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**CHAPTER 12
MEDICAL PRACTICES**

PART 2

- Article 11. Chiropractic.
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**ARTICLE 11
CHIROPRACTIC**

SOURCE: This Article was enacted in its entirety by P.L. 24-329:4 (Aug. 14, 1998).

NOTE: P.L. 24-329:16 added the following uncodified language with respect to codification:

“Section 16. Reserving and Amending Specific Chapters.

Subsequent Chapters after Chapter 23 up to Chapter 30 of Title 10 of the Guam Code Annotated shall be reserved for the Board of Allied Health Examiners. Chapter 9 through Chapter 30 of Article 12 of Title 10 of the of the Guam Code Annotated are hereby amendable through the Administrative Adjudication Law, Rule Making Procedures.”

However, the stated Chapters have long been occupied by other subject matter which has not been repealed. The Compiler is uncertain of the meaning of this Section.

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- § 121101. Definitions.
- § 121102. Qualifications for Licensure.
- § 121103. Graduate of Foreign School of Chiropractic.
- § 121104. Exceptions to Licensure Requirements.
- § 121105. Specialty Board Certification.
- § 121106. Use of Diagnostic X-Rays by Licensees.
- § 121107. Determination of the Need for Care.

§ 121101. Definitions.

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

(a) Accredited School of Chiropractic means a school of chiropractic accredited by the Council of Chiropractic Education (“CCE”).

(b) Chiropractic means the science, art and philosophy of things natural, the science of locating and removing interference with the transmissions or expression of nerve forces in the 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 cathertization 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.

(c) Doctor of Chiropractic means a person who has completed training in chiropractic and received a Doctor of Chiropractic (“D.C.”) degree from a school accredited by the CCE.

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(d) Internship means a training program in the United States approved by the CCE.

(e) Licensed chiropractor means a person who is validly and currently licensed to practice chiropractic on Guam.

(f) Practice of Chiropractic means to represent directly or indirectly, publicly or privately, an ability or willingness to provide for the treatment by means of manipulation of the spine and prevention of human illness in accordance with the principles of chiropractic. Any person who is not licensed to practice chiropractic under these rules and regulations shall not hold out to the public, advertise, declare, represent or in any way proclaim to practice chiropractic, or use any titles, words, letters, signs, devices, techniques, maneuvers or modalities that could represent that he or she is authorized to prescribe or engage in the area of chiropractic or spinal manipulation, as defined under these rules and regulations.

(g) Spinal manipulation means a procedure that utilizes a carefully graded thrust, either manually or mechanically, that is applied across the spinal apophyseal or sacroiliac joints at the end of passive range of motion into the paraphysiological range of motion, often causing the sudden liberation of synovial gases characterized by an audible popping or cracking sound for the purpose of restoring a joint to its normal alignment and mobility and improving and maintaining the function of the nervous system.

§ 121102. Qualifications for Licensure.

Any person desiring a license to practice chiropractic on Guam shall make a written application to the Board on application forms provided by the Board. The applicant must provide proof of the following:

(a) graduation from a school or college of chiropractic, accredited by the CCE;

(b) completion at least one (1) year of an internship training program satisfactorily;

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- (c) pass all exams currently given by the National Board of Chiropractic Examiners;
- (d) pass all other exams as required by the Board; and
- (e) a current Basic Cardiac Life Support Certification (“BCLS”), whether the license is new or being renewed.

§ 121103. Graduate of Foreign School of Chiropractic.

Upon recommendation of the Board, a person who is a graduate of a foreign school of chiropractic may be issued a license; provided, such graduate can furnish proof of each of the following:

- (a) completion of a minimum of three (3) years pre-professional training at a college or university accredited by the appropriate accrediting body of that foreign country; fifty percent (50%) of this training must have been in the basic sciences;
- (b) graduation from a school of chiropractic accredited or approved by the country in which it is located (Curriculum at the school of chiropractic must have a minimum period of eight (8) semesters, or the equivalent of not less than four thousand two hundred (4,200) credit hours; provided, that such accrediting agency has a reciprocal agreement with the CCE.); and
- (c) pass the National Board of Chiropractic Examiners qualifying examination.

§ 121104. Exceptions to Licensure Requirements.

This Article shall not be construed to prohibit a person who is a regular student in an accredited school of chiropractic from performing duties or actions assigned by the student’s instructors, or working under the direct supervision of a licensed chiropractor.

§ 121105. Specialty Board Certification.

The Board recognizes only those national specialty boards which are recognized by the American Chiropractic Association.

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§ 121106. Use of Diagnostic X-Rays by Licensees.

(a) All licensees must comply with rules and regulations established by the Guam Board of Allied Health Examiners and the Department of Public Health and Social Services governing the use of X-rays in the healing arts.

(b) Licensees shall be allowed to prescribe X-ray procedures, and interpret and analyze the resultant radiographic images. Any patient who is administered an X-ray for chiropractic reasons, however, must first be examined by a chiropractor licensed on Guam to determine the need for the X-ray.

(c) Licensees are limited to the following uses of X-rays:

(1) no licensee shall use X-ray procedures that require the penetration of human tissues or cavities using needles, wires, catheters or syringes to introduce dyes, isotopes or any type of contrast media, orally or retrograde;

(2) no licensee shall use X-rays for therapeutic use; and

(3) no licensee shall advertise free or discounted X-ray services, or indiscriminately use X-ray practice for unethical purposes.

§ 121107. Determination of the Need for Care.

Determination of a patient's need for care shall be within the sole discretion of a licensed chiropractor, and is considered an inherent part of the scope of practice of the licensee's discipline.

**ARTICLE 12
CLINICAL PSYCHOLOGY**

- § 121201. Definitions.
- § 121202. Qualifications for Licensure.
- § 121203. Graduates of Foreign Schools.
- § 121204. Exceptions to Licensure Requirements.
- § 121205. Prescriptive Authority.

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§ 121201. Definitions.

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

(a) Clinical Psychologist means a person who has received training in clinical psychology from an accredited school in the U.S. and has completed the internship requirements.

(1) Training means a doctoral level training in clinical psychology at an accredited institution of higher learning in the U.S. The doctoral level training in clinical psychology shall require the applicant to provide evidence of having satisfactorily completed education in the following areas:

(A) biological basis of behavior, physiological psychology, comparative psychology, neuropsychology, sensation, perception and psychopharmacology;

(B) cognitive-affective basis of behavior, learning, thinking, motivation and emotion;

(C) social basis of behavior, social psychology, group process, organizational and systems theories;

(D) individual differences, personality theory, human development and abnormal psychology; and

(E) research design and methodology, statistics and psychometrics.

(2) Accredited means that the college or the university has met the standards as established by the Middle States Association of Colleges and Secondary Schools, the New England Association of Colleges and Secondary Schools, the North Central Association of Schools and Colleges, the Western Association of Schools and Colleges, or by other accrediting agencies.

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(3) Internship means a training program that is supervised by a doctoral level, licensed clinical psychologist, or approved by the American Psychological Association and can be demonstrated to be of high quality.

(b) Clinical Psychology means a subspecialty in psychology which is primarily concerned with assessing and alleviating emotional, mental and behavioral disorders in a hospital, institution or other clinical setting.

(c) Fee means any charge, monetary or otherwise, whether paid directly, or on a prepaid capitation basis, by a third party, or a charge assessed by a facility for services rendered.

(d) Foreign School means any college or division of a university in a country other than the United States that offers the degree of doctor in clinical psychology.

(e) License means that the person named on the certificate has been found qualified to engage in the practice of clinical psychology, and has been awarded a license by the Board to practice clinical psychology.

(f) Practice of Clinical Psychology means:

(1) a person who represents himself to be a clinical psychologist when he holds himself out to the public by any title or description of services incorporating the words "clinical psychology," "clinical psychologist," or offers to render or renders services as defined below to individuals, groups, organizations or the public;

(2) the rendering to individuals, groups, organizations or the public any psychological service involving the application of principles, methods and procedures of understanding, predicting and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions and inter-personal relationships; the methods and procedures of interviewing, counseling and

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psychotherapy; constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion and motivation, and of assessing public opinion;

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

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

§ 121202. Qualifications for Licensure.

(a) The applicant must have a doctorate in clinical psychology from an accredited college or university of the U.S.

(b) The applicant must have completed two (2) years of internship, of which at least one (1) year must be after receiving the doctorate.

(c) The applicant must have successfully completed the Examination for Professional Practice in Psychology administered by a state, territory or district of the United States.

§ 121203. Graduates of Foreign Schools.

Foreign clinical psychologists who meet all the requirements as established by the rules and regulations of this Article, and are found to be qualified by the Board, may be issued a license to practice clinical psychology on Guam.

§ 121204. Exceptions to Licensure Requirements.

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No person may practice clinical psychology on Guam who is not licensed as a clinical psychologist by the Board. However, these rules and regulations shall not be construed to prohibit the following:

(a) an employee of a Federal government agency performing his official duties;

(b) a clinical psychologist regularly licensed in another state of the U.S. consulting with a licensed clinical psychologist on Guam; or

(c) a person who is a regular student in clinical psychology or a related field performing duties or functions assigned by his instructors, or who is working under the direct supervision of a licensed, clinical psychologist.

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

§ 121205. Prescriptive Authority.

A clinical psychologist may administer, prescribe and dispense any licensed drug in accordance with 10 GCA § 12827 and any other rules and regulation established by the Board.

**ARTICLE 13
INDIVIDUAL, MARRIAGE AND FAMILY THERAPY**

SOURCE: Entire Article added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016), and reenacted “with Public Law 33-054, as amended pursuant to” P.L. 33-154.

2016 NOTE: Sections 1 through 21 of P.L. 32-054 (July 5, 2013) set forth the educational and professional requirements for licensed professional counselors, licensed mental health counselors, and marriage and family therapists. However, this public law did not repeal and reenact the provisions as a new Article 13 of Chapter 12 of Title 10 GCA; rather, P.L. 32-054:23 instructed that the provisions be published “as changes to the Allied Health regulations.” In P.L. 33-154:1 (May 17, 2016), the Legislature stated its intent “to rectify this situation by repealing §§ 121301 through 121305 of Article 13, and reenact Article 13 with Public Law 32-054, as amended pursuant to this Act.” Accordingly,

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pursuant to P.L. 33-154, Article 13 was repealed and reenacted with the provisions of P.L. 32-054, as amended by P.L. 33-154.

- § 121301. Licensed Professional Counselor.
- § 121302. Licensed Mental Health Counselor.
- § 121303. Marriage and Family Therapist.
- § 121304. Scope of Practice. [Repealed]
- § 121305. Privileged Communication. [Repealed]

§ 121301. Licensed Professional Counselor.

(a) Definitions. In this Article:

(1) *Accredited educational institution* shall mean any educational institution which grants a doctoral or master's degree and is accredited by a regional accrediting body in the United States or by another accrediting or recognized approval agency recognized by the Board, including state, national or foreign approving agencies.

(2) *Clinical supervision* shall mean the supervision of no more than six (6) persons at the same time who are acquiring and completing clinical experience in accordance with Guam law. Clinical supervision is that aspect of instructional supervision which draws upon data from direct firsthand observation of actual teaching, or other professional events, and involves face-to-face and other associated interactions between the observer(s) and the person(s) observed in the course of analyzing the observed professional behaviors and activities and seeking to define and/or develop next steps toward improved performance. This includes, but is not limited to the following: case consultation, the assessment and diagnosis of presenting problems, development and implementation of treatment plans, and the evaluation of the course of treatment.

(3) *Consultant* shall mean a credentialed professional who provides expert service, advice, or makes recommendations for a fee or pro bono, by phone, internet, in person, or by other means to an individual licensed in Guam as a Licensed Professional Counselor for the purposes of maximizing therapeutic benefit for a client.

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(4) *Licensed Professional Counselor* shall mean a person licensed in Guam to practice Professional Counseling as defined in these rules and regulations.

(5) *National Counselor Examination for Licensure and Certification (NCE)* shall mean the examination compiled by the National Board for Certified Counselors (NBCC).

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

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

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

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

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

(8) *Individual Counseling* shall mean planned interventions to assist a client to enlarge competencies, and increase problem solving skills and coping abilities according to identified treatment goals.

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(9) *Group Counseling* shall mean the gathering together of unrelated individuals at the direction of a group facilitator or counselor for a therapeutic purpose.

(10) A *Mental Health Intern License* designation shall mean a person who is seeking licensure and is acquiring the three thousand (3,000) hours of post-graduate clinical experience in accordance with this Article for purposes of acquiring and ultimately meeting the requisite requirements for full licensure as an Individual, Marriage and Family Therapist (IMFT), Certified Professional Counselor (CPC), Licensed Clinical Social Worker (LCSW), Licensed Mental Health Counselor (LMHC), Licensed Professional Counselor (LPC), Marriage and Family Therapist (MFT), or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to be acceptable on a case-by-case basis by the Board. To be eligible for the intern license, the applicant shall have completed all of the other criteria required for qualification for his or her respective field for licensure pursuant to § 121301(b)(1)(A), § 121302(a), § 121302(b) or § 121303(b), respectively, of this Article.

(b) Qualifications for Licensure.

(1) The provisions of this Act shall take effect two years after enactment. At that time, the Board shall issue a license as a Licensed Professional Counselor to an applicant who:

(A) has a doctorate or master's degree from an accredited educational institution with a program in psychology, counseling, marriage and family therapy, clinical social work or other psycho-therapeutic discipline. The applicant must be able to show documentation of:

(i) a minimum of seventy-two quarter hours or forty-eight semester hours of graduate studies (as suggested by the Counsel for Accreditation of

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Counseling and Related Educational Programs [CACREP]) that:

(ii) includes course content in the following areas:

(aa) Human Growth and Development;

(bb) Social/Cultural Foundations;

(cc) Counseling Theories and Techniques;

(dd) Group Work;

(ee) Career and Lifestyle Development;

(ff) Appraisal (test and measurements for individuals and groups);

(gg) Research and Program Evaluation;

(hh) Professional Orientation (to counseling); and

(ii) Professional Ethics; and

(iii) includes a practicum, consisting of a minimum of one hundred hours; and

(iv) includes an internship, consisting of a minimum of six hundred hours;

(B) has completed a minimum of three thousand hours of documented post-graduate clinical experience and one hundred hours of supervision by a licensed Individual, Marriage and Family Therapist (IMFT), Certified Professional Counselor (CPC), Licensed Clinical Social Worker (LCSW), Licensed Mental Health Counselor (LMHC), Licensed Professional Counselor (LPC), Marriage and Family Therapist (MFT), Clinical Psychologist, Psychiatrist or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to

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be acceptable on a case by case basis by the Board. The three thousand hours of post graduate clinical experience may include, but is not limited to: face-to-face treatment of clients, keeping clinical notes, supervision, treatment team meetings, consultation, education, treatment planning, observation and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred hours of the three thousand hours of post-graduate clinical experience must be in the face-to-face treatment of individuals or groups;

(C) has successfully passed the National Counselor Examination for Licensure and Certification (NCE) which has been conducted in a manner approved by the National Board for Certified Counselors (NBCC), and

(D) has documented completion of training by a professional association or educational institution and approved by the Board that consists of at least six hours of professional ethics, three hours of culturally competent counseling practices with Micronesian communities in Guam and one hour of mandated reporting.

(2) For an individual who has not engaged in post-graduate experience or cannot document a minimum of three thousand hours of post-graduate clinical experience under the supervision of a licensed IMFT, CPC, LCSW, LMHC, LPC, MFT, Clinical Psychologist, Psychiatrist or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to be acceptable on a case by case basis by the Board; such individual may practice under an internship program approved by the Board prior to engagement in that program in order to gain that supervision in Guam. The three thousand hour internship program may include, but is not limited to: face-to-face treatment of clients, keeping clinical

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notes, supervision, treatment team meetings, consultation, education, treatment planning, observation and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred hours of the three thousand hours must be in the face-to-face treatment of individuals and groups, and a minimum of one hundred hours must be supervision. To provide such supervision in Guam, a person must be a licensed Individual Marriage and Family Therapist, Licensed Professional Counselor, Marriage and Family Therapist or Licensed Clinical Social Worker licensed in Guam who has held a license for a minimum of five years; or a Clinical Psychologist or Psychiatrist licensed in Guam who has held a license for a minimum of three years.

(3) Individuals who hold a current, valid license issued by a state of the United States, its territories or foreign country, approved by the Board on a case-by-case basis as a Certified Professional Counselor, Licensed Clinical Counselor of Mental Health, Licensed Clinical Mental Health Counselor, Licensed Mental Health Counselor, Licensed Mental Health Practitioner, Licensed Professional Counselor of Mental Health, Professional Counselor, Marriage and Family Therapist, or other license deemed by the Board to be substantially equivalent to the Guam License for Licensed Professional Counselor, shall be eligible for the Guam license for a Licensed Professional Counselor.

(4) (A) The Board *shall* issue a “Professional Counselor Intern License” and number to an applicant who has satisfied all of the applicable requisite provisions of qualifications for licensure pursuant to Subsection (1)(A) of this Section, and who is acquiring the three thousand (3,000) hours of post-graduate clinical experience required for licensure, as provided pursuant to Subsection (1)(B) of this Section.

(B) The Board *shall* provide the application form to be completed by an applicant for a Mental Health Intern License.

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(c) Exceptions to Licensure.

(1) No person may practice professional counseling in Guam who is not licensed as a Licensed Professional Counselor by the Board, unless such practice is approved by the Board or other Guam licensing Board. However, this Article does not prohibit:

(A) an employee of the Federal government from performing official duties on federal property;

(B) an LCSW, PC, LPC, CPC, LMHC, MFT, Psychologist or Psychiatrist, currently licensed in another jurisdiction of the United States from consulting with or advising a Licensed Professional Counselor in Guam. However, the consultant, if not licensed in Guam may not provide services to a client directly; or

(C) an active student in good standing as a requirement of a university program for completion of a degree, or a person who is engaged in the completion of the requirement of three thousand hours of post-graduate clinical experience to become licensed as an LPC, under the supervision of a Guam licensed IMFT, LPC, LMHC, MFT, LCSW, clinical psychologist or psychiatrist, from performing assigned duties.

(2) Nothing herein prohibits qualified members of other professional groups, such as clinical psychologists, school psychologists, counseling psychologists, social workers or ordained clergy from doing work of a counseling nature consistent with the training and code of ethics for their respective professions; provided, that they do not hold themselves out to the public as a Professional Counselor.

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

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(e) Client Confidentiality. Client Confidentiality is defined and regulated as set forth in the Health Insurance Portability and Accountability Act (HIPAA), the ethical rules of the American Counseling Association (ACA), Guam law, and revisions thereof. Breach of client confidentiality, except as provided for by HIPAA, the ACA, or Guam law shall be considered unprofessional conduct and may be grounds for revocation or suspension of the license.

(f) Continuing Education Requirements. A licensee shall complete a total of forty contact hours or four Continuing Education Units directly related to the practice of Professional Counseling within each two year licensure period to qualify for renewal of licensure.

(g) Grandfather Provision. All licensees who hold a current, valid license as an Individual, Marriage, and Family Therapist issued by the Guam Board of Allied Health Examiners at the time this Act becomes law shall be deemed to hold a current, valid license as a Licensed Professional Counselor.

SOURCE: Added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016). Reenacted with P.L. 32-054 (July 5, 2013) as amended, pursuant to P.L. 33-154:1, and codified as § 121301 by the Compiler. Subsection (b)(4) added by P.L. 33-154:4.

2016 NOTE: This section was originally entitled “*Definitions*,” as added by P.L. 24-329:6 (Aug. 14, 1998). Subsection/subitem designations were altered/added to adhere to the Compiler’s general codification and alpha-numeric schemes pursuant to 1 GCA § 1606. Internal references were altered as part of the codification process.

§ 121302. Licensed Mental Health Counselor.

(a) Definitions. In this Article:

(1) *Accredited educational institution shall* mean any educational institution which grants a doctoral or master’s degree and is accredited by a regional accrediting body in the United States or by another accrediting or recognized approval agency recognized by the Board including state, national or foreign approving agencies.

(2) *Clinical supervision shall* mean the supervision of no more than six persons at the same time who are

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

(3) *Consultant shall* mean a credentialed professional who provides expert service, advice, or makes recommendations for a fee or pro bono, by phone, internet, in person, or by other means to an individual licensed in Guam as a Licensed Mental Health Counselor for the purposes of maximizing therapeutic benefit for a client.

(4) *Licensed Mental Health Counselor shall* mean a person licensed in Guam to practice Mental Health Counseling as defined in these rules and regulations.

(5) *National Clinical Mental Health Counselor Examination (NCMHCE) shall* mean the examination of that name compiled by the National Board for Certified Counselors (NBCC).

(6) *National Counselor Examination for Licensure and Certification (NCE) shall* mean the examination of that name compiled by the National Board for Certified Counselors (NBCC).

(7) *Mental Health Counseling shall* mean the provision of services to individuals, couples, families, and groups. This includes the application of theories, principles, and methods of counseling and psychotherapy to define goals and develop plans of action aimed toward the prevention, treatment, and resolution of mental and emotional dysfunction and intra- or interpersonal difficulties. The

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practice of mental health counseling includes, but is *not* limited to, the assessment, diagnosis, and non-medical treatment of mental and emotional disorders, the application of psycho-educational techniques and measures aimed at the prevention of such disorders, and consultation to individuals, couples, families, groups, organizations, and communities.

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

(9) *Individual Counseling shall* mean planned interventions to assist a client to enlarge competencies, and increase problem solving skills and coping abilities according to identified treatment goals.

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

(11) *Family therapy shall* mean systematic interventions for the purpose of enabling family members to understand the behavior of individuals in relation to the ongoing operations of the family group.

(12) *Group Counseling shall* mean the gathering together of unrelated individuals at the direction of a group facilitator or counselor for a therapeutic purpose.

(b) Qualifications for Licensure.

(1) The provisions of this Act *shall* take effect two years after enactment. At that time, the Board *shall* issue a license as a Licensed Mental Health Counselor to an applicant who:

(A) has a doctorate or master's degree from an accredited educational institution with a program in

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psychology, counseling, marriage and family therapy, clinical social work or other psycho-therapeutic discipline. The applicant must be able to show documentation of:

(i) a minimum of ninety quarter hours or sixty semester hours of graduate studies (as recommended by the Counsel for Accreditation of Counseling and Related Educational Programs [CACREP]) that:

(ii) includes course content in the following areas:

(aa) Foundations;

(bb) Counseling, Prevention, and Intervention;

(cc) Diversity and Advocacy;

(dd) Assessment;

(ee) Research and Evaluation; and

(ff) Diagnosis;

(iii) includes a practicum, consisting of a minimum of one hundred hours; and

(iv) includes an internship, consisting of a minimum of six hundred hours;

(B) has completed a minimum of three thousand hours of documented post-graduate clinical experience and one hundred hours of supervision by a licensed Individual, Marriage and Family Therapist (IMFT), Certified Professional Counselor (CPC), Licensed Clinical Social Worker (LCSW), Licensed Mental Health Counselor (LMHC), Licensed Professional Counselor (LPC), Marriage and Family Therapist (MFT), Clinical Psychologist, Psychiatrist or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United

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States, its territories or a foreign country determined to be acceptable on a case by case basis by the Board. The three thousand hours of post-graduate clinical experience may include, but is not limited to; face-to-face treatment of clients, keeping clinical notes, supervision, treatment team meetings, consultation, education, treatment planning, observation and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred hours of the three thousand hours of post-graduate clinical experience must be in face-to-face treatment of individuals or groups;

(C) has successfully passed the National Counselor Examination for Licensure and Certification (NCE) and the National Clinical Mental Health Counselor Exam (NCMHCE) which have been conducted in a manner approved by the National Board for Certified Counselors (NBCC); and

(D) has documented completion of training by a professional association or educational institution and approved by the Board that consists of at least six hours of professional ethics, three hours of culturally competent counseling practices with Micronesian communities in Guam and one hour of mandated reporting.

(2) For an individual who has *not* engaged in post-graduate experience or cannot document a minimum of three thousand hours of post-graduate clinical experience under the supervision of a licensed IMFT, CPC, LCSW, LMHC, LPC, MFT, Clinical Psychologist, Psychiatrist or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to be acceptable on a case by case basis by the Board; such individual may practice under an internship program approved by the Board prior to engagement in that program in order to gain that supervision in Guam. The three

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thousand hour internship program may include, but is *not* limited to: face-to-face treatment of clients, keeping clinical notes, supervision, treatment team meetings, consultation, education, treatment planning, observation and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred hours of the three thousand hours must be in face-to-face treatment of individuals and groups, and a minimum of one hundred hours must be supervision. To provide such supervision in Guam, a person must be a licensed Individual Marriage and Family Therapist, Licensed Professional Counselor, Marriage and Family Therapist or Licensed Clinical Social Worker licensed in Guam who has held a license for a minimum of five years with experience in clinical work which requires diagnosis and treatment planning; or a Clinical Psychologist or Psychiatrist licensed in Guam who has held a license for a minimum of three years with experience in clinical work which requires diagnosis and treatment planning.

(3) Individuals who hold a current, valid license in a state of the United States, its territories or a foreign country approved by the Board on a case-by-case basis as a Licensed Clinical Counselor of Mental Health, Licensed Clinical Mental Health Counselor, Licensed Mental Health Counselor, Licensed Mental Health Practitioner, Licensed Professional Counselor of Mental Health, or other license deemed by the Board to be substantially equivalent to the Guam license for a Licensed Mental Health Counselor, and who has passed the National Clinical Mental Health Counselor Exam (NCMHCE) in a manner approved by the National Board for Certified Counselors (NBCC) shall be eligible for the Guam license for a Licensed Mental Health Counselor.

(4) (A) The Board shall issue a "Mental Health Counselor Intern License" and number to an applicant who has satisfied all of the applicable requisite provisions of qualifications for licensure pursuant to Subsection (1)(A) of this Section, and who is acquiring the three thousand (3,000) hours of post-graduate

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clinical experience required for licensure, as provided pursuant to Subsection (1)(B) of this Section.

(B) The Board shall provide the application form to be completed by an applicant for a Mental Health Intern License.

(c) Exceptions to Licensure.

(1) No person may practice Mental Health Counseling in Guam who is *not* licensed as a Licensed Mental Health Counselor by the Board, *unless* such practice is approved by the Board or other Guam licensing Board. However, this Article *does not* prohibit:

(A) an employee of the Federal government from performing official duties on federal property;

(B) an LCSW, PC, LPC, CPC, LMHC, MFT, Psychologist or Psychiatrist, currently licensed in another jurisdiction of the United States from consulting with or advising a Licensed Mental Health Counselor in Guam. However, the consultant, if *not* licensed in Guam *may not* provide services to a client directly;

(C) an active student in good standing, as a requirement of a university program for completion of a degree or a person who is engaged in the completion of the requirement of three thousand hours of post-graduate clinical experience to become licensed as an LMHC, under the supervision of a Guam licensed IMFT, LPC, LMHC, MFT, LCSW, clinical psychologist or psychiatrist from performing assigned duties.

(2) Nothing herein prohibits qualified members of other professional groups, such as clinical psychologists, school psychologists, counseling psychologists, social workers or ordained clergy from doing work of a counseling nature consistent with their training and code of ethics for their respective professions; *provided*, that they *do not* hold themselves out to the public as a Mental Health Counselor.

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(d) **Scope of Practice.** Licensed Mental Health Counselors are qualified to provide services to individuals, couples, families, and groups. They apply theories, principles, and methods of counseling and psychotherapy to define goals and develop plans of action aimed toward the prevention, treatment, and resolution of mental and emotional dysfunction and intra- or interpersonal difficulties. The practice of mental health counseling includes, but is *not* limited to, the assessment, diagnosis, and non-medical treatment of mental and emotional disorders, the application of psychoeducational techniques and measures aimed at the prevention of such disorders, and consultation to individuals, couples, families, groups, organizations, and communities.

(e) **Client Confidentiality.** Client Confidentiality is defined and regulated as set forth in the Health Insurance Portability and Accountability Act (HIPAA), the ethical rules of the American Counseling Association (ACA), Guam law, and revisions thereof. Breach of client confidentiality except as provided for by HIPAA, the ACA, or Guam law *shall* be considered unprofessional conduct and may be grounds for revocation or suspension of the license.

(f) **Continuing Education Requirements.** A licensee *shall* complete a total of forty contact hours or four Continuing Education Units directly related to the practice of Mental Health Counseling within each two year licensure period to qualify for renewal of licensure.

(g) **Grandfather Provision.** All licensees who hold a current, valid license as an Individual, Marriage and Family Therapist issued by the Guam Board of Allied Health Examiners or as a Licensed Professional Counselor issued by a Guam Board, within eighteen (18) months of the time this Article is enacted into law, or by August 31, 2017, whichever is later, *shall* be eligible to apply for a license as a Licensed Mental Health Counselor. They may be granted a license as a Licensed Mental Health Counselor if:

(1) they can pass the NCMHCE developed by the NBCC (they shall be deemed eligible by the Board to take the test); or

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(2) they can document one thousand (1,000) hours of post Masters clinical work which requires diagnosis and treatment planning; or

(3) they have held a license as an Individual, Marriage and Family Therapist in Guam, a Licensed Professional Counselor in Guam, or any combination of the two (2) for a minimum of six (6) years.

SOURCE: Added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016). Reenacted with P.L. 32-054 (July 5, 2013) as amended, pursuant to P.L. 33-154:1, and codified as § 121302 by the Compiler. Subsection (b)(4) added by P.L. 33-154:5 and subsection (g) amended by P.L. 33-154:8.

2016 NOTE: This section was originally entitled "*Qualifications for Licensure*," as added by P.L. 24-329:6 (Aug. 14, 1998). Subsection/subitem designations were altered/added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to 1 GCA § 1606. Internal references were altered as part of the codification process.

§ 121303. Marriage and Family Therapist.

(a) Definitions. In this Article:

(1) Accredited educational institution shall mean any educational institution which grants a doctoral or master's degree and is accredited by a regional accrediting body in the United States or by another accrediting or recognized approval agency recognized by the Board including state, national or foreign approving agencies.

(2) Clinical supervision shall mean the supervision of no more than six (6) persons at the same time who are acquiring and completing clinical experience in accordance with Guam law. Clinical supervision is that aspect of instructional supervision which draws upon data from direct firsthand observation of actual teaching, or other professional events, and involves face-to-face and other associated interactions between the observer(s) and the person(s) observed in the course of analyzing the observed professional behaviors and activities and seeking to define and/or develop next steps toward improved performance. This includes, but is not limited to the following: case

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consultation, the assessment and diagnosis of presenting problems, development and implementation of treatment plans, and the evaluation of the course of treatment.

(3) Consultant shall mean a credentialed professional who provides expert service, advice, or makes recommendations for a fee or pro bono, by phone, internet, in person, or by other means to an individual licensed on Guam as a Marriage and Family Therapist for the purposes of maximizing therapeutic benefit for a client.

(4) Family shall mean all forms of households that consist of members with emotional bonds and mutual obligations that define themselves as families. "Family" as used here includes, but is not limited to, nuclear families, once married couples with children, a single parent with children, non-married couples with children, blended families, remarried couples, and couples without children.

(5) Marriage and Family Therapy shall mean the application of psychotherapeutic techniques in the delivery of services to individuals, couples, families, or groups in order to diagnose and treat mental, emotional, and nervous disorders, whether these are behavioral, cognitive, or affective, within the context of the individual's relationships. Marriage and Family Therapy includes, but is not limited to:

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

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

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

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(6) Marriage and Family Therapist (herein referred to as MFT) shall mean a person licensed on Guam to practice Marriage and Family Therapy as defined in these rules and regulations.

(7) Psychotherapy shall mean a specialized, formal interaction between an MFT or other Mental Health Professional, and a client (an individual, couple, family, or group) in which a therapeutic relationship is established to help resolve symptoms of a mental disorder, psychosocial stressor, family problem, or other difficulty, which is designed to enhance problem solving skills and coping abilities. Therapy can be used interchangeably with counseling and psychotherapy.

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

(9) Individual therapy shall mean planned interventions to help a client enlarge competencies and increase problem solving skills and coping abilities.

(10) Group therapy shall mean the gathering together of unrelated individuals at the direction of a group facilitator or therapist for a therapeutic purpose.

(11) Couples therapy shall mean therapeutic interventions with married or unmarried couples to resolve problems and conflicts in their relationship.

(b) Qualifications for Licensure.

(1) The provisions of this Act shall take effect two years after enactment. At that time, the Board shall issue a license as a Marriage and Family Therapist to an applicant who:

(A) has a doctorate or master's degree from an accredited educational institution with a program in

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psychology, counseling, marriage and family therapy, or other psycho-therapeutic discipline. The applicant must be able to show documentation of:

(i) a minimum of ninety quarter hours or sixty semester hours of graduate studies (as suggested by the Counsel for Accreditation of Counseling and Related Educational Programs [CACREP]) that:

(ii) includes course content in the following areas:

(aa) Professional Identity;

(bb) Social and Cultural Diversity;

(cc) Human Growth and Development;

(dd) Career Development;

(ee) Helping Relationships;

(ff) Group Work;

(gg) Assessment;

(hh) Research and Program Development;

(ii) Professional Ethics;

(jj) Foundations of Marital, Couple, and Family Counseling/Therapy;

(kk) Contextual dimensions of Marital, Couple, and Family Counseling/Therapy; and

(ll) Knowledge and skill requirements for Marital, Couple, and Family Counselor/Therapist; and

(iii) includes a practicum, consisting of a minimum of one hundred hours; and

(iv) includes an internship, consisting of a minimum of six hundred hours with a minimum of two hundred forty clock hours in direct services

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with individuals, couples and families, with the majority of the direct service clock hours occurring with couples and family units;

(B) has completed a minimum of three thousand hours of documented post-graduate clinical experience and one hundred hours of supervision by a licensed Individual, Marriage and Family Therapist (IMFT), Certified Professional Counselor (CPC), Licensed Clinical Social Worker (LCSW), Licensed Mental Health Counselor (LMHC), Licensed Professional Counselor (LPC), Marriage and Family Therapist (MFT), Clinical Psychologist, Psychiatrist or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to be acceptable on a case by case basis by the Board. The three thousand hours of post-graduate clinical experience may include, but is not limited to: face-to-face treatment of clients, keeping clinical notes, supervision, treatment team meetings, consultation, education, treatment planning, observation, and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred of the three thousand hours of post-graduate clinical experience must be in the face-to-face treatment of individuals, couples, groups, or families;

(C) has successfully passed the Marital and Family Therapy Examination created by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB), or has passed another examination created by a recognized national or international entity deemed by the Board to be substantially equivalent to the Marital and Family Therapy Examination created by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB); and

(D) has documented completion of training by a professional association or educational institution and

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approved by the Board that consists of at least six hours of professional ethics, three hours of culturally competent counseling practices with Micronesian communities on Guam and one hour of mandated reporting.

(2) For an individual who has not engaged in post-graduate experience or cannot document a minimum of three thousand hours of post-graduate clinical experience under the supervision of a licensed IMFT, CPC, LCSW, LMHC, LPC, MFT, Clinical Psychologist, Psychiatrist, or other license deemed by the Board to be substantially equivalent to these professions, who is licensed and authorized to provide such supervision in the United States, its territories or a foreign country determined to be acceptable on a case by case basis by the Board; such individual may practice under an internship program approved by the Board prior to engagement in that program in order to gain that supervision on Guam. The three thousand hour internship program may include, but is not limited to: face-to-face treatment of clients, keeping clinical notes, supervision, treatment team meetings, consultation, education, treatment planning, observations, and other activities generally recognized to be part of clinical practice. A minimum of one thousand five hundred of the three thousand hours must be in the face-to-face treatment of individuals, couples, groups, or families, and a minimum of one hundred hours must be supervision. To provide such supervision on Guam a person must be a licensed Individual Marriage and Family Therapist, Licensed Professional Counselor, Marriage and Family Therapist or Licensed Clinical Social Worker licensed on Guam who has held a license for a minimum of five years with experience working with couples and families; or a Clinical Psychologist or Psychiatrist licensed on Guam who has held a license for a minimum of three years with experience working with couples and families.

(3) Individuals who hold a current valid license issued by a state of the United States, its territories, or foreign country approved by the Board on a case by case

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basis as a Marriage and Family Therapist, or other license deemed by the Board to be substantially equivalent to the Guam license for Marriage and Family Therapy, who have passed the Marital and Family Therapy Examination created by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB), or has passed another examination created by a recognized national or international entity deemed by the Board to be substantially equivalent to the Marital and Family Therapy Examination created by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB), shall be eligible for the Guam license for Marriage and Family Therapy.

(4) (A) The Board shall issue a “Marriage and Family Therapist Intern License” and number to an applicant who has satisfied all of the applicable requisite provisions of qualifications for licensure pursuant to Subsection (1)(A) of this Section, and who is acquiring the three thousand (3,000) hours of post-graduate clinical experience required for licensure, as provided pursuant to Subsection (1)(B) of this Section.

(B) The Board shall provide the application form to be completed by an applicant for a Mental Health Intern License.

(c) Exceptions to Licensure.

(1) No person may practice Marriage and Family Therapy in Guam who is not licensed as a Marriage and Family Therapist by the Board, unless such practice is approved by the Board or other Guam licensing Board. However, this Article does not prohibit:

(A) an employee of the Federal government from performing official duties on federal property;

(B) an LCSW, PC, LPC, CPC, LMHC, MFT, Psychologist, or Psychiatrist currently licensed in another jurisdiction of the United States from consulting with or advising a licensed Marriage and Family Therapist on Guam. However, the consultant, if

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not licensed on Guam may not provide services to a client directly; or

(C) an active student in good standing, as a requirement of a university program for completion of a degree or a person who is engaged in the completion of the requirement of three thousand hours of post-graduate clinical experience to become licensed as an MFT, under the supervision of a Guam licensed IMFT, LPC, LMHC, MFT, LCSW, clinical psychologist or psychiatrist from performing assigned duties.

(2) Nothing herein prohibits qualified members of other professional groups, such as clinical psychologists, counseling psychologists, school psychologists, social workers, or ordained clergy from doing work of a counseling nature consistent with their training and code of ethics for their respective professions; provided, that they do not hold themselves out to the public by any of the following titles:

(A) family therapist;

(B) marriage therapist;

(C) psychotherapist (other than Clinical Psychologist); or

(D) any combination thereof.

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

(e) Client Confidentiality. Client Confidentiality is defined and regulated by the standards set forth in the Health Insurance Portability and Accountability Act (HIPAA), the ethical rules of the American Counseling Association (ACA), Guam law, and revisions thereof. Breach of client confidentiality, except as provided for by HIPAA the ACA, or Guam law, shall be

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considered unprofessional conduct and may be grounds for revocation or suspension of the license.

(f) Continuing Education Requirements. A licensee shall complete a total of forty contact hours or four Continuing Education Units directly related to the practice of Marriage and Family Therapy within each two year licensure period to qualify for renewal of licensure.

(g) Grandfather Provision. All licensees who hold a current, valid license as an Individual, Marriage and Family Therapist issued by the Guam Board of Allied Health Examiners or as a Licensed Professional Counselor issued by a Guam Board, within eighteen (18) months of the time this Article is enacted into law, or by August 31, 2017, whichever is later, *shall* be eligible to apply for a license as a Licensed Mental Health Counselor. They may be granted a license as a Licensed Mental Health Counselor if:

(1) they can pass the NCMHCE developed by the NBCC (they shall be deemed eligible by the Board to take the test); or

(2) they can document one thousand (1,000) hours of post Masters clinical work which requires diagnosis and treatment planning; or

(3) they have held a license as an Individual, Marriage and Family Therapist in Guam, a Licensed Professional Counselor in Guam, or any combination of the two (2) for a minimum of six (6) years.

SOURCE: Added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016). Reenacted with P.L. 32-054 (July 5, 2013) as amended, pursuant to P.L. 33-154:10, and codified as § 121303 by the Compiler. Subsection (b)(4) added by P.L. 33-154:6 and subsection (g) amended by P.L. 33-154:9.

2016 NOTE: This section was originally entitled "*Exceptions to Licensure*," as added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by 33-154:7 (May 17, 2016). Subsection/subitem designations were altered/added to adhere to the Compiler's general codification and alphanumeric schemes pursuant to 1 GCA § 1606. Internal references were altered as part of the codification process.

§ 121304. Scope of Practice.

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[Repealed.]

SOURCE: Added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016).

§ 121305. Privileged Communication.

[Repealed.]

SOURCE: Added by P.L. 24-329:6 (Aug. 14, 1998). Repealed by P.L. 33-154:7 (May 17, 2016).

**ARTICLE 14
OCCUPATIONAL THERAPY**

SOURCE: This Article was added by P.L. 24-329:7 (Aug. 14, 1998).

- § 121401. Definitions.
- § 121402. Qualifications for Licensure; Occupational Therapist.
- § 121403. Qualifications for Licensure.
- § 121404. International Graduates; Requirements.
- § 121405. Licensure Examination.
- § 121406. Qualifications for Examination.
- § 121407. Waiver of Requirements.
- § 121408. Persons and Practices Not Affected.
- § 121409. Scope of Practice; Occupational Therapist.
- § 121410. Scope of Practice; Occupational Therapy Assistant.

§ 121401. Definitions.

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

(a) Fieldwork means a supervised clinical experience of a minimum of six (6) months for occupational therapists, and a minimum of three (3) months for Occupational Therapy Assistants, as arranged by the educational institution granting the degree.

(b) Occupational therapy means the evaluation and treatment provided to people whose lives have been

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disrupted by physical injury, illness, developmental problems, the aging process, or psychosocial or cognitive difficulties.

(1) 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.

(2) 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.

(c) Occupational therapist means a person licensed to practice occupational therapy on Guam.

(d) Occupational therapy assistant means a person licensed to assist in the practice of occupational therapy who works under the indirect supervision of an occupational therapist, or as otherwise determined by the supervising occupational therapist.

(e) Occupational therapy technician/aide means a person who can assist in treatment oriented activities, under the direct supervision and presence of an occupational therapist or occupational therapy assistant, and whose activities require a general understanding of occupational therapy services acquired on-the-job.

(f) NBCOT means the National Board for Certification in Occupational Therapy.

2017 NOTE: Subitem designations added pursuant to the authority of 1 GCA § 1606.

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§ 121402. Qualifications for Licensure; Occupational Therapist.

(a) Educational Requirements. Applicants shall present satisfactory evidence to the Board of having successfully completed academic and fieldwork experience requirements in an occupational therapy educational program recognized by the Board. The occupational therapy educational program shall be accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association or the current governing board. The applicant must also:

(1) possess at least a bachelor's degree or certificate in occupational therapy from the U.S. or from a foreign program recognized by the NBCOT; and

(2) submit transcripts from an approved school of occupational therapy in the U.S., or from a foreign program recognized by the NBCOT, unless already submitted to a government of Guam health agency.

(b) Fieldwork Experience. Applicants shall submit to the Board evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution or by the nationally recognized professional association where the applicant has met the academic requirements. Occupational therapists must have a minimum of six (6) months or nine hundred forty (940) hours of supervised fieldwork experience.

§ 121403. Qualifications for Licensure.

(a) Occupational Therapy Assistant.

(1) The occupational therapy assistant educational program shall be approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The applicant must:

(A) possess an associate's degree or certificate in occupational therapy assistant from the U.S. or from a foreign program recognized by the NBCOT;

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(B) submit transcripts from an approved school for occupational therapy assistants in the U.S. or from a foreign program recognized by the NBCOT, unless already submitted to a government of Guam agency.

(2) Fieldwork Experience. Applicants shall submit to the Board evidence of having successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution, or by the nationally recognized professional association where the applicant has met the academic requirements. Occupational therapy assistants must have a minimum of twelve (12) weeks, or one hundred and forty (140) hours of supervised fieldwork experience.

(b) Occupational Therapy Technicians. Occupational therapy technicians are not required to be licensed by the Board.

§ 121404. International Graduates; Requirements.

Occupational therapists and occupational therapy assistants trained outside of the United States must satisfy the examination requirements of this Article. The Board shall require these applicants to furnish proof of good moral character and completion of education and supervised fieldwork requirements, substantially equal to those as contained in this Article prior to examination.

§ 121405. Licensure Examination.

An applicant for licensure as an occupational therapist or as an occupational therapy assistant must pass the written NBCOT examination, as provided for in this Article. Applicants who have fulfilled the education requirements as outlined above, but are pending completion of the examination, may initiate the application process for licensure.

§ 121406. Qualifications for Examination.

Only persons satisfying the requirements of this Article may apply for examination in such a manner as the Board shall prescribe. The Board recognizes the NBCOT as the examining authority for occupational therapists and occupational therapy

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assistants. A person who fails an examination may apply for reexamination, subject to the policies and procedures of NBCOT.

§ 121407. Waiver of Requirements.

(a) Licensure by Endorsement. The Board may waive the examination, education or experience requirements, and grant a license to any applicant who shall present proof of having practiced in another state, the District of Columbia, Puerto Rico or Territory of the United States which has standards for regulations that are substantially equivalent to the requirements specified in the Article. The Board shall use discretion in considering applicants from unregulated states.

(b) The Board may grant a license to any person who passed the certification examination administered by the NBCOT prior to the effective date of Act; whose principal residence is Guam; and who presents satisfactory evidence to the Board of having practiced in Guam for at least one (1) year prior to the enactment of these rules and regulations. Proof of actual practice shall be presented to the Board in such manner as it may prescribe. To obtain the benefit of this waiver, an applicant must file an application no later than ninety (90) days from the effective date of this Act.

§ 121408. Persons and Practices Not Affected.

Nothing in this Article shall be construed as preventing or restricting the practice, services or activities of:

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

(b) any person employed as an occupational therapist or occupational therapist assistant by the Federal government or its agency, if such person provides occupational therapy solely under the direction or control of the organization in which the person is employed;

(c) any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is

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designated by a title which clearly indicates the person's status as a student or trainee;

(d) any person fulfilling the supervised fieldwork experience requirements of Subsections (2)(b) and 3(2) of this Article, if the experience constitutes a part of the experience necessary to meet the requirements of the NBCOT;

(e) any person performing occupational therapy services on Guam, if these services are performed for no more than ninety (90) days in a calendar year in association with an occupational therapist licensed under these rules and regulations:

(1) the person is licensed or otherwise regulated under the law of another state which has substantially equivalent requirements for practice as specified under this Article; or

(2) the person has passed the certification examination administered by the NBCOT; or a Certified Occupational Therapy Assistant ("COTA"), established by the NBCOT; or

(f) any person functioning as an occupational therapy technician/aide.

§ 121409. Scope of Practice; Occupational Therapist.

(a) An occupational therapist may enter a case for the purposes of providing direct or indirect service, consulting, evaluating an individual as to the need for services, and other occupational therapy services for any individual who has an injury, illness, cognitive impairment, psychosocial dysfunction, mental illness, developmental or learning disability, physical disability, or other disorder or condition. It includes assessment by skilled observation or evaluation through the administration and interpretation of standardized or nonstandardized tests and measurements. Occupational therapy services include, but are not limited to, the following:

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(1) the assessment and provision of treatment in consultation with the individual, family or other appropriate persons;

(2) interventions directed toward developing, improving, sustaining or restoring daily living skills, including self-care skills and activities that involve interactions with others and the environment, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills;

(3) developing, improving, sustaining or restoring sensorimotor, oral-motor, perceptual or neuromuscular functioning, emotional, motivational, cognitive or psychosocial components of performance; and

(4) education of the individual, family or other appropriate persons in carrying out appropriate interventions.

(b) Services may encompass assessment of need and the design, development, adaptation, application or training in the use of assistive technology devices; the design, fabrication or application of rehabilitative technology, such as selected orthotic devices; training in the use of orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the application of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.

(c) Such evaluation shall be the occupational therapist's assessment of a patient's problem, and the therapist shall make an occupational therapy assessment and evaluation and treat accordingly. The therapist shall consult with an authorized health care practitioner if a patient's problem is outside the scope of occupational therapy. If, at any time, a patient requires further services of an authorized health care provider, a referral shall be made.

§ 121410. Scope of Practice; Occupational Therapy Assistant.

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The occupational therapy assistant works under the supervision of the occupational therapist. The amount, degree and pattern of supervision a practitioner requires varies depending on the employment setting, method of service provision, the practitioner's competence and the demands of service. The occupational therapist is responsible for the evaluation of the client or patient. The treatment plan may be developed by the occupational therapist in collaboration with the occupational therapy assistant. Once the evaluation and treatment plans are established, the occupational therapy assistant may implement and modify various therapeutic interventions, as permitted by the Board under the supervision of the occupational therapist.

**ARTICLE 15
PHYSICAL THERAPY**

SOURCE: This Article was added by P.L. 24-329:8 (Aug. 14, 1998).

- § 121501. Definitions.
- § 121502. Qualifications for Licensure.
- § 121503. Exceptions to Licensure.
- § 121504. Scope of Practice.
- § 121505. Supportive Personnel; Delineation of Responsibilities.
- § 121506. Foreign Graduates; Requirements.

§ 121501. Definitions.

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

(a) Licensed physical therapist means a person who is currently and validly licensed to practice physical therapy on Guam.

(b) Physical therapy assistant means an individual who assists in the treatment of patients under the direct and indirect supervision of a licensed physical therapist.

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Assistance rendered must be commensurate with the assistant's education and training.

(c) Physical therapy technician means an individual who has received on-the-job training from a licensed physical therapist, and who assists in the treatment of patients under the direct supervision of a licensed physical therapist.

(d) Physical therapy means the utilization of scientific principles for the evaluation and treatment of any disability, injury or disease by the use of physical, chemical or mechanical means, including, but not limited to, heat, cold, air, light, sound, electricity, water, massage, therapeutic exercise and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting or alleviating dysfunction resulting from such disability, injury or disease; the performance of tests and measurements of neuromuscular function as an aid to the diagnosis or treatment of 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 modalities/electrotherapy, that is provided by, or under the direction of, a licensed, physical therapist.

(e) Consultation means the communication regarding a patient's evaluation and proposed treatment plan with an authorized health care practitioner.

(f) Authorized health care practitioner includes licensed physicians, osteopathic physicians, chiropractors, podiatrists and dentists; provided, however, that nothing herein shall be construed as altering the scope of practice of

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such practitioners as defined in their respective licensure regulations.

§ 121502. Qualifications for Licensure.

(a) Licensed Physical Therapist. Applicants for a license to practice physical therapy on Guam must complete and file an application with the Board. Applicants must have all of the following qualifications:

(1) a bachelor's degree in physical therapy or certificate in physical therapy from an accredited school of physical therapy in the United States;

(2) transcripts from an approved school of physical therapy, evidencing the successful completion of a four (4) year degree program, a two (2) year certificate or advanced program which must include supervised clinical experience; and

(3) the applicant must have passed an examination given by the Professional Examination Service in the U.S. or one (1) of its territories and have been granted a license.

(b) Physical Therapy Assistant. To be eligible for licensure as a physical therapy assistant, the applicant must possess all of the following qualifications:

(1) a minimum of an associate degree from an approved school for physical therapy assistant in the United States; and

(2) transcripts from an approved school for physical therapy assistants, evidencing the successful completion of a two (2) year degree program, which must include supervised clinical experience.

§ 121503. Exceptions to Licensure.

No person may practice physical therapy on Guam who is not licensed as a physical therapist by the Board. These rules and regulations shall not be construed:

(a) to prohibit persons employed as physical therapists by a Federal agency from practicing their discipline;

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(b) to restrict the activities or services of a student or physical therapy intern pursuing a course of study leading to a degree or certificate in physical therapy, provided that these activities and services constitute a part of his supervised course of study;

(c) to restrict the practice of a physical therapist who is obtaining the required professional experience, and whose required professional experience application has been approved by the Board. Such professional experience is to be defined by the Board as deemed necessary;

(d) to prohibit auxiliary services provided by physical therapy technicians in carrying out duties necessary for the support of physical therapy, including those duties which involve minor physical therapy services when performed under the direct supervision of licensed, physical therapists, so long as such activities do not go beyond the scope of practice defined by these rules;

(e) to prohibit the practice of physical therapy by licensed physical therapists of other states or countries while appearing as clinicians at bona fide educational seminars sponsored by physical therapy, medical or other healing art professional associations, so long as such activities do not go beyond the scope of practice defined by these rules and regulations.

2017 NOTE: Subsection designations altered pursuant to the authority of 1 GCA § 1606.

§ 121504. Scope of Practice.

(a) Physical Therapists.

(1) A person licensed under this Article as a physical therapist may evaluate and treat human ailments by physical therapy. The evaluation shall be the physical therapist's assessment of a patient's problem and shall include a physical therapy diagnosis. If a patient's problem is outside the scope of physical therapy, the therapist shall consult with a person licensed to practice medicine. If a patient, at any time, requires further medical evaluation or diagnostic

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testing, that patient shall be referred to an authorized health care practitioner.

(2) Direct referral of a patient by an authorized health care practitioner may be by telephone, letter or in person; provided, however, if the instructions are oral, the physical therapist may administer treatment accordingly, but must make a record describing the nature of the treatment, the date administered, the name of the person receiving the treatment and the name of the referring authorized health care practitioner.

(b) Physical Therapy Assistant.

(1) A physical therapy assistant is not an independent practitioner and works under the indirect supervision of the physical therapist.

(2) A physical therapy assistant will follow the treatment program set by the physical therapist, and may progress the exercise program in conjunction with the treatment goals.

(c) Physical Therapy Technician. The physical therapy technician will carry out tasks as delegated by the physical therapist; all patient care will be under the direct supervision of the physical therapist.

§ 121505. Supportive Personnel; Delineation of Responsibilities.

(a) A physical therapist is professionally and legally responsible for patient care given by supportive personnel under the physical therapist's supervision. If a physical therapist fails to adequately supervise patient care given by supportive personnel, the Board may take disciplinary action against the licensee.

(b) Supervision of supportive personnel requires that the physical therapist perform the following activities:

(1) provide initial evaluation of the patient;

(2) develop a treatment plan and program, including treatment goals;

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(3) assess the competence of supportive personnel to perform assigned tasks;

(4) select and delegate appropriate portions of the treatment plan and program;

(5) direct and supervise supportive personnel in delegated functions;

(6) re-evaluate the patient and adjust the treatment plan as acceptable

physical therapy practice requires, consistent with the delegated health care task;

(7) document sufficient in-service training and periodic evaluation of performance to assure safe performance of the tasks assigned to supportive personnel; and

(8) provide discharge planning.

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 121506. Foreign Graduates; Requirements.

(a) The following is required of applicants for physical therapists who are foreign graduates:

(1) be of good moral character;

(2) be a United States citizen or legal alien;

(3) submit to the Board the following documents, which must be in English or accompanied by an English translation:

(A) official application and affidavits;

(B) evidence of a diploma from an educational program for physical therapy approved by the Board;

(C) a letter from the applicant's most recent employer verifying the applicant's position and dates of employment;

(4) demonstrate that the applicant's credentials are equivalent to those required of a U.S. educated physical therapist applicant (The foreign education must contain

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evidence of course work in humanities and social sciences, as well as courses in biology and other physical sciences, equivalent to a United States degree in physical therapy. The applicant must submit notarized copies of all academic records to either the International Education Research Foundation or the International Consultants of Delaware, for evaluation; addresses for each shall be listed with the Board office. A copy of the evaluation must be sent directly to the Board.);

(5) if the Board determines that the educational background is not equivalent to a U.S. accredited physical therapy program, or the applicant's program is found deficient in physical therapy credits, the applicant must successfully complete a physical therapy program which conforms with the standards of the official accrediting agency determined by the U.S. Office of Education, or at the discretion of the Board, complete specified courses in physical therapy;

(6) complete a minimum of twenty (20) continuous weeks of internship under direction and immediate supervision of a physical therapist, in an institution which is approved by the Board, and furnish documentary evidence of compliance to the Board; and

(7) may appear before the Board for an oral interview.

(b) If the Board finds the internship to have been successfully completed and the educational equivalency requirements met, the applicant must take a licensure examination given by a state or territory within the United States.

(c) Physical therapist assistants must comply with all requirements of this Article, have passed an examination given by the Professional Examination Service in the United States or one (1) of its territories, and have been granted a current license.

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**ARTICLE 16
PHYSICIAN ASSISTANT**

SOURCE: This Article was added by P.L. 24-329:9 (Aug. 14, 1998).

- § 121601. Definitions.
- § 121602. Qualifications for Licensure.
- § 121603. Scope of Practice.
- § 121604. Registration of Physician Assistant's Supervision.
- § 121605. Renewal of License.
- § 121606. Identification.
- § 121607. Supervision Required.
- § 121608. Prescribing.
- § 121609. Exceptions to Licensure Requirement.

§ 121601. Definitions.

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

(a) Licensed physician means a physician licensed by the Board of Medical Examiners to practice medicine on Guam.

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

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

(d) Supervision means providing guidance of the services performed by the physician assistant. A supervising physician may be physically on the premises where the physician assistant is practicing, or be available on Island by telecommunication.

§ 121602. Qualifications for Licensure.

(a) Licensed physician assistants must be graduates of programs approved by the Physician Assistant Examining

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Committee (“PAEC”) from an institution accredited by the Committee on Allied Health Education and Accreditation (“CAHEA”).

(b) Licensed physician assistants must have passed a proficiency examination developed by the National Commission on Certification of Physician Assistants, or its successor.

§ 121603. Scope of Practice.

(a) A physician assistant may provide any medical services when such services are within his skills, form a usual component of the physician's scope of practice under the supervision of a supervising physician.

(b) Physician assistants with privileges or employed by a hospital or skilled nursing facility may, if permissible under the by-laws and rules and regulations of such facility, write medical orders, including medications, tests and treatments, for in-patients under the care of the supervising physician. In every case, such medical orders must be countersigned by the supervising physician or confirmed by telephone within twenty-four (24) hours.

§ 121604. Registration of Physician Assistant's Supervision.

Prior to practicing on Guam, the licensed physician assistant shall present for approval of the Board of Allied Health Examiners and Board of Medical Examiners a completed application for supervision by a Guam-licensed physician. The practice of the physician assistant must fall within the practice of the supervising physician with whom the physician assistant is registered. In the event of any changes of supervising physician, the names of the supervising physicians must be provided to the above boards. The Board must be notified at least ten (10) days prior to the effective date of change. Practicing without a supervising physician shall be grounds for disciplinary action, including revocation of license.

§ 121605. Renewal of License.

Each licensed physician assistant must present evidence of current certification through the National Commission on Certification of Physician Assistants, or its successor, every two

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(2) years for renewal of license.

§ 121606. Identification.

(a) While working, the physician assistant shall wear or display appropriate identification, clearly indicating that he or she is a physician assistant.

(b) The physician assistant's license must be displayed in the office, and any satellite operation in which the physician assistant may function.

(c) A physician assistant may not advertise him or herself in any manner that would mislead the patients of the supervising physician or the public.

§ 121607. Supervision Required.

(a) Tasks performed by the physician assistant must be under the supervision of a registered supervising physician.

(b) All medical records must be reviewed and co-signed by the approved supervising physician within seven (7) days.

(c) Upon being duly licensed by the Board, the licensee shall have his or her name, address and other pertinent information enrolled by the Board on a roster of licensed physician assistants.

(d) Not more than two (2) currently licensed physician assistants may be supervised by a licensed physician at any one time.

(e) If no registered supervising physician is available to supervise the physician assistant, the physician assistant must not perform patient care activities.

(f) Nothing in these rules shall be construed to prohibit the employment of physician assistants by a medical care facility where such physician assistant's function under the supervision of a Guam-licensed physician.

§ 121608. Exceptions to Licensure Requirement.

No person may practice as a physician assistant on Guam who is not licensed by the Board. This Article, however, shall not

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be construed to prohibit a student in a physician assistant program performing duties or functions assigned by his instructors, or who is working under the direct supervision of a licensed physician.

§ 121609. Prescriptive Authority.

A physician assistant may administer, prescribe and dispense any licensed drug in accordance with 12 GCA § 12827, and in accordance to any other rules and regulation established by the Board.

**ARTICLE 17
PODIATRIC MEDICINE**

SOURCE: This Article was added by P.L. 24-329:10 (Aug. 14, 1998).

- § 121701. Definition.
- § 121702. Qualifications for Licensure.
- § 121703. Approved Schools.
- § 121704. Approved Hospitals for Podiatric Residencies.
- § 121705. Licensure Renewal; Continuing Education Requirements.
- § 121706. Approved Continuing Education Programs.
- § 121707. Scope of Practice.

§ 121701. Definition.

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

- (a) Podiatric Medicine means the diagnosis, medical, surgical, mechanical, manipulative and electrical treatment of the human foot and ankle, including the tendons that insert into the foot, and the non-surgical treatment of the muscles and tendons of the leg governing the functions of the foot.

§ 121702. Qualifications for Licensure.

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(a) Any person who desires to practice podiatric medicine on Guam must apply to the Board for licensure and provide each of the following:

(1) three (3) letters from doctors of podiatric medicine verifying that the applicant is competent;

(2) verification sent directly from the college of podiatric medicine to the Board of having satisfactorily graduated from an approved college of podiatric medicine; and

(3) verification sent directly to the Board from a residency program of having satisfactorily completed a hospital-approved podiatric residency program.

(b) If an applicant has practiced podiatric medicine in any U.S. jurisdiction, the applicant shall furnish each of the following:

(1) a notarized copy of the applicant's license to practice podiatric medicine in that jurisdiction; and

(2) an affidavit from the board of podiatric medical examiners of any such jurisdiction verifying the number of years that the applicant has been engaged in the legal and reputable practice of podiatric medicine in that jurisdiction.

§ 121703. Approved Schools.

Colleges of podiatric medicine accredited by the Council on Podiatric Education of the American Podiatry Association shall be approved by the Board for providing resident professional instruction in podiatric medicine.

§ 121704. Approved Hospitals for Podiatric Residencies.

The hospitals approved by the Board for residencies shall be those that meet the minimum requirements set by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

§ 121705. Licensure Renewal; Continuing Education Requirements.

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(a) Each licensee who is a doctor of podiatric medicine is required to complete fifty (50) hours of approved continuing education during each two (2) year renewal period. Each doctor of podiatric medicine renewing a license may be required to submit proof satisfactory to the Board of compliance with the provisions of this requirement.

(b) Each doctor of podiatric medicine, in order to renew a license, shall report progress towards compliance with continuing education requirements by signing and returning the declaration contained in the license renewal application.

(c) Any licensed doctor of podiatric medicine who cannot complete a minimum of fifty (50) hours of approved continuing education during a two (2) year period shall be ineligible for renewal of his or her license, unless such licensee applies for and obtains a waiver from the Board, as shall be determined by the Board.

(d) As part of the continuing education required of each licensee, each licensee, at the time of license renewal, shall certify that he or she possesses a current and valid certificate in basic cardiopulmonary resuscitation (“CPR”).

(e) The Board requires that each licensee retain records of all continuing education programs attended which indicate the title of the course or program, the sponsoring organization, or individual and the accrediting organization, if any, for a minimum of four (4) years.

§ 121706. Approved Continuing Education Programs.

The following are approved by the Board as continuing education programs:

(a) programs which are approved by the American Podiatric Medical Association and its affiliated organizations;

(b) programs that qualify for Category I Credit of the American Medical Association and the American Osteopathic Association and their affiliated organizations;

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(c) programs offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine;

(d) podiatric residency program or clinical fellowship in a hospital approved for podiatric residencies (Completion of a residency program or clinical fellowship shall be credit for fifty (50) hours of approved continuing education.); and

(e) programs offered by other individuals, organizations and institutions approved by the Board on a case-by-case basis.

§ 121707. Scope of Practice.

(a) A license to practice podiatric medicine on Guam authorizes the holder to practice podiatric medicine as defined in these Rules.

(b) No doctor of podiatric medicine shall do any amputation of the foot in total. Surgical debridement with plastic repairs or reconstruction of diseased, traumatized or devitalized, nonviable or necrotic tissue shall be the standard of treatment for these diseased processes.

(c) Doctors of podiatric medicine practicing within the framework of this policy statement are subject to all laws governing gross negligence, incompetence and repeated negligent acts.

**ARTICLE 18
SPEECH LANGUAGE PATHOLOGY**

SOURCE: This Article was added by P.L. 24-329:11 (Aug. 14, 1998), and amended by P.L. 34-048 (Oct. 13, 2017).

- § 121801. Definitions.
- § 121802. Qualifications for Licensure.
- § 121803. Exceptions to Licensure Requirements.
- § 121804. Scope of Practice.
- § 121805. Licensure Renewal.

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§ 121801. Definitions.

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

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

(b) Speech-language Pathology-Assistant (Bachelor's level), (SLPA-B), means any individual who meets the minimum qualifications which the Board may establish for speech-language assistants, whose qualifications shall be less than those established by this Article for licensure as a speech-language pathologist, and who is licensed and works under the direct, then indirect supervision (as defined by ASHA Guidelines for Supervision) of a licensed speech-language pathologist.

(c) Licensed Speech-language Pathology-Assistant (Master's level), (SLPA-M), means any individual who meets the minimum qualifications which the Board may establish for speech-language assistants, whose qualifications shall be less than those established by this Article for licensure as a speech-language pathologist, and who is licensed and works under the indirect supervision of a licensed speech-language pathologist.

(d) Speech-language Pathologist (SLP) means any individual who is duly licensed by the Board to practice in the field of speech-language pathology.

(e) Speech-language Pathology means the application of principles, methods and procedures for the measurement, testing, evaluation, prediction, counseling, instruction, habilitation or rehabilitation related to the development and disorders of speech, voice, fluency, language, augmentative alternative communication, neurological disorders, or swallowing disorders, for the purpose of evaluating, identifying, treating, preventing, ameliorating, or modifying such disorders and conditions in children or adults.

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(f) Supervision.

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

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

(3) The supervising licensed speech-language pathologist of a SLPA-B or SLPA-M *shall not* supervise more than five (5) individuals at one (1) time. The licensed SLP sponsor will assume all responsibilities and will meet all sponsorship requirements for such individuals as set forth by the Board.

SOURCE: Added by P.L. 24-329:11 (Aug. 14, 1998), and amended by P.L. 34-048:2 (Oct. 13, 2017).

§ 121802. Qualifications for Licensure.

(a) Speech-Language Pathologist.

(1) To be eligible for licensure by the Board as a speech-language pathologist, an applicant must possess a current Certificate of Clinical Competence (CCC) in Speech-Language Pathology issued by ASHA as evidence of professional training and experience.

(2) Applicants shall arrange for an official statement from ASHA to be sent directly to the GBAHE reporting present ASHA certification.

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- (b) (1) A Speech-language Pathology-Assistant (SLPA-B)
- (A) shall possess at least a Bachelor's degree in speech and language or communication disorders, and
 - (B) *shall* work under the direct or indirect supervision of a licensed Speech-Language Pathologist.
- (2) The SLPA-B and supervisor will complete and submit the Supervisor Form provided by the Board upon application, renewal, and no later than three (3) working days upon any supervisory changes within a license renewal year.
- (3) If any changes occur within the renewal year that affects both supervisor requirement (primary and secondary), the Supervisor Form must be revised and submitted before the SLPA-B can practice.

- (c) (1) A Speech-Language Assistant (SLPA-M)
- (A) shall possess at least a Master's degree in speech-language pathology or
 - (B) communication disorders, and
 - (C) may work under the indirect supervision of a licensed Speech-Language Pathologist, respective to the individual's understanding and assessed performance of speech-language disorders.
- (2) The SLPA-M and supervisor will complete and submit the Supervisor Form provided by the Board upon application, renewal, and no later than three (3) working days upon any supervisory changes within a license renewal year.
- (3) If any changes occur within the renewal year that affects both supervisor requirement (primary and secondary), the Supervisor Form must be revised and submitted before the SLPA-M can practice.

SOURCE: Added by P.L. 24-329:11 (Aug. 14, 1998), and amended by P.L. 34-048:3 (Oct. 13, 2017).

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2017 NOTE: Subitem designations added pursuant to authority granted by 1 GCA § 1606.

§ 121803. Exceptions to Licensure Requirements.

These rules and regulations shall not be construed as preventing or restricting:

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

(b) the activities and services of persons pursuing a course of study leading to a degree in Speech-Language Pathology at a college or university, if such activities and services constitute a part of an approved supervised course of study, and such person is designated as a speech-language intern or trainee; or

(c) the activities and services of persons presently working on their Clinical Fellowship Year (“CFY”), and such person is registered as a “CFY-Speech-Language Pathologist” by ASHA, working under a licensed SLP on Guam.

SOURCE: Added by P.L. 24-329:11 (Aug. 14, 1998), and amended by P.L. 34-048:4 (Oct. 13, 2017).

§ 121804. Scope of Practice.

(a) Speech-Language Pathologist. The scope of practice for speech-language pathology includes:

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

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

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

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

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

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

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

(b) A licensed Speech-Language Pathologist is professionally and legally responsible for patient/client care given by SLPA-B and SLPA-M under the Speech-Language Pathologist's supervision.

(1) If a Speech-Language Pathologist fails to adequately supervise the patient/client care by supportive personnel, as strictly provided and authorized pursuant to this Article, the Board may take disciplinary action against the licensee.

(2) Supervision of supportive personnel requires that the Licensed Speech-Language Pathologist perform the following activities:

(A) assess the competence of supportive personnel to perform assigned tasks; and

(B) document sufficient in-service training and periodic evaluation of performance to assure safe performance of the tasks assigned to supportive personnel.

(c) A Speech-Language Pathology Assistant (Bachelor's level) (SLPA-B) must

(1) work under the direct or indirect supervision of the supervising licensed SLP, and

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(2) may only implement the therapeutic plan designed by the supervising licensed SLP in conjunction with treatment goals, and

(3) be responsible for all documentation of treatment which is co-signed by the supervising speech-language pathologist.

(d) (1) A Speech-Language Pathology Assistant (Master level) (SLPA-M) (without the CCC)

(A) must work under the indirect supervision of the supervising licensed SLP, and

(B) *shall* confer with and have all reports co-signed by the supervising licensed SLP.

(2) The Master level speech-language assistant shall perform all of the following duties:

(A) diagnostic testing,

(B) interpreting evaluation results,

(C) documenting all evaluation results,

(D) developing written goals and objectives based upon evaluation results, teacher/parent reports,

(E) attending all informal/formal student meetings,

(F) maintaining a therapeutic and consultative case load,

(G) performing and documenting all therapeutic intervention,

(H) designing or selecting appropriate therapy materials or augmentative or alternative communication systems or devices.

SOURCE: Added by P.L. 24-329:11 (Aug. 14, 1998), and amended by P.L. 34-048:5 (Oct. 13, 2017).

2017 NOTE: Subitem designations added pursuant to authority granted by 1 GCA § 1606.

§ 121805. Licensure Renewal.

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The licensed Speech-Language Pathologist, SLPA-B, and SLPA-M will follow license renewal requirements as provided pursuant to § 12824 of Article 8, Chapter 12, Part 1, Title 10, Guam Code Annotated. In addition:

(a) registration with the Board is required for both SLPA-B and SLPA-M within the renewal period every two (2) years. This includes filling out the Board form naming two (2) licensed Speech-Language Pathology Supervisors; and

(b) submission of proof of continuing education hours during the renewal period every two (2) years (§ 12809, Article 8, Part 1 of this Chapter 12):

(1) for an SLPA-B, fifteen (15) approved continuing education hours directly related to speech-language pathology, as approved by the Board; and

(2) for an SLPA-M, twenty (20) approved continuing education hours, fifteen (15) direct hours and five (5) indirect hours related to speech-language pathology, as approved by the Board.

SOURCE: Added by P.L. 34-048 (Oct. 13, 2017).

2017 NOTE: Subsection/subitem designations altered pursuant to the authority of 1 GCA §1606.

**ARTICLE 19
VETERINARY MEDICINE**

SOURCE: This Article was added by P.L. 24-329:12 (Aug. 14, 1998).

- § 121901. Definitions.
- § 121902. Requirements for Licensure.
- § 121903. Exceptions to Licensure Requirements.
- § 121904. Professional Conduct; Additional Provisions.
- § 121905. Spay/Neuter Clinic.
- § 121906. Trained Persons Performing Animal Euthanasia.

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§ 121901. Definitions.

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

(a) Animal means any animal other than man which includes, but is not limited to, fowl, birds, fish, and reptiles, wild or domestic, living or dead.

(b) Practice of veterinary medicine 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.

(c) Veterinary medicine includes veterinary surgery, obstetrics, dentistry and all other branches or specialties of veterinary medicine.

(d) Veterinary hospital or veterinary clinic means a facility for the veterinary care of animals, wherein all activities are directly supervised by a licensed veterinarian.

(e) Animal control means animal health and animal population control programs that include some or all of the following services: sterilization, worming, vaccinations, general health examinations, pet licensing, and emergency or critical care services needed in conjunction with other services.

SOURCE: Added by P.L. 24-329:12 (Aug. 14, 1998). Public Law 28-186:2 (Jan. 29, 2007) added a new subsection (d), which was already occupied. Therefore, the new subsection was renumbered to (e) by the Compiler of Laws.

§ 121902. Requirements for Licensure.

Any person desiring a license to practice veterinary medicine on Guam must be licensed in another state of the United States.

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§ 121903. Exceptions to Licensure Requirements.

These rules shall not be construed to prohibit:

(a) a person who is a regular student in a veterinary school from performing duties or actions assigned by his instructors, or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(b) a person practicing veterinary medicine upon his own animals, being assisted in such practice by his employees when they are normally employed in the conduct of such person's business, or being assisted in such practice by some other person gratuitously; or

(c) A person advising or performing acts which the Board or Guam law recognizes as accepted animal control or livestock management practices, provided that animal control shall be subject to the following conditions:

(1) such services must be rendered under the direction and sponsorship of a charitable organization or government agency that assumes full responsibility for the treatment or services;

(2) veterinary services must be performed by, or under the supervision of, a person currently licensed to practice veterinary medicine in any state, province, territory, commonwealth or possession of the United States, Canada, the United Kingdom, Australia, New Zealand, Japan or the Philippines, and such other jurisdictions as the Board may from time-to-time designate. Copies of the visiting practitioners' licenses must be submitted to the Board prior to a project of animal control and shall be available on the premises for inspection. These license copies shall serve as licenses to work on an animal control project for no longer than eight (8) days per project. Controlled substances shall be administered pursuant to the Uniform Controlled Substances Act of Guam, Chapter 67, Title 9 GCA;

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(3) no person shall receive any fee or remuneration of any kind, other than payment of or reimbursement for travel, lodging, meals and expenses reasonably incurred by participating service providers. The sponsoring organization may charge and receive a fee or donation for services rendered, which fee shall be reasonably calculated to recover actual or anticipated project costs, including reimbursement of expenses incurred by service providers. Services shall be provided free of charge to persons receiving public assistance who are the lawful owners of animals which receive services;

(4) animal control projects shall not be conducted by a charitable or government organization more than two (2) times per calendar year; and

(5) within thirty (30) days after each project, the project sponsor shall provide the Board with a written report identifying the number and nature of procedures performed, and the names, addresses, and telephone numbers of all veterinarians participating in the program.

SOURCE: Added by P.L. 24-239:12 (Aug. 14, 1998). Subsection (c) repealed and reenacted by P.L. 28-186:3 (Jan. 29, 2007).

2015 NOTE: Subsection designations in subsection (c) were altered from Roman numerals to Arabic numerals to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 121904. Professional Conduct; Additional Provisions.

The following acts are deemed unprofessional conduct and are subject to disciplinary action as delineated in Article I, General Regulations, of these rules and regulations:

(a) cruelty to animals, as defined by Guam law, or as determined by the Board; and

(b) failure to maintain their professional premises in a sanitary condition.

§ 121905. Spay/Neuter Clinic.

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A spay/neuter clinic is a facility established only to spay and neuter animals. Surgeries are performed by, and directly supervised by, a licensed veterinarian. Services are limited to these specific surgical procedures and are performed only by a licensed veterinarian.

§ 121906. Trained Persons Performing Animal Euthanasia.

Notwithstanding any other provision of this Chapter 12, agents or employees of a government operated or government contracted animal shelter may lawfully possess and administer, under the supervision of a Guam licensed veterinarian, sodium pentobarbital or Xylazine for the purpose of euthanasia of animals; provided, that the agents or employees of the licensed government operated or government contracted animal shelter have successfully completed an animal euthanasia technician certification course approved by the Board of Allied Health Examiners. This training shall be conducted by a veterinarian currently registered on Guam, and shall include the following areas: knowledge of federal and Guam laws regarding the proper storage, inventory and handling of controlled substances, the potential hazards of such controlled substances, the use and administration of such controlled substances, humane animal euthanasia procedures, and other subjects as shall be required by the Guam Board of Allied Health Examiners. Upon certification by the veterinarian that a person has successfully completed the course, the Guam Board of Allied Health Examiners may issue an animal euthanasia technician license to said person, subject to annual renewal. The Board may revoke or suspend the license at any time for good cause.”

SOURCE: Added by P.L. 28-034:5 (Apr. 22, 2005).

**ARTICLE 20
RESPIRATORY THERAPY**

SOURCE: Article 20 was added by P.L. 24-230:13 (Aug. 14, 1998).

- § 122001. Definitions.
- § 122002. Qualifications for Licensure.

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- § 122003. Exceptions to Licensure.
§ 122004. Scope of Practice.
§ 122005. Supportive Personnel; Delineation of Responsibilities.

§ 122001. Definitions.

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

(a) 'Licensed Registered Respiratory Therapist' ("RRT") means a person who is currently a "Registered Respiratory Therapist" credentialed by the National Board for Respiratory Care ("NBRC"), or the equivalent thereof, and who is currently and validly licensed to practice respiratory therapy on Guam.

(b) 'Licensed Certified Respiratory Therapist' means a person who is currently a "Certified Respiratory Therapist" ("CRT") (formerly 'Certified Respiratory Therapy Technician ("CRRT")') credentialed by the National Board for Respiratory Care ("NBRC"), or the equivalent thereof as accepted by the NBRC, and who assists in the treatment of patients under the indirect supervision of a licensed Registered Respiratory Therapist.

(c) "Respiratory therapy" means the management of pulmonary diseases with medicines and machines.

(d) 'Consultation' means the communication regarding the patient's evaluation and proposed treatment plan with an authorized health care practitioner.

(e) "Authorized health care practitioner" includes licensed physicians, osteopathic physicians, chiropractors, podiatrists and dentists; provided, however, that nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure regulations.

SOURCE: Added by P.L. 24-329:13 (Aug. 14, 1998), amended by P.L. 25-190:2 (Jan. 22, 2001).

§ 122002. Qualifications for Licensure.

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Applicants for a license to practice respiratory therapy on Guam must complete and file an application with the Board. Applicants must have all of the following qualifications:

(a) Licensed Registered Respiratory Therapist:

(1) transcripts from an approved school of respiratory therapy, evidencing the successful completion of a two (2) year program, resulting in a minimum of an Associate's Degree in Respiratory Therapy;

(2) current certification as a RRT by the National Board for Respiratory Care; or

(3) have obtained RRT status from the National Board for Respiratory Care prior to January 1, 2004.

(b) Licensed Certified Respiratory Therapist or Certified Respiratory Therapy Technician:

(1) transcripts from an approved school of respiratory therapy, evidencing the successful completion of a one (1) year program; and

(2) current certification as a Certified Respiratory Therapist by the National Board for Respiratory Care; or

(3) have obtained certification as a Certified Respiratory Therapy Technician by the National Board of Respiratory Care before July 1, 1999.

SOURCE: Added by P.L. 24-329:13 (Aug. 14, 1998), amended by P.L. 25-190:3 (Jan. 22, 2001).

2015 NOTE: Subsection designations in this provision were altered from numbers to lowercase letters to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 122003. Exceptions to Licensure.

(a) No person may practice respiratory therapy on Guam who is not licensed as a respiratory therapist by the Board. These rules and regulations shall not be construed:

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(1) to prohibit persons employed as respiratory therapists by a Federal agency from practicing their discipline;

(2) to restrict the activities or services of a student or respiratory therapy intern pursuing a course of study leading to a degree or certificate in respiratory therapy; provided, that these activities and services constitute a part of his supervised course of study;

(3) to restrict the practice of a respiratory therapist who is obtaining the required professional experience and whose required professional experience application has been approved by the Board. Such professional experience is to be defined by the Board as deemed necessary;

(4) to prohibit auxiliary services provided by respiratory therapy technicians in carrying out duties necessary for the support of respiratory therapy, including those duties which involve minor respiratory therapy services when performed under the direct supervision of licensed respiratory therapists, so long as such activities do not go beyond the scope of practice defined by this Chapter;

(5) to prohibit the practice of respiratory therapy by licensed respiratory therapists of other states or countries while appearing as clinicians at bona fide educational seminars sponsored by respiratory therapy, medical or other healing art professional associations, so long as such activities do not go beyond the scope of practice defined by this Chapter.

SOURCE: Added by P.L. 24-329:13 (Aug. 14, 1998).

§ 122004. Scope of Practice.

(a) Registered Respiratory Therapists. The practice of respiratory care includes, but is not limited to, the services set forth in the law. The licensed Registered Respiratory Therapist provides these services for the assessment, treatment, management, evaluation and care of patients with deficiencies, abnormalities and diseases of the cardiopulmonary system with guidance from a qualified medical director, and pursuant to a

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referral from a physician who has medical responsibility for the patient.

(1) A person licensed under this Chapter as a Respiratory Therapist may evaluate and treat human ailments by respiratory therapy according to a physician's consultation. The evaluation shall be the Therapist's assessment of a patient's problem and shall include a respiratory therapy diagnosis. If a patient's problem is outside the scope of therapist, the therapist shall consult with a person licensed to practice medicine. If a patient, at any time, requires further medical evaluation or diagnostic testing, that patient shall be referred to an authorized health care practitioner.

(2) Direct referral of a patient by an authorized health care practitioner may be by telephone, letter or in person; provided, however, if the instructions are oral, the therapist may administer treatment accordingly, but must make a record describing the nature of the treatment, the date administered, the name of the person receiving the treatment and the name of the referring authorized health care practitioner.

(3) The practice of respiratory care by a licensed Registered Respiratory Therapist includes, but is not limited to, the following services:

(A) providing and monitoring therapeutic administration of medical gases, aerosolized humidification and pharmacological agents related to respiratory care procedures, but not including administration of anesthesia;

(B) carrying out therapeutic application and monitoring of mechanical ventilator support;

(C) providing cardiopulmonary resuscitation and maintenance of natural airways and insertion, and maintenance of artificial airways;

(D) assessing and monitoring signs, symptoms and general behavior relating to, respiratory care

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treatment or evaluation for treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics;

(E) obtaining physiological specimens and interpreting physiological data including:

- (i) analyzing arterial and venous blood gases;
- (ii) assessing respiratory secretions;
- (iii) measuring ventilatory volumes, pressures, and flows;
- (iv) testing pulmonary function;
- (v) testing and studying the cardiopulmonary system;
- (vi) diagnostic testing of breathing patterns related to sleeping disorders;
- (vii) assisting hemodynamic monitoring and support of the cardiopulmonary system;
- (viii) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols or changes in patient response to respiratory care treatment;
- (ix) providing cardiopulmonary rehabilitation, including respiratory care-related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;
- (x) instructing patients and their families in techniques for the prevention, alleviation and rehabilitation of deficiencies, abnormalities and diseases of the cardiopulmonary system;

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(xi) assisting with management of the cardiopulmonary system and medical equipment during off-Guam transports;

(xii) transcribing and implementing physician orders for respiratory care services;

(F) services within the training and experience of the practitioner; and

(G) services within the parameters of the laws, rules and standards of the facilities in which the respiratory care practitioner practices.

(4) Respiratory care services provided by a licensed Registered Respiratory Therapist, whether delivered in a health care facility or the patient's residence, must not be provided, except upon referral from a physician.

(b) Licensed Certified Respiratory Therapists.

(1) A licensed Certified Respiratory Therapist is not an independent practitioner, and works under the indirect supervision of the licensed Registered Respiratory Therapist.

(2) A licensed Certified Respiratory Therapist will follow the treatment program set by the licensed Registered Respiratory Therapist.

(3) The practice of respiratory care by a licensed Certified Respiratory Therapist includes, but is not limited to, the following services:

(A) providing and monitoring therapeutic administration of medical gases, aerosolized humidification, and pharmacological agents related to respiratory care procedures, but not including administration of anesthesia;

(B) carrying out therapeutic application and monitoring of mechanical ventilator support;

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(C) providing cardiopulmonary resuscitation and maintenance of natural airways, and insertion and maintenance of artificial airways;

(D) assessing and monitoring signs, symptoms and general behavior relating to, respiratory care treatment or evaluation for treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics;

(E) obtaining physiological specimens and interpreting physiological data including:

- (i) analyzing arterial and venous blood gases;
- (ii) assessing respiratory secretions;
- (iii) measuring ventilatory volumes, pressures, and flows;
- (iv) testing pulmonary function;
- (v) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols or changes in patient response to respiratory care treatment;
- (vi) providing cardiopulmonary rehabilitation, including respiratory care-related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;
- (vii) instructing patients and their families in techniques for the prevention, alleviation and rehabilitation of deficiencies, abnormalities and diseases of the cardiopulmonary system; and
- (viii) transcribing and implementing physician orders for respiratory care services;

(F) services within the training and experience of the practitioner; and

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(G) services within the parameters of the laws, rules and standards of the facilities in which the respiratory care practitioner practices.

(4) Respiratory care services provided by a licensed Registered Respiratory Therapist, whether delivered in a health care facility or the patient's residence, must not be provided, except upon referral from a physician.

SOURCE: Added by P.L. 24-329:13 (Aug. 14, 1998), amended by P.L. 25-190:4 (Jan. 22, 2001).

2015 NOTE: Subsection designations in subsections (a)(3) and (b)(3) were altered from lowercase letters to uppercase letters to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 122005. Supportive Personnel; Delineation of Responsibilities.

(a) A licensed Registered Respiratory Therapist is professionally and legally responsible for patient care given by supportive personnel under the Registered Respiratory Therapist's supervision. If a licensed Registered Respiratory Therapist fails to adequately supervise patient care given by supportive personnel, the Board may take disciplinary action against the licensee.

(b) Supervision of supportive personnel requires that the licensed Registered Respiratory Therapist perform or supervise the following activities:

- (1) provide initial evaluation of the patient;
- (2) develop a treatment plan and program, including treatment goals;
- (3) assess the competence of supportive personnel to perform assigned tasks;
- (4) select and delegate appropriate portions of the treatment plan and program;
- (5) direct and supervise supportive personnel in delegated functions;

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(6) reevaluate the patient and adjust the treatment plan as acceptable respiratory therapy practice requires, consistent with the delegated health care task;

(7) document sufficient in-service training and periodic evaluation of performance to assure safe performance of the tasks assigned to supportive personnel; and

(8) provide discharge planning.

SOURCE: Added by P.L. 24-329:13 (Aug. 14, 1998), amended by P.L. 25-190:5 (Jan. 22, 2001).

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

**ARTICLE 21
DIETITIAN AND NUTRITIONIST**

NOTE: Article 21 was added by P.L. 24-329:14 (Aug. 14, 1998), entitled, "Nutritionist/Clinical Dietitian"; repealed and added by P.L. 25-192:3 (Jan. 25, 2001), entitled "Dietitian and Nutritionist."

- § 122101. Definitions.
- § 122102. Qualification for Licensure; Dietitian or Nutritionist.
- § 122103. Waiver of Examination Requirements; Licensure by Endorsement.
- § 122104. Scope of Practice; Licensed Dietitians and Licensed Nutritionists.
- § 122105. Persons and Practices Not Affected.
- § 122106. Prohibited Acts.

§ 122101. Definitions.

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

(a) Dietitian shall mean a person certified as a Registered Dietitian by the Commission on Dietetic Registration.

(b) Nutritionist shall mean a person who either:

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(1) has qualified as a diplomate of the American Board of Nutrition or as a Certified Nutrition Specialist with the Certification Board for Nutrition Specialists; or

(2) has received a master's or doctoral degree from an accredited college or university with a major in human nutrition, public health nutrition, clinical nutrition, nutrition education, community nutrition, or food and nutrition, and has completed a documented work experience in human nutrition or human nutrition research of at least nine hundred (900) hours.

(c) American Dietetic Association (ADA) is a national professional organization for nutrition and dietetics practitioners which accredits educational and pre-professional training programs in dietetics.

(d) The Commission on Dietetic Registration (“CDR”) is a member of the National Commission for Certifying Agencies (“NCCA”) and is the credentialing agency of the American Dietetic Association.

(e) Certification Board for Nutrition Specialists (“CBNS”) is the credentialing body which certifies advanced degree nutritionists as Certified Nutrition Specialists.

(f) Licensed Dietitian (“LD”) shall mean a person licensed by the Board to engage in dietetics or nutrition practice under this Article.

(g) Licensed Nutritionist (“LN”) shall mean a person licensed by the Board to engage in dietetics or nutrition practice under this Article.

(h) Medical nutrition care means the component of nutrition care that deals with:

(1) interpreting and recommending nutrient needs relative to medically prescribed diets, including, but not limited to, tube feedings, specialized intravenous solutions and specialized oral feedings;

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(2) food and prescription drug interactions; and

(3) developing and managing food service operations whose chief function is nutrition care and provision of medically prescribed diets.

(i) Medically prescribed diet means a diet prescribed when specific food or nutrient levels need to be monitored, altered, or both, as a component of a treatment program for an individual whose health status is impaired or at risk due to disease, injury, or surgery, and may only be performed as initiated by or in consultation with a licensed physician.

(j) Nutrition assessment means the evaluation of the nutrition needs of individuals or groups using appropriate data to determine nutrient needs or status and make appropriate nutrition recommendations.

(k) Nutrition counseling means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment.

(l) Nutrition services for individuals and groups shall include, but is not limited to, all of the following:

(1) providing nutrition assessments relative to preventive maintenance or restorative care;

(2) providing nutrition education and nutrition counseling as components of preventive maintenance or restorative care; and

(3) developing and managing systems whose chief function is nutrition care. Nutrition services for individuals and groups does not include medical nutrition care as defined in this Act.

(m) Restorative means the component of nutrition care that deals with oral dietary needs for individuals and groups. Activities shall relate to the metabolism of food and the requirements for nutrients, including dietary supplements for growth, development, maintenance or attainment of optimal health.

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SOURCE: Added by P.L. 24-329:14 (Aug. 14, 1998); repealed and reenacted by P.L. 25-192:3 (Jan. 25, 2001).

§ 122102. Qualification for Licensure; Dietitian or Nutritionist.

(a) Licensed Dietitian. The applicant for licensure as a dietitian shall:

(1) Provide evidence of current registration as a Registered Dietitian (“RD”) by the Commission on Dietetic Registration (CDR); or

(2) (A) Have received a baccalaureate or postgraduate degree from a college or university, accredited by a regional accrediting body recognized by the Council on Post-Secondary Accreditation, with a major in dietetics, human nutrition, nutrition education, community nutrition, public health nutrition, foods and nutrition, or an equivalent major course of study, as approved by the Board. Applicants who have obtained their education outside of the United States and its territories must have their academic degree validated by the Board as equivalent to a baccalaureate or masters degree conferred by a regionally accredited college or university in the United States;

(B) Have satisfactorily completed a program of supervised clinical experience approved by the CDR; and

(C) Have passed the registration examination for dietitians administered by the CDR.

(b) Licensed Nutritionist. The applicant for licensure as a nutritionist shall:

(1) meet the requirements of Subsections (a)(1) or (2) of this Section; or

(2) has qualified as a diplomate of the American Board of Nutrition, or as a Certified Nutrition Specialist with the Certification Board for Nutrition Specialists, or has received a master's or doctoral degree from an accredited college or university with a major in human nutrition, public health

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nutrition, clinical nutrition, nutrition education, community nutrition or food and nutrition, and has completed a documented work experience in human nutrition or human nutrition research of at least 900 hours.

(c) Waiver of fees. All fees for application and license in part (b) of this Section will be waived for all applicants who are currently licensed under part (a) of this Section.

SOURCE: Added by P.L. 24-329:14 (Aug. 14, 1998); repealed and reenacted by P.L. 25-192:3 (Jan. 25, 2001).

2015 NOTES: This section was originally entitled “Qualification for Licensure; Clinical Dietitian or Nutritionist” by P.L. 24-329:14. Repealed by P.L. 25-192:3.

Subsection designations in subsections (a)(2) were altered from Roman numerals to uppercase letters to adhere to the Compiler’s alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 122103. Waiver of Examination Requirements; Licensure by Endorsement.

The Board may grant a license to any person who is currently registered as a Registered Dietitian by the CDR, or who is currently recognized as a diplomate of the American Board of Nutrition or as a Certified Nutrition Specialist with the Certification Board for Nutrition Specialists.

SOURCE: Added by P.L. 25-192:3 (Jan. 25, 2001).

2015 NOTE: This section was originally entitled, “International Graduates; Requirements” by P.L. 24-329:14 (Aug. 14, 1998); repealed by P.L. 25-192:3 (Jan. 25, 2001).

§ 122104. Scope of Practice; Licensed Dietitians and Licensed Nutritionists.

(a) Nutrition assessment, as defined in this Article, and including individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary and demographic data, for clinical research and program planning purposes;

(b) Developing, establishing, and evaluating nutrition services for individuals and groups as defined in this Article;

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(c) Nutrition counseling and education, as a part of preventive or restorative health care throughout the life cycle;

(d) Determining, applying and evaluating standards for food and nutrition services;

(e) Applying scientific research to the role of food in the maintenance of health and the treatment of disease; and

(f) Medical nutrition care and medically prescribed diets, as defined by this Article, can be provided by a licensed dietitian; however, a licensed nutritionist can only provide medical nutrition care and medically prescribed diets in consultation with a licensed physician or a licensed dietitian.

SOURCE: Added by P.L. 25-192:3 (Jan. 25, 2001).

2015 NOTE: This section was originally entitled, "Licensure Examination" by P.L. 24-329:14 (Aug. 14, 1998); repealed by P.L. 25-192:3 (Jan. 25, 2001).

§ 122105. Persons and Practices Not Affected.

Nothing in this Article shall be construed as preventing or restricting the practice, services or activities of:

(a) any person licensed or certified on Guam by any other law from engaging in the profession or occupation for which the person is licensed or certified, or any person under the supervision of the licensee or certified individual when rendering services within the scope of the profession or occupation of the licensee or certificant; and any person with a bachelor's degree in home economics or health education from furnishing nutrition information incidental to the practice of that person's profession;

(b) any dietitian or nutritionist serving in the Armed Forces or the Public Health Service of the United States, or employed by the Veterans Administration when performing duties associated with that service or employment;

(c) any person pursuing a supervised course of study leading to a degree or certificate in dietetics or nutrition at an accredited education program, if the person is designated by a title which clearly indicates the person's status as a student or trainee;

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(d) any person when acting under the direction and supervision of a person licensed under this Article, in the execution of a plan of treatment authorized by the licensed person;

(e) an educator who is employed by a nonprofit organization approved by the Board; a Federal, territorial, or other political subdivision; an elementary or secondary school; or an accredited institution of higher education, insofar as the activities and services of the educator are part of such employment;

(f) any person who markets or distributes food, food materials, or dietary supplements, or any person who engages in the explanation of the use and benefits of those products, or the preparation of those products, as long as that person does not represent oneself as a licensed dietitian or licensed nutritionist, and provides to the client a disclaimer, in writing, stating such; or

(g) any person who provides general or gratuitous nutrition information, as long as the provider does not represent oneself as a licensed dietitian, or licensed nutritionist, and provides to the client a disclaimer stating such.

SOURCE: Added by P.L. 24-329:14 (Aug. 14, 1998) as 10 GCA § 122107; repealed and added to this section by P.L. 25-192:3 (Jan. 25, 2001).

2015 NOTE: This section was originally entitled, “Qualification for Examination” by P.L. 24-329:14; repealed by P.L. 25-192:3.

§ 122106. Prohibited Acts.

(a) Unauthorized Practice. Except as otherwise provided under this Article, a person may not practice, attempt to practice, or offer to practice dietetics or nutritional services on Guam, unless licensed by the Board.

(b) Misrepresentation of Title. Except as otherwise provided under this Article, a person may not represent or imply to the public by use of the title “licensed dietitian” or “licensed nutritionist,” by other title, by description of services, methods or

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procedures that the person is authorized to practice dietetics or nutritional services on Guam.

(c) Misuse of Words and Terms. Unless authorized to engage in dietetics or nutrition practice under this Article, a person may not use the words “dietitian,” “registered dietician” or “licensed dietitian,” “nutritionist,” “nutrition specialist” or “licensed nutritionist,” alone or in combination, or the terms “LD,” “RD” or “D,” “LN,” “NS” or “N,” or any facsimile or combination in any words, letters, abbreviations or insignia.

SOURCE: Added by P.L. 25-192:3 (Jan. 25, 2001).

2015 NOTE: This section was originally entitled, “Waiver of Requirements” by P.L. 24-329:14; repealed by P.L. 25-192:3.

**ARTICLE 22
NURSING HOME ADMINISTRATOR**

SOURCE: The Article was added by P.L. 24-329:15 (Aug. 14, 1998).

- § 122201. Nursing Home Administrator.
- § 122202. Authority.
- § 122203. Qualification.
- § 122204. Application for Licensure.
- § 122205. Licensure by Examination.
- § 122206. Licensure by Endorsement/Reciprocity.
- § 122207. Courses of Instruction and Training.
- § 122208. Present Administrators.
- § 122209. Renewal of License.

§ 122201. Nursing Home Administrator.

A nursing home shall be administered by a licensed Nursing Home Administrator.

§ 122202. Authority.

The Board shall issue a license to practice as a nursing home administrator to any applicant who meets the qualification for licensure upon submission of an application and payment of the required fee.

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§ 122203. Qualification for Licensure.

An applicant for a nursing home administrator license shall apply to the Board of Licensure on forms provided by the Board. The applicant shall submit:

- (a) proof of age;
- (b) proof of physical and emotional capability to administer the nursing home;
- (c) a notarized copy of a diploma, or evidence satisfactory to the Board of having successfully completed an accredited course of study or training as a nursing home or health administrator, approved by the Board (The program shall consist of both theory and practical experience.); and
- (d) have a personal interview with the Board, as requested.

§ 122204. Application for License.

Any person who desires to practice as a Nursing Home Administrator on Guam, and meets the qualifications contained in § 122203 of this Chapter, shall complete and submit his application on the form provided by the Board and file all required documents. The Board may request for a personal interview with the applicant.

§ 122205. Licensure by Examination.

Having successfully passed an examination administered by the Board designed to test competency in the following areas:

- (a) working knowledge of the needs to be served by nursing homes;
- (b) laws governing the operation of nursing homes, including prosecution of the interests of patients; and
- (c) elements of good nursing home administrator.

Payment for the required fee.

2015 NOTE: Subsection designations were altered from numerals to lowercase letters to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

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§ 122206. Licensure by Endorsement/Reciprocity.

The Board may issue a nursing home administrator's license to any person who holds a current license as a nursing home administrator from another U.S. jurisdiction; provided, that the standards for licensure are equivalent to those prevailing on Guam, and the applicant meets the qualification and payment of the required fee.

§ 122207. Courses of Instruction and Training.

The Board shall make provisions for courses and training on Guam for interested applicants to meet the requirements of this Chapter.

§ 122208. Present Administrators.

Persons who, on the effective date of this Chapter, have been actively engaged as a Nursing Home Administrator for at least two (2) years next preceding such effective date, but do not meet the requirements in force pursuant to this Article, shall be issued a temporary license without evidence of satisfactory completion of a course of instructions, training and without examination, but any such licenses shall expire no later than June 30, 2001.

§ 122209. Renewal of License.

The Nursing Home Administrator 's license shall be valid for two (2) years, nontransferable, and shall be renewed biennially thereafter on or before September 30th on forms provided by the Board and payment of the fee.

**ARTICLE 23
SOCIAL WORK PRACTICE ACT**

SOURCE: The Article was added by P.L. 31-250:1 (Dec. 26, 2012).

- § 122301. Legislative Intent.
- § 122302. Definitions.
- § 122303. Guam Board of Social Work.
- § 122304. Board Composition.

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- § 122305. Qualifications of Board Members.
- § 122306. Appointment.
- § 122307. Terms of Office.
- § 122308. Vacancies.
- § 122309. Removal.
- § 122310. Board Meetings.
- § 122311. Personnel.
- § 122312. Rules and Regulations.
- § 122313. Duties, Powers, and Authority.
- § 122314. Social Work Licensing Program.
- § 122315. Limitations of Scope of Practice.
- § 122317. Exemptions.
- § 122318. Exceptions.
- § 122319. Licensing Requirements.
- § 122320. Reciprocity and Endorsement.
- § 122321. Application for Examination.
- § 122322. Examination for License.
- § 122323. Issuance of License.
- § 122324. Renewals.
- § 122325. Requirement.
- § 122326. Revocation, Suspension, Denial, or Condition of Licenses; Fines.
- § 122327. Prohibited Acts; Penalties.
- § 122328. Consumer Right of Action.
- § 122329. Privileged Communication.
- § 122330. Creation of Revolving Fund.
- § 122331. Standards of Practice / Code of Conduct.

§ 122301. Legislative Intent.

It is the intent of this Act to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of social work; the licensure of social workers; the licensure, control, and regulation of persons, in or out of this territory that practice social work within the territory.

§ 122302. Definitions.

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

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(a) Board shall mean the Guam Board of Social Work.

(b) Practice of Baccalaureate Social Work means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psycho-social functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate Social Work is basic generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

(c) Practice of Master's Social Work means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psycho-social functioning of individuals, couples, families, groups, organizations, and communities. Master's Social Work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under supervision as provided in this Act, the practice of Master's Social Work may include the practices reserved to Clinical Social Workers.

(d) Practice of Clinical Social Work is a specialty within the practice of Master's Social Work, and requires the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psycho-social functioning of individuals, couples, families, groups, organizations, and communities. The practice of Clinical Social Work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment; diagnosis

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and treatment of mental, emotional, and behavioral disorders, conditions, and addictions; and evaluation. Treatment methods include the provision of individual, marital, couple, family and group counseling and psychotherapy. The practice of Clinical Social Work may include private practice and the provision of clinical supervision.

(e) Social work practice means the professional application of social work values, principles, ethics and techniques in the following areas:

(1) information, resource identification, referral services, mediation services, advocacy services and education of individuals, groups, couples and families;

(2) preparation and evaluation of assessments and development and implementation of social work service plans;

(3) case management, coordination, casework intervention and monitoring of social work service plans in the areas of personal, social or economic resources, conditions, or problems;

(4) administration and development of social service programs, policies, community organization, planning, implementation, and involvement in the evaluation of social systems and social policies;

(5) social work consultation and resource development;

(6) research through the formal design and methodology of data collection and the analysis and evaluation of data, social work programs, social systems and social policies;

(7) psychosocial assessment, diagnostic impressions, treatment of individuals, couples, families, and groups, prevention of psychosocial dysfunction, disability or impairment, including emotional, mental and behavioral disorders, and evaluation of practice effectiveness; and

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(8) clinical diagnosis or psychotherapy, or both, provided by a licensed clinical social worker. Social worker or S. W. means a person who has been issued a license as a Licensed Bachelor Social Worker, Licensed Master's Social Worker, or Licensed Clinical Social Worker to practice within the scope of practice as provided in this Article.

(f) Director shall mean the Director of Public Health and Social Services. Exemption shall mean not required to obtain licensure in order to practice social work as of the date of the passage of this law. Exception shall mean able to obtain a social work license through waiving certain requirements as stated in this law.

2015 NOTE: Subsection designations (a) through (f) were added to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 122303. Guam Board of Social Work.

The Board provides a framework for developing rules, which effectively responds to the regulatory needs of social work licensure. The Board shall have all the duties, powers, and authority specifically granted by or necessary for the enforcement of this Article, as well as other duties, powers, and authority as may be granted it from time to time by applicable law.

§ 122304. Board Composition.

The Board shall be composed of five (5) members, one (1) of whom shall be a representative of the public. The remaining four (4) members shall be social workers, one (1) of whom shall be a member and representative of the National Association of Social Workers, Guam Chapter. The Board shall elect from its members a Chairperson and such other officers, as it deems appropriate and necessary to the conduct of its business. The Chairperson shall preside at all meetings of the Board and shall be responsible for the performance of all of the duties and functions of the Board required or permitted by this Act. Each additional officer elected by the Board shall perform those duties customarily associated with the position, and such other duties as

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assigned from time to time by the Board. 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 (1) of those members present. Three (3) members of the Board shall constitute a quorum.

§ 122305. Qualifications of Board Members.

(a) Board members who are social workers shall at all times:

(1) be a resident of Guam;

(2) be currently licensed and in good standing to engage in the practice of social work on Guam or be eligible for licensure within thirty (30) days of the passage of this Act;

(3) at the time of appointment have been actively engaged in the social work profession; and

(4) have at least three (3) years of experience in the practice of social work.

(b) The public member of the Board shall be a resident of Guam who has attained the age of majority, and shall not be, nor shall ever have been a Baccalaureate Social Worker, Licensed Master's Social Worker, or Licensed Clinical Social Worker, or the spouse thereof. The public member shall not ever have had any material financial interest in the provision of social work services or who has engaged in any activity directly related to the practice of social work.

§ 122306. Appointment.

I Maga'lahaen Guåhan shall appoint the members of the Board, and shall be confirmed by *I Liheslaturan Guåhan*.

§ 122307. Terms of Office.

(a) Members of the Board shall be appointed for a term of three (3) years, except members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term, who shall serve the unexpired portion of

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

(b) No member of the Board shall serve more than two (2) consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 122308. Vacancies.

Any vacancy which occurs in the membership of the Board for any reason, including expiration of term, removal, resignation, death, disability or disqualification, shall be filled by *I Maga'lahen Guåhan* in the manner prescribed by § 122306.

§ 122309. Removal.

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

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

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

(3) the violation by any member of the laws governing the practice of social work; or

(4) for other just and reasonable causes as determined solely by the Board pursuant to applicable law.

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

§ 122310. Board Meetings.

The Board shall meet regularly at a time and place decided by the Board, or as decided by the Chairperson. A special

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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 Open Government Law.

§ 122311. Personnel.

The Department of Public Health and Social Services shall be the Department responsible for the implementation of this Act. The Director shall provide such office space, staff, supplies, equipment, vehicle and assistants as may be necessary for the work of the Board, including the execution and enforcement of this Chapter. The Attorney General shall provide legal services to the Board without a fee.

§ 122312. Rules and Regulations.

The Board shall be authorized to adopt and enforce rules and regulations to carry into effect the provisions of this Act, and shall adopt rules and regulations in accordance with 5 GCA, Chapter 9, the Administrative Adjudication Law, Rule Making Procedures.

§ 122313. Duties, Powers, and Authority.

(a) The Board shall be responsible for the control and regulation of the practice of social work, including, but not limited to, the following:

(1) the licensing by examination or by licensure transfer of applicants who are qualified to engage in the practice of social work under the provisions of this Article;

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

(3) determining the appropriate fees for licensing, licensing renewal, and other forms of regulation;

(4) the establishment and enforcement of compliance with professional standards of practice and rules of conduct of social workers engaged in the practice of social work and consistent with the National Association of Social Workers Code of Ethics;

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(5) the enforcement of those provisions in the Act relating to the conduct or competence of social workers practicing in this territory, investigation of any such activities related to the practice of unauthorized practice of social work, and the suspension, revocation, or restriction of licenses to engage in the practice of social work;

(6) with probable cause that an applicant or licensee has engaged in conduct prohibited by this Act or a statute or rule enforced by the Board, the Board may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this Section, every applicant or licensee is considered to have consented to submit to a mental or physical examination or chemical dependency evaluation when ordered to do so in writing by the Board, and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication;

(7) the collection of professional demographic data;

(8) the issuance and renewal of licenses of all persons engaged in the practice of social work;

(9) the evaluation of non-social work degree holders who submit a written request for exemption from social work licensure as prescribed in this law, determination of whether or not exemption should be granted, and the granting of a Certificate of Exemption to applicant within eighteen (18) months of the passage of this law;

(10) the evaluation of non-social work degree holders who submit a written request for exception from the requirements of social work licensure as prescribed in this law, the determination of whether or not an exception should be granted; and the granting of said exceptions within eighteen (18) months of the passage of this law; and

(11) the inspection of any licensed person at all reasonable hours for the purpose of determining if any provisions of the laws governing the practice of social work are being violated. The Board, its officers, inspectors, and

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representatives shall cooperate with all agencies charged with the enforcement of the laws of this territory relating to the practice of social work.

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

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

(2) The Board may receive and expend funds, in addition to its annual appropriation, from parties or other entities, to include, but not limited to, grants and/or awards provided that:

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

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

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

(D) such funds are kept in a separate account, and an annual audit report relative to the receipt of such grants and/or awards and the expenditure of such funds is performed.

(c) The Board may establish a Bill of Rights for clients concerning the services a client may expect in regard to social work services.

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(d) Any investigation, inquiry, or hearing which the Board is empowered to hold or undertake by or before any member or members of the Board, and the finding or order of such member or members shall be deemed to be the order of said Board when approved and confirmed.

(e) The Board shall report to the Attorney General of Guam any violation of this Article, which is deemed violative pursuant to criminal statutes of Guam to cause appropriate proceedings to be instituted in the proper court in a timely manner and to be prosecuted in the manner required by law.

(f) The Board shall have the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, in the same manner as prescribed in civil cases in the courts of this territory. Any member of the Board, hearing officer, or administrative law judge shall have the power to administer oaths to witnesses at any hearing, which the Board is authorized to conduct, and any other oaths authorized in any Act administered by the Board.

(g) The Board shall establish and collect fees from every applicant for the services it performs. The fees shall be established through rules and regulations pursuant to 5 GCA, Chapter 9, the Administrative Adjudication Law, Rule Making Procedures.

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

- (1) issuance of duplicate certificates or identification cards;
- (2) mailing lists, or reports of data maintained by the Board;
- (3) copies of any documents;
- (4) certification of documents;
- (5) notices of meetings;

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- (6) licensure transfer;
- (7) examination administration to a licensure applicant;
- and
- (8) examination materials.

§ 122314. Social Work Licensing Program.

There is hereby established within the Department of Public Health and Social Services, to be administered by the Board, a social work licensing program that shall recognize the “Licensed Bachelor Social Worker” or “L.B.S.W.”, the “Licensed Master’s Social Worker” or “L.M.S.W.”, and the “Licensed Clinical Social Worker” or “L.C.S.W.”.

§ 122315. Limitations of Scope of Practice.

In accordance with the definition of the practice of social work there shall be limitations on the scope of the practice of social work as follows:

- (a) The “Licensed Bachelor Social Worker” or “L.B.S.W.” may perform duties as defined in § 122302, and as defined in Subsections (a) to (d) of the definition of the practice of social work in said Section in an agency setting under supervision;
- (b) The “Licensed Master’s Social Worker” or “L.M.S.W.” may perform duties as defined in § 122302, and as defined in Subsections (a) to (g) of the definition of the practice of social work in said Section; and
- (c) The “Licensed Clinical Social Worker” or “L.C.S.W.” may perform duties as defined in § 122302, and as defined in Subsections (a) to (h) of the definition of the practice of social work in said Section. § 122316. License Required. No person shall purport to be a “social worker”, “Licensed Bachelor Social Worker”, “Licensed Master’s Social Worker”, “Licensed Clinical Social Worker”, or use the letters “S.W.”, “L.B.S.W.”, “L.M.S.W.”, or “L.C.S.W.”, in connection with the person’s name, or engage in the practice of social work as defined in this Article without meeting the applicable requirements and holding a license

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as set forth in this Article or holding a Certificate of Exemption from the Board. For those granted a Certificate of Exemption, the person is prohibited from using any of the letters indicated in this Section, irrespective of their job title.

2015 NOTE: Subsection designations (b) and (c) were altered from numerals to lowercase letters to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 122317. Exemptions.

Exemptions may be granted to non-social work degree holders who are employed with the job title "social worker" or any derivative thereof. Those granted a Certificate of Exemption by the Board would be allowed to remain in their social work positions without a social work license. Persons may apply for a Certificate of Exemption within six (6) months of the promulgation of the rules and regulations. The Certificate of Exemption shall be effective indefinitely throughout the course of the person's professional career.

(a) A Certificate of Exemption is granted to any person employed with the job title "social worker" or any derivative thereof who possesses a Bachelor's, Master's, or PhD level degree that is not in the field of social work as of the date of the enactment of this Act, but if he wishes to continue employment with the job title "social worker", he may obtain a Certificate of Exemption from the Board by providing the following:

(1) a written request for exemption from licensure;

(2) a written declaration that they are individuals in good standing based on satisfactory employment performance evaluations and with no ethical complaints in the course of their employment with the job title "social worker";

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(3) sign a declaration statement that they will abide by the National Association of Social Workers Code of Ethics; and

(4) submit three (3) letters of verification; one (1) from their current employer acknowledging that he/she is an individual in good standing, and is highly recommended for employment with the job title, “social worker”.

(b) Licensure shall not be required of:

(1) any licensed person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of social work ; provided the person does not purport to be a social worker;

(2) any person employed by a federal, state, or government agency in a social worker position, but only at those times when that person is carrying out the duties and responsibilities as a social worker (i.e. social workers responding to natural disasters) for up to six (6) months, or extension as certified by the Board, and holds a social work license in another U.S. state or jurisdiction;

(3) any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided, that the student’s activities and services are part of a prescribed course of study supervised by the educational institution and the student is identified by an appropriate title such as “social work student”, “social work intern”, or any other title which clearly indicates the student’s training status;

(4) any person who is a member of a mental health professional not requiring licensure; provided, that the person functions only within the person’s professional capacities; and provided further that the person does not purport to be a social worker;

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(5) any person teaching, lecturing, consulting, or engaging in research in social work insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided, that the person shall not engage in the practice of social work outside the responsibilities of the person's employment;

(6) any person who is a duly recognized member of the clergy; provided, that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not purport to be a social worker;

(7) any person who is obtaining supervised clinical experience for licensure as a psychologist, marriage and family therapist, or as another licensed professional; provided, that the person's title indicates a trainee status; and provided further that the person does not purport to be a social worker;

(8) any person in the process of obtaining three thousand (3,000) hours of post Master's clinical social work experience under the supervision of a licensed clinical social worker or an individual identified in § 122302 to qualify for a license as a licensed clinical social worker; and provided that the person calls oneself a clinical social worker intern and is supervised while performing clinical diagnosis and psychotherapy.

SOURCE: Added by P.L. 31-250:1 (Dec. 26, 2012). First paragraph amended by P.L. 32-167:2 (June 24, 2014), and P.L. 33-119:2 (Feb. 3, 2016). First paragraph amended by P.L. 34-156:2 (Dec. 28, 2018).

§ 122318. Exceptions.

An exception is granted to any person meeting the following conditions:

(a) a person who is employed or has retired with the job title "social worker" or any derivative thereof and possesses a Bachelor's, Master's, or Ph.D. degree in the field of social work from an accredited or unaccredited social work degree program as of the date of passage of this law. Those granted exceptions

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must obtain a social work license within six (6) months of the promulgation of the rules and regulations;

(b) a person who self-identifies as a social worker and possesses a Bachelor's, Master's, or Ph.D. degree in the field of social work from an accredited or unaccredited social work degree program upon enactment of this Act. Those granted exceptions must obtain a social work license within six (6) months of the promulgation of the rules and regulations; and

(c) a person who possesses a non-social work degree, but possesses a degree in a related social science, to include degrees such as psychology, sociology, counseling, human relations and human services, political science, criminal justice, and any other degrees as approved by the Board; and who self-identifies as a social worker may apply for an exception to obtain social work licensure meeting the following requirements:

(1) provide a written request for exception from licensure requirements to the Board;

(2) provide a written declaration that they are individuals in good standing based on satisfactory employment performance evaluations and with no ethical complaints in the course of their employment with the job title "social worker;"

(3) sign a declaration statement that they will abide by the National Association of Social Workers Code of Ethics;

(4) submit three (3) letters of verification, to include one (1) from their current employer acknowledging that he/she is an individual in good standing, and is highly recommended for employment with the job title, "social worker;" and

(5) obtain fifty (50) continuing education units (CEU) or certified training contact hours approved by the Social Work Board in the field of social work to include the following: the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-

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psychosocial functioning of individuals, couples, families, groups, organizations, and communities; and training in the social work Generalist Practice Model that includes assessment, planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. The fifty (50) CEUs or certified training contact hours shall have no time or date limitations.

(d) All persons qualified for exceptions do not need to take the appropriate licensure examination, but must conform to all other requirements consistent with the appropriate level of licensure as prescribed in the law. Exceptions may only be granted by the Board up until six (6) months of the promulgation of the rules and regulations.

SOURCE: Added by P.L. 31-250:1 (Dec. 26, 2012), amended by P.L. 32-167:3 (June 24, 2014), and P.L. 33-119:3 (Feb. 3, 2016). Amended by P.L. 34-156:3 (Dec. 28, 2018).

§ 122319. Licensure Requirements.

Every applicant for a license as a social worker shall submit evidence satisfactory to the Board that the applicant meets the following requirements:

(a) For the Licensed Bachelor Social Worker (L.B.S.W.), the applicant must:

(1) hold a Bachelor's degree from a college or university in a social work program accredited by or deemed to be equivalent to a program accredited by the Council on Social Work Education; and

(2) have passed the basic level national examination given by the Association of Social Work Boards (ASWB).

(b) For the Licensed Master's Social Worker (L.M.S.W.), the applicant must:

(1) hold a Master's degree from a college or university in a social work program accredited by or

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deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree from a doctoral degree program in social work accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and

(2) have passed the intermediate higher-level national examination given by the Association of Social Work Board (ASWB) or has been credentialed by the Association of Certified Social Workers (ACSW).

(c) For the Licensed Clinical Social Worker (L.C.S.W.), the applicant must:

(1) meet the educational requirements in Subsection (b) of this § 122319;

(2) have passed the clinical level national examination given by the Association of Social Work Boards (ASWB); and

(3) have provided evidence of successful completion of at least three thousand (3,000) hours of post masters clinical social work experience under the supervision, and completed within no fewer than two (2) years, but within no more than five (5) years. Clinical social work experience shall include a minimum of two thousand (2,000) hours of assessment, clinical diagnosis and psychotherapy; no more than a maximum of nine hundred (900) hours of client-centered advocacy, consultation, and evaluation; and at least one hundred (100) hours of direct face-to-face supervision. At least sixty (60) of the one hundred (100) hours of direct face-to-face supervision shall have been individualized supervision, and the remaining forty (40) hours may have been under small group (up to six (6) supervisees) supervision; provided, that the supervisor shall have been a licensed clinical social worker with at least four thousand five hundred

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(4,500) hours of post masters clinical social work experience.

(d) For the first five (5) years upon enactment of this Act, the following individuals shall be deemed to have satisfied the requirements of a supervisor:

(1) a person with a master's degree in social work with at least four thousand five hundred (4,500) post masters clinical social work experience; or

(2) an individual who is a Diplomate in Clinical Social Work (DCSW) or holds a Board Certified Diplomate Certification (BCD); or a board certified psychiatrist, psychologist, or advanced practice registered nurse who has a minimum of four thousand five hundred (4,500) hours of post masters clinical experience in assessment, clinical diagnosis, and psychotherapy.

(e) Supervision shall have occurred in an agency setting that provided clinical diagnosis and psychotherapy.

(f) An applicant who submits evidence of certification as a Qualified Clinical Social Worker (QCSW) or Diplomate in Clinical Social Work (DCSW) by the National Association of Social Workers or as a Board Certified Diplomate by the American Board of Examiners shall be deemed to have satisfied the experience requirements of this Section.

§ 122320. Reciprocity and Endorsement.

(a) The Board may enter into reciprocity agreements with other states and issue a license to a social worker who has been licensed in that state; provided, that the requirements for a license in the state in which the applicant is licensed are deemed by the Board to be equal to or greater than the current requirements for a license in this territory.

(b) The Board may issue a license by endorsement by honoring a passing score on the examination of the Association of Social Work Boards (ASWB); provided that at a minimum, the applicant meets the other requirements and the passing score

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is from the examination category that is required for licensed in this territory and the other state uses for its license.

§ 122321. Application for Examination.

(a) Any person eligible for licensure who wishes to be licensed shall apply for examination to the Board at least ninety (90) days prior to the date of the examination, upon a form and in the manner that the Board shall prescribe;

(b) Any application to the Board shall be accompanied by a nonrefundable application fee; and

(c) A person who applies for an examination may apply for reexamination.

§ 122322. Examination for License.

(a) Each applicant for licensure shall take and pass a national examination administered by the Association of Social Work Boards (ASWB) in accordance with procedures and standards prescribed by the Board.

(b) Applicants for the “Licensed Clinical Social Worker” or “L.C.S.W.” license who have passed the L.C.S.W. examination administered by the Association of Social Work Boards before the enactment of this Act shall be deemed to have satisfied the requirement of this Article.

(c) The applicant shall pay the examination fee directly to the Association of Social Work Boards (ASWB).

§ 122323. Issuance of License.

The Board shall issue a license to any person who meets all licensure requirements, to include payment of the appropriate fees.

§ 122324. Renewals.

Every license issued under this Act shall be renewed every two (2) years on or before the date set forth by the Board.

§ 122325. Requirement.

A licensee must complete at least thirty (30) hours of approved programs of continuing education units in the two (2)

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year period that should be completed at the time of license renewal.

(a) A Program of Continuing Education must contain at least one (1) of the following content areas related to social work practice:

- (1) Theories and concepts of human behavior in the social environment;
- (2) Social work practice, knowledge and skills;
- (3) Social work research, programs, or practice evaluations;
- (4) Social work management, administration or social policy;
- (5) Social work ethics; and
- (6) Other areas approved by the Board deemed important and relevant to current social work practice.

(b) The following amount of continuing education hours must be earned in the following program areas:

- (1) six (6) education hours addressing social work ethics, and must be completed through courses offered by NASW;
- (2) four (4) education hours addressing cultural competency, specific to the diverse population of Guam; and
- (3) two (2) education hours in the area of working with persons with disabilities.

(c) Continuing education hours must be earned in at least two (2) of the following academic course work:

- (1) Courses and seminars given by an Accredited Program of Social Work;
- (2) Postgraduate courses from a university, college, or other institution of higher education, in a field other than social work, upon proof that the course is relevant to social work practice and with the

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approval of the Board;

(3) Undergraduate courses from a university, college or other institution of higher education, upon satisfaction of the Board that such course updates or enhances the licensee's social work competence;

(4) Correspondence work, televised courses, audio/visual, videotapes, on-line, and other forms of self-study upon approval of the Board, shown to update or enhance social work competence. Under no circumstances shall more than five (5) hours from this category be acceptable as continuing education for each renewal cycle;

(5) Continuing education presentations of national, international, regional, or sub-regional conferences or association meetings relevant to social work practice;

(6) Workshops or institutes, including approved workshops at conventions relevant to social work practice from approved providers;

(7) Public or private agency staff development programs from approved providers that contribute to the enhancement of social work practice or knowledge that are not primarily procedural or administrative.

(d) The Board shall have the final approval of the content areas for designating a program as a Program of Continuing Education. The Board may determine an Approved Provider of Continuing Education, after receipt of an application as set forth by the Board, accompanied by an applicable fee, which demonstrates the following:

(1) Programs to be provided will meet guidelines as determined by the Board, and will be presented by competent individuals as documented by appropriate academic training, professional licensure or certification, or professionally recognized experience;

(2) An identified licensed social worker will be involved in program planning and review;

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(3) Appropriate documents will be maintained and provided to the Board upon request, including presenter qualifications, learning objectives, content outlines, attendance records, and completed evaluation forms;

(4) Compliance with all other applicable laws, including the Americans with Disabilities Act.

(5) Attendees will be provided a certificate of completion, which includes the provider number.

(e) Upon enactment of this Act, the Board shall convene an adhoc committee, with no more than five (5) members as appointed by the Chair, which may include non-members of the Board to compile a list of any additional continuing education units and/or hours not identified in this Chapter with the final approval by the Board.

SOURCE: Added by P.L. 31-250:1 (Dec. 26, 2012).

2012 NOTE: The last paragraph was designated as subsection (e) by the Compiler pursuant to authority granted by 1 GCA § 1606..

§ 122326. Revocation, Suspension, Denial, or condition of Licenses; Fines.

(a) In addition to any other acts or conditions provided by law, the Board may refuse to renew, reinstate, or restore; or may deny, revoke, suspend, or condition in any manner any license; or fine any exempt government employee or any one (1) or more of the following acts or conditions on the part of the applicant, licensee or exempt person:

(1) failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;

(2) being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;

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(3) engaging in the practice of social work while impaired by alcohol, drugs, or mental instability;

(4) procuring a social work license through fraud, misrepresentation, or deceit;

(5) aiding and abetting an unlicensed person to directly or indirectly use the title “social worker” or engage in the practice as a “Licensed Bachelor Social Worker”, “Licensed Master’s Social Worker” or “Licensed Clinical Social Worker”;

(6) engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;

(7) engaging in conduct or practice contrary to the National Association of Social Worker’s Professional Code of Ethics;

(8) failing to comply, observe, or adhere to any law in a manner such that the Board deems the applicant or holder to be an unfit or improper person to hold a social work license;

(9) revocation, suspension or other disciplinary action by another state or federal agency against the licensee or applicant for any reason provided by this Section;

(10) having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions or duties of the social work profession;

(11) failing to report in writing to the Board any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty (30) days of the disciplinary decision;

(12) employing, utilizing, or attempting to employ or utilize at any time any person not licensed who purports to be or engages in practice as a Social Worker, Licensed Bachelor Social Worker, Licensed Master’s Social Worker, or Licensed Clinical Social Worker;

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(13) engaging in the practice of social work beyond the scope of the person's license; or

(14) violating this Chapter or any rules adopted pursuant thereto.

(b) The Board may determine on a case-by-case basis to give a license to an applicant who has been convicted of a crime; provided the following is met:

(1) the applicant must provide proof that he/she has made efforts to rehabilitate himself/herself and become positive, productive members in the community; and

(2) if one was convicted of a crime ten (10) or more years before the date of application or the date of license renewal, the Board may automatically administer the license.

(c) Any licensee who violates this Section may also be fined not more than One Thousand Dollars (\$1,000) per violation.

(d) The Board shall have the authority to investigate, prosecute, and conduct administrative hearings regarding exempt government employees.

(e) The Board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice social work and to enter an approved treatment and monitoring program in accordance with this Section; provided, that this Section shall not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act or an offense relating to a controlled substance in a court of law of the United States or any other state, territory, or country, or a conviction related to sexual misconduct. A licensee who is physically or mentally impaired due to mental illness or addiction to drugs or alcohol may qualify as an impaired social worker and have disciplinary action deferred and ultimately waived only if the Board is satisfied that such action will not endanger the public and the licensee enters into an agreement with the Board for a treatment and monitoring plan approved by the Board, progresses satisfactorily in such treatment and

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monitoring program, and complies with all terms of the agreement and all other applicable terms of this Section.

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

§ 122327. Prohibited Acts; Penalties.

No person shall:

(a) use in connection with the person's name any designation tending to imply that the person is a Social Worker, Licensed Bachelor Social Worker, Licensed Master's Social Worker, or Licensed Clinical Social Worker, unless the person is duly licensed and authorized under this Chapter;

(b) represent oneself as a Social Worker, Licensed Bachelor Social Worker, Licensed Master's Social Worker, or Licensed Clinical Social Worker during the time the person's license issued under this Chapter is forfeited, terminated, suspended, or revoked;

(c) perform clinical diagnosis or psychotherapy, unless the person is a licensed clinical social worker; or

(d) engage in autonomous and independent clinical social work practice without being licensed as a Licensed Clinical Social Worker.

(e) Any person who is in violation of any of the acts pursuant to this Article shall be subject to a fine of not more than One Thousand Dollars (\$1,000), and each day's violation shall be deemed a separate offense. The Board shall determine the revocation of any license issued by the Board in consideration of the severity of the violation and severity of the prohibited acts.

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§ 122328. Consumer Right of Action.

Any person who suffers damage as a result of a violation of this Article shall be entitled to injunctive relief restraining further violations and may sue to recover damages in any circuit court of the territory and, if successful, shall recover three (3) times the actual damages or One Thousand Dollars (\$1,000), whichever is greater. In any action brought under this Act, the prevailing party shall be entitled to the recovery of costs of suits, including reasonable attorney's fees.

§ 122329. Privileged Communication.

(a) No social worker shall disclose any information acquired or provided by a client or from persons consulting the social worker in a professional capacity, except that which may be voluntarily disclosed under the following circumstances:

(1) in the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;

(2) with the written consent of the person who provided the information;

(3) in case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) when a communication reveals the intended commission of a crime or harmful act, and such disclosure is judged necessary by the social worker to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) when the person waives the privilege by bringing any public charges against the licensee.

(b) When the person is a minor under the laws of the territory of Guam and the information acquired by the social

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worker indicates the minor was the victim of or witness to a crime, the social worker may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry, and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

(c) Any person having access to records or anyone who participates in providing social work services or who, in providing any human services, is supervised by a social worker, is similarly bound to regard all information and communications as privileged in accordance with this Section.

(d) Nothing shall be construed to prohibit a social worker from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, the elderly, and physically and mentally impaired adults, except as prohibited under the applicable state and federal laws.

§ 122330. Creation of Revolving Fund.

There is hereby created the “Social Work Board Revolving Fund” (Fund) within the Health Professional Licensing Office of the Department of Public Health and Social Services, specifically for use by the Board. All such revenues, including fines, shall be deposited into the Fund. Such funds shall be appropriated continuously and shall be used by the Board only for administration and enforcement of this Act. All fees and charges shall be set by the Board pursuant to its budget needs and shall comply with 5 GCA, Chapter 9. A designated officer of the Board shall oversee the collection and disbursement of funds. The Office of Public Accountability, or its equivalent, shall audit the Fund annually with reports to be submitted to *I Maga’lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*. The Fund shall not be subject to any transfer authority of *I Maga’lahen Guåhan*.

§ 122331. Standards of Practice / Code of Conduct.

(a) Standards of Practice.

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(1) Scope and Applicability. The standards of practice apply to all applicants and licensees. The use of the term social worker within these standards of practice includes all applicants and licensees.

(2) Purpose. The standards of practice constitute the standards by which the professional conduct of an applicant or licensee is measured.

(3) Violations. A violation of the standards of practice constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of licensure.

(b) General Practice Parameters.

(1) Client Welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

(2) Self-determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

(3) Non-discrimination. A social worker shall not discriminate against a client, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, diagnosis, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

(4) Professional Disclosure Statement.

(A) A social worker shall effectively communicate through handouts or other means as appropriate for all clients and may display at the social worker's primary place of practice a statement that the client has the right to the following:

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(i) to expect that the social worker has met the minimal qualifications of education, training, and experience required by the law in that jurisdiction;

(ii) to examine public records maintained by the Board which contain the social worker's qualifications and credentials;

(iii) to be given a copy of the standards of practice upon request;

(iv) to report a complaint about the social worker's practice to the Board;

(v) to be informed of the cost of professional services before receiving the services;

(vi) to privacy as allowed by law, and to be informed of the limits of confidentiality;

(vii) to be free from being the object of discrimination while receiving social work service; and

(viii) to have access to records as allowed by law.

(B) Limited Access to Client Information. A social worker shall make reasonable efforts to limit access to client information in a social worker's agency to appropriate agency staff whose duties require access.

(C) A social worker receiving supervision related to practice shall inform the client that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information.

(c) Competence.

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(1) Continued Competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

(2) Limits on Practice. A social worker shall limit practice only to the competency areas for which the social worker is qualified by licensure and training, experience, or supervised practice.

(3) Referrals. A social worker shall make a referral to other professionals when the services required are beyond the social worker's competence.

(4) Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not licensed to perform the task or has not developed the competence to perform such task.

(d) Practice Requirements.

(1) Assessment or Diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be reviewed or revised.

(2) Assessment or Diagnostic Instrument. A social worker shall follow standard and accepted procedures for deciding when and how to use an assessment or diagnostic instrument. A social worker shall inform a client of its purpose before administering the instrument and, when available, of the results derived therefrom.

(3) Plan. A social worker shall develop a plan for service, which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be reviewed or revised.

(4) Supervision or Consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

(5) Informed Consent.

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(A) Social workers shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid informed consent. Social workers should use clear and understandable language to inform clients of the plan of the services, risks related to the plan, limits to services, relevant costs, reasonable alternatives, client's right to refuse or withdraw consent, and the time frame covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

(B) If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian, or other authorized representative.

(C) If the client, the legal guardian, or other authorized representative does not consent, the social worker shall discuss with the client that a referral to other resources may be in the client's best interests.

(6) Records.

(A) A social worker shall make and maintain records of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan; documentation of any revision of the assessment or diagnosis or of a plan; any fees charged and other billing information; copies of all client authorization for release of information; and any other legal forms pertaining to the client. These records shall be maintained by the licensee or agency employing the licensee under secure conditions and for time periods in compliance with applicable federal or state law, but in no case for fewer than seven (7) years after the last date of service.

(B) Where a social worker or social work practice ceases operations as a result of a suspension, retirement or death of the owner, sale or other cause, including insolvency, the licensee, or other individual

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responsible for supervising the disposition of the practice, shall make every effort to notify the clients of their right to retrieve current records for a period of six (6) months using all of the following methods:

- (i) notification in writing to the board;
- (ii) publication, at least weekly for one (1) month, in a newspaper whose circulation encompasses the major area of a practitioner's former practice, of a notice advising clients of the right to retrieve their records for a six (6) month period; and
- (iii) if applicable, a sign placed at the practice location informing clients of the right and procedures to retrieve their records.

(C) Should any client fail to retrieve the records within the six (6) month period and unless otherwise required by law, the responsible party shall arrange for the destruction of such documents in a manner to ensure confidentiality.

(7) Reports. A social worker shall complete and submit reports as required by law in a timely manner.

(8) Exploitation. A social worker shall not exploit in any manner the professional relationship with a client, student, or supervisee for the social worker's emotional, financial, sexual or personal advantage or benefit, nor shall the social worker use the professional relationship with a client, student, or supervisee to further personal, religious, political or business interests.

(9) Termination of Services. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed. The social worker who anticipates the termination of services shall give reasonable notice to the client. The social worker shall take reasonable steps to inform the client of the termination of professional relationship. The social worker shall provide referrals as

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needed or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

(e) Relationships with Clients and Former Clients.

(1) Personal Relationships With Clients. A social worker shall not engage in dual relationships with clients that compromise the well-being of the client, impair the objectivity and professional judgment of the social worker or increase the risk of client exploitation. When a social worker may not avoid a personal relationship with a client, the social worker shall take appropriate precautions, such as informed consent, consultation, or supervision to ensure that the social worker's objectivity and professional judgment are not impaired.

(2) Personal Relationships with Former Clients. A social worker may engage in a personal relationship, except as prohibited by subsection (e)(4), with a former client, if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a personal relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.

(3) Sexual Contact With a Client. A social worker shall not engage in or request sexual contact as defined in subsection (e)(5), with a client under any circumstances. A social worker shall not engage in any verbal or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. A social worker shall not sexually harass a client.

(4) Sexual Contact With a Former Client. A social worker who has provided clinical social work services to a client shall not engage in or request sexual contact as defined in subsection (e)(5), with the former client under any circumstances. A social worker who has provided other

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social work services to a client shall not engage in or request sexual contact as defined in subsection (e)(5), with the former client at any time if a reasonable social worker would determine that engaging in sexual contact with the client would be exploitative, abusive, or detrimental to the client's welfare. It is the responsibility of the social worker to assume the full burden of demonstrating that the former client has not been exploited or abused either intentionally or unintentionally.

(5) Sexual Contact Defined. Sexual contact includes, but is not limited to, sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

(6) Business Relationship With a Client. A social worker shall not engage in any type of a business relationship with a client. Business relationships do not include purchases made by the social worker from the client when the client is providing necessary goods or services to the general public, and the social worker determines that it is not possible or reasonable to obtain the necessary goods or services from another provider.

(7) Business Relationship With a Former Client. A social worker may engage in a business relationship with a former client if the former client was notified of the termination of the professional relationship. The social worker shall continue to consider the best interests of the former client, and shall not engage in a business relationship with a former client if a reasonable social worker would conclude that the former client continues to relate to the social worker in the social worker's professional capacity.

(8) Prior Personal or Business Relationships. A social worker may engage in a professional relationship with an individual with whom the social worker had a previous personal or business relationship only if a reasonable social worker would conclude that the social worker's objectivity and professional judgment will not be impaired by reason of the previous personal or business relationship.

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(9) Social Worker Responsibility. A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of (e)(1) through (8).

(10) Others. Subsections (e)(1) through (9) also apply to a social worker's relationship with students, supervisees, employees of the social worker, family members or significant others of a client.

(f) Client Confidentiality.

(1) General. A social worker shall protect all information provided by or obtained about a client. "Client information" includes the social worker's personal knowledge of the client and client records. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client information will be disclosed or released and the purpose and time frame for the release of information.

(2) Release of Client Information Without Written Consent. A social worker shall disclose client information without the client's written consent only under the following circumstances:

(A) where mandated by federal or state law, including mandatory reporting laws, requiring release of client information;

(B) the social worker determines that there is a clear and imminent risk that the client will inflict serious harm on either the client or another identified individual. The social worker shall release only the information that is necessary to avoid the infliction of serious harm. The social worker may release this information to the appropriate authorities and the potential victim;

(C) the Board duly issues a valid subpoena to the

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social worker, as permitted by law.

(3) Release of Client Records Without Written Consent. A social worker shall release client records without the client's written consent under the following circumstances:

(A) a client's authorized representative consents in writing to the release;

(B) as mandated by federal or jurisdiction law requiring release of the records;

(C) the Board duly issues a valid subpoena for the records, as permitted by law.

(4) Limits of Confidentiality. The social worker shall inform the client of the limits of confidentiality as provided under applicable law.

(5) Minor Clients. In addition to the general directive in subsection (f)(4), a social worker must inform a minor client, at the beginning of a professional relationship, of any laws which impose a limit on the right of privacy of a minor.

(6) Third Party Billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.

(7) Client Information to Remain private. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship, including upon the death of the client, except as provided under applicable law.

(8) Recording/Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the

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client the purpose of the taping or recording and how the taping or recording will be used, how it will be stored and when it will be destroyed.

(g) Conduct.

(1) Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

(2) Giving Drugs to a Client. Unless permissible by state law, a social worker shall not offer medication or controlled substances to a client, or accept these substances from a client for personal use or gain. The social worker may accept medication or controlled substances from a client for purposes of disposal or to monitor use. Under no circumstances shall a social worker offer alcoholic beverages to a client or accept such from a client.

(3) Investigation. A social worker shall comply with and not interfere with Board investigations.

(h) Representation to the Public. Advertising.

(1) Required Use of License Designation. A social worker shall use the license designation of LBSW, LMSW, LCSW, which corresponds to the social worker's license, after the social worker's name in all written communications related to social work practice, including any advertising, correspondence, and entries to client records.

(2) Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client or potential client. A social worker shall not misrepresent, directly or by implication, the social worker's license level, degree, professional certifications, affiliations, or other professional qualifications in any oral or written communication or permit or continue to permit any

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misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

(3) Licensure Status. Licensure status shall not be used as a claim, promise, or guarantee of successful service, nor shall the license be used to imply that the licensee has competence in another service. Public statements or advertisements may describe fees, professional qualifications and services provided, but they may not advertise services as to their quality or uniqueness and may not contain testimonials by quotation or implication.

(4) Display of License. A social worker shall conspicuously display a current license issued by the Board at the social worker's primary place of practice.

(i) Fees and Billing Practices.

(1) Fees and Payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment must be arranged at the beginning of the professional relationship, and the payment arrangement must be provided to a client in writing. A social worker shall provide, upon request from a client, a client's legal guardian, or other authorized representative, a written explanation of the charges for any services rendered.

(2) Necessary Services. A social worker shall bill only for services which have been provided. A social worker shall provide only services which are necessary.

(3) Bartering. A social worker may not accept goods or services from the client or a third party in exchange for the social worker's services, except when such arrangement is initiated by the client, and is an accepted practice in the social worker's community or within the client's culture. It is the responsibility of the social worker to assume the full burden of demonstrating that this arrangement will not be detrimental or exploitative to the client or the professional relationship.

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(4) No Payment for Referrals. A social worker shall neither accept nor give a commission, rebate, fee split, or other form of remuneration for the referral of a client.

(j) Research.

(1) Informed Consent. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects. A social worker must obtain a client's or a client's legal guardian's written informed consent for the client to participate in a study or research project, and explain in writing the purpose of the study or research, as well as the activities to be undertaken by the client should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

2015 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

**ARTICLE 24
ANESTHESIOLOGIST ASSISTANT ACT**

SOURCE: P.L. 32-212:2 (Dec. 29, 2014) added 10 GCA, Chapter 12, Article 24, §§ 122400 - 122417. Codified as §§ 122401 - 122418 by the Compiler pursuant to 1 GCA § 1606.

- § 122401. Short Title.
- § 122402. Definitions.
- § 122403. Rules; Promulgation.
- § 122404. Qualifications for Licensure.
- § 122405. Application for Licensure; Requirements for Anesthesiologist Assistants.
- § 122406. Requirements for Approval of Training Programs.
- § 122407. Performance of Supervising Anesthesiologist.
- § 122408. Licensure; Registration of Anesthesiologist Assistant.
- § 122409. Performance of Anesthesiologist Assistant.
- § 122410. Registration of Anesthesiologist Assistant.

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- Supervision.
- § 122411. Renewal of License.
- § 122412. Annual Registration of Employment; Change.
- § 122413. Anesthesiologist Assistant Protocols and Performance.
- § 122414. Identification.
- § 122415. Direct Supervision Required.
- § 122416. Supervision Ratio; One-To-Two (1:2); Limited.
- § 122417. Exceptions to Licensure Requirement.
- § 122418. Prescriptive Authority; Limited to Delegation by Prescribing Anesthesiologist.

§ 122401. Short Title.

This Article may be cited as the Anesthesiologist Assistant Act.

§ 122402. Definitions.

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

(a) Board means the Guam Board of Medical Examiners, which shall have regulatory purview and administrative authority over the licensure and conduct of the anesthesiologist assistant;

(b) Anesthesiologist means an anesthesiologist who holds an active, unrestricted license to practice medicine in Guam; who has successfully completed an anesthesiology training program certified and approved by the Accreditation Council on Graduate Medical Education, or its equivalent; or the American Osteopathic Association, and who is certified by the American Osteopathic Board of Anesthesiology or is a candidate to take that board's examination; or is certified by the American Board of Anesthesiology or is eligible to take that board's examination;

(c) Anesthesiologist assistant means a graduate of an approved program who is licensed to perform medical services delegated and directly supervised by a supervising anesthesiologist. A licensed anesthesiologist assistant

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means a skilled person who has passed the nationally recognized examination administered through the National Commission on Certification of Anesthesiologist Assistants, and is licensed by the Board who may be employed by a medical practice to assist an anesthesiologist in developing and implementing anesthesia care plans for patients, while solely under the direct supervision and direction of the anesthesiologist who is responsible for the performance of that anesthesiologist assistant;

(d) Anesthesiology means the practice of medicine that specializes in the relief of pain during and after surgical procedures and childbirth, during certain chronic disease processes, and during resuscitation and critical care of patients in the operating room and intensive care environments;

(e) Applicant means a person who is applying to the Board for a license as an anesthesiologist assistant;

(f) Approved Program as herein used refers to a program for the education and training of anesthesiologist assistants approved by the Board, and from an institution accredited by the Committee on Allied Health Education and Accreditation (CAHEA) or the Commission on Accreditation of Allied Health Education Programs (CAAHEP) that is specifically designed to train an individual to administer general or regional anesthesia as an anesthesiologist assistant, and as further required by the Board pursuant to this Article and applicable rules and regulations;

(g) Continuing medical education means courses recognized and approved by the Board, the sources of which include, but are not limited to, programs and courses recognized by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association, the American Academy of Anesthesiologist Assistants, the American Society of Anesthesiologists, or the Accreditation Council on Continuing Medical Education;

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(h) Direct supervision as used herein means on-site and physically in immediate proximity of the patient, and personal supervision by an anesthesiologist who is present in the office when the procedure is being performed in that office, or is present in the surgical or obstetrical suite when the procedure is being performed in that surgical or obstetrical suite, and who is, in all instances, immediately available to provide assistance and direction to the anesthesiologist assistant while anesthesia services are being performed;

(i) Examination means the examination administered through the National Commission on Certification of Anesthesiologist Assistants (NCCAA) as the proficiency examination required for licensure as an anesthesiologist assistant;

(j) License means an authorization by the Board to practice as an anesthesiologist assistant; and

(k) Supervising anesthesiologist means a licensed anesthesiologist who is registered by the Board to supervise an anesthesiologist assistant.

§ 122403. Rules; Promulgation.

(a) The Board may adopt and enforce reasonable rules:

(1) for setting qualifications of education, skill and experience for licensure of a person as an anesthesiologist assistant;

(2) for providing procedures and forms for licensure and annual registration;

(3) for examining and evaluating applicants for licensure as an anesthesiologist assistant regarding the required skill, knowledge and experience in developing and implementing anesthesia care plans under supervision;

(4) for allowing a supervising anesthesiologist to temporarily delegate his supervisory responsibilities for an anesthesiologist assistant to another anesthesiologist;

(5) for allowing an anesthesiologist assistant to

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temporarily serve under the supervision of an anesthesiologist other than the supervising anesthesiologist with whom the anesthesiologist assistant is registered; and

(6) to carry out the provisions of the Anesthesiologist Assistant Act.

(b) The Board shall not adopt a rule allowing an anesthesiologist assistant to perform procedures outside the anesthesiologist assistant's scope of practice.

(c) The Board shall adopt rules, to include, but not be limited to:

(1) establishing requirements for anesthesiologist assistant licensing, including:

(A) completion of a graduate level training program accredited by the commission on accreditation of allied health education programs;

(B) successful completion of a certifying examination for anesthesiologist assistants administered by the national commission for the certification of anesthesiologist assistants; and

(C) current certification, recognized by the Board, in advanced cardiac life-support techniques;

(2) establishing minimum requirements for continuing education of not less than forty (40) hours every two (2) years;

(3) requiring adequate identification of the anesthesiologist assistant to patients and others;

(4) requiring the presence, except in cases of emergency, and the documentation of the presence, of the supervising anesthesiologist in the operating room during induction of a general or regional anesthetic and during emergence from a general anesthetic, the presence of the supervising anesthesiologist within the operating suite and immediate availability to the operating room at other times when the anesthetic procedure is being performed and requiring that the anesthesiologist assistant comply with the

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above restrictions;

(5) requiring the supervising anesthesiologist to ensure that all activities, functions, services, and treatment measures are properly documented in written form by the anesthesiologist assistant. The anesthesia record shall be reviewed, countersigned, and dated by the supervising anesthesiologist;

(6) requiring the anesthesiologist assistant to inform the supervising anesthesiologist of serious adverse events;

(7) establishing the number of anesthesiologist assistants a supervising anesthesiologist may supervise at one time, which number, except in emergency cases, shall not exceed two (2). An anesthesiologist shall not concurrently supervise, except in emergency cases, more than three (3) anesthesia providers during the emergency, and only if they are a licensed anesthesiologist assistant, or as otherwise determined to be appropriate by the Board during emergency cases only;

(8) within three (3) months of the date on which the Anesthesiologist Assistant Act becomes effective, providing for enhanced supervision at the commencement of an anesthesiologist assistant's practice; and

(9) establishing appropriate fees.

§ 122404. Qualifications for Licensure.

(a) Program Approval. The Board shall approve programs for the education and training of anesthesiologist assistants which meet standards established by Board rules. The Board shall recommend only those anesthesiologist assistant training programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Education Programs.

(b) Licensed anesthesiology assistants shall be graduates of programs approved and recognized by the Board, and approved by the Anesthesiologist Assistant Examining Committee from an institution accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or the

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Commission on Accreditation of Allied Health Education Programs (CAAHEP) that is specifically designed to train an individual to administer general or regional anesthesia.

(c) Licensed anesthesiology assistants shall have passed a proficiency examination developed and administered by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or its successor.

(d) Licensed anesthesiologist assistants shall meet all other requisite educational requirements established by the Board pursuant to § 122403 of this Article.

§ 122405. Application for Licensure; Requirements for Anesthesiologist Assistants.

(a) Application for Licensure.

(1) All persons applying for licensure as an anesthesiologist assistant shall submit an application to the Board on forms approved by Board.

(2) The application may not be used for more than one (1) year from the date of the original submission of the application and fee. After one (1) year from the date that the original application and fee have been received in the Board office, a new application and fee shall be required from any applicant who desires licensure as an anesthesiologist assistant.

(3) All application information must be submitted no later than fifteen (15) days prior to the meeting at which the applicant desires his or her application to be considered.

(b) Requirements for Licensure.

(1) All applicants for licensure as an anesthesiologist assistant must submit an application as set forth in Subsection (a)(1) above. The applicant must meet all of the requirements of this Article, and the applicant must submit two (2) personalized and individualized letters of recommendation from anesthesiologists. Letters of recommendation must be composed and signed by the applicant's supervising physician, or, for recent graduates,

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the faculty physician, and give details of the applicant's clinical skills and ability. Each letter must be addressed to the Board and must have been written no more than six (6) months prior to the filing of the application for licensure.

(2) The applicant must have obtained a passing score on the examination administered through the NCCAA. The passing score shall be established by the NCCAA.

(3) The applicant must be certified in advanced cardiac life support.

(4) The applicant must submit notarized statements containing the following information:

(A) Completion of three (3) hours of all Category I, American Medical Association Continuing Medical Education or American Osteopathic Association approved Category I-A continuing education related to the practice of osteopathic medicine or under osteopathic auspices, which includes the topics of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome: the disease and its spectrum of clinical manifestations: epidemiology of the disease; related infections including TB; treatment, counseling, and prevention; transmission from healthcare worker to patient and patient to healthcare worker; universal precautions and isolation techniques; and legal issues related to the disease. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six (6) months to complete this requirement.

(B) Completion of one (1) hour of continuing medical education on domestic violence, which includes information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of

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domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education or American Osteopathic Association approved Category I-A continuing education related to the practice of osteopathic medicine or under osteopathic auspices. Home study courses approved by the above agencies will be acceptable. If the applicant has not already completed the required continuing medical education, upon submission of an affidavit of good cause, the applicant will be allowed six (6) months to complete this requirement.

(C) Completion of two (2) hours of continuing medical education relating to prevention of medical errors, which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education or American Osteopathic Association approved Category I-A continuing education related to the practice of osteopathic medicine or under osteopathic auspices.

§ 122406. Requirements for Approval of Training Programs.

(a) Anesthesiologist Assistant programs approved and recognized by the Board must hold full accreditation or provisional (initial) accreditation from the Committee on Accreditation of Allied Health Education Programs (CAAHEP), or its successor.

(b) The Board may provide for, by regulation, any and all

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additional requirements deemed necessary to ensure an appropriate, high standard of training and competence are met and maintained.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 122407. Performance of Supervising Anesthesiologist.

(a) An anesthesiologist who directly supervises an anesthesiologist assistant must be qualified in the medical areas in which the anesthesiologist assistant performs and is liable for the performance of the anesthesiologist assistant. An anesthesiologist may only concurrently supervise two (2) anesthesiologist assistants at the same time.

(b) (1) An anesthesiologist or group of anesthesiologists must, upon establishing a supervisory relationship with an anesthesiologist assistant, file with the Board a written protocol that includes, at a minimum:

(A) The name, address, and license number of the anesthesiologist assistant.

(B) The name, address, license number, and federal Drug Enforcement Administration number of each physician who will be supervising the anesthesiologist assistant.

(C) The address of the anesthesiologist assistant's primary practice location and the address of any other locations where the anesthesiologist assistant may practice.

(D) The date the protocol was developed and the dates of all revisions.

(E) The signatures of the anesthesiologist assistant and all supervising physicians.

(F) The duties and functions of the anesthesiologist assistant.

(G) The conditions or procedures that require the personal provision of care by an anesthesiologist.

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(H) The procedures to be followed in the event of an anesthetic emergency.

(2) The protocol shall be on file with the Board before the anesthesiologist assistant may practice with the anesthesiologist or group. An anesthesiologist assistant shall not practice unless a written protocol has been filed for that anesthesiologist assistant in accordance with this Subection, and the anesthesiologist assistant may only practice under the direct supervision of an anesthesiologist who has signed the protocol. The protocol must be updated biennially.

2017 NOTE: Subitem designations altered/added pursuant to the authority of 1 GCA § 1606.

§ 122408. Licensure; Registration of Anesthesiologist Assistant.

(a) The Board may license qualified persons as anesthesiologist assistants.

(b) A person shall not perform, attempt to perform or hold himself out as an anesthesiologist assistant until he is licensed by the Board as an anesthesiologist assistant and has registered with his supervising licensed anesthesiologist in accordance with Board regulations.

§ 122409. Performance of Anesthesiologist Assistant.

(a) An anesthesiologist assistant may assist an anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to an anesthesiologist, an anesthesiologist assistant may perform duties established by rule by the Board in any of the following functions that are included in the anesthesiologist assistant's protocol while under the direct supervision of an anesthesiologist:

(1) Obtain a comprehensive patient history and present the history to the supervising anesthesiologist.

(2) Pretest and calibrate anesthesia delivery systems and monitor, obtain, and interpret information from the systems and monitors.

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(3) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques.

(4) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support.

(5) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions.

(6) Administer anesthetic drugs, adjuvant drugs, and accessory drugs.

(7) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures.

(8) Administer blood, blood products, and supportive fluids.

(9) Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

(10) Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

(11) Participate in management of the patient while in the post-anesthesia recovery area, including the administration of any supporting fluids or drugs.

(12) Perform other tasks not prohibited by law that are delegated by the supervising licensed anesthesiologist, and for which the anesthesiologist assistant has been trained and is proficient to perform.

(b) Nothing in this Section or Chapter shall prevent third-party payors from reimbursing employers of anesthesiologist assistants for covered services rendered by such anesthesiologist assistants.

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(c) An anesthesiologist assistant must clearly convey to the patient that he or she is an anesthesiologist assistant.

(d) An anesthesiologist assistant may perform anesthesia tasks and services within the framework of a written practice protocol developed between the supervising anesthesiologist and the anesthesiologist assistant.

(e) An anesthesiologist assistant may not prescribe, order, or compound any controlled substance, legend drug, or medical device, nor may an anesthesiologist assistant dispense sample drugs to patients. Nothing in this Section prohibits an anesthesiologist assistant from administering legend drugs or controlled substances; intravenous drugs, fluids, or blood products; or inhalation or other anesthetic agents to patients which are ordered by the supervising anesthesiologist and administered while under the direct supervision of the supervising anesthesiologist.

(f) An anesthesiologist assistant shall not administer or monitor general or regional anesthesia unless the supervising anesthesiologist:

(1) is physically present in the room during induction and emergence;

(2) is not concurrently performing any other anesthesiology procedure independently upon another patient; and

(3) is available to provide immediate physical presence in the room.

§ 122410. Registration of Anesthesiologist Assistant Supervision.

Prior to practicing on Guam, the anesthesiologist assistant shall present for approval of the Board of Medical Examiners a completed application for supervision by a Guam-licensed anesthesiologist. The practice of the anesthesiologist assistant must fall within the practice of the supervising anesthesiologist with whom the anesthesiologist assistant is registered. In the event of any changes of a supervising anesthesiologist, the names of the supervising anesthesiologists must be provided to

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the Board. The Board must be notified at least ten (10) days prior to the effective date of change. Practicing without a supervising anesthesiologist shall be grounds for disciplinary action, including revocation of license.

§ 122411. Renewal of License.

Each licensed anesthesiologist assistant shall present evidence of current certification, and recertification through the National Commission on Certification of Anesthesiologist Assistants, or its successor, every two (2) years for the renewal of a license.

§ 122412. Annual Registration of Employment; Change.

(a) Upon becoming licensed, the Board shall register the anesthesiologist assistant on the anesthesiologist assistants roster, including his name, address and other board-required information, and the anesthesiologist assistant's supervising anesthesiologist's name and address.

(b) Annually, each anesthesiologist assistant shall register with the Board, providing the anesthesiologist assistant's current name and address, the name and address of the supervising anesthesiologist for whom he is working, and any additional information required by the Board. Failure to register annually will result in the anesthesiologist assistant being required to pay a late fee or having his license placed on inactive status.

(c) Every two (2) years, each licensed anesthesiologist assistant in Guam shall submit proof of completion of Board-required continuing education to the Board.

(d) The registration of an anesthesiologist assistant shall be void upon changing his supervising anesthesiologist, until the anesthesiologist assistant registers a new supervising anesthesiologist with the Board, accompanied by a change in supervision fee, in an amount to be determined by the Board.

§ 122413. Anesthesiologist Assistant Protocols and Performance.

(a) Every anesthesiologist or group of anesthesiologists, upon entering into a supervisory relationship with an

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anesthesiologist assistant, shall file with the Board a written protocol, to include, at a minimum, the following:

(1) name, address, and license number of the anesthesiologist assistant;

(2) name, address, license number and federal Drug Enforcement Administration (DEA) number of each anesthesiologist who will supervise the anesthesiologist assistant;

(3) address of the anesthesiologist assistant's primary practice location, and any other locations where the assistant may practice;

(4) the date the protocol was developed and the dates of all revisions;

(5) the designation and signature of the primary supervising anesthesiologist;

(6) signatures of the anesthesiologist assistant and all supervising anesthesiologists;

(7) the duties and functions of the anesthesiologist assistant;

(8) conditions or procedures that require the personal provision of care by an anesthesiologist; and

(9) the procedures to be followed in the event of an anesthetic emergency.

(b) The protocol shall be on file with the Board prior to the time the anesthesiologist assistant begins practice with the anesthesiologist or the anesthesiology group.

(c) The protocol must be updated biennially.

(d) Anesthesiologist assistants may perform the following duties under the direct supervision of an anesthesiologist, and as set forth in the protocol outlined in Subsection (a) above:

(1) obtaining a comprehensive patient history and presenting the history to the supervising anesthesiologist;

(2) pretesting and calibration of anesthesia delivery

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systems and monitoring, obtaining and interpreting information from the systems and monitors;

(3) assisting the anesthesiologist with the implementation of monitoring techniques;

(4) establishing basic and advanced airway interventions, including intubations of the trachea and performing ventilatory support;

(5) administering intermittent vasoactive drugs, and starting and adjusting vasoactive infusions;

(6) administering anesthetic drugs, adjuvant drugs, and accessory drugs;

(7) assisting the anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures;

(8) administering blood, blood products, and supportive fluids;

(9) supporting life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances;

(10) recognizing and taking appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy;

(11) participating in the management of the patient while in the post-anesthesia recovery area, including the administration of supporting fluids; and

(12) performing other tasks not prohibited by law that are delegated by the supervising licensed anesthesiologist, and for which the anesthesiologist assistant has been trained and is proficient to perform.

(e) The supervising anesthesiologist shall delegate only tasks and procedures to the anesthesiologist assistant which are within the supervising physician's scope of practice. The

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anesthesiologist assistant may work in any setting that is within the scope of practice of the supervising anesthesiologist's practice.

(f) Continuity of Supervision in practice settings shall require the anesthesiologist assistant to document in the anesthesia record any change in his or her supervisor.

(g) All tasks and procedures performed by the anesthesiologist assistant must be documented in the appropriate medical record.

§ 122414. Identification.

(a) While working, the anesthesiologist assistant shall wear or display appropriate identification, clearly indicating that he or she is an anesthesiologist assistant.

(b) The anesthesiologist assistant's license shall be displayed in the office, and any satellite operation in which the anesthesiologist assistant may function.

(c) A anesthesiologist assistant shall not advertise him or herself in any manner that would mislead the patients of the supervising anesthesiologist or the public.

§ 122415. Direct Supervision Required.

(a) Tasks performed by the anesthesiologist assistant must be under the direct supervision of a registered supervising anesthesiologist.

(b) All medical records shall be reviewed and co-signed by the approved supervising anesthesiologist within seven (7) days.

(c) Upon being duly licensed by the Board, the licensee shall have his or her name, address, and other pertinent information enrolled by the Board on a roster of licensed anesthesiologist assistants.

(d) Not more than two (2) currently licensed anesthesiologist assistants may be supervised by a licensed anesthesiologist at any one time, except as may be otherwise provided pursuant to § 122407(a).

(e) If no registered supervising anesthesiologist is

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available to supervise the anesthesiologist assistant, the anesthesiologist assistant shall not perform patient care activities.

(f) Nothing in these rules shall be construed to prohibit the employment of anesthesiologist assistants by a medical care facility where such anesthesiologist assistants function under the supervision of a Guam-licensed anesthesiologist.

§ 122416. Supervision Ratio; One-to-Two (1:2); Limited.

The registered supervising anesthesiologist shall be limited to a supervision maximum ratio of one-to-two (1:2), and shall not supervise the anesthesiologist assistants while concurrently performing any anesthesiology procedure upon more than one (1) patient.

§ 122417. Exceptions to Licensure Requirement.

No person may practice as an anesthesiologist assistant on Guam who is not licensed by the Board. This Article, however, shall not be construed to prohibit a student in an anesthesiologist assistant program from performing duties or functions assigned by his instructors, who is working under the direct supervision of a licensed anesthesiologist in an approved externship.

§ 122418. Prescriptive Authority - None; Limited to Delegation by Prescribing Anesthesiologist.

An anesthesiologist assistant shall only be able to select and administer any form of anesthetic by delegation while under the direct supervision of an anesthesiologist licensed by the Board, and may select and administer any licensed drug solely by delegation and pursuant to the direct supervision instructions of the prescribing anesthesiologist, the established written practice protocol, and in accordance to any applicable rules and regulation established by the Board pursuant to this Article.

**ARTICLE 25
THE JOAQUIN (KC) CONCEPCION II
COMPASSIONATE CANNABIS USE ACT OF 2013**

2017 NOTE: Section 9 of P.L. 34-024 (July 13, 2017) authorized

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the Compiler to change in this Article all references to “Dispensary” or “Dispensaries” to “Medical Cannabis Dispensary” or “Medical Cannabis Dispensaries respectively.”

Section 4 of P.L. 34-024 (July 13, 2017) authorized the Compiler to change in this Article all references to “Department of Revenue and Taxation” to “DRT.”

Section 2 of P.L. 34-024 (July 13, 2017) authorized the Compiler to change in this Article all references to “Department” pertaining to the Department of Public Health and Social Services to “DPHSS”.

2015 NOTE: This article was added to the Guam Code Annotated pursuant a legislative-submitted referendum provided for by P.L. 32-134 (Feb. 16, 2014), which put the following question to vote during the 2014 General Election: “Shall the ‘Joaquin (KC) Concepcion II Compassionate Cannabis Use Act of 2013’ that provides for the medical use of cannabis be allowed?” The results certified by the Guam Election Commission on November 22, 2014 indicate approval of the question. Consequently, pursuant to P.L. 32-134:6, the legislative-submitted referendum was designated as P.L. 32-237 and is codified herein as Article 25.

- § 122501. Title.
- § 122502. Purpose of Act.
- § 122503. Definitions.
- § 122504. Exemption from Criminal and Civil Penalties for the Medical Use of Cannabis.
- § 122505. Prohibitions, Restrictions, and Limitations on the Medical Use of Cannabis - Criminal Penalties.
- § 122506. Medical Cannabis Regulation Commission Created - Duties.
- § 122507. DPHSS Protocols; Registry Identification Cards.
- § 122508. License Classification.
- § 122509. Fees.
- § 122510. Application and Licensing Process for Medical Cannabis Business.
- § 122511. Permit to Operate.
- § 122512. Operation Standards.
- § 122513. Storage of Cannabis.
- § 122514. Transport of Cannabis.
- § 122515. Labeling and Packaging.
- § 122516. Inspections.
- § 122517. Expiration and Renewal of License and Permit to Operate.

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- § 122518. Suspension of Permit to Operate and Revocation of License.
- § 122519. Chain of Custody Form.
- § 122520. Loss of Cannabis.
- § 122521. Destruction and Disposal of Cannabis.
- § 122522. Cessation of Business Operations.
- § 122523. Compassionate Cannabis Use Fund.
- § 122524. Registry Card Optional.
- § 122525. Confidential Database.
- § 122526. Written Certification.
- § 122527. Dispensing Medical Cannabis.
- § 122528. Testing Laboratories for Medical Cannabis.
- § 122529. Record Keeping.
- § 122530. Home Cultivation: When Permitted.

§ 122501. Title.

This Act *shall* be known and *shall* be cited as the “*The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013.*”

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015). Amended by P.L. 33-220:2 (Dec. 17, 2016).

§ 122502. Purpose of Act.

The purpose of this Act is to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015). Amended by P.L. 33-220:2 (Dec. 17, 2016).

§ 122503. Definitions.

As used in this Act:

- (a) (1) *Allowable amount* means an amount of cannabis, in any form approved by the DPHSS, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient’s primary caregiver to be *no more than* reasonably necessary to ensure the uninterrupted

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availability of cannabis that is derived solely from an intrastate source.

(2) The allowable amount shall consist of an amount not to exceed two and a half (2.5) ounces of dried cannabis or its THC equivalency as determined by the DPHSS, purchased from a dispensary every fourteen (14) calendar days. The qualified patient may request for an increased allowable amount of medical cannabis, prepared medical cannabis and medical cannabis products from the DPHSS on a DPHSS-provided form; provided, that the qualified patient provides a valid reason for legitimate need supported by a practitioner recommendation.

(3) The allowable amount *shall* be reviewed by the Regulation Commission from time to time.

(b) *Batch* means a specific processed product produced by a medical cannabis commercial manufacturing facility that is produced at the same time, in the same facility, using the same method, and the same ingredients or extraction methods.

(c) *Bona fide patient-practitioner relationship* means the practitioner *shall*:

(1) review the medical history of the qualified patient;

(2) provide information and explain to the qualified patient about the benefits and risks of medical cannabis;

(3) perform or have performed an appropriate examination of the qualified patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient *shall* have been performed by the practitioner himself or by a consulting practitioner prior to issuing a recommendation for medical cannabis; and

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(4) initiate additional interventions and follow-up care.

(d) (1) *Cannabis* means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate.

(2) “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.

(e) *Canopy* means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants, including all of the space within the boundaries.

(f) *Chain of custody* form means a form, approved by the DPHSS, to track the movement of medical cannabis as it is transferred from business to business.

(g) *Commercial cultivation facility* means a licensed medical cannabis business that plants, grows, harvests, dries, cures, grades, and trims medical cannabis, prepared medical cannabis and medical cannabis products for qualified patients.

(h) *Commercial manufacturing facility* means a licensed medical cannabis business that conducts the production, preparation, or compounding of manufactured medical cannabis, as described in the Act governing these Rules, or prepared medical cannabis.

(i) *Crop* means a specific complete harvest of medical cannabis grown from one (1) or more seeds or cuttings that are planted of the same genetic strain, that are planted and

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grown in the same facility using the same exact methods at the same time.

(j) *Debilitating medical condition* means:

- (1) cancer;
- (2) glaucoma;
- (3) multiple sclerosis;
- (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;
- (5) epilepsy;
- (6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;
- (7) admitted into hospice care in accordance with rules promulgated under this Act;
- (8) post-traumatic stress disorder;
- (9) rheumatoid arthritis or similar chronic autoimmune inflammatory disorders; or
- (10) any other medical condition, medical treatment or disease for which the qualified patient's practitioner has determined that the use of medical cannabis may provide relief.

(k) *DPHSS* means the Department of Public Health and Social Services.

(l) *Designated courier* means a responsible official or employee of a licensed medical cannabis business who is twenty-one (21) years of age or older and who has not entered a plea of guilty to, a plea of *nolo contendere* to, been found guilty of, or been convicted of a felony offense. Designated couriers *shall* be designated by the licensed medical cannabis business to possess and transport cannabis for medicinal purposes. Designated couriers *shall* apply for a registry identification card.

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(m) *Medical Cannabis Dispensary* means a licensed facility where medical cannabis, prepared medical cannabis, medical cannabis products, or paraphernalia are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and prepared medical cannabis as part of a retail sale.

(n) *Felony offense* means:

(1) a violent crime that was classified as a felony in the jurisdiction where the person was convicted;

(2) a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, but does not include:

(A) an offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(B) an offense involving conduct that would be immune from arrest, prosecution, or penalty under the Act *except* that the conduct occurred before the effective date of the Act or was prosecuted by an authority other than Guam; and

(3) a crime involving fraud, dishonest dealing, or moral turpitude that is or was formerly classified as a felony in the jurisdiction where the person was convicted.

(o) *Enclosed, locked location* means an area that is completely enclosed by solid walls at least ten (10) feet in height, constructed of metal, concrete, or stone on all sides or windows exclusive of doors and passage ways and away from public view.

(p) *Gross weight* means the weight of medical cannabis, prepared medical cannabis, or medical cannabis product that includes the weight of the packaging.

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(q) *Hospice* care means palliative care for the terminally and seriously ill provided in a hospital, nursing home, or private residence.

(r) (1) *Licensed medical cannabis business* means any person or association of persons within Guam that the DPHSS determines to be qualified to laboratory test, cultivate, manufacture, or dispense medical cannabis pursuant to this Act, and that is licensed by the DPHSS to do so.

(2) No practitioner providing written certification for the medical use of cannabis *shall* own or be employed by a licensed medical cannabis business.

(s) *Licensed possessor* means any person or association of persons within Guam that the DPHSS determines to be qualified to produce, possess, distribute, dispense, acquire, cultivate, process, transfer, transport, sell, administer, or conduct laboratory testing of cannabis pursuant to this Act and that is licensed or approved by the DPHSS.

(t) *Lot* means the flowers from one (1) or more medical cannabis plants of the same strain and from the same crop, in a quantity that weighs five (5) pounds or less, or the leaves or other plant matter from one (1) or more medical cannabis plants, other than full female flowers, in a quantity that weighs fifteen (15) pounds or less.

(u) *Medical cannabis product* means a product infused with medical cannabis or prepared medical cannabis intended for use or consumption such as, but not limited to, edibles and topical products.

(v) *Medical use* means the acquisition, cultivation, possession, processing, (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transportation, sale, distribution, dispensing, or administration, or laboratory testing of cannabis, as well as the possession of cannabis paraphernalia, for the benefit of qualified patients in the

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treatment of debilitating medical conditions, or the symptoms thereof.

(w) *Paraphernalia* means accessories, devices, and other equipment that is necessary or used to assist or facilitate in the consumption of medical cannabis.

(x) *Practitioner* means a person licensed in Guam to prescribe and administer drugs that are subject to the Guam Uniform Controlled Substances Act. A practitioner *shall not* be a doctor of veterinary medicine or practice veterinary medicine.

(y) *Prepared medical cannabis* means cannabis manufactured or processed and intended for use or consumption through means such as, but not limited to, extracts, oils, tinctures, and suppositories.

(z) *Primary caregiver* means a resident of Guam who is at least twenty-one (21) years of age who is registered with the DPHSS, and who has been designated by the qualified patient as being necessary to assist the qualified patient in the medical use of cannabis in accordance with the provisions of this Act, and who so agrees to assist the qualified patient. Primary caregivers are prohibited from consuming cannabis obtained for the personal, medical use of the qualified patient.

(aa) *Qualified patient* means a person of Guam who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification for the medical use of cannabis.

(bb) *Responsible official* means:

(1) a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(2) a general partner or sole proprietorship;

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(3) for a public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the Director. For the purposes of [this Act], a principal executive officer of a federal agency includes the chief executive officer, commanding officer, or equivalent rank or position, who has responsibility for the overall operations of a principal unit of the agency;

(4) a responsible official *shall not* have been convicted in any state or jurisdiction of the United States, including the Commonwealth of the Northern Mariana Islands, for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; and

(5) a responsible official *shall* be registered with the DPHSS and hold a registry identification card.

(cc) *Weight* means the net weight of medical cannabis, prepared medical cannabis, and medical cannabis product in ounces without any packaging.

(dd) (1) *Written certification* means a statement in a qualified patient's medical records or a statement signed by a qualified patient's practitioner that, in the practitioner's professional opinion, the qualified patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified patient. The qualified patient's practitioner *shall* keep a copy of the written certification on file and provide it upon request by the DPHSS or authorized law enforcement personnel.

(2) A written certification *shall*:

(A) be valid for no more than one (1) year from the date of issuance;

(B) include a signed declaration by the qualified patient's practitioner affirming a bona fide practitioner-patient relationship;

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(C) not include the qualified patient's medical condition or any other information relating to the condition; and

(D) contain all of the following information:

- (i) the qualified patient's full name;
- (ii) the qualified patient's date of birth;
- (iii) the qualified patient's address; and
- (iv) the practitioner's:

(aa) first name; middle name, if applicable; last name; and suffix, if applicable;

(bb) Guam Board of Medical Examiners license number, including an identification of the physician license type or the practitioner's license number from their appropriate licensing or regulatory board and the identification of the practitioner's license type;

(cc) office address on file with the practitioner's licensing board;

(dd) telephone number on file with the practitioner's licensing board;

(ee) e-mail address; and

(ff) authenticated signature.

(ee) *Business license* means a business license issued by the DRT.

(ff) *DRT* means the Department of Revenue and Taxation.

(gg) *Drug Free School Zone* means any area within one thousand (1,000) feet of a public or private elementary, secondary, or post-secondary educational institution or its accompanying grounds; or within the vehicle of any school bus which transports students while in motion.

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(1) A Drug Free School Zone *shall* not include private real property which is not a school or the accompanying grounds of a school.

(2) This definition as it appears in this subsection and as it applies in this Chapter *shall* not be construed as to change or in any way alter the meaning of Drug Free School Zone as it is defined and prescribed in the Drug Free School Zone Act, Chapter 48 of Title 17, Guam Code Annotated.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015). Amended by P.L. 33-220:2 (Dec. 17, 2016). Subsection (k) amended by P.L. 34-024:2 (July 13, 2017). Subsection (ee) added by P.L. 34-024:3 (July 13, 2017). Subsection (ff) added by P.L. 34-024:4 (July 13, 2017). Subsection (aa) amended by P.L. 34-080:3 (Feb. 9, 2018). Subsections (a), (g), (h), (o), and (t) amended by P.L. 34-080:5 (Feb. 9, 2018). Subsection (gg) originally added as part of subsection (a)(4) by P.L. 34-080:6 (Feb. 9, 2018), and codified by the Compiler to this subsection.

2018 NOTE: The definition for “Drug Free School Zone” was originally part of subsection (a)(4), as added by by P.L. 34-080:6 (Feb. 9, 2018). The Compiler codified the definition as a new subsection (gg) pursuant to the authority granted by 1 GCA § 1606.

2017 NOTE: Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

As enacted, subsection (bb)(3) contained a reference to “these rules and regulations.” Pursuant to the authority granted by 1 GCA § 1606, the Compiler replaced the reference and inserted “this Act” in brackets, to accurately reflect the enactment by legislation, rather than adoption by administrative rules and regulations.

CROSS REFERENCE: See 10 GCA § 122530(b)(2)(A) for the definition of *designated care giver* (a person “who has been designated by the qualified patient as being necessary to assist the qualified patient in the cultivation of medical cannabis in accordance with the provisions of this Section”), as compared to the definition of *qualified giver* in subsection (z) of this provision (a person “who has been designated by the qualified patient as being necessary to assist the qualified patient in the medical use of cannabis in accordance with the provisions of this Act”).

§ 122504. Exemption from Criminal and Civil Penalties for the Medical Use of Cannabis.

(a) A qualified patient is presumed to be engaged in the medical use of cannabis and *shall not* be subject to arrest,

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prosecution, or penalty in any manner for the possession of or the medical use of cannabis if the qualified patient possesses a quantity of cannabis that does not exceed the allowable amount, possesses a quantity of cannabis that does not exceed the amount authorized for home cultivation under § 122530(d) of this Article, is acting in accordance with all of the requirements of this Act, and is in possession of a written certification and a cannabis home cultivation permit where applicable. For purposes of this Section, the allowable amount and the amounts allowed under § 122530(d) of this Article *shall* be quantified separately to ensure that a qualified patient may possess both up to the allowable amount pursuant to § 122503(a) and the amount of cultivated plants authorized by § 122530(d) of this Article.

(b) A qualified patient's primary caregiver, patient's designated caregiver, or multiple patients' designated caregiver is presumed to be engaged in the medical use of cannabis and *shall not* be subject to arrest, prosecution, or penalty in any manner for the possession of cannabis for medical use by the qualified patient if the caregiver possesses a quantity of cannabis that does not exceed the allowable amount or possesses a quantity that does not exceed the quantity of cannabis authorized for home cultivation under § 122530(d) of this Article where applicable; provided, that the caregiver is assisting in the registered qualified patient's medical use of cannabis pursuant to this Act, and is acting in accordance with all of the requirements of this Act. For purposes of this Section, the allowable amount and the amounts allowed under § 122530(d) of this Article *shall* be quantified separately to ensure that a qualified patient and/or a caregiver may possess both up to the allowable amount pursuant to § 122503(a) and the amount of cultivated plants authorized by § 122530(d) of this Article.

(c) Subsection (a) of this Section *shall not* apply to a qualified patient under the age of eighteen (18) years, unless:

(1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient, and to a parent, guardian, or person having legal custody of the qualified patient; and

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(2) a parent, guardian, or person having legal custody consents in writing to:

(A) allow the qualified patient's medical use of cannabis;

(B) serve as the qualified patient's primary caregiver and/or patient's designated caregiver; and

(C) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

(d) A qualified patient, primary caregiver, patient's designated caregiver, or multiple patients' designated caregiver *shall* be granted the full legal protections provided in this Section if such person is in possession of a written certification and/or a cannabis home cultivation permit where applicable.

(e) A practitioner *shall not* be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to this Act.

(f) A licensed possessor or employee of a licensed medical cannabis business *shall not* be subject to arrest, prosecution, or penalty, in any manner, for the production, possession, distribution, dispensing, acquisition, cultivation, processing, transferring, transporting, selling, or laboratory testing of cannabis or medical cannabis paraphernalia in compliance with this Act; provided, that they are registered and certified or authorized by the DPHSS and are acting in accordance with this Act.

(g) (1) Any property interest that is possessed, owned or used in connection with the medical use of cannabis or home cultivation of medical cannabis pursuant to § 122530 of this Article, or acts incidental to such use, *shall not* be harmed, injured, or destroyed while in the possession of state or local law enforcement officials.

(2) Any such property interest *shall not* be forfeited under any local law providing for the forfeiture of property,

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except as provided in the Special Assets Forfeiture Fund, 10 GCA §§ 79101 - 79105.

(3) Cannabis, paraphernalia, or other property seized from a qualified patient or caregiver in connection with the claimed medical use of cannabis *shall* be returned immediately upon the determination by a court or prosecutor that the qualified patient or caregiver is entitled to the protections of the provisions of this Act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges, or acquittal.

(h) A person *shall not* be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as permitted under the provisions of this Act.

(i) An operator or worker of a facility approved by the DPHSS to conduct laboratory testing *shall not* be subject to arrest, prosecution, or penalty, in any manner, or denied any right or privilege for possession, acquisition, transferring, transporting, selling, or laboratory testing of cannabis, prepared medical cannabis, or medical cannabis product for medical use pursuant to this Act.

(j) The DPHSS *shall* be authorized to acquire, possess, store, and laboratory test cannabis for medical use pursuant to this Act; and, the employees of the DPHSS *shall not* be subject to arrest or prosecution for acquiring, possessing, storing, and/or conducting laboratory tests of cannabis for medical use pursuant to this Act.

(k) A person may raise an affirmative defense if the person is found to be in possession of medical cannabis but can show legitimate need for medical cannabis or if the person has a qualifying debilitating medical condition under the provisions set forth by this Act.

(l) No qualifying patient, primary caregiver, patient's designated caregiver, or multiple patients' designated caregiver under this Act shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption

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of neglect or child endangerment, for conduct allowed under this Act; provided, that this Subsection *shall not* apply if the qualifying patient's or caregiver's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015). Amended by P.L. 33-220:2 (Dec. 17, 2016). Amended by P.L. 34-165:1 (Dec. 28, 2018).

2017 NOTE: Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

§ 122505. Prohibitions, Restrictions, and Limitations on the Medical Use of Cannabis - Criminal Penalties.

(a) Participation in the medical use of cannabis by a qualified patient, or primary caregiver, patient's designated caregiver, or multiple patients' designated caregiver *does not* relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not permitted by this Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

(A) in a school bus or public vehicle;

(B) on school grounds or property; ;

(C) in the workplace of the qualified patient's or primary caregiver's employment; or

(D) at a public park, recreation center, youth center, or other public place.

(b) A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor.

(c) If a licensed possessor or employee of a licensed medical cannabis business sells, distributes, dispenses, or

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transfers cannabis to a person not permitted to participate in the medical use of cannabis under this Act, or obtains or transports cannabis outside Guam in violation of federal law, the licensed possessor or employee of a licensed medical cannabis business *shall* be subject to arrest, prosecution and civil or criminal penalties in accordance with Guam law.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015). Amended by P.L. 33-220:2 (Dec. 17, 2016). Amended by P.L. 34-165:2 (Dec. 28, 2018).

§ 122506. Medical Cannabis Regulation Commission Created -Duties.

(a) (1) There *shall* be established within the Department of Public Health and Social Services a Medical Cannabis Regulation Commission (Commission) consisting of eleven (11) members. Commission members *shall* serve for a term of four (4) years. Appointments to fill vacancies *shall* be appointed no later than thirty (30) calendar days of a resignation or vote of removal of a Commission member by a majority vote of six (6) votes of the other members of the Commission.

(2) The members *shall* elect a chairperson of the Commission to coordinate meetings; and the Commission *shall* consist of the following members:

(A) the Director of the Department of Public Health and Social Services or his designee;

(B) the Chairperson of the Guam Board of Medical Examiners or his designee;

(C) the Director of the Department of Agriculture or his designee;

(D) the Administrator of the Guam Environmental Protection Agency or his designee;

(E) the Chairperson of the Legislative Committee on Health and Human Services or his designee;

(F) a member of the public at large appointed *by I Maga 'lâhi* (the Governor);

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(G) a member of the public at large appointed *by the Legislature*;

(H) a qualified patient, caregiver, or patient advocate who *shall* be appointed by the Commission;

(I) a licensed possessor who *shall* be appointed by the Commission; and

(J) the remaining two (2) members appointed by the Commission *shall* be practitioners representing the field of oncology, neurology, psychiatry, or pain management, who shall be board-certified in his or her area of specialty and knowledgeable about the medical use of cannabis.

(3) A quorum of said Commission *shall* consist of six (6) members.

(b) The Commission *shall*:

(1) review and recommend to the DPHSS for approval additional debilitating medical conditions that would benefit from the medical use of cannabis;

(2) accept and review petitions to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

(3) convene at least twice per year to conduct public hearings and to evaluate petitions (which *shall* be maintained as confidential personal health information), to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

(4) recommend quantities of cannabis that are necessary to constitute an allowable amount for qualified patients and primary caregivers;

(5) advise the DPHSS on the development of standards and regulations pursuant to this Article, including best practices and guidelines to ensure qualified patients

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have adequate access to medical cannabis and medical cannabis products; and

(6) submit policy recommendations to the legislative committee on health and human services.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015), entitled "Advisory Board Created – Duties." Amended by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 122507. DPHSS Protocols; Registry Identification Cards.

(a) The DPHSS *shall* govern the manner in which it will consider applications for registry identification cards and for the renewal of identification cards for qualified patients, primary caregivers, responsible officials, and designated couriers.

(b) Notwithstanding any other provision of law, the sum of One Hundred Thousand Dollars (\$100,000) from the Healthy Futures Fund, codified at 11 GCA § 26603, is hereby appropriated to assist the DPHSS to timely execute its mandate under this Section to implement the purpose of this Act. The fees generated from revenues collected from this program will reimburse the Healthy Futures Fund up to One Hundred Thousand Dollars (\$100,000).

(c) The DPHSS *shall* issue registry identification cards to a qualified patient, and to the primary caregiver for that qualified patient, if any, who submit the following:

- (1) a written certification;
- (2) the name, address, and date of birth of the qualified patient;
- (3) the name, address, and telephone number of the qualified patient's practitioner;
- (4) the name, address, and date of birth of the qualified patient's primary caregiver, if any; and
- (5) a police clearance and court clearance of the primary caregiver.

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(d) The DPHSS *shall* issue registry identification cards to a responsible official or employee who submits the following:

- (1) the name of the employee or responsible official;
- (2) the mailing address of the licensed medical cannabis business of the employee's place of employment or responsible official owns;
- (3) the physical address of the licensed medical cannabis business of the employee's place of employment or responsible official owns;
- (4) e-mail address;
- (5) the phone number of the licensed medical cannabis business of the employee's place of employment or responsible official owns;
- (6) clearances from the police, court, and Attorney General;
- (7) Mayor's verification or document as approved by the DPHSS to display proof of Guam residency;
- (8) the job title, duties, and responsibilities;
- (9) the application fee, as set forth by this Act; and
- (10) any other information the DPHSS may require.

(e) (1) The DPHSS *shall* verify the information contained in an application submitted pursuant to Subsection (c) or Subsection (d) of this Section, and *shall* approve or deny an application within thirty (30) calendar days of receipt.

(2) The DPHSS may deny an application only if the applicant did not provide the information required pursuant to Subsections (c) or (d) of this Section, or if the DPHSS determines that the information provided is false.

(A) The DPHSS *shall* provide written notification to the applicant of the reason for denial of the application within forty-eight (48) hours.

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(B) A person whose application has been denied and given notice of the reason for denial *shall* have ten (10) working days to appeal or comply.

(C) If the person does not come into compliance, the person *shall not* reapply for six (6) months from the date of the denial unless otherwise authorized by the DPHSS.

(f) The DPHSS *shall* issue a registry identification card within five (5) days of approving an application, and the card *shall* expire one (1) year after the date of issuance.

(1) A registry identification card for a qualified patient and primary caregiver *shall* contain:

(A) the name, address, and date of birth of the qualified patient and primary caregiver, if any;

(B) the date of issuance and expiration date of the registry identification card;

(C) the registry identification type; and

(D) any other information that the DPHSS may require, except the qualified patient's debilitating illness or any medical condition.

(2) A registry identification card for a responsible official and employee *shall* contain:

(A) the name of the employee or responsible official;

(B) the date of issuance and expiration date of the registry identification card;

(C) the physical address of the licensed medical cannabis business of the employee's place of employment or responsible official owns;

(D) the name of the responsible official of the licensed medical cannabis business;

(E) the registry identification type; and

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(F) any other information that the DPHSS may require, except the qualified patient's debilitating illness or any medical condition.

(g) A person who possesses a registry identification card *shall* notify the DPHSS of any change in the person's name, address, qualified patient's practitioner, qualified patient's primary caregiver, or change in status of the qualified patient's debilitating medical condition within ten (10) working days of the change.

(h) Possession of or application for a registry identification card *shall not* constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

(i) The DPHSS *shall* maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list *shall* be confidential and not subject to disclosure, except:

(1) to authorized employees of the DPHSS as necessary to perform the duties of the DPHSS pursuant to the provisions of this Act;

(2) to authorized employees of state or local law enforcement agencies for the sole purpose of verifying that a person is lawfully in possession of a registry identification card and is lawfully participating in Guam's medical cannabis program;

(3) pursuant to a court order or subpoena issued by a court;

(4) as provided in the federal Health Insurance Portability and Accountability Act of 1996, codified at 42 U.S.C. §1320*d et seq.*;

(5) with the written permission of the qualified patient or the qualified patient's legal guardian, or a parent or person with legal custody if the qualified patient has not attained eighteen (18) years of age;

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(6) to a law enforcement official for verification purposes; provided, that the records may not be disclosed further than necessary to verify a qualified patient's participation in the medical cannabis program; or

(7) to a qualified patient's treating practitioner and to a qualified patient's primary caregiver for the purpose of carrying out this Act.

SOURCE: Added by P.L. 32-237 (Feb. 21, 2015), entitled "Department Rules; Registry Identification Cards." Amended by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 122508. License Classification.

(a) Licenses for medical cannabis businesses are non-transferable.

(b) All licensed medical cannabis businesses permitted in this Act *shall* retain at least fifty-one percent (51%) ownership by legal residents of Guam who have maintained continuous legal residential address or addresses on Guam for a period of no less than three (3) years prior to the application for a medical cannabis business license. The DRT Business License Division *shall* verify such requirement.

(c) The DPHSS *shall* issue the following types of medical cannabis licenses:

(1) Type 1 Commercial Cultivation License for cultivation of less than or equal to two thousand five hundred (2,500) square feet of canopy on a single premises;

(2) Type 2 Commercial Cultivation License for cultivation of two thousand five hundred one (2,501) to five thousand (5,000) square feet of canopy on a single premises;

(3) Type 3 Commercial Cultivation License for cultivation of five thousand one (5,001) to ten thousand (10,000) square feet of canopy on a single premises;

(4) Commercial Manufacturing Facility License;

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- (5) Medical Cannabis Dispensary License; and
- (6) Medical Cannabis Testing Laboratory License.

(d) The DRT Business License Section *shall* issue the following types of medical cannabis business licenses:

- (1) Commercial Cultivation Business License;
 - (2) Commercial Manufacturing Facility Business License;
 - (3) Medical Cannabis Dispensary Business License;
- or
- (4) Medical Cannabis Testing Laboratory Business License.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016). Amended by P.L. 34-024:5 (July 13, 2017).

2017 NOTE: Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

§ 122509. Fees.

(a) Registry Identification Card:

- (1) Qualified Patient: \$15;
- (2) Primary Caregiver: \$100;
- (3) Responsible Official: \$1,000;
- (4) Designated Courier: \$200.

(b) Annual Registry Identification Card Renewal:

- (1) Qualified Patient: \$10;
- (2) Primary Caregiver: \$75;
- (3) Responsible Official: \$750;
- (4) Designated Courier: \$175.

(c) Non-refundable Application Fees:

- (1) \$2,000 for a Type 1 Cultivation License;
- (2) \$5,000 for a Type 2 Cultivation License;

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- (3) \$10,000 for a Type 3 Cultivation License;
 - (4) \$5,000 for a Commercial Manufacturing Facility;
 - (5) \$5,000 for a Medical Cannabis Dispensary;
 - (6) \$2,000 for a Medical Cannabis Testing Laboratory.
- (d) Initial Licensing Fees:
- (1) \$3,000 for a Type 1 Cultivation License;
 - (2) \$5,000 for a Type 2 Cultivation License;
 - (3) \$10,000 for a Type 3 Cultivation License;
 - (4) \$5,000 for a Commercial Manufacturing Facility;
 - (5) \$5,000 for a Medical Cannabis Dispensary;
 - (6) \$2000 for a Medical Cannabis Testing Laboratory.
- (e) Annual License Renewal:
- (1) \$3,000 for a Type 1 Cultivation License;
 - (2) \$7,500 for a Type 2 Cultivation License;
 - (3) \$15,000 for a Type 3 Cultivation License;
 - (4) \$5,000 for a Commercial Manufacturing Facility;
 - (5) \$5,000 for a Medical Cannabis Dispensary;
 - (6) \$2,000 for a Medical Cannabis Testing Laboratory.
- (f) Non-refundable Permit to Application Fee:
- (1) \$2,000 for a Type 1 Cultivation Site;
 - (2) \$5,000 for a Type 2 Cultivation Site;
 - (3) \$15,000 for a Type 3 Cultivation Site;
 - (4) \$5,000 for a Commercial Manufacturing Facility;
 - (5) \$5,000 for a Medical Cannabis Dispensary;
 - (6) \$2,000 for a Medical Cannabis Testing Laboratory.
- (g) Permit to Operate Annual Fee:
- (1) \$2,000 for a Type 1 Cultivation Site;

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- (2) \$5,000 for a Type 2 Cultivation Site;
 - (3) \$15,000 for a Type 3 Cultivation Site;
 - (4) \$5,000 for a Commercial Manufacturing Facility;
 - (5) \$5,000 for a Medical Cannabis Dispensary;
 - (6) \$2,000 for a Medical Cannabis Testing Laboratory.
- (h) DPHSS Authentication of Written Certification: \$1.00.
- (i) DRT Business License [Initial] Fees:
- (1) \$1,000 for a Commercial Cultivation Business License;
 - (2) \$1,000 for a Commercial Manufacturing Facility Business License;
 - (3) \$1,000 for a Medical Cannabis Dispensary Business License; and
 - (4) \$1,000 for a Medical Cannabis Testing Laboratory Business License.
- (j) DRT Business License [Annual Renewal] Fees:
- (1) \$1,000 for a Commercial Cultivation Business License;
 - (2) \$1,000 for a Commercial Manufacturing Facility Business License;
 - (3) \$1,000 for a Medical Cannabis Dispensary Business License; and
 - (4) \$ 1,000 for a Medical Cannabis Testing Laboratory Business License.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016). P.L. 34-024:6 (July 13, 2017) added subitem (d)(7), codified as subsection (i)(1)-(4) by the Compiler pursuant to authority granted by 1 GCA § 1606. P.L. 34-024:7 (July 13, 2017) added subitem (e)(7), codified as subsection (j)(1)-(4) by the Compiler pursuant to authority granted by 1 GCA § 1606.

§ 122510. Application and Licensing Process for Medical Cannabis Business.

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The DPHSS *shall* govern the manner in which applications for a medical cannabis business license will be considered according to the following:

(a) Within thirty (30) days of the passage of this Act, the DPHSS *shall* accept applications for proposed medical cannabis licenses on a form prescribed by the authorized responsible official and include:

(1) the authorized responsible official's:

- (A) name;
- (B) mailing address;
- (C) e-mail address;
- (D) phone number;
- (E) A Mayor's verification or document as approved by the DPHSS to display proof of Guam residency; and
- (F) clearances from police, court, and Attorney General;

(2) the legal name of the proposed medical cannabis business;

(3) the physical address of the proposed medical cannabis business;

(4) affirmation that the proposed medical cannabis business is not within a Drug Free School Zone;

(5) proof that the applicant has legal title filed with the Department of Land Management on which the proposed medical cannabis business will be located, or has a legal lease agreement with the property owner that includes consent to operate the proposed medical cannabis business on that property;

(6) proof that the proposed facility is registered with the DRT and has a business license and Business Privilege Tax Number with the DRT;

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(7) clearances from the police, court, and Attorney General for each owner, responsible official, and board member;

(8) affirmation, to include a Mayor's verification of each owner or responsible official or other form of documentation as approved by the DPHSS displaying proof of Guam residency, that the proposed medical cannabis business has a fifty-one percent (51%) ownership by legal residents of Guam;

(9) operating procedures consistent with rules of the DPHSS for oversight of the proposed medical cannabis business, including, without limitation:

(A) equipment handling and sanitation procedures.

(B) procedures to ensure the use of adequate security measures;

(C) the use of inventory control system; and

(D) such other information as the DPHSS may require;

(10) a certified statement that none of the persons who are proposed to be owners, officers, or board members of the proposed medical cannabis business have served as an owner, officer or board member for a licensed medical cannabis business that has had its license revoked within three (3) years of the current application date;

(11) proof that none of the persons who are proposed to be owners, officers, or board members of the proposed licensed medical cannabis business are under twenty-one (21) years of age;

(12) declaration that the proposed licensed medical cannabis business will not knowingly employ a person who was convicted of a felony offense, is under the age of twenty-one (21), or who may have a conflict of interest as a practitioner providing written

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certification to a qualified patient for the use of medical cannabis;

(13) a certified letter from the planning DPHSS of the Department of Land Management stating that the location of the facility meets all zoning requirements of this Act. Licensed medical cannabis businesses *shall* be located only in the following zones:

(A) Agricultural Zone (A), Commercial Zone (C), Light Industrial Zone (M1), and Heavy Industrial Zone (M2) for commercial cannabis cultivation facilities; and

(B) Commercial Zone (C), Light Industrial Zone (M1), and Heavy Industrial Zone (M2) for commercial manufacturing facilities and medical cannabis dispensaries.

(14) A plan for sufficient equipment to monitor temperature, ventilation, humidity control equipment and any other necessary equipment that preserves the integrity of the medical cannabis, prepared medical cannabis, medical cannabis product, and the safety of patients and operations, as determined by the DPHSS's rules and regulations; and

(15) The application fee, as set forth in this Act.

(b) The DPHSS *shall* verify the information contained in an application submitted pursuant to Subsection (a) of this Section, and *shall* approve or deny an application within thirty (30) calendar days of receipt. The DPHSS *shall* deny an application only if the applicant did not provide the information required pursuant to Subsection (a) of this Section, or if the DPHSS determines that the information provided is false.

(c) The DPHSS *shall* provide written notification to the responsible official of an incomplete application within seven (7) days of the DPHSS's determination and specify where the application is incomplete. The responsible official

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shall be given fourteen (14) days to complete and resubmit the application.

(d) The DPHSS *shall* reject any application that does not comply with this Act. The DPHSS *shall* provide the responsible official with a written notification within seven (7) days of rejection and specify the reason for rejection.

(e) The DPHSS *shall* issue a license if the application is complete and in accordance with this Act. The certificate *shall* include the following:

(1) the medical cannabis business's:

- (A) legal name;
- (B) physical address; and
- (C) phone number;

(2) the responsible official's:

- (A) name;
- (B) mailing address;
- (C) email address;
- (D) phone number;

(3) a random alphanumeric identification number;

(4) the date of issue;

(5) the date of expiration;

(6) the date the licensed medical cannabis business must reapply; and

(7) any other information the DPHSS deems necessary.

(f) Other than a medical cannabis testing laboratory, no person, responsible official, board member, business, stakeholder, principals, or entity of one (1) licensed medical cannabis business *shall* own or have financial interest in more than one (1) licensed medical cannabis business at any given time; provided that:

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(1) for a commercial cultivation facility:

(A) responsible officials, board members, businesses, stakeholders, principals, or entities of commercial cultivation facilities are not prohibited from holding separate commercial manufacturing facility licenses or medical cannabis dispensary licenses, so long as the provisions for the application of the separate cultivation, manufacturing, or medical cannabis dispensary licenses set forth in this Act are completed in full by the applicant;

(B) responsible board members, businesses, stakeholders, principals, or entities of commercial cultivation facilities will apply for licensing separately from commercial manufacturing facilities and medical cannabis dispensaries; and

(C) commercial cultivators may possess *no more than one* (1) commercial cultivation license at any given time.

(i) Commercial cultivators are prohibited from holding financial interest or partial ownership of more than one (1) commercial cultivation facility at any given time.

(ii) Ownership of an entity's current commercial cultivation license must be surrendered immediately upon acceptance of a new commercial cultivation license, whether or not the new commercial cultivation license represents a change in location or an increase, decrease, or the current level of commercial cultivation allowed to the entity.

(2) for a commercial manufacturing facility:

(A) responsible officials, board members, businesses, stakeholders, principals, or entities of

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commercial manufacturing facilities are not prohibited from holding separate commercial cultivation facility licenses or medical cannabis dispensary licenses, so long as the provisions for the application of the separate cultivation, manufacturing, or medical cannabis dispensary licenses set forth in this Act are completed in full by the applicant;

(B) responsible officials, board members, businesses, stakeholders, principals, or entities of commercial manufacturing facilities will apply for licensing separately from commercial cultivation facilities and medical cannabis dispensaries; and

(C) responsible officials, board members, businesses, stakeholders, principals, or entities of a commercial manufacturing facility may possess no more than one (1) commercial cultivation license at any given time.

(i) Commercial manufacturing facilities are prohibited from holding financial interest or partial ownership of more than one (1) commercial cultivation facility at any given time.

(ii) Ownership of an entity's current commercial manufacturing facility license must be surrendered immediately upon acceptance of a new commercial cultivation license, whether or not the new commercial cultivation license represents a change in location or an increase, decrease, or the current level of commercial cultivation allowed to the entity.

(3) for a medical cannabis dispensary:

(A) responsible officials, board members, businesses, stakeholders, principals, or entities of a medical cannabis dispensary are not prohibited from holding separate commercial cultivation

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facility licenses or commercial manufacturing facility licenses, so long as the provisions for the application of the separate cultivation, manufacturing, or medical cannabis dispensary licenses set forth in this Act are completed in full by the applicant;

(B) responsible officials, board members, businesses, stakeholders, principals, or entities of a medical cannabis dispensary will apply for licensing separately from commercial cultivation facilities and commercial manufacturing facilities; and

(C) responsible officials, board members, businesses, stakeholders, principals, or entities of a medical cannabis dispensary may possess no more than one (1) commercial cultivation facility license at any given time.

(i) Medical cannabis dispensaries are prohibited from holding financial interest or partial ownership of more than one (1) commercial cultivation facility at any given time.

(ii) Ownership of an entity's current commercial cultivation facility license must be surrendered immediately upon acceptance of a new commercial cultivation facility license, whether or not the new commercial cultivation facility license represents a change in location or an increase, decrease, or the current level of commercial cultivation allowed to the entity.

(g) A medical cannabis testing laboratory and its responsible officials, board members, business stakeholders, principals, or entities of a medical cannabis testing laboratory are prohibited from owning or having any financial stake in commercial cultivation facilities, commercial manufacturing facilities, medical cannabis

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dispensaries, and medical establishments that recommend the use of medical cannabis, or other medical cannabis testing laboratories.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016). Subsection (a), exclusive of subitems (1) - (15), amended by P.L. 34-024:8 (July 13, 2017). Subsection (a)(4) amended by P.L. 34-080:6 (Feb. 9, 2018).

2018 NOTE: P.L. 34-080:6 identified only subitem (4); however, it is apparent that the legislative intent was to amend subsection (a)(4). Prior to its amendment by P.L. 34-080:6, subsection (a)(4) stated: “(4) affirmation that the proposed medical cannabis business is not within a Drug Free School Zone pursuant to Chapter 48 of Title 17, Guam Code Annotated.”

The amendment to subsection (a)(4) also included the definition of a Drug Free School Zone which is codified as § 122503(gg) pursuant to authority granted by 1 GCA § 1606.

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 122511. Permit to Operate.

(a) The DPHSS *shall* govern the manner in which applications for a Medical Cannabis Permit to Operate will be considered. The DPHSS *shall* inspect the facilities of a licensed medical cannabis business prior to issuing a Permit to Operate. The Permit to Operate must be displayed inside the licensed medical cannabis business. No medical cannabis, prepared medical cannabis, or medical cannabis product can be sold or transferred by a licensed medical cannabis business to any licensed medical cannabis business, medical cannabis testing laboratory, qualified patient, qualified patient’s primary caregiver, or qualified patient’s legal guardian without the licensed medical cannabis business being in possession of a Permit to Operate.

(b) The application and the Permit to Operate *shall* include:

(1) the name, address, and license number of the medical cannabis business;

(2) the responsible official’s name;

(3) the date of issue;

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- (4) the date of expiration;
- (5) the date the licensed medical cannabis business must reapply;
- (6) the type of medical cannabis license; and
- (7) any other information deemed necessary by the DPHSS.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

122512. Operation Standards.

(a) Each facility will comply with all local building, health, fire, and zoning requirements and other applicable requirements and *shall not* be in violation of Guam's building and zoning laws.

(b) All licensed medical cannabis businesses that prepare, package, store, sell, distribute, or dispense cannabis-infused edible food products *shall* comply with Title 10 GCA, Chapters 21, 22, 23, 24, and 40, and applicable rules and regulations, to ensure proper food safety.

(c) Commercial cultivation may only occur on the property for which the commercial cultivation license was obtained.

(d) Commercial cultivation *shall not* be in public view. All commercial cultivation structures *shall* be fully surrounded by a fence or wall at least ten (10) feet in height with a locking gate or door. No cannabis plant shall be taller than the height of the wall, fence, or gate.

(e) The cultivation area and storage areas of medical cannabis, prepared medical cannabis, medical cannabis product must be adequately secured to prevent unauthorized entry.

(f) If supplemental gasses are used for cultivation purposes, the facility will be equipped with working carbon monoxide detectors.

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(g) Licensed medical cannabis businesses *shall* develop a plan for and cooperate with local health, water, building, and fire authorities to ensure adequate ventilation and air filtration, plumbing and drainage requirements, electrical safety, and proper disposal of wastewater according to Guam Environmental Protection Agency and Department of Agriculture requirements when applicable.

(h) A sample of each lot of every medical cannabis crop produced by the commercial cultivator *shall* be laboratory tested by a licensed medical cannabis testing laboratory before distribution to a licensed possessor.

(i) A sample of each batch of each prepared medical cannabis or medical cannabis product produced by a commercial manufacturing facility *shall* be laboratory tested by a licensed medical cannabis testing laboratory before distribution to a licensed possessor.

(j) The licensed medical cannabis business *shall* attach a DPHSS approved chain of custody form that includes a detailed report of the laboratory testing results from the lot of the cannabis crop origination, based on minimum requirements set by the DPHSS.

(k) All laboratory tested cannabis determined to be unusable or contaminated according to the minimum laboratory testing requirements set by this Act must be destroyed and/or disposed of in accordance with local law within twenty-four (24) hours of determination. Disposal *shall* be recorded and reported to the DPHSS within forty-eight (48) hours of disposal pursuant to this Act.

(l) The licensed medical cannabis business *shall* develop standard operating procedures, protocols, and training for the safe handling and dispensing of medical cannabis to include:

- (1) storage protocols;
- (2) reasonable security protocols;
- (3) inventory control; and
- (4) distribution systems.

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(m) The use of butane for any extraction method for medical marijuana concentrates is hereby banned in Guam.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122513. Storage of Cannabis.

To reduce contamination of cannabis products, all cannabis products *shall* be stored and displayed in inconspicuous air-tight and tamper proof containers. If applicable, the product may be stored in child-proof containers. Storage and display areas must maintain relative humidity between fifty percent (50%) and seventy percent (70%).

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122514. Transport of Cannabis.

(a) Medical cannabis, prepared medical cannabis, and medical cannabis product *shall* only be transported by designated couriers of a licensed medical cannabis business, a qualified patient, a qualified patient's primary caregiver, or a qualified patient's legal guardian.

(b) The designated courier *shall* be registered with the DPHSS.

(c) The designated courier authorized by the licensed medical cannabis business *shall*:

- (1) *not* use a vehicle with any cannabis identification;
- (2) ensure the cannabis is not visible; and
- (3) store cannabis in air-tight, tamper proof packaging.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122515. Labeling and Packaging.

Labels and packages of prepared medical cannabis product *shall* meet the following requirements:

(a) Medical cannabis packages and labels *shall not* be made to be attractive to children, to include cartoons; symbols or celebrities that are commonly used to market

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products to minors; or similar to existing packaging labels of any product available on the market that currently markets towards children.

(b) All prepared medical cannabis and medical cannabis product labels *shall* include the following information, prominently displayed and in a clear and legible font:

(1) the manufacture date, identification, batch, and lot number as applicable;

(2) the statement “KEEP OUT OF REACH OF CHILDREN AND ANIMALS” in bold print;

(3) the statement “FOR MEDICAL USE ONLY”;

(4) the statement, only on edibles “WHEN EATEN OR SWALLOWED, THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS”;

(5) the statement “THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION”;

(6) a warning if nuts or other known allergens or gluten containing products are used;

(7) a list of pharmacologically active ingredients, including, but not limited to, delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD) in percentage, the THC and CBD milligrams per serving, servings per package, and the THC and CBD and other cannabinoid amount in milligrams for the package total for prepared cannabis, as applicable;

(8) clear indication, in bold type, that the product contains medical cannabis;

(9) total net weight of prepared cannabis and medical cannabis product, as applicable; and

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(10) any other requirement set by the DPHSS.

(c) All packaging information required by this Section *shall* be in no less than eight (8) point font, regardless of individual package size.

(d) Packaging *shall* be in an inconspicuous and tamper-evident packaging.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122516. Inspections.

(a) The DPHSS *shall* establish standard operating procedures for inspecting a licensed medical cannabis business facility.

(b) Authorized members of the DPHSS or law enforcement, the Guam Fire Department, or Department of Public Works may conduct inspections as needed during business hours to ensure compliance with the local laws, and the Guam Environmental Protection Agency and the Guam Department of Agriculture. The DPHSS *shall* provide a twenty-four (24) hour notice of inspections.

(c) If deficiencies in operational standards are discovered, the facility will be notified in writing, and the DPHSS *shall* suspend the licensed medical cannabis business' Permit to Operate. The licensed medical cannabis business *shall* be given ten (10) business days to correct the deficiencies.

(d) The facility may submit a request for reasonable extension to correct deficiencies if the facility can show that the corrections cannot be made within ten (10) business days. The DPHSS *shall* review and grant or deny the written request for extension within three (3) business days.

(e) Failure to correct the deficiencies in the allotted time will result in a notice of closure, and revocation of permit to operate.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

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2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 122517. Expiration and Renewal of License and Permit to Operate.

(a) All licenses and Permits to Operate are valid for a term of one (1) year from the issue date. The DPHSS *shall* accept applications to renew on a form prescribed by the DPHSS. All applications or annual renewals for a license or Permit to Operate must be submitted to the DPHSS sixty (60) days prior to the date of expiration. The DPHSS *shall* notify businesses to renew or reapply within seven (7) days of the sixtieth (60th) day.

(b) Failure to submit an application to renew in the prescribed time frame will result in the forfeiture of medical cannabis, prepared medical cannabis, and medical cannabis product. The licensed medical cannabis business *shall* be given a twenty-four (24) hour notice by the DPHSS of the expiration of the license. On the date of expiration, the DPHSS *shall* revoke the business' Permit to Operate and the DPHSS is authorized to seize all forfeited cannabis. The medical cannabis business may destroy all cannabis prior to the expiration and provide the required documentation of the destruction and disposal of cannabis pursuant to § 122521 of this Act.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 122518. Suspension of Permit to Operate and Revocation of License.

(a) The DPHSS may suspend the Permit to Operate of any licensed cannabis business that is found to be in violation of this Act. The DPHSS *shall* provide a written notice to the licensed medical cannabis business that includes the specific reason or reasons for the revocation and the process for requesting a hearing of the DPHSS's decision pursuant to the DPHSS's procedures. The licensed medical cannabis business *shall* be given no more than thirty (30) calendar days to be in compliance. Failure to comply will result in revocation of a licensed medical

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cannabis business license and forfeit of the cannabis on its premises.

(b) The DPHSS is authorized to seize and destroy all forfeited cannabis products in accordance with § 122521 of this Act. After all cannabis is seized, the DPHSS *shall* revoke the license.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 122519. Chain of Custody Form.

All sales or transfers of medical cannabis, prepared medical cannabis, and medical cannabis product from licensed medical cannabis business to licensed medical cannabis business *shall* be tracked via a DPHSS prescribed chain of custody form to include, but not be limited to:

(a) Commercial cultivation facility to a laboratory:

(1) the lot number of medical cannabis crop or batch number of prepared medical cannabis or medical cannabis product, if applicable;

(2) the date the medical cannabis was harvested;

(3) the net weight and gross weight of cannabis sold or transferred;

(4) the name, address, and license number of the commercial cultivation facility from which the crop originated;

(5) the signature of the person who received and verified the shipment;

(6) the time and date when the receiving party took custody of the shipment; and

(7) any other information deemed necessary by the DPHSS.

(b) Licensed medical cannabis business to licensed medical cannabis business:

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- (1) the lot number of the medical cannabis crop;
 - (2) the batch number of the prepared medical cannabis and medical cannabis product, if applicable;
 - (3) the date the cannabis was harvested;
 - (4) the name, address, and license number of the licensed medical cannabis business from which the crop originated;
 - (5) the name, address, and license number of the licensed medical cannabis business from which the medical cannabis product originated;
 - (6) the net weight and gross weight of medical cannabis, prepared medical cannabis, and medical cannabis product sold or transferred;
 - (7) the laboratory test results and report;
 - (8) a declaration from the laboratory that the product meets the minimum laboratory testing requirements set by the DPHSS;
 - (9) a declaration from the licensed medical cannabis business that all information in the chain of custody form is true and correct;
 - (10) the name, address, and license number or registry identification number of the receiving party;
 - (11) the signature of the person who received and verified the shipment;
 - (12) the time and date when receiving party took custody of the shipment;
 - (13) the travel plan as specified in § 122514 of this Act; and
 - (14) any other information deemed necessary by the DPHSS.
- (c) Medical Cannabis Testing Laboratory to Licensed Medical Cannabis Business:

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- (1) a Chain of Custody report as specified in Subsection (a) of this Section;
- (2) a Chain of Custody report as specified in Subsection (b) of this Section, if applicable;
- (3) laboratory testing results and report;
- (4) net weight and gross weight of amount of any unused, untested medical cannabis, prepared medical cannabis, or medical cannabis product returned to the licensed medical cannabis business;
- (5) a declaration from the licensed medical cannabis business that all information in the Chain of Custody form is true and correct;
- (6) the name, address, and license number or registry identification number of the receiving party;
- (7) the signature of the person who received and verified the shipment;
- (8) the time and date when receiving party took custody of the shipment; and
- (9) any other information deemed necessary by the DPHSS.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122520. Loss of Cannabis.

Any loss of medical cannabis, prepared medical cannabis, or medical cannabis product over one (1) ounce due to theft or natural disaster *shall* be reported to the DPHSS and the Guam Police Department within twenty-four (24) hours, along with the associated Chain of Custody forms for the lost medical cannabis, prepared medical cannabis, or medical cannabis product. The report *shall* include the amount of cannabis in weight that was lost.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122521. Destruction and Disposal of Cannabis.

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(a) The DPHSS *shall* establish rules for destroying, disposing, and reporting the disposal of medical cannabis, prepared medical cannabis, and medical cannabis product. No destruction shall occur in public or in a manner that will expose the public unknowingly to cannabis. If necessary, the DPHSS and authorized law enforcement personnel may be authorized to possess cannabis for the purpose of secure destruction and disposal. The licensed medical cannabis business *shall* submit a video recording of the destruction and disposal of the medical cannabis, prepared medical cannabis, or medical cannabis product, and attach the recording with the report.

(b) A report of the destruction of cannabis *shall* include, but is not limited to:

(1) the name and license number of the licensed medical cannabis business the cannabis originated from;

(2) the name of the authorized licensed medical cannabis business employee or authorized DPHSS or law enforcement official performing the destruction or disposal;

(3) the Chain of Custody Report, if applicable;

(4) the amount, in weight, destroyed or disposed of;

(5) the method of destruction or disposal;

(6) the time and date of destruction or disposal;

(7) the reason for destruction or disposal; and

(8) any other information the DPHSS deems necessary.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 122522. Cessation of Business Operations.

(a) The licensed medical cannabis business *shall* report to the DPHSS of its intent to cease business operations before the expiration of the medical cannabis business' license or permit to operate.

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(b) The licensed medical cannabis business *shall* provide written notification to the DPHSS thirty (30) business days prior to the actual date of cessation. Notification will warrant a forfeiture of all cannabis. The DPHSS is authorized to revoke the business's Permit to Operate and begin the process of seizing all cannabis.

(c) The notification *shall* include:

- (1) the reason for cessation;
- (2) the date of cessation;
- (3) a plan to dispose and destroy cannabis located on the business premises before cessation of business operations;
- (4) the signature of the responsible official; and
- (5) any other information deemed necessary by the DPHSS.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 122523. Compassionate Cannabis Use Fund.

(a) There is established a non-lapsing revolving fund, hereafter referred to as the “Compassionate Cannabis Use Fund” (Fund), which *shall* be maintained separate and apart from any other fund of the government of Guam, and *shall* be administered by the Department of Public Health and Social Services. Independent records and accounts *shall* be maintained in connection therewith. All fees, reimbursements, assessments, fines, and other funds collected or received pursuant to this Act *shall* be deposited in this Fund and used for the administration and implementation of this Act, including purchase of equipment and payment of the operational costs of the DPHSS.

(b) The DPHSS *shall* submit to *I Liheslaturan Guåhan* and *I Maga'låhen Guåhan* an annual report no later than the end of each fiscal year that does not disclose any identifying information about cardholders, medical cannabis dispensaries or

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attending physicians, but contains all of the following information:

- (1) the number of registry identification card applications and renewals;
- (2) the number of qualifying patients and designated caregivers;
- (3) the nature of the debilitating medical conditions of the qualifying patients;
- (4) the number of registry identification cards issued, renewed and revoked;
- (5) the number of physicians providing written certifications for qualifying patients;
- (6) the number of registered medical cannabis dispensaries;
- (7) the number of registered medical cannabis dispensary agents; and
- (8) the number of registered medical cannabis businesses approved, denied, or revoked for licenses and permits.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122524. Registry Card Optional.

Notwithstanding any other provision of law, rule, or regulation, registry cards for qualified patients *shall* be optional. A written recommendation *shall* be a valid endorsement for participation in the medical cannabis program. The registration of medical cannabis business employees is optional, except for the registration of a responsible official, and designated courier.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122525. Confidential Database.

(a) The DPHSS *shall* create and maintain a confidential database for the consistent and accurate online tracking of the provisions of this Act. The DPHSS *shall* use best available

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practices to ensure the confidentiality of a qualified patient's status and records from the general public, and be guided by all HIPAA rules and regulations. The confidential database will include:

(1) a tracking system for licenses granted to commercial cultivators, commercial manufacturers, and medical cannabis dispensaries;

(2) a tracking system that includes the names and addresses of qualified patients and the qualified patient's primary caregivers to ensure compliance with the provisions of this Act; and

(3) the names and addresses of the persons who have either applied for or received a registry identification card.

(b) This confidential database *shall not* include the medical records or medical condition of the qualified patient.

(c) Medical conditions of qualified patients *shall not* be requested or required by the DPHSS.

(d) The DPHSS *shall* provide medical cannabis dispensaries with the means to electronically verify the valid status and expiration date of a qualified patient's written certification or patient caregiver's registration via the confidential database to ensure that a person is lawfully in possession of a valid written certification or registration according to the following guidelines:

(1) This information will be provided by the DPHSS on an as needed basis.

(2) At no time will a medical cannabis dispensary be given access to the confidential database in its entirety.

(3) All new patients will be verified by medical cannabis dispensaries via the confidential database before provision of services.

(4) A record of the expiration date of the qualified patient's written certification or primary caregiver's registration will be kept by the medical cannabis dispensary.

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(5) Medical cannabis dispensaries *shall not* provide services to a person whose written Certification or registration has expired until proof of renewal of the written certification or registration is obtained from the DPHSS.

(e) Records maintained by the DPHSS that identify qualified patients, primary caregivers, and qualified patient's practitioners are confidential and *shall not* be subject to disclosure, except:

(1) to authorized employees or agents of the DPHSS as necessary to perform the duties of the DPHSS pursuant to the provisions of this Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying participation in Guam's medical cannabis program;

(3) pursuant to a court order or subpoena issued by a court;

(4) as provided in the federal Health Insurance Portability and Accountability Act of 1996, codified at 42 U.S.C. §1320d et seq.;

(5) with the written permission of the qualified patient or the qualified patient's legal guardian, or a parent or person with legal custody if the qualified patient has not attained eighteen (18) years of age;

(6) to a law enforcement official for verification purposes. The records may not be disclosed further than necessary to verify a qualified patient's participation in the medical cannabis program; and

(7) to a qualified patient's treating practitioner and to a qualified patient's primary caregiver for the purpose of carrying out this Act. This confidential database *shall not* include the medical records or medical condition of the qualified patient.

(8) Medical conditions of qualified patients shall not be requested or required by the DPHSS.

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SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122526. Written Certification.

(a) Practitioners who provide a written certification for a qualified patient to use medical cannabis will transmit the written certification to the DPHSS via fax, secure e-mail, or courier within twenty-four (24) hours after certifying the qualified patient.

(b) The qualified patient *shall* validate the practitioner's written certification in person and submit a copy of the qualified patient's written certification in person to the DPHSS with a copy of a valid Guam driver's license, valid Guam identification card as approved by the Director of the DPHSS, or any form of identification as approved by the Director of the DPHSS to verify the qualified patient's identification. The DPHSS *shall* authenticate the patient's written certification by affixing the DPHSS's seal on the patient's written certification. The qualified patient *shall* carry their written certification at all times.

(c) The qualified patient's primary caregivers *shall* register directly with the DPHSS. This registration will be valid for one (1) year. A copy of the qualified patient's valid written certification will be included with the qualified patient's primary caregiver's registration.

(1) A qualified primary caregiver may register with up to five (5) qualified patients. Violation of this provision is punishable by a civil fine of Five Thousand Dollars (\$5,000).

(2) A primary caregiver must keep a copy of their DPHSS approved registration identification card when handling or transporting medical cannabis.

(3) A qualified patient may designate no more than one (1) person as a primary caregiver. Violation of this provision is subject to a fine of Two Hundred Fifty Dollars (\$250) for each individual violation.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122527. Dispensing Medical Cannabis.

(a) The DPHSS *shall* provide medical cannabis dispensaries with the means to electronically verify the valid status and expiration date of a qualified patient's written certification or a qualified patient's primary caregiver's registration via the confidential database to ensure that a person is lawfully in possession of a valid written certification or registry identification card according to the following guidelines:

(1) This information will be provided by the DPHSS on an as needed basis.

(2) At no time will a medical cannabis dispensary be given access to the confidential database in its entirety.

(3) All new qualified patients will be verified by medical cannabis dispensaries via the confidential database before provision of services.

(A) A record of the expiration date of the qualified patient's written certification or primary caregiver's registration will be kept by the Medical cannabis dispensary.

(B) Medical cannabis dispensaries *shall not* provide services to a person whose written certification or registration has expired until proof of renewal of the written certification or registration is obtained from the DPHSS.

(b) Any licensed medical cannabis business that dispenses, sells, or distributes cannabis and cannabis products to a qualified patient or a qualified patient's primary caregiver *shall*:

(1) verify the qualified patient is in possession of a written certification or the qualified patient's primary caregiver is in possession of a registry identification card at the time of the purchase;

(2) verify proof of identification with a valid Guam driver's license, a valid Guam identification card as approved by the Director of the DPHSS, or any other form of identification as approved by the Director of the DPHSS;

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(3) verify the qualified patient is not receiving more than the allowable amount. Verification *shall* be made by written documentation signed by the qualified patient or the qualified patient's primary caregiver stating that the qualified patient and qualified patient's primary caregiver will not possess more than the allowable amount and will not divert medical cannabis.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122528. Testing Laboratories for Medical Cannabis.

(a) The DPHSS *shall* license one (1) or more independent medical cannabis testing laboratories to laboratory test medical cannabis, prepared medical cannabis, and medical cannabis products that are to be sold on Guam for medical use. A licensed testing laboratory *shall* be completely independent from all licensed medical cannabis business that will cultivate, manufacture, or dispense medical cannabis.

(b) At a minimum, such a testing laboratory must be able to test samples of medical cannabis, prepared medical cannabis, and medical cannabis products to accurately determine the following:

- (1) the concentration of delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD);
- (2) the presence and identification of molds and fungus;
- (3) the presence of fertilizers and other nutrients;
- (4) the presence of heavy metals and other contaminants, including pesticides; and
- (5) active ingredient identification.

(c) The DPHSS *shall* establish rules for acceptable amounts of molds and fungus, heavy metals, and other contaminants in the cannabis; determine operational standards and protocols for testing, retesting, rejecting, and destroying batches of cannabis that do not meet the acceptable amounts; and certifying private and independent testing laboratories to test medical cannabis,

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prepared cannabis, and medical cannabis products that are sold by a licensed medical cannabis business.

(d) Such medical cannabis testing laboratory must be certified/accredited by a third-party, nonprofit, impartial organization.

(e) The testing laboratory may acquire and possess unlimited amounts of testing samples for the purposes of laboratory testing medical cannabis.

(f) (1) The commercial cultivation facility and commercial manufacturing facility must sort medical cannabis into identical lots according to the cannabis crop and prepared medical cannabis and medical cannabis products into identical batches.

(2) The commercial cultivation facility and commercial manufacturing facility *shall* quarantine a lot or batch of medical cannabis, prepared medical cannabis, or medical cannabis product from being handled and sold until after the results of the laboratory testing has been completed and submitted to the DPHSS and the commercial cultivation facility or commercial manufacturing facility.

(3) An employee of a medical cannabis testing laboratory *shall* select a random sample from each batch to be tested by the laboratory.

(g) Cannabis being transported to and from a testing laboratory must be labeled "For Testing Purposes Only."

(h) Cannabis in the possession of a testing laboratory or in the process of testing, transport or analysis must be housed and stored in a manner to prevent diversion, theft and loss.

(i) (1) If the laboratory testing results indicate unacceptable amounts of contaminants in a medical cannabis, prepared medical cannabis, or medical cannabis product, the testing laboratory *shall* notify the DPHSS and the responsible official of the licensed medical cannabis business from which the medical cannabis, prepared medical cannabis, or medical cannabis product originated.

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(2) The responsible official of the licensed medical cannabis business *shall* immediately quarantine the products. The responsible official of the licensed medical cannabis business may request for medical cannabis or medical cannabis product to be retested.

(3) A lot of medical cannabis or batch of prepared medical cannabis or medical cannabis product *shall* only be tested at most three (3) times.

(4) The responsible official *shall* document the destruction or disposal of the quarantined medical cannabis or medical cannabis product that has been tested to be unacceptable in accordance with this Section.

(j) All excess medical cannabis, prepared medical cannabis, or medical cannabis product possessed by a testing laboratory must be returned to the source or destroyed. The testing laboratory *shall* create and maintain records of any exchange of cannabis, as well as any disposal of cannabis, and of any hazardous chemicals used by the testing laboratory.

(k) The testing laboratory *shall* issue written reports of the full analysis and results from the tested batch of cannabis to the licensed medical cannabis business that requested the test and the DPHSS. Written reports of the full analysis and results from the tested batch of medical cannabis, prepared medical cannabis, and medical cannabis products *shall* be made available to the public by request.

(l) A licensed medical cannabis business may request for a retest of any lot or batch of cannabis or batch of cannabis product.

(m) The licensed medical cannabis business selling or distributing cannabis must place a label in a conspicuous area on the product's packaging stating the CBD and THC levels in percentage or milligrams, as applicable, and a statement that the cannabis product has been tested and has met the acceptable standards determined by the DPHSS.

(n) This Section *does not* prohibit a commercial cultivation site, commercial manufacturing site, or Medical cannabis

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dispensary from operating a laboratory within their business. However, all medical cannabis must be laboratory tested at an independent medical cannabis testing laboratory that has been licensed by the DPHSS.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 122529. Record Keeping.

All records required in this Act *shall* be confidential and shall be kept by a licensed medical cannabis business for a period of at least five (5) years. Upon reasonable notice, the Director of the Department of Public Health and Social Service may request access to a licensed medical cannabis business for inspection and copying. Upon cessation of business operations, records required under this Act *shall* be submitted in an electronic format to the Department of Public Health and Social Services on a portable device.

SOURCE: Added as part of the amendments by P.L. 33-220:2 (Dec. 17, 2016).

§ 122530. Home Cultivation: When Permitted.

(a) Upon written certification as provided by § 122526 of this Article and the completion of the requirements in § 122530(c) of this Article, the Department shall issue a permit for a qualified patient or a patient's designated caregiver to cultivate cannabis at home if there is no operational dispensary for medical cannabis products.

(b) For the purposes of this Section:

(1) Qualified patient shall have the same meaning as § 122503(aa) of this Article.

(2) (A) Patient's designated caregiver means a resident of Guam who is at least twenty-one (21) years of age who is registered with the DPHSS, and who has been designated by the qualified patient as being necessary to assist the qualified patient in the cultivation of medical cannabis in accordance with the

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provisions of this Section, and who so agrees to assist the qualified patient.

(B) A patient's designated caregiver is prohibited from consuming cannabis obtained for the personal and medical use of the qualified patient.

(C) For purposes of this Section, a qualified patient may designate no more than one (1) person as the patient's designated caregiver to assist in the cultivation of medical cannabis.

(3) Multiple patients' designated caregiver means any person who is a patient's designated caregiver as defined in § 122530(b)(2)(A) who assists in the cultivation of medical cannabis for more than one (1) qualified patient.

(c) The qualified patient and/or patient's designated caregiver shall submit the following to be eligible for a cannabis home cultivation permit:

(1) the application fee; and

(2) an application, which shall include:

(A) the name, mailing address, residential address, and date of birth of the qualified patient;

(B) the name, address, and telephone number of the qualified patient's practitioner;

(C) the name, mailing address, residential address, and date of birth of the qualified patient's designated caregiver, if any;

(D) the physical address of the residence where the medical cannabis will be cultivated, and the name of the person who owns or possesses said residence;

(E) a statement signed by the qualified patient pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this Article;

(F) a signed statement from the patient's designated caregiver, if any, agreeing to be the patient's designated caregiver and pledging not to

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divert cannabis to anyone who is not allowed to possess cannabis pursuant to this Article;

(G) a signed statement from the patient's designated caregiver that he or she is at least twenty-one (21) years of age; and

(H) the patient's designated caregiver must register with the Department.

(d) A qualified patient, patient's designated caregiver, or multiple patients' designated caregiver authorized to grow cannabis for medical purposes under this Section is subject to the following:

(1) (A) the qualified patient may possess no more than six (6) flowering mature plants and no more than twelve (12) juvenile plants at any given time;

(B) the patient's designated caregiver may possess no more than six (6) flowering mature plants and no more than twelve (12) juvenile plants at any given time; or

(C) the multiple patients' designated caregiver may possess no more than six (6) flowering mature plants and no more than twelve (12) juvenile plants per qualified patient at any given time.

(i) The multiple patients' designated caregiver may operate only a single cultivation site.

(ii) A multiple patients' designated caregiver who cultivates medical cannabis at the qualified patient's residence shall not be deemed as operating an additional cultivation site.

(iii) Any multiple patients' designated caregiver who cultivates medical cannabis for more than three (3) qualified patients shall comply with the requirements for a Commercial Cultivation License, as defined by this Article, except that the annual business license fee shall be

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Ten Dollars (\$10.00) per qualified patient per year.

(iv) Any multiple patients' designated caregiver who cultivates medical cannabis for more than five (5) qualified patients shall obtain and comply with the requirements for a Commercial Cultivation License, as defined by this Article, and all applicable licenses and fees shall apply.

(2) Nothing herein shall be deemed to prohibit a qualified patient from acting as a patient's designated caregiver or a multiple patients' designated caregiver subject to the limits of § 122530(d).

(3) (A) Cannabis plants must be cultivated indoors and not be visible from any public location; and,

(B) such cannabis plants must be secured in a room with a lockable door.

(4) The Department may inspect the area(s) where cannabis is cultivated; provided, that twenty-four (24) hour notice of the inspection is given.

(5) A patient's designated caregiver may cultivate cannabis on behalf of a qualified patient in the event that the patient is unable to cultivate cannabis.

(6) Harvested cannabis must be stored in a secure area and not accessible to persons other than the qualified patient or patient's designated caregiver.

(7) Cannabis shall not be cultivated in the common areas of any multi-family complex.

(8) Medical cannabis may be grown only at one (1) of the following locations, and that location must be identified in the application required in § 122530(c):

(A) the residence of the qualified patient;

(B) the residence of the patient's designated caregiver; or

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(C) another site that is either owned or possessed by the qualified patient or the patient's designated caregiver.

(e) A qualified patient or patient's designated caregiver is not authorized to cultivate cannabis if the patient's or caregiver's landlord or homeowner's association prohibits such practice.

(f) The fee for the permit herein shall be Fifteen Dollars (\$15.00) per year.

(g) The Department may revoke a permit for failure to adhere to the provisions of this Section.

(h) Nothing herein is to be construed or interpreted as to prevent or prohibit any person from providing a patient or caregiver advice on the methods or techniques of cultivation or the administering/dosing of cannabis.

(i) The Department shall maintain a list of online cannabis safe growing resources on its website for the period of time that home cultivation is permitted. The list does not have to be exhaustive or authoritative but shall be updated as new resources become known to the Department.

(j) The Department shall maintain links to sites such as, but not limited to, the United States Department of Agriculture (USDA), the Guam Department of Agriculture, the United States Environmental Protection Agency (USEPA), and the Guam Environmental Protection Agency that provide information on dangerous or potentially dangerous pesticides, fertilizers, and other substances, chemicals, or compounds that are not recommended or are prohibited in the cultivation of crops, including cannabis. The list does not have to be exhaustive or authoritative but shall be updated as new resources become known to the Department.

(k) Only food grade and tobacco grade pesticides, fertilizers, and other substances, chemicals, and compounds that are recognized as safe by the USDA and USEPA for such purposes may be used for home cultivation pursuant to this Section.

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(l) The Department may establish rules for destroying, disposing, and reporting the disposal of medical cannabis, prepared medical cannabis, and medical cannabis product.

(1) No destruction shall occur in public or in a manner that will expose the public unknowingly to cannabis.

(2) If necessary, the Department and authorized law enforcement personnel may be authorized to possess cannabis for the purpose of secure destruction and disposal.

(3) (A) The individual permitted to cultivate cannabis under this Section shall submit a video recording of the destruction and disposal of the medical cannabis, prepared medical cannabis, or medical cannabis product, and attach the recording with the report.

(B) A report of the destruction of cannabis shall include, but is not limited to:

(i) the amount, in weight, destroyed or disposed of;

(ii) the method of destruction or disposal;

(iii) the time and date of destruction or disposal;

(iv) the reason for destruction or disposal;
and

(v) any other information the DPHSS deems necessary.

SOURCE: Added by P.L. 34-125:1 (Oct. 9, 218).

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

CROSS REFERENCE: See 10 GCA § 122503(z) which defines *qualified giver* (a person “who has been designated by the qualified patient as being necessary to assist the qualified patient in the medical use of cannabis in accordance with the provisions of this Act”), as compared to the definition of *designated care giver* in subsection (b)(2)(A) (a person “who has been designated by the qualified patient as being necessary to assist the qualified patient in the cultivation of medical cannabis in accordance with the provisions of this Section”).

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