

BOARD OF DENTAL EXAMINERS
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes ("HRS").

Date: Monday, January 23, 2012

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Mark Baird, D.D.S., Chairperson, Dental Member
Armand Chong, D.D.S., Vice Chairperson, Dental Member
Wayne Atebara, D.D.S., Dental Member
Dan Fujii, D.D.S., MPH, Dental Member
Marian Grey, Public Member
Paul Guevara, D.M.D., M.D.S., Dental Member
Cheryl Nakagawa, R.D.H., Dental Hygiene Member
Marilyn Nonaka, R.D.H., Dental Hygiene Member
Robert Sherman, D.M.D., Dental Member
Melanie Vallejos, D.D.S., Dental Member
Candace Wada, D.D.S., Dental Member
Stephen Levins, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer
Sandra Matsushima, Executive Officer
Christine Hironaka, Secretary

Excused: Paul Condry, Public Member

Guests: Diane Brucato-Thomas, RDH, EF, BS, FAADH, Hawaii Dental Hygienists'
Association ("HDHA") Past President
Jill Rethman, RDH, BA, HDHA President Elect
Kenyatta Nichols, Executive Officer, DCCA Professional Vocational
Licensing

1. Call to Order: There being a quorum present, Chair Baird called the meeting to order at 9:07 a.m.

2. Additions/
Revisions
to Agenda:

It was moved by Dr. Sherman, seconded by Dr. Chong, and unanimously carried to add the following to the agenda:

- Under 5. Applications, d. Renewal Application – *Request for Waiver/Modifications*, add *Dr. Charles Clarke and Dr. James Lutter*.
- Under 6. Old Business, c. Discussion on Amending the Board's Application Forms, add *General Anesthesia Application*
- Under 7. New Business, d. Legislative Matters, add:
 - *HB 1876*
 - *SB 2013*
 - *SB 2440*
 - *SB 2441*.
- Under 8. Correspondence, add:

d. *Letter from West Virginia Board of Dentistry*

At 9:13 a.m. Marian Grey arrived at the meeting.

4. Chapter 91,
HRS,
Adjudicatory
Matters:

At 9:15 a.m., Chair Baird recessed the Board's meeting to discuss the following adjudicatory matters pursuant to Chapter 91, HRS. Guests were excused from the meeting room.

- a. In the Matter of the License to Practice Dentistry of Valerie B. Peckosh, Formerly Known as Valerie B. Morris – Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

It was moved by Dr. Sherman, seconded by Dr. Vallejos, and unanimously carried to approve the above Settlement Agreement.

At 9:20 a.m., the Board came out of Chapter 91, HRS and returned to its regular order of business.

Executive
Session:

At 9:20 a.m., it was moved by Ms. Nonaka, seconded by Ms. Nakagawa, and unanimously carried to enter into executive session pursuant to HRS §§ 92-4 and 92-5(a)(1) and (4), to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section HRS §26-9 or

both, and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

Guests were excused from the meeting room.

At 10:00 a.m., it was moved by Dr. Chong, seconded by Dr. Wada, and unanimously carried to move out of executive session and return to its regular order of business.

3. Approval of Board Meeting And Executive Session Minutes of November 21, 2011 Meeting:

It was moved by Dr. Chong, seconded by Dr. Wada, and unanimously carried to approve the November 21, 2011 board meeting minutes with the following amendment:

- On page 3, under 5. Old Business, c. Discussion on Role of RICO, fourth paragraph, should read as:

Ms. Grey indicated that the beauty salon she goes to as a customer, will be having a side room for teeth whitening and questioned how as a board member she should handle this.

Ms. Uchida replied that she should relay the information to Mr. Kobashigawa so as not to taint herself should the matter come before the Board at a later time.

5. Applications:

a. Ratifications

It was moved by Dr. Sherman, seconded by Dr. Wada, and unanimously carried to ratify the following:

Approved Dentist

- EL-GOHARY, Jasmin
- HAMAKAWA, Lena
- TAN, Rosemarie
- YUEN, Michael
- HOANG, David
- LEMRICK, Curtis

Approved Dental Hygienist

- HISEROTE, Mara
- KO, Kasey
- ALCORN, Monika
- LEONG, Amanda
- SATTAR, Anastasiya
- HEAD, Heather

Approved Certification in the Administration of Intra-Oral Infiltration and Block Anesthesia

- HISEROTE, Maria
- LEONG, Amanda
- SATTAR, Anastasiya
- HEAD, Heather

Approved Temporary Permit – Dentist

- SULLIVAN-WALSH, Meghan
- MCALPINE, Robert (Waianae Coast Comprehensive Health Center)
- CHO, Ara (Waianae Coast Comprehensive Health Center)

Approved Application for Permit to Administer General Anesthesia

- MICHINO, James

b. Application for License – Dentist – Dr. Rashmi Vasudeva

It was moved by Dr. Sherman, seconded by Dr. Chong, and unanimously carried to deny Dr. Vasudeva's dental application on the basis that she does not meet the examination requirement pursuant to section 448-94, Hawaii Revised Statutes, which requires passage of the ADEX dental licensure examination.

c. Application for License – Dental Hygiene – Holly Williams

It was moved by Ms. Nakagawa, seconded by Dr. Chong, and unanimously carried to deny Ms. Williams' dental hygiene application as she does not have a certification in the administration of intra-oral infiltration local anesthesia and intra-oral block anesthesia pursuant to section 447-1, Hawaii Revised Statutes ("HRS").

d. Renewal Application – Request for Waiver/Modifications:

It was moved by Dr. Sherman, seconded by Dr. Vallejos, and unanimously carried to approve the following renewal applications for waiver of the continuing education (“CE”) requirement:

- CURTIS, Fred A.
- PASSMAN, Kari Jo
- CLARKE, Charles
- LUTTER, James

It was moved by Dr. Fujii, seconded by Ms. Nonaka, and unanimously carried to deny the following renewal application request to waive the CE requirements but approve modification of the requirements by allowing the applicant to complete twenty hours of CE courses on line within the next 6 months.

- CHEW, Ana Alicia

6. Old Business a. Rules Committee Report

The Rules Committee met on January 5, 2012 to discuss proposed amendments to Chapter 16-79, Hawaii Administrative Rules (“HAR”), Sections 16-79-1 to 16-79-148 and recommends the following non-substantive changes to Draft 19 dated (7/1/11):

- §16-79-4 Ownership of business – Delete this section since it is redundant to §448-14.5, HRS.
- §16-79-69.1(b) - Replace “may” with “shall”.
- §16-79-78(h) – Insert “a written authorization or” between “has” and “the” and delete “the”..
- §16-79-141(a)(2)(B) – Replace “or” with a “,” and add “, or from an applicant approved pursuant to section 16-79-143” after “Red Cross”.
- §16-79-141(c) – Replace with “Courses in estate planning, membership, marketing, business, personal financial planning, and investments shall not be eligible CE categories.”
- §16-79-141(d) – Delete “tape” between “video” and “recording”.

- §16-79-142(1), (2), (4) – Add “CE” before “providers”.
- §16-79-143(a) and (b) – Replace “Sponsors” with “Applicants”.

After some discussion, it was moved by Dr. Sherman, seconded by Dr. Chong, and unanimously carried to accept the recommendations of the Rules Committee.

b. Correspondence from Dr. Craig Fujioka

The Board discussed Dr. Fujioka’s inquiry about the Board’s position on the administration of botox and dermal fillers by general dentists.

An investigative committee was established at the Board’s meeting on 9/19/11 to investigate the use of botox and dermal fillers in the practice of dentistry and research the allowed use of the products and off-label use of prescription medications. A presentation was also made by Dr. Louis Malmacher at the Board’s meeting on 11/21/11. Since the Committee was not ready to make a report, Dr. Baird requested the investigative committee meet and submit a report at the next meeting

c. Discussion on Amending the Board’s Application Forms

Dr. Sherman reported that the Application Committee did not have a report.

Dr. Fujii distributed his report on Guidelines for On-Site Inspection and Evaluation of Offices For Dentists Utilizing General Anesthesia.

The review covers education and training of the applicant and inspection of the facility and equipment. Dr. Fujii further explained:

1. The inspection is based on the office facility, not the provider.
2. Currently, inspection is required if provider opens another location.
3. What are the measurements based on?
4. Should all new offices be inspected?
5. No inspections are based on credentials.
6. Inspections are primarily for oral surgeons.

d. Letter from PEW Charitable Trusts

This matter was deferred from the last meeting for further research on school-based or school-linked sealant programs.

The Board requested the PEW Charitable Trusts be informed of the following statute and rule:

§447-3(d), HRS...other permissible duties shall be prescreened and authorized by a supervising licensed dentist, subject to the dentist's determination that the equipment and facilities are appropriate and satisfactory to carry out the recommended treatment plan.

§16-79-2(2), HAR, "General supervision" means that the licensed supervising dentist examines and diagnoses the condition to be treated, is familiar with the patient's medical and dental history, and personally authorizes each procedure to be carried out in accordance with the dentist's diagnosis and treatment plan in the dentist's office. The presence of the supervising dentist is not required; provided the dentist shall be available for consultation. In the case of programs under the supervision and control by the department of health or in any facility defined in section 447-3, HRS, the foregoing shall not apply except that a dentist shall be available for consultation, and the procedures used shall have been prescribed by a dentist and otherwise be authorized by law.

Recess: At 11:03 a.m., Chair Baird called for a recess.

Reconvene: At 11:13 a.m., the Board returned to its regular order of business.

At this time, Chair Baird announced he was taking the agenda out of order to discuss 7d, Legislative Matters.

7. New Business d. Legislative Matters

- HB 1876/SB 2013 Relating to Dental Hygienists.

The purpose of House Bill No. 1876 is to require a dental hygienist license to be prominently displayed at all times in the office where the dental hygienist is employed or practices.

Jill Rethman, RDH, stated that this is an educational issue for patients and for public safety. Thirty-two states now have laws requiring dental hygienists and dental assistants to display their licenses at their places of employment and the Hawaii Hygienists' Association is in favor of this bill.

After further discussion it was moved by Dr. Sherman, seconded by Ms. Nonaka and unanimously carried to support HB 1876/SB 2013 with consideration of allowing a copy of a certificate of license to be displayed:

Ms. Nonaka added the following comments:

Prominently displaying the dental hygiene license in the place of employment would contribute to the public safety by:

- Demonstrating to the public seeking dental hygiene services that the professional is licensed and qualified in the State of Hawaii to provide preventive and therapeutic services.
- Assuring employer dentists that the dental hygienist in their employ meets the professional standards for licensure as established by the State of Hawaii.

It is unclear if the intent is to require displaying the original Certificate of License in the office, but the Committee should be aware that there are many dental hygienists who are employed in more than one dental office. Therefore, displaying copies of the Certificate of License would be more practical.

Moreover, a Certificate of License signifies that the dental hygienist received a license in the State of Hawaii. However, it does not reflect whether the license is current or not. In addition to the Certificate of License, a dental hygienist is issued a pocket I.D. card at initial licensure and renewal thereafter to indicate the expiration date of the license. Also, the pocket I.D. card reflects any special privileges, such as intra-oral infiltration and intra-oral block anesthesia, that a dental hygienist has qualified to perform. Therefore, the Committee may wish to consider requiring that the pocket I.D. card be displayed.

Furthermore, please be aware that prominently displaying the license of the dentist in the office is not required. Therefore, the Committee may wish to consider having the same requirements for a dentist based on the reasons cited above.

- SB 2440, Relating to Dental Specialists.

The Board agreed to take no position on this bill but raised the following concerns:

- 1) In regards to section 448-(b)(3)(D) of the bill on page 2, lines 16-20, the Board believes that practicing the previous two years in the dental specialty is insufficient and believes it should be three to five years. The Board notes that the requirements to qualify for a community service license requires at least three years of active practice of clinical dentistry.
- 2) In regards to section 448- (c) of the bill on page 3, lines 13-16, the Board believes that the scope of practice for the dental specialty should not be defined by the national specialty board and instead be defined and limited to the procedures allowed in the Board's statute and rules. The scope of practice defined by a national specialty board may go beyond the parameters of the Board's definitions and possibly infringe on another profession's scope of practice. Therefore, the Board should be the authority to define the scope of practice.
- 3) If the intent of the bill is to provide access to care of dental specialists in underserved areas, there is no guarantee that this will happen. There may be unintended consequences of flooding the market in the most populated areas.
- 4) Moreover, in regards to section 448-(b)(4) of the bill on page 3, lines 10-11, the appropriate title of the examination is the National Board Dental Examination.

SB2441, Relating to Dentistry

The Board agreed to take no position on this bill but raised the following concerns:

- 1) The Board believes that changes to the examination requirement may negatively impact the community service license. The proposed amendment to section 448-9.4 may ease the examination process for the dental license and diminish the appeal of the community service license, thereby affecting access to care in underserved and needy areas. The community service license program was specifically designed to address access to care issues by channeling the dentist to practice in the employment of the Department of Health, a federally qualified health center, Native Hawaiian health systems center, or post-secondary dental auxiliary training program. Due to the success of this program, there are thirty-seven community service licensees currently practicing in these qualified health centers, and the Board is concerned that the bill will result in dentists opting to enter private practice rather than practicing in community health centers.
- 2) In regards to section 448-9.4 of the bill on page 2, beginning on line 16, the Board believes that all exams are not equivalent. For example, the Western Regional Examination Board ("WREB") has no prosthodontic portion and the Southern Regional Testing Agency ("SRTA") has no periodontic portion in their examinations, and the Board believes that these components are necessary to test the competency of dentists who wish to practice in Hawaii.
- 3) Also in this section, the Board believes that the proposed language "...any regional or national examination recognized by the American Dental Association ("ADA")..." is not appropriate as only the State dental boards should be responsible for recognizing examinations. Also, ADA is in the process of developing a portfolio examination which may be construed as being a national examination, but opposed by all or most state boards.

- 4) In regards to section 448-9.6(a)(1) on page 3, beginning on line 16, the Board believes that it should include a requirement of at least three to five years of active practice of clinical dentistry immediately prior to filing an application to ensure competency.
- 5) In regards to section 448-9.6(b) on page 5, line 4-5, the Board notes that continuing education is currently a requirement to renew the community service license and it should not be eliminated.

Dr. Wada was excused from the meeting at 12:25 p.m.

Dr. Vallejos was excused from the meeting at 12:45 p.m.

At this time, Chair Baird announced he was resuming the order of the agenda.

7. New Business a. Matters Relating to the Central Regional Dental Testing Service ("CRDTS")

- CRDTS Annual Meeting

Dr. Baird reported he attended the October 2011 CRDTS Steering Committee meeting. The meeting covered the occupational analysis of the dental and dental hygiene exams and exploring the feasibility of having CITA join CRDTS states.

The next CRDTS Annual Meeting will be held in Kansas City from August 23 – 25, 2012 and all Board examiners will be invited to attend.

b. Matters Related to the American Association of Dental Boards ("AADB")

- The Bulletin was distributed for information only.
- AADB Mid-Year Meeting

Mr. Kobashigawa announced that Dr. Baird will be attending the AADB Mid Year Meeting from April 2 – 3, 2012.

- AADB Guidelines on Advertising

c. Matters Relating to the North East Regional Board of Dental Examiners, Inc. ("NERB")

- NERB Annual Meeting

The NERB Annual Meeting was held in Orlando, Florida from January 19-20, 2012.

Dr. Baird reported the President's Meeting reviewed the status of mid level providers. There is no accreditation or testing process for mid level programs and only CRDTS currently has a process in place. Regulating corporate ownership of dental practices has become an issue.

Ms. Nakagawa reported on the Dental Hygiene issues covered at the meeting.

Ms. Matsushima also attended the meeting and distributed her joint report to the Board members. Dr. Sherman reported that Hawaii and Nevada were approved for membership by NERB. NERB now has twenty member states and the exam is approved in forty-two states.

Dr. Baird reported that ADEX is discussing whether to change the periodontal portion of the exam to a more diagnostic exam.

8. Correspondence a. Letter from Randal S. Matsumoto, D.D.S.

Dr. Matsumoto is requesting a CE waiver for 32 hours for 2012 and 2013 but plans to take a CPR certification course. He plans to sit in for other dentists while they are away to supervise the dental hygienist employed by the dentist.

It was moved by Ms. Nonaka, seconded by Dr. Sherman to deny Dr. Matsumoto's request for a CE waiver because he would have to examine the work of the dental hygienist and thus would be actively practicing dentistry.

At this time Chair Baird announce he was taking the agenda out of order to complete the review of the applications.

Executive
Session:

At 1:08 p.m., it was moved by Dr. Chong, seconded by Dr. Fujii, and unanimously carried to enter into executive session pursuant to HRS §§ 92-4 and 92-5(a)(1) and (4), to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section HRS §26-9 or both, and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

Guests were excused from the meeting room except for Mr. Nichols.

At 1:16 p.m., it was moved by Dr. Chong, seconded by Ms. Nakagawa, and unanimously carried to move out of executive session and return to its regular order of business.

5. Applications e. Application for Certification in the Administration of Intra-Oral Block Anesthesia – Jennifer Magnuson

After discussion, it was moved by Ms. Nonaka, seconded by Mr. Chong, and unanimously carried to defer Ms. Magnuson's application as there is no documentation that she completed the training in mental nerve block and anterior superior nerve block injections.

At this time, Chair Baird announced he was resuming the order of the agenda.

b. E-mail from Dr. Martin Greenberg

It was moved by Dr. Sherman, seconded by Ms. Nonaka to deny Dr. Greenberg's request for approval of licensure on the basis of not passing the ADLEX. The Board noted that Dr. Greenberg passed the Florida board exam.

c. Letter from the Oregon Board of Dentistry

The Oregon Board of Dentistry informed ADA that it is the responsibility of State dental boards to develop licensure exams and they are opposed to ADA developing a portfolio exam.

9. Executive Officer's Report on Matters Related to the Board of Dental Examiners:
- a. American Dental Association CODA Winter Meeting
For information only
 - b. Remediation Services for Dentists Administering Office-Based Sedation
For information only.
 - c. The Dental Assisting National Board, Inc. ("DANB") New National Dental Assisting Certification Program
For information only.
 - d. CRDTS Dental Hygiene Examination – April 28-29, 2012
Permission was granted to have the CRDTS Dental Hygiene Examination on 4/28-29/12 at the Dental Section of the Branch Health Clinic Makalapa.
 - e. ADEX Dental Licensure Examination ("ADLEX")
Proposed dates of the ADLEX on the weekend of 7/20-22/12 or 7/27-29/12 has not been approved yet.
 - f. Renewal Statistics
For information only
 - g. Additional Information from Dr. Louis Malmacher Relating to Dental Education on Botox & Dermal Fillers
For information only.
10. Public Comment On Matters Related To the Board of Dental Examiners: None.
11. Announcements: None

12. Next Meeting: Monday, March 19, 2012
 9:00 a.m.
 Queen Liliuokalani Conference Room
 King Kalakaua Building
 335 Merchant Street, 1st Floor
 Honolulu, Hawaii 96813

13. Adjournment: 1:30 p.m.

Taken and recorded by:

/s/ Christine Hironaka

Christine Hironaka
Secretary

Reviewed and approved by:

/s/ James Kobashigawa

James Kobashigawa
Executive Officer

JKK:ch

3/9/11

[] Minutes approved as is.

[X] Minutes approved with changes; see minutes of 3/19/12.