(f) disciplinary action by a licensing jurisdiction, foreign or domestic, for acts or conduct which constitute a violation of these rules and regulations; a certified copy of the action taken by the licensing jurisdiction shall be conclusive evidence, thereof;

(g) sanctions or disciplinary actions taken by a peer review body, hospital, health care institution, professional association or society for acts or conduct which constitute a violation of these rules and regulations;

(h) failure to report to the Board any adverse action taken against him or her by a peer review body, health care institution, professional society or association, governmental agency, law enforcement agency or court, of a licensing United States or foreign jurisdiction, for acts or conduct which constitute a violation of these rules and regulations;

(i) failure to report to the Board the revocation or denial of a license to practice a healing art in a United States or foreign jurisdiction, or the surrender of membership on any staff or any professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct which would constitute a violation of these rules and regulations;

(j) failure to report any present, pending or settled adverse action which would constitute a violation of these rules and regulations;

(k) failure to report any settlement or award which would constitute a violation of these rules and regulations;

(l) failure to furnish the Board, its investigators or representatives, within a reasonable time, information legally requested by the Board; or

(m) violation of any other requirement for licensure as delineated by the Board through the Administrative Adjudication Law.

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**§ 12811. Professional Conduct; Acts.**

A licensee shall neither act, nor aid or abet another to act, in any manner which is reprehensible, immoral, illegal, against the public interest, policy or safety, or which tends to degrade, destroy or bring discredit upon the licensee, the community or the profession. The following includes, but is not limited to, acts of unprofessional conduct which shall result in disciplinary action:

(a) attempting to obtain or renew, or obtaining or renewing a Guam license by fraud, bribery or misrepresentation;

(b) revocation or suspension of a license, or any other disciplinary action taken against a practitioner, including the denial of licensure, by the licensing authority of another state, territory or country, other than for the nonpayment of registration fee;

(c) a conviction, plea of guilty or plea of nolo contendere of a felony in any jurisdiction;

(d) advertising goods or services contrary to these rules and regulations;

(e) habitual drunkenness;

(f) an adjudication of insanity by a court of competent jurisdiction;

(g) aiding, assisting, procuring or advising any unlicensed person to practice a healing art contrary to these rules and regulations, or to knowingly employ any unlicensed personnel to render professional services;

(h) failing to perform any statutory or legal obligation imposed upon a licensee;

(i) intentionally filing a false report or record, or negligently failing to file a report or record required by state, Federal, or Guam law, or willfully discouraging, impeding or obstructing such filing, or inducing another person to do so;

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(j) sexual misconduct, sexual battery or sexual assault upon a patient;

(k) making deceptive, untrue or fraudulent representations in the practice of his or her profession;

(l) failing to keep patient or clinic records justifying the course of treatment of a patient (Records must be retained for a minimum period of time consistent with Guam law.);

(m) exercising influence on a patient or client as to exploit the patient or client for the financial gain of the licensee, or of a third party, including, but not limited to, acts that promote or sell goods or services, engaging in any split-fee arrangement in any form whatsoever, with an organization, an agency or a person, either directly or indirectly, for patients referred to providers of health care goods and services (No licensee shall divide, share, split, or allocate, directly or indirectly, any fee for services with any lay person, firm, association or corporation. The provisions of this Paragraph shall not be construed to prevent a licensee from receiving a fee for legitimate, bona fide professional consultation services.);

(n) failing to make available for legitimate and reasonable purposes of review to a patient or client, or to the licensee's legal representative, copies of documents in the possession or under control of the licensee which relate to that patient or client;

(o) performing professional services, which have not been authorized by the patient or client, or the licensee's legal representative;

(p) fraud, deceit or misconduct in the practice of the profession for which the license was granted;

(q) being guilty of incompetence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the licensee is not qualified by training or experience;



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(r) practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which, in the opinion of the Board, the licensee should know, or should have reason to know, that he or she is not competent to perform;

(s) delegating professional responsibilities to any person whom, in the opinion of the Board, the licensee should know, or have reason to know, is not qualified by training, experience or licensure to perform;

(t) solicitation of patients who are currently undergoing treatment with another provider by the promise of superior service or reduced fees;

(u) the use of the title 'Doctor,' or the abbreviation 'Dr.,' in connection with the practice of the healing arts licensed by the Board, unless the practitioner possesses an earned doctorate degree from an institution accredited, authorized or approved;

(v) every use of the title 'Doctor,' or the abbreviation 'Dr.,' pursuant to a license issued by the Board, shall clearly indicate the type of license, certificate or degree conferred;

(w) breach of privileged communication;

(x) breaching the confidentiality of patient records; or

(y) any other acts, as determined by the Board, to be unprofessional conduct.

**§ 12812. Professional Conduct; Penalties for Violation.**

(a) Discipline of Licensee. Upon receiving a written complaint against any licensee, the Board shall conduct an investigation and provide the licensee due notice and hearing in accordance with the provisions of the Administrative Adjudication Law.

(b) Penalties. When the Board finds that any applicant or licensee has committed an act of unprofessional conduct, it shall enter a final order imposing one (1) or more of the following penalties:

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- (1) denial of an application for licensure or renewal;
- (2) revocation of existing license;
- (3) suspension of a license for a time determined by the Board
- (4) issuance of a reprimand;
- (5) placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify, including 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 (The type of supervision will be determined by the Board.);
- (6) restricting the authorized scope of practice; and
- (7) imposition of an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00) for each separate offense.

(c) Re-issuance; Compliance. The Board may recommend re-issuance of the license of a disciplined licensee, after a thorough evaluation by the Board, to determine that the licensee has complied with all of the terms and conditions set forth in the final order and is capable of meeting local standards.

**§ 12813. Unlawful Practice.**

Any person who practices a healing art profession without an appropriate current valid license, as regulated by this Board, shall be guilty of a misdemeanor upon the first offense and guilty of a felony for second and subsequent offenses. No person without a current valid license may receive any compensation for services so rendered.

**§ 12814. Cease and Desist Order.**

(a) The Board, Commission, or any person affected may petition the court having jurisdiction for injunctions to prevent violations of the provisions of any applicable statute or rule; the court is empowered to grant a cease and desist order regardless of whether criminal prosecution or any other action is instituted

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as a result of such violation. A single act of illegal practice, including the offer to practice, shall be sufficient to invoke the injunctive relief of this Section. The court may issue a restraining order or injunction, or both, without requiring allegation or proof that the petitioner has no adequate remedy at law.

(b) The violation of any cease and desist order issued by the court under Subsection (a) of this Section shall subject the person violating the order to further proceedings before the court; the court shall be authorized to impose a fine not to exceed Five Hundred Dollars (\$500.00) for each violation thereof. Each day that a person practices in violation of this Article shall constitute a separate violation.

(c) Nothing in this Section shall be construed to prohibit the Board or Commission from seeking remedies otherwise available by statute without first seeking a cease and desist order in accordance with the provisions of this Section.

**§ 12815. Licensee-Patient Relations; General.**

(a) Privileged Communications. No licensee or licensee's employee or agent may disclose any information acquired from a patient being consulted in his professional capacity, except:

(1) in the event the licensee, his employee or agent reasonably suspects an act or acts of child abuse, sexual abuse, or neglect have been or are being committed;

(2) when the communication of threat, crime or harmful act is made known to the licensee;

(3) when it is necessary to advise parents of a child's self-destructive behavior for the protection of the child if the child is an unemancipated minor, or an adult adjudicated incompetent or otherwise found to be incompetent; and

(4) when the patient gives written and informed consent for the sharing of the patient's confidential information with third parties.

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(b) Determination of a Patient's Need for Care. The determination of a patient's need for care may be made within the scope of practice as defined by these rules and regulations. The determination shall be the sole privilege of the licensee and is considered to be an inherent part of the scope of practice of a licensee's discipline.

(c) Gifts and Premiums. No licensee, or licensee's staff shall offer, give, dispense, distribute or make available to any person, or aid or abet another to do so, any gift, premium, chance, reward, ticket, item or thing of more than minimal value as a reward or inducement for obtaining a patient for any practice. The Board is the sole judge of what is interpreted as being of nominal value.

(d) Termination of Relationship. No licensee shall abandon a patient he or she has undertaken to treat. Treatment may be discontinued after reasonable notice has been given to the patient by the licensee of the intention to discontinue treatment and the patient has had a reasonable time to secure the services of another professional, or after all licensee services actually begun have been completed and there is no contract or agreement to provide further treatment.

**§ 12816. Professional Signs, Advertisements and Listings.**

(a) Professional Signs. Signs shall designate the name of the professional office where a licensee is engaged in the practice of the profession. Signs may contain the name of the practitioner, earned degree or degrees, or the name of a specialty you are limited, if limited to a specialty. The sign may also indicate the common conditions treated. The use of flashing or moving background or lettering in a sign is expressly prohibited pursuant to sign regulations, Article 5 of Chapter 61 of Title 21 of the Guam Code Annotated.

(b) Advertisement of Professional Services; Restrictions. Licensees are prohibited from advertisements, which include the following:

- (1) false, misleading or deceptive statements;
- (2) statements of opinion as to the quality of services;

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(3) an appeal to an individual's anxiety in a excessive or unfair way, intimidate, or exert undue pressure or influence over a prospective patient;

(4) the creation of unjustified expectations concerning the potential result of any treatment;

(5) the promotion of professional superiority or performance of professional services in a superior manner;

(6) reference to benefits or other attributes of procedures or products that involve significant risks, but which do not include realistic assessments of the safety and efficacy of those procedures or products;

(7) statistical data, representations or other information not susceptible to reasonable verification by the public;

(8) reference to a fee or fees for services, which do not disclose that additional fees may be involved in individual cases, if the possibility of incurring such additional fees may reasonably, be foreseen;

(9) the utilization, in any manner, of any celebrity or authority figure;

(10) direct or implied guarantees or testimonials from patients or other persons;

(11) the availability of free treatment, free examinations or free consultations;

(12) any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to any Board licensee;

(13) the offer a discount for services without disclosing the total fee to which the discount will apply; and

(14) a false disclosure of the source of an authorship of any message published under a by-line.

(c) Professional Listings, Newspaper and Telephone Directory. Such listings may contain the name, the degree or

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degrees of each licensee, the address, phone numbers, office hours and graphics, such as a clinic logo or the logo of a professional association of which the licensee is a bona fide member. Listings may also include an indication of the common conditions treated. Where the practitioner limits his or her practice to one (1) specialty, the practitioner may add such limitation of practice or specialty immediately following his or her alphabetical listing. Professional board certifications may also be indicated as long as a national professional association or the Board recognizes the certification. A practitioner shall not list or permit the listing of his or her name, clinic name or address under any separate practice type or specialty heading for which he or she is not licensed.

**§ 12817. Professional Signs, Advertisements and Listings; Violations; Disciplinary Action.**

(a) No disciplinary action may be commenced until the licensee or firm involved has been given thirty (30) days written notice of the Board's evaluation of the advertisement. This notice must include a copy of the applicable portions of these rules and regulations, describe the prohibited advertising involved, and state that the violator has thirty (30) days from the date of notice to correct the violation. If the violation is not corrected, disciplinary action shall follow. The thirty (30) day notice and right to correct are not applicable to any subsequent violations.

(b) No disciplinary action will be taken against a licensee for the acts of advertising agents that result in communications to the public which do not comply with the restrictions adopted by the Board, if the advertisement does not specify the name of the licensee, or the name of the group, corporation or firm under which the licensee practices. However, this provision does not apply in the following situations:

- (1) the advertising agency is owned or controlled by the licensee;
- (2) the licensee provided information that does not comply with restrictions adopted by the Board to the advertising agent for distribution to the public; or

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(3) the content of the advertising is determined to any extent by the licensee.

(c) Applicability. This Section applies to any advertising done on Guam regardless of whether such advertising is done for, or on behalf of, or contracted by any off-Island practice or organization.

**§ 12818. Board Meetings.**

The Board shall meet regularly at a time and place decided by the Board, or as decided by the Chairperson. A special meeting may be called at the discretion of the Chairperson. All meetings, whether regular or special, shall be announced and notice thereof given in accordance with the Administrative Adjudication Law.

**§ 12819. Fee Schedule.**

The Board in accordance with the following fee schedule will assess fees for each applicant for licensure. Fees received by the Board shall be deposited in the Revolving Fund of § 12229 of Article 2, Chapter 12 of Title 10 of the Guam Code Annotated in accordance with the laws of Guam. All fees are non-refundable.

Application by Endorsement	\$125.00
Application by Examination	125.00
Nursing Home Administrator Application	125.00
Certificate of Exemption	50.00
License Fee (Initial)	125.00
Renewal Fee	80.00
Late Renewal (Penalty)	100.00
Collaborative Practice Agreement For Prescriptive Authority (initial or renewal)	50.00
License Verification	25.00
Re-issuance of Certificate	75.00
Re-issuance of License Card	10.00

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Practice Act	5.00
Rules and Regulations	10.00
Photocopy (up to five (5) pages)	4.00
Photocopy (each additional sheet)	0.50
Examination fee (as determined by the Board.)	

The above fee schedule and other fees determined by the Board shall be subject to amendments through the Administrative Adjudication Law, Rule Making Procedures, pursuant to Article 3 of Chapter 9 of Title 5 of the Guam Code Annotated.

**§ 12820. Disciplinary Action Against Licensees.**

(a) Range of Actions. The range of disciplinary actions available to the Board includes, but not limited to, the following:

- (1) revocation of the Allied Health license;
- (2) suspension of the Allied Health license;
- (3) probation;
- (4) stipulations, limitations, restrictions and conditions relating to practice;
- (5) censure, including specific redress, if appropriate;
- (6) reprimand;
- (7) chastisement;
- (8) monetary redress to another party;
- (9) a period of free public or charity service;
- (10) satisfactory completion of an educational, training and/or treatment program or programs;
- (11) fine; and
- (12) payment of disciplinary costs.

The Board at its discretion may take such actions singly or in combination, as the nature of the violation requires.



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(b) Letter of Concern. The Board should be authorized to issue a confidential letter of concern to a licensee when, though evidence does not warrant formal proceedings, the Board has noted indications of possible errant conduct by the licensee that could lead to serious consequences and formal action. In its letter of concern, the Board should also be authorized, at its discretion, to request clarifying information from the licensee.

(c) Examination/Evaluation. The Board should be authorized, at its discretion, to require professional competency, physical, mental or chemical dependency examination(s) or evaluation(s) of any applicant or licensee, including withdrawal and laboratory examination of bodily fluids.

(d) Grounds for Action. The Board should be authorized to take disciplinary action for unprofessional or dishonorable conduct, which should be defined to mean, but not be limited to, the following:

(1) fraud, bribery or misrepresentation in the application or procurement of a license or in connection with applying for or procuring periodic re-registration of a license;

(2) cheating on or attempting to subvert a licensing examination;

(3) conviction of a gross misdemeanor or felony, or a plea of guilty or nolo contendere to a gross misdemeanor or felony charge, whether or not related to the practice of an allied health profession;

(4) conduct likely to deceive, defraud or harm the public;

(5) making a false or misleading statement regarding his or her skill or the efficacy or value of the treatment or remedy prescribed by him or her, or at his or her direction, in the treatment of any disease or other condition of the body or mind;

(6) representing to a patient that an incurable condition, sickness, disease or injury can be cured;

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(7) willfully or negligently violating the confidentiality between practitioner and patient except as required by law;

(8) negligence in the practice of an allied health profession as determined by the Board;

(9) being found adjudicated mentally incompetent or of unsound mind by a court of competent jurisdiction;

(10) being physically or mentally unable to engage safely in the practice of an allied health profession;

(11) practice or other behavior that demonstrates an incapacity or incompetence to practice an allied health profession;

(12) the use of any false, fraudulent or deceptive statement in any document connected with the practice of an allied health profession;

(13) practicing under a false or assumed name;

(14) aiding or abetting the practice of an allied health profession by an unlicensed, incompetent or impaired person;

(15) allowing another person or organization to use his or her license to practice an allied health profession;

(16) commission of any act of sexual misconduct, which exploits the practitioner-patient relationship in a sexual way;

(17) habitual or excessive use or abuse of drugs, alcohol or other substances that impairs ability to perform his/her profession;

(18) prescribing, selling, administering, distributing, ordering or giving any drug legally classified as a controlled substance, or recognized as an addictive or dangerous drug for other than accepted therapeutic purposes;

(19) except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering or giving to a habitual addict, or any person previously drug

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dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug;

(20) prescribing, selling, administering, distributing, ordering or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to a family member or to himself or herself;

(21) violating any state or Federal law or regulation relating to controlled substances;

(22) obtaining any fee by fraud, deceit or misrepresentation;

(23) employing abusive billing practices;

(24) directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, though this prohibition should not preclude the legal functioning of lawful professional partnerships, corporations or associations;

(25) disciplinary action of another state or jurisdiction against a license or other authorization to practice an allied health profession based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this Section, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof;

(26) failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction, United States or foreign, by any peer review body, by any health care institution, by any professional society or association, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this Section;

(27) failure to report to the Board surrender of a license or other authorization to practice an allied health profession in another state or jurisdiction, or surrender of membership in any professional association or society while under

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disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this Section;

(28) any adverse judgment, award or settlement against the licensee resulting from an allied health liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action, as defined in this Section;

(29) failure to report to the Board any adverse judgment, settlement or award arising from a liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this Section;

(30) failure to transfer pertinent and necessary records to another practitioner in a timely fashion when legally requested to do so by the subject patient, or by a legally designated representative of the subject patient;

(31) improper management of patient's records;

(32) failure to furnish the Board, its investigators or representatives, information legally requested by the Board;

(33) failure to cooperate with a lawful investigation conducted by the Board;

(34) willful negligence in complying with the rules and regulations of the Guam Board of Allied Health pertaining to physician supervision of physician assistants;

(35) violation of any provision(s) of the Allied Health Practice Act or the rules and regulations of the Board or of an action, stipulation or agreement of the Board;

(36) failure to follow generally accepted infection control procedures; and

(37) failure to comply with any state statute or board regulation regarding a licensee's reporting responsibility for HIV, HVB (hepatitis B virus) or HVC (hepatitis C virus) sero-positive status.

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**§ 12821. Procedures for Enforcement and Disciplinary Action.**

(a) Board Authority. The Board shall be empowered to commence legal action to enforce the provisions of the Allied Health Practice Act and to exercise full discretion and authority with respect to disciplinary actions.

(b) Separation of Functions. In the exercise of its power, the Board's investigative and judicial functions should be separated to assure fairness, and the Board should be required to act in a consistent manner in the application of disciplinary sanctions.

(c) Administrative Procedures. The existing administrative procedures act or similar statute, in whole or in part, should either be applicable to or serve as the basis of the procedural provisions of the Allied Health Practice Act. The procedural provisions should provide for investigation of charges by the Board; notice of charges to the accused; an opportunity for a fair and impartial hearing for the accused before the Board or its examining committee; an opportunity for representation of the accused by counsel; the presentation of testimony, evidence and argument; subpoena power and attendance of witnesses; a record of proceedings; and judicial review by the courts in accordance with the standards established by the jurisdiction for such review.

(d) Standard of Proof. The Board should be authorized to use preponderance of the evidence as the standard of proof in its role as trier of fact.

(e) Informal Conference. Should there be an open meeting law, an exemption to it should be authorized to permit the Board, at its discretion, to meet in informal conference with an accused licensee who seeks or agrees to such a conference. Disciplinary action taken against a licensee as a result of such an informal conference, and agreed to in writing by the Board, and the accused licensee should be binding and a matter of public record. However, license revocation and suspension should be dealt with in open hearing. The holding of an informal conference should not preclude an open hearing if the Board determines such is necessary.

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(f) Summary Suspension. The Board should be authorized to summarily suspend a license prior to a formal hearing when it believes such action is required due to imminent threat to public health and safety. The Board should be permitted to summarily suspend a license by means of a vote conducted by telephone conference call or other electronic means, if appropriate Board officials believe such prompt action is required. Proceedings for a formal hearing should be instituted simultaneously with the summary suspension. The hearing should be set within thirty (30) days of the date of the summary suspension. No court should be empowered to lift or otherwise interfere with such suspension while the Board proceeds in a timely fashion.

(g) Cease and Desist Orders/Injunctions. The Board should be authorized to issue a cease and desist order and/or obtain an injunction to restrain any person or any corporation or association, and its officers and directors from violating the provisions of the Allied Health Practice Act. Violation of an injunction should be punishable as contempt of court. No proof of actual damage to any person should be required for issuance of a cease and desist order and/or an injunction, nor should issuance of an injunction relieve those enjoined from criminal prosecution for violation of the Allied Health Practice Act.

(h) Board Action Reports. All the Board's final disciplinary actions and license denials, including related findings of fact and conclusions of law, should be matters of public record. Voluntary surrender of and voluntary limitation(s) on the license of any person should also be matters of public record.

(i) Tolling Periods of License Suspension or Restriction. The Board should provide, in cases of license suspension or restriction, that any time during which the disciplined allied health professional practices in another jurisdiction without comparable restriction shall not be credited as part of the period of suspension or restriction.

**§ 12822. Compulsory Reporting and Investigation.**

(a) Any person shall be permitted to report to the Board in writing information he or she has reason to believe indicates an allied health licensee is, or may be, professionally incompetent,

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guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of an allied health profession.

The following shall be required to report to the Board promptly and in writing any information that indicates a licensee is, or may be, professionally incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of an allied health profession; and any restriction, limitation, loss or denial of a licensee's staff privileges or membership that involves patient care:

- (1) all professionals licensed under the Act;
- (2) all licensed health care providers;
- (3) all hospitals and other health care institutions on Guam, to include hospitals, clinics, managed care organizations, etc.;
- (4) all government/with services involving health care activities;
- (5) all law enforcement agencies in Guam;
- (6) all courts in Guam; and
- (7) all peer review bodies on Guam.

(b) Malpractice insurance carriers and affected licensees shall be 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 (e.g. within thirty (30) days).

(c) 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.

(d) Any person, institution, agency or organization required to report under this provision of the Allied Health Practice Act

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who does so in good faith shall not be subject to civil damages or criminal prosecution for so reporting.

(e) To assure compliance with compulsory reporting requirements, specific civil penalties shall be established for demonstrated failure to report up to Ten Thousand Dollars (\$10,000.00) per instance.

(f) 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.

**§ 12823. Unlawful Practice of Allied Health Profession: Violation and Penalties.**

(a) It shall be declared unlawful for any person, corporation or association to perform any act constituting the practice of an allied health profession as defined in the Allied Health Practice Act without first obtaining a license in accordance with that Act and the rules and regulations of the Board.

(b) The Board shall be authorized to issue a cease and desist order and/or obtain injunctive relief against the unlawful practice of an allied health profession by any person, corporation or association.

(c) Any person, corporation or association performing any act constituting the practice of an allied health profession, as defined in the Allied Health Practice Act, or causing or aiding and abetting such action, shall be deemed guilty of a felonious offense.

(d) A practitioner located in another state practicing within the state by electronic or other means without a license issued by the Board shall be deemed guilty of a felonious offense.

**§ 12824. Renewal of Licensure.**

(a) At the time of renewal of licensure, the Board shall require the licensee to demonstrate to its satisfaction his or her continuing qualification for licensure. The application form for license re-registration shall be designed to require the licensee to update and/or add to the information in the Board's file relating



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to the licensee and his or her professional activity. It shall also require the licensee to report to the Board the following information:

(1) Any action taken against the licensee by:

(A) any jurisdiction or authority, United States or foreign, that licenses or authorizes the practice of an allied health profession;

(B) any peer review body;

(C) any health care organization;

(D) any professional society or association,

(E) any law enforcement agency;

(F) any court; and

(G) any governmental agency for acts or conduct similar to acts or conducts described in the Allied Health Practice Act as grounds for disciplinary action.

(2) Any adverse judgment, settlement or award against the licensee arising from a professional liability claim.

(3) The licensee's voluntary surrender of or voluntary limitation on any license or authorization to practice an allied health profession in any jurisdiction, including military, public health and foreign.

(4) Any denial to the licensee of a license or authorization to practice an allied health profession by any jurisdiction, including military, public health and foreign.

(5) The licensee's voluntary resignation from the staff of any professional organization or voluntary limitation of his or her staff privileges at such an organization, if that action occurred while the licensee was under formal or informal investigation by the organization or a committee hereof for any reason related to possible professional incompetence, unprofessional conduct, or mental or physical impairment.

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(6) The licensee's voluntary resignation or withdrawal from a national, state, or county professional society, association or organization, if that action occurred while the licensee was under formal or informal investigation or review by that body for any reason related to possible professional incompetence, unprofessional conduct, or mental or physical impairment.

(7) Whether the licensee has abused or has been addicted to or treated for addiction to alcohol or any chemical substance during the registration period.

(8) Whether the licensee has had any physical injury or disease, or mental illness within the registration period that affected or interrupted his or her practice of an allied health profession.

(9) The licensee's completion of continuing education or other forms of professional maintenance and/or evaluation, including certification or re-certification, within the registration period.

(b) The Board shall be authorized, at its discretion, to require continuing education for license re-registration and to require documentation of that education.

(c) The licensee shall be required to sign the application form for license re-registration and have it notarized. Failure to report fully and correctly shall be grounds for disciplinary action by the Board.

(d) The Board shall be directed to establish an effective system for reviewing re-registration forms. It shall also be authorized to initiate investigations and/or disciplinary proceedings based on information submitted by licensees for license re-registration.

**2012 NOTE:** In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "lowercase letters" to "uppercase letters" in subsection (a)(1).

**§ 12825. Rules and Regulations.**

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(a) The Board shall be authorized to adopt and enforce rules and regulations to carry into effect the provisions of the Allied Health Practice Act and to fulfill its duties under this Act.

(b) The Board shall adopt rules and regulations in accordance with Administrative Adjudication Law, Rule Making Procedures.

**§ 12826. Funding and Fees.**

(a) The Board shall also be supported by the revenues generated from its activities, including fees, charges and reimbursed costs. All such revenues, including fines, shall be deposited in the Revolving Fund of § 12229 of Article 2 of Chapter 12 of Title 10 of the Guam Code Annotated. This Fund shall receive all interest earned on the deposit of such revenues. Such funds should be appropriated continuously and should be used by the Board only for administration and enforcement of the Allied Health Practice Act.

(b) The Board shall develop and adopt its own budget reflecting revenues, including the interest thereon, and costs associated with each health care field regulated. Revenues and interest thereon, from each health care field regulated, should fully support Board regulation of that field. The budget should include allocations for establishment and maintenance of a reasonable reserve fund.

(c) The Board, pursuant to its proposed budget needs, shall set all Board fees and charges.

(d) A designated officer of the Board, at the direction of the Board, should oversee the collection and disbursement of funds.

The Guam Auditor's Office, or the equivalent State office, should audit the financial records of the Board annually and report to the Board and *I Liheslaturan Guahan*.

**§ 12827. Prescriptive Authority for Allied Health Professionals.**

A clinical psychologist and physician assistant may administer, prescribe and dispense any licensed drug as a delegated authority of the Collaborative Practice Agreement

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(“CPA”). To qualify for prescriptive authority, the Allied Health Professional must have all of the following:

(a) a valid Federal Drug Enforcement Administration (“DEA”) certification;

(b) a current Guam Control Substance Registration from Department of Public Health and Social Services;

(c) Collaborative Practice Agreement (CPA) approved by all of the following three (3) boards: the Board of Allied Health Examiners (“BAHE”), the Board of Pharmacy (“BOP”), and the Board of Medical Examiners (“BOME”);

(d) the CPA shall always have a physician available, preferably the physician signing for the CPA but an alternate physician shall be designated during his/her absence (The Allied Health Professional must submit a scope of practice, list of drugs, the CPA for approval by the BAHE, BOP and BOME. At the discretion of the board(s), the Allied Health Professional and his collaborative physician may be requested to be present for evaluation of the applicant’s prescriptive authority. The Allied Health Professional shall not include any drug on the list that he or she is not competent to prescribe or drugs that are not routinely administered within his/her scope of practice. The Board of Pharmacy or Board of Medical Examiners has the authority to amend the list of drugs. The prescriptive authority of the Allied Health Professional shall be revoked for an invalid Guam or Federal DEA registration, and may be revoked for any violation of this Act and its rules and regulations as determined by the Board of Allied Health Examiner. Prescriptive Authority shall be renewed at the time of licensure renewal.); and

(e) proof of completion of a nationally and professionally accepted pharmaceutical curriculum in the area of clinical mental health psychology by the clinical psychologist.

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

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**ARTICLE 9  
ACUPUNCTURE**

**SOURCE:** This Article was enacted in its entirety by P.L. 24-329:2.

- § 12901. Definitions.
- § 12902. Qualifications for Licensure.
- § 12903. Exceptions to Licensure Requirements.
- § 12904. Authorized Activities.
- § 12905. Use of Sterilized Disposable Needles.

**§ 12901. Definitions.**

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

(a) Acupuncture means the science and art of examination and diagnosis based on Oriental medical theory, treatment by stimulation of a certain point or points on or near the surface of the body by the insertion of needles or stimulation by other sources to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body, including the techniques of electroacupuncture, cupping and moxibustion, or any combination of these.

(b) Acupuncturist means a person who has graduated from an accredited school of acupuncture and is licensed to practice acupuncture in accordance with the provisions of these rules and regulations.

(c) Accredited School of Acupuncture means a school of acupuncture accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

(d) Cupping means to apply vacuum suction to certain locations on the skin before or after insertion of acupuncture needles.

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(e) Earned Degree means a master or doctorate degree in acupuncture, not including honorary degrees.

(f) Electroacupuncture means application of electronic devices designed to stimulate acupuncture points in accordance with the acupuncture theory.

(g) Moxibustion means to ignite or burn moxa herb to produce heat on the acupuncture point.

(h) Practice of Acupuncture means to represent, directly or indirectly, publicly or privately, an ability or willingness to provide acupuncture treatment.

**§ 12902. Qualifications for Licensure.**

(a) In addition to the requirements as set by the Board in this Article, applicants for a license to practice acupuncture must meet all of the following:

(1) a master's or doctorate degree, or its equivalent, from an accredited school of Acupuncture, as determined by the Credential Evaluation Services;

(2) the applicant must be licensed by a state of the United States; the license must be current and the applicant must be in good standing (The applicant shall not be the subject of any disciplinary action or investigation by the licensing board of any state or foreign country);

(3) the applicant must be of good moral character and not have been convicted of any offense in any jurisdiction, which would constitute a felony; and

(4) if the applicant is a foreign graduate, the applicant must have transcripts and other credentials submitted and evaluated by the International Education Research Foundation.

**§ 12903. Exceptions to Licensure Requirements.**

No person shall practice acupuncture on Guam, either gratuitously or for pay or shall offer to practice, or shall hold themselves out to the public, advertise, declare, represent or in anyway proclaim to practice acupuncture, or use any titles,

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words, letters, signs, devices, techniques, maneuvers or modalities that could represent to the public that such person is authorized to engage in the practice of acupuncture, either publicly or privately, without having a valid and current license on Guam issued by the Guam Board of Medical Examiners.

**§ 12904. Authorized Activities.**

An acupuncturist license authorizes the holder to the following:

(a) to engage in the practice of acupuncture; and

(b) to perform the use of Oriental massage, breathing techniques, exercise or nutrition, including the incorporation of drugless substances or herbal products as dietary supplements to promote health.

**§ 12905. Use of Sterilized Disposable Needles.**

Any acupuncturist licensed under the provisions of this Article shall use only sterilized disposable needles. The acupuncture representative on the Guam Board of Allied Health Examiners shall periodically inspect each acupuncture clinic, with the assistance of the Department of Public Health and Social Services, and report findings to the Board.

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**ARTICLE 10  
AUDIOLOGY**

**SOURCE:** This Article was enacted in its entirety by P.L. 24-329:3.

- § 121001. Definitions.
- § 121002. Qualifications for Licensure.
- § 121003. Exceptions to Licensure Requirements.
- § 121004. Scope of Practice.

**§ 121001. Definitions.**

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

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(a) ASHA means the American Speech, Language and Hearing Association.

(b) Audiologist means a person duly licensed by the Board to practice in the field of audiology.

(c) 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.

(d) Habilitation and rehabilitation, as used in this Article, include, but are not limited to, hearing aid evaluation, prescription and fitting of hearing aid devices.

**§ 121002. Qualifications for Licensure.**

(a) Applicants for licensure must possess a ‘Certificate of Clinical Competence in Audiology’ issued by ASHA as evidence of professional training and experience.

(b) Applicants shall have an official statement from ASHA sent directly to the Board reporting applicant’s present ASHA certification.

**§ 121003. Exceptions to Licensure Requirements.**

The provisions contained herein shall not be construed to prevent or restrict the following:

(a) any person licensed on Guam, under any other law, from engaging in the profession or occupation for which the person is licensed;

(b) the activities and services of persons pursuing a course of study leading to a degree in audiology at an accredited college or university, if such activities and services constitute a part of an approved supervised course of study and such person is designated an audiologist intern or trainee;



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(c) the activities and services of persons presently working on their Clinical Fellowship Year ("CFY") and such persons are designated as 'CFY-Audiologist.'

**§ 121004. Scope of Practice.**

The practice of audiology includes:

(a) identifying, including screening, assessing, interpreting, diagnosing, counseling, preventing, and rehabilitating peripheral and central auditory system dysfunctions;

(b) providing and interpreting behavior and (electro) physiological measurements of auditory and vestibular functions;

(c) tests for vestibular functions, including the electronystagmography ('ENG') test battery consisting of the gaze, optokinetic, positional, Hallpike and bithermal caloric test;

(d) selecting, fitting, dispensing, and selling of hearing aids, assistive listening and amplification devices, including alerting devices and other systems (e.g. implantable devices), taking earmold impressions, providing earmolds, and providing training in the use of hearing aids and amplification devices;

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

(f) removal of cerumen only for the purpose of providing auditory, vestibular functions measurements and for taking earmold impressions;

(g) screening of speech-language and other factors affecting communication function for the purposes of audiologic evaluation or initial identification of individuals with other communication disorders;

(h) facilitating the conservation of auditory system function; and

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(i) developing and implementing environmental and occupational hearing conservation programs.

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