

GUAM BOARD OF MEDICAL EXAMINERS

Wednesday, July 16, 2024 at 4:00 PM

Join Zoom Meeting:

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Meeting ID: 876 8645 3659 Passcode: 738689

MINUTES

Topic		DECISION(S) / ACTION(S) MADE		Responsible Party	Status
I.	Call to Order	Meeting Chaired by: Dr. Berg		Chair	1635 Called to Order
		A. Roll Call: GBME <i>Present at HPLO Conference Room</i> <input checked="" type="checkbox"/> Nathaniel B. Berg, M.D., Chairperson <i>Present Virtually at Remote location:</i> <input checked="" type="checkbox"/> Annette David, M.D., Member <input checked="" type="checkbox"/> Luis G. Cruz, M.D. <input checked="" type="checkbox"/> Alexander D Wielaard, M.D. <input checked="" type="checkbox"/> John Sidell, Medical Director of GMH	OTHERS PRESENT: <i>Present at HPLO Conference Room:</i> Baltazar (Tre) Hattori III, HPLO Dennis Rodriguez, Todu Guam Foundation Sylvia Cruz, Todu Guam Foundation Joseph Cameron, DISID <i>Present Virtually at Remote location:</i> Joe Taitano, Pacific Daily News Ashley Calvo-Rodriguez, Todu Guam Foundation	Chair	Quorum Established
		B. Election of Board Officers The Chair stated that the Election will be postponed pending updates regarding membership.		Chair	Postponed
		C. Confirmation of Public Notice		Chair	Confirmed
II.	Adoption of Agenda	<i>Motion to Adopt the Agenda: Dr. Berg.</i>		GBME	1636 Adopted
III.	Review and Approval of Minutes	Draft Minutes dated June 12, 2024. <i>Motion to Approve: Dr. Berg</i>		GBME	1637 Unanimously Approved,
IV.	Treasurer's Report	No Report		Mr. Flores	1637 No Report
V.	HPLO Administrator's Report	No Report		HPLO	1638 No Report
VI.	Chairperson's Report	Dr. Berg delivered the Chairperson's report, focusing on the update regarding the alternative medical licensure approach being handled with the FSMB. A new meeting is scheduled for September in Washington, DC, and		Dr. Berg	1638 Noted

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	<p>FSMB will offer scholarship awards for those interested. The report highlighted an intriguing development: the Cicero Foundation, representing large for-profit healthcare organizations in the U.S., is pushing for these alternative measures. Concerns were raised about this potentially creating a system where foreign-trained physicians might be coerced into staying with employers in less desirable positions. The Cicero Foundation's response was assertive, indicating they would pursue congressional approval regardless of opposition, which sparked further controversy. This issue remains ongoing.</p> <p>The issue of reentry to practice is also being discussed with the aim of developing a federal standard, and this will be addressed in the upcoming September meeting in Washington, DC. In response to an inquiry about written documentation summarizing the discussion, it was mentioned that such publications typically appear a few weeks post-meeting. The tentative plan is for another one-day meeting in September. The recent meeting was particularly interesting because other states and territories have already enacted legislation, anticipating federal action. The objective is to facilitate the direct licensure of mid-career physicians who are adequately qualified but have not practiced or trained in the U.S., potentially under supervision, within academic institutions, or in health professional shortage areas. This debate, however, revealed a lack of consensus on the approach.</p> <p>The discussion revealed a lack of consensus among the work groups on several key issues, such as the importance of completing the same number of residency years as in the U.S., agreeing to stay in the U.S. for a certain period, and taking U.S. national certification exams. The diverse opinions, with no agreement even within groups, suggest a challenging path to formulating a consensus statement. Each subgroup's thoughts were submitted, indicating an effort to synthesize these diverse views. Dr. Berg emphasized the importance of receiving FSMB emails and encouraged everyone to ensure they are on the email list. Dr. Berg mentioned ongoing efforts to have the governor's office appoint a public member and a seventh Board member, specifically Dr. Jolene Aguon, pending a confirmation hearing. The Board is also seeking to fill a vacancy left by P. Flores, who has decided not to continue serving.</p>			
VII.	<p>Old Business</p> <p>A. Complaint(s):</p> <p>1. GBME-CO-20-005 – Received: 09/18/2020. Dr. Cruz provided an update, explaining that the case was initially assigned to Dr. Adolphson before it was passed to him due to her departure. The original complaint requested an independent review by an off-island pediatric hospitalist to assess the physician's care. An off-island expert was hired, who rendered her opinion in 2021, agreeing with the complainant and recommending further off-island pediatric hospitalist review. Dr. Adolphson had intended to discuss this recommendation with legal counsel, but changes in legal representation caused delays. Currently, the Board has consistent legal counsel despite previous political complications involving the Attorney General's office. Dr. Cruz was asked to email a request for sourcing an</p>	<p>GBME</p> <p>Dr. Cruz</p>	<p>1645</p>	<p>Noted, Off-Island Expert will be Consulted</p>

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	off-island pediatric hospitalist, potentially utilizing FSMB in Hawaii or Kapi'olani for assistance.		
	<p>2. GBME-CO-2022-002 – Received: 01/06/2022. The Board noted that a meeting with the patient is scheduled for Friday. The Board noted that it appears the listed complainant may not actually be the complainant. The physician involved is not currently practicing in Guam, and the case has not been fully adjudicated at GMHA. There are no new updates. Dr. Sidell was asked about the timeline for adjudication but was not familiar with the specific case. It involves a physician in Hawaii who had dealt with a child undergoing multiple procedures and was subsequently suspended. The case is currently in abeyance, with both sides waiting for the physician to decide on a legal course of action. The GBME intends to write to the physician to ascertain his intentions, emphasizing the need to resolve the matter, even though the physician is not practicing in Guam and therefore is not a current threat to the public.</p>	Dr. Berg	In Progress
	<p>3. GBME-CO-2022-010 – Received: 06/21/2022. Dr. David reported on the complaint involving a patient who was discharged from a hospital, readmitted within hours, and subsequently died. During the review, it was found that essential records from the institution were missing. Despite requesting these records, the GMRC refused to provide them. The Guam Medical Act mandates that institutions must share such information with the GBME; the Board sought an official legal opinion from the Attorney General's Office. Progress has been delayed due to the lack of assigned legal counsel. Assistance is needed to obtain the records to complete the investigation. Dr. David confirmed that the complainant has been informed of this issue.</p>	Dr. David	In Progress Awaiting Legal Counsel
	<p>4. GBME-CO-2023-004 – Received: 07/31/2023 Dr. Berg reported the complainant's identity is unclear, as the individual contacted expressed that they did not want to file a complaint and that someone else had done so on their behalf. When Dr. Berg attempted to meet with them to understand the situation, the complainant appeared unbothered and uncertain about the meeting's purpose, complicated further by a language barrier. An interpreter was arranged for a meeting, but it had to be rescheduled. The complainant and their spouse, who are older, did not express significant concern, suggesting they might have been encouraged by someone else to file the complaint. Dr. Berg plans to meet them in person later in the week to clarify the situation and resolve the case.</p>	Dr. Berg	Dr. Berg set Meeting with Complainants
	<p>5. GBME-CO-2024-001 – Received: 05/07/2024 The Board concluded that the complaint should be redirected to the EMSC as it falls under their jurisdiction. Dr. Berg motioned to dismiss the case without prejudice, allowing for its return if it involves a licensee or an accusation of practicing medicine in the future. <i>Motion To Dismiss Case: Dr. Berg; 2nd: Dr. Sidell</i></p>	Dr. Berg	Unanimously Dismissed TO be referred to the EMSC
	<p>B. Accusation: GBME-001-2023 B. Sablan was supposed to report on this accusation but due to her absence the report is tabled.</p>	B. Sablan	Tabled

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	<p>C. Arthur Root Jr. – Certified Laser Specialist, Non-Ablative Laser Tattoo Removal Arthur Root Jr., a Certified Laser Specialist specializing in Non-Ablative Laser Tattoo Removal, decided not to attend the meeting. It was proposed to remove his case from future agendas unless he requests to revisit it, as it currently requires no action from the Board. Dr. David, who provided an excellent analysis of the situation, supported this recommendation. The Board unanimously agreed to remove the item from the agenda while keeping it open should Mr. Root wish to discuss it further in the future. <i>Motion to remove this item from agenda: Dr. Berg</i></p>	GBME	Removed From Agenda
	<p>D. Application for Full Licensure</p>		
	<p>1. Anthony W. Kim Applicant has a clean record in National Practitioner Data Bank. <i>Motion To Approve: Dr. Berg; 2nd: Dr. David</i></p>	GBME	Unanimously Approved
	<p>2. Kitty E. Victoria Applicant has a clean application except for some discrepancies regarding FCPS listings, which have now been clarified and corrected. With all issues resolved, her application is complete. <i>Motion To Approve: Dr. Berg; 2nd: Dr. David</i></p>	GBME	Unanimously Approved
	<p>3. Semjon Tsyrlin Applicant has completed his residency as confirmed by a letter from the residency director dated July 1. Although he was previously approved pending this confirmation, it is suggested that the Board vote on his full licensure. <i>Motion To Approve: Dr. Berg; 2nd: Dr. David</i></p>	GBME	Unanimously Approved
	<p>E. Application(s) for Reinstatement of Licensure:</p>		
	<p>1. Sylvia S. Cruz Dr. Sidell noted a detail in Dr. Sylvia S. Cruz's application that had been submitted a few days prior to the meeting. Dr. Cruz, who was in attendance, had received a positive letter from a registered nurse who had been practicing for 35 years and was now semi-retired. The nurse attended patient visits with Dr. Cruz, seeing eight to twenty-four patients a week, and provided her services pro bono. It was highlighted that the nurse was not a formal employee. Dr. Sidell acknowledged receiving the letter and mentioned that the charts provided might seem thicker because they were printed rather than viewed online. He confirmed that he had met with Dr. Cruz to collect and collate the required information for the Board but stated that there were no new documents to present beyond the nurse's letter. He concluded that the application status remained largely unchanged from the previous month. Dr. Berg encouraged all Board members to share their thoughts on the challenging situation involving Dr. Cruz, as Dr. Sidell had conducted a thorough review of the case. He emphasized the importance of</p>	Dr. Sidell	Unanimously Approved

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	<p>collective input given the complexity of the issue.</p> <p>Dr. David inquired if the Board had received any official correspondence from the Hawaii Board of Medicine to confirm the active status of Dr. Cruz's medical license. Dr. Berg confirmed that the license is active and valid until June 2026 and noted that Hawaii does not require documentation of active practice for renewal. He further clarified that there are no adverse actions reported against Dr. Cruz from the Hawaii Board, with the only record being a 2010 entry from an insurance company regarding overutilization of trigger point injections. This issue did not result in Board action or investigations, leaving her record otherwise clean.</p> <p>Dr. Wielaard sought clarification on the status of the review process for Dr. Cruz, particularly regarding the verification of her active practice in Hawaii over the past couple of years. Dr. Berg confirmed that the Board needs to verify that Dr. Cruz has been actively practicing medicine recently, as the Board does not license individuals who have not been in active practice within the last two years. He noted that Dr. Cruz's circumstances are unusual, as she is self-employed and conducts home visits, which complicates the typical verification process. Dr. Cruz does not have traditional documentation like electronic health records or insurance participation. Dr. Cruz confirmed that she performs public exams and writes prescriptions, which are documented in her charts.</p> <p>Dr. Berg explained that the usual methods of verification are not available in this case, and while the Board has reviewed charts indicating follow-up visits and prescription writing, additional documentation such as pathology reports or more specific evidence would help substantiate her active practice. The Board is trying to navigate these challenges to ensure proper evaluation of Dr. Cruz's application. Dr. Cruz clarified that her practice involves seeing patients with Medicare and Medicaid, who often seek her out for second opinions. She helps them by explaining medical details and procedures that their primary care staff may not have communicated effectively. This aspect of her work is documented in her patient charts.</p> <p>Dr. Berg acknowledged this and expressed that the Board needs sufficient documentation to confidently verify Dr. Cruz's active practice over the past two years. While the charts provide some evidence of her practice, the Board requires clear and comprehensive documentation to ensure they meet their standards for licensing. The goal is to have enough assurance that Dr. Cruz has been actively practicing medicine within the required timeframe, even though the usual forms of documentation are not available in her case.</p> <p>Dr. David expressed a supportive perspective on Dr. Cruz's re-application. She emphasized that the main concern of the Board should be ensuring that Dr. Cruz has kept up with medical standards, which is the core</p>			

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	<p>reason for the documentation requests. Dr. David acknowledged that Dr. Cruz's practice, though unconventional, addresses a critical need in the community for uninsured patients who can't pay out of pocket.</p> <p>She noted that the documentation from the Hawaii Board of Medicine, the absence of adverse actions, the nurse practitioner's positive report, and the submitted patient charts demonstrate Dr. Cruz's good faith effort to maintain active practice. Dr. David suggested that Dr. Cruz should not be penalized for her non-traditional practice, which many might find commendable rather than problematic.</p> <p>Dr. Sidell expressed the need to understand the burden of proof required for making a decision. He outlined that in criminal cases, the standard is "beyond a reasonable doubt," while in civil cases, it is typically "more likely than not." Dr. Sidell emphasized the necessity of knowing the specific standard the Board is applying in this situation to properly represent the public of Guam. He inquired whether the standard is beyond a reasonable doubt or based on personal judgment. To make an informed decision, Dr. Sidell requested clarification on the burden of evidence that the applicant must meet.</p> <p>Dr. Berg clarified that the individual in question is a nurse, not a nurse practitioner, and addressed Dr. Sidell's concern by highlighting the unusual circumstances faced. He explained that the term "burden" in this context is not a legal term, as the Board makes collective decisions. Dr. Berg emphasized that the submission of a letter from a licensed medical professional in Hawaii, who has worked closely with Dr. Cruz for several years, significantly influenced his perspective. He noted that while no one doubts the nurse's credibility, the Board needs to verify that Dr. Cruz has been practicing for the past two years. The evidence provided, including the letter from another licensed healthcare professional, supports the claim of Dr. Cruz's practice. Dr. Berg assured that there was no intention to question the nurse's honesty but to ensure that reasonable evidence is available. He further discussed that the Board should consider the nurse's scope of practice and competency, acknowledging that basic medical procedures, such as a pap smear, are within the capability of a reasonably trained medical student. Dr. Berg continued by emphasizing that proficiency in medical procedures, such as pap smears, requires regular practice. He noted that while medical students are permitted to perform certain tasks under supervision, it is important for professionals to have appropriate oversight and experience. He advised considering a mode threshold for performing tasks that one may not have done frequently, suggesting that seeking a second opinion or supervision can be beneficial. Dr. Berg highlighted the collaborative nature of the healthcare community, noting that professionals often consult with colleagues for their expertise without competition or conflict. He expressed confidence that such collaboration is standard and beneficial, and he urged maintaining this supportive approach within the community.</p>			

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	<p>Dr. Sidell indicated that if he were to vote in favor of the candidate, it would be with the understanding of the pressing need for OBGYNs in Guam. He acknowledged that the community is currently underserved, with a significant shortage of providers, and expressed that this need influences his decision. Although he recognized that this should not be the sole factor in his vote, the shortage of OBGYNs does impact his consideration. Additionally, Dr. Sidell expressed his willingness to offer advice and support to Dr. Cruz if needed.</p> <p>Dr. David expressed her support for the reinstatement of Dr. Cruz's licensure. She approved of the documentation provided by both the Hawaii Board and a licensed nurse from Hawaii. Dr. David argued against applying more stringent standards to Dr. Cruz due to her unconventional path to practice, emphasizing that all applicants should be held to the same standards.</p> <p>Dr. Berg reaffirmed that the primary mandate of the Guam Board of Medical Examiners is to protect the public. He expressed confidence in Dr. Cruz's ability to adapt to a new practice environment, provided there is no evidence to suggest otherwise. Dr. Berg emphasized that while the Board will not apply different standards, it is important to acknowledge the support available within the community to help Dr. Cruz transition to a new practice setting. He also indicated that, given the unusual circumstances, he seeks input from every Board member.</p> <p>Dr. Wielaard underscored the importance of the Board's mission to protect the public and acknowledged that the caution exercised in this decision is due to this fundamental responsibility. He expressed confidence that Dr. Cruz understands the significance of this mandate. Dr. Wielaard agreed with Dr. David's perspective, noting that the additional information and verification of active practice provided by Dr. Cruz were sufficient to support her licensure reinstatement.</p> <p>Dr. Luis G. Cruz (GBME) indicated agreement with Dr. David's statements and noted that although he was not present at the previous meeting, he is now reviewing the details. He expressed support for Dr. Cruz's application for licensure, provided that the necessary documentation has been satisfactorily met.</p> <p>Dr. Sidell affirmed the need for OBGYNs and expressed his belief that Dr. Cruz was truthful during their meeting. While he is willing to support Dr. Cruz's application, he expressed some hesitation due to uncertainty about his obligation concerning the burden of proof. Despite this, Dr. Sidell confirmed that he does believe Dr. Cruz and, with that understanding, is prepared to support her application.</p>			

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	<p>Dr. Berg clarified that the Board has significant discretion in making decisions based on professional judgment, with the primary focus being the protection of the public. He noted that if Dr. Cruz's licensure aligns with this goal and given that there are no adverse findings and adequate documentation from a licensed healthcare professional and the Hawaii Board, he sees no further issues. <i>Motion To Approve: Dr. Sidell; 2nd: Dr. Wielaard</i></p> <p>F. Suspicious Order Report(s):</p> <p>1. Samuel J. Friedman Dr. Berg reported on a Suspicious Order Report concerning Samuel J. Friedman. He noted that the report from Cardinal Health was routine, merely indicating that an order for 200 doses of Zoldepam was unusual. Dr. Berg personally investigated the matter and found that the order was intended for cancer patients with sleep difficulties, and that Dr. Friedman kept the medication in the clinic to avoid patients having to obtain it elsewhere. Dr. Berg confirmed that the medications were stored in locked cabinetry and that there were no issues with Dr. Friedman's practice, which includes being a significant prescriber of pain medications. He stated that there were no grounds for a complaint and that the GBEP had no objections. Dr. Berg planned to notify the GBEP that his investigation found no issues with Dr. Friedman's ordering practices.</p>			Investigated by Dr. Berg; No Issues Noted; To be passed to GBEP
VIII	<p>New Business</p> <p>A. Application for Full Licensure:</p> <p>1. Matthew D. Bourne The Board noted a conflict of interest for Dr. Berg. Dr. David reported no adverse reports or actions in the NPDB, FCVS, or from the DC Board of Medicine. Dr. David noted that Dr. Bourne took a two-month parental leave during his training. Given the clean application, Dr. David supported the application for full licensure. <i>Motion to Approve: Dr. David; 2nd: Dr. Berg</i></p> <p>2. Cole L. Nelson Dr. Berg reported that the applicant has a clean NPDB record; however, the applicant is pending submission of Continuing Medical Education (CME) credits because he is within five years of residency and the Board's requirement is two years <i>Motion to Approve pending submission of CME credits: Dr. David; 2nd: Dr. Sidell</i></p> <p>3. David E. Allen Dr. Berg reported that the applicant has a clean NPDB and FCVS record. <i>Motion to Approve: Dr. David; 2nd: Dr. Berg</i></p> <p>4. Klaus T. Meinhof Dr. Berg reported that, while NPDB and FCVS records are clean, there is a concern regarding his legal status to work in the U.S. Although he has been employed in the U.S. for 11 years, there is a need to confirm his legal authorization to work here, as his documentation includes a German</p>	GBME	1728	Unanimously Approved
		GBME		Unanimously Approved
		GBME		Unanimously Approved
		GBME		Unanimously Approved Pending CME
		GBME		Unanimously Approved
		GBME		Unanimously Approved Pending Submission of

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		<p>passport. Dr. Berg proposed approving the application pending receipt of documentation to legally work in the U.S. Dr. Berg also suggested following up with the credentialing office to ensure this documentation is in place.</p> <p><i>Motion To Approve pending submission of proof to legally work in the US: Dr. David; 2nd: Dr. Berg</i></p>			Proof to Work in the US
		<p>B. Application(s) for Reinstatement of Licensure:</p>			
		<p>1. Xavier R. Packianathan</p> <p>Dr. Cruz reported the applicant previously held a Guam medical license from 2015 to 2021, which has since expired. He has no adverse actions reported by the FSMB, and he has a clean NPDB and FCVS record. However, the applicant must provide proof that he is authorized to legally work in the U.S.</p> <p><i>Motion To Approve pending submission of proof to legally work in the US: Dr. David; 2nd: Dr. Berg</i></p>	GBME		Unanimously Approved Pending Submission of Proof to Work in the US
IX.	Announcement	Next regularly scheduled Board meeting: Wednesday, August 14, 2024 at 4:00 pm.	GBME	1737	Set Meeting Time
X.	Adjournment	<i>Motion to Adjourn: Dr. Berg</i>	GBME	1737	Adjourned

Minutes Drafted by: FLAME TREE Freedom Center, Inc.

Date Submitted: 7/26/2024

Submitted by the GBME Secretary:

Date:

Approved by the GBME with or without changes:



Date: 8/14/2024

Certified by or Attested by the Chairperson:



Date: 8/14/2024