

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, March 19, 2012
- Time: 9:00 a.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
- Present: Armand Chong, D.D.S., Vice Chairperson, 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
Candace Wada, D.D.S., Dental Member
Stephen Levins, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer
Terry Akasaka-Toyama, Secretary
- Excused: Wayne Atebara, D.D.S., Dental Member
Mark Baird, D.D.S., Chairperson, Dental Member
Paul Condry, Public Member
Dan Fujii, D.D.S., MPH, Dental Member
Melanie Vallejos, D.D.S., Dental Member
- Guests: Diane Brucato-Thomas, RDH, EF, BS, FAADH, Hawaii Dental Hygienists'
Association ("HDHA") Past President
Gayle Chang, RDH, HDHA
Loren Liebling, Hawaii Dental Association ("HDA")
Curt Shimizu, D.D.S., HDA
Karen Hu, D.D.S., HDA
1. Call to Order: There being a quorum present, Vice Chair Chong called the meeting to order at 9:04 a.m.

2. Additions/Revisions to Agenda: It was moved by Dr. Wada, seconded by Dr. Guevara, and unanimously carried to add the following to the agenda:
- Under 7. New Business, add to c. *Letter from Congressional Members to the Federal Trade Commission("FTC")*
 - Under 7. New Business, add to e. Matters Relating to the American Dental Association ("ADA"), *Letter from ADA to Wyoming Board of Dental Examiners*
 - Under 8. Correspondence, add g. *Letter from Wyoming Board of Dental Examiners*
 - Under 9. Executive Officer's Report on Matters Related to the Board of Dental Examiners, add f. *Professional Licensing Report*
3. Approval of Board Meeting And Executive Session Minutes of January 23, 2012 Meeting: It was moved by Ms. Nonaka, seconded by Dr. Guevara, and unanimously carried to approve the January 23, 2012 Board meeting minutes with the following amendments:
- On page 1, under Guests, Ms. Rethman should be reflected as President of HDHA and not President Elect.
 - On page 8, the first paragraph should read as:

"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." (bracketed material is to be deleted)
 - On page 12, under c. Matters Relating to the North East Regional Board of Dental Examiners, Inc. ("NERB"), the last paragraph of that section should read as:

"Dr. Baird reported that ADEX is discussing whether to change the periodontal portion of the exam to be optional based upon each state board [to a more diagnostic exam]." (underlined material to be added, while bracketed material is to be deleted)

- On page 13, under 8.b. E-mail from Dr. Martin Greenberg, the paragraph should read as:

"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 taking [passing] the ADLEX. The Board noted that Dr. Greenberg passed the Florida board exam." (underlined material to be added, while bracketed material is to be deleted)

It was moved by Dr. Wada, seconded by Ms. Grey, and unanimously carried to approve the Executive Session minutes of the January 23, 2012 meeting.

4. Chapter 91, HRS, Adjudicatory Matters:

At 9:14 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 Application for a Dental Hygienist's License of Kim Knutson – Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order

It was moved by Dr. Guevara, seconded by Dr. Wada, and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order as the Board's Final Order.

At 9:16 a.m., the Board came out of Chapter 91, HRS and returned to its regular order of business.

The following agenda items were moved as the next order of business:

5. Applications:
- b. Application for Permit to Administer General Anesthesia
- HANNON, Jeremy DMD
8. Correspondence:
- c. E-mail from Cindy Dellman
- d. E-mail from Leanne Nadai
- e. E-mail from Spencer Williams

9. Executive Officer's Report on Matters Related to the Board of Dental Examiners: b. Letter from Dr. Douglas Smith

Executive Session:

At 9:16 a.m., it was moved by Dr. Wada, 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 9:40 a.m., it was moved by Ms. Nonaka, seconded by Dr. Guevara, and unanimously carried to move out of executive session.

5. Applications: b. Application for Permit to Administer General Anesthesia

By consensus of the Board, the following application will be deferred pending a site inspection:

- HANNON, Jeremy DMD

8. Correspondence: c. E-mail from Cindy Dellman

Ms. Dellman inquired whether a dental hygienist is allowed to use a laser (diode or soft tissue) for treating periodontal pockets.

It was moved by Ms. Nakagawa, seconded by Ms. Nonaka, and unanimously carried to inform Ms. Dellman that the Board previously made the determination that under the current rules, dental hygienists are allowed to use laser for curettage and has not changed its determination. Therefore lasers can be used for treating periodontal pockets.

- d. E-mail from Leanne Nadai

Ms. Nadai inquired whether dental hygienists were allowed to use lasers on soft tissue.

It was moved by Ms. Nakagawa, seconded by Ms. Nonaka, and unanimously carried to inform Ms. Nadai that the Board previously made the determination that under the current rules, dental hygienists are allowed to use laser for curettage and has not changed its determination. Therefore lasers can be used on soft tissue.

e. E-mail from Spencer Williams

Ms. Williams inquired whether dental hygienists were allowed to use lasers to perform certain procedures.

After a brief discussion, by consensus of the Board, this matter will be deferred to the next meeting for further discussion.

9. Executive Officer's Report on Matters Related to the Board of Dental Examiners:

b. Letter from Dr. Douglas Smith

Dr. Smith reported on the status of a licensee and cited that the licensee is compliant with no problems.

The Board returned to its regular order of business.

5. Applications:
(continued)

a. Ratifications

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

Approved Dentist

- INABA, Adam
- NOGUEIRA, Paulo
- YAMASHIRO, Jan

Approved Dental Hygienist

- LOFTIN, Brittney
- SCHOLZ, Amy
- SWEET, Catherine

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

- SCHOLZ, Amy

Approved Community Service License – Dentist

- MELENDEZ, Eddie (Hui No Ke Ola Pono)

Approved Temporary License – Dentist

- WILSON, Jessica (Aloha Medical Mission)

6. Old Business a. Discussion on 2012 Legislation

Ms. Nonaka reported that a hearing on H.B. 1876, HD1 (Relating to Dental Hygienists) was held and that the Senate version was going to be heard the following day. The intent of these bills is to educate the public for their safety that the dental hygienist in the office is properly licensed. It also serves as notice to the dentist that their dental hygienist's license is current. The level of anesthesia allowed to perform is also shown on the card.

Mr. Kobashigawa informed the Board that the following names were submitted by the Governor's Office:

- Garrett Ota, D.D.S. (to replace Dr. Atebara)
- Mark Chun, D.M.D.(to replace Dr. Chong)
- Paul Guevara, D.M.D., M.D.S. (currently interim)

b. Correspondence from Dr. Craig Fujioka

Dr. Sherman reported that the Investigative Committee ("IC") met and concluded that the use of BOTOX falls within the scope of practice of dentistry as defined by Hawaii statutes. The IC recommends that licensed dentists in Hawaii, including general dentists, oral maxillofacial surgeons and other ADA/CODA recognized dental specialists be allowed to use BOTOX specifically for the treatment of TMD/myofacial pain or other conditions specific to within the oral cavity complex. Dental practitioners should receive appropriate training, acquire necessary knowledge, skills and experience necessary to provide this service in a safe and efficacious manner.

The IC also concluded that the use and placement of dermal fillers by general dentists, oral surgeons and other ADA/CODA recognized dental specialists licensed in Hawaii is within the scope and practice of dentistry. Dermal fillers may be utilized by general practice dentists provided these treatments are specifically reserved only for intra-oral conditions/procedures.

The use of BOTOX and placement of dermal fillers must be completed only by the licensed dentist possessing the appropriate training, knowledge, and skill set. It cannot be delegated to a dental hygienist or dental assistant.

Pursuant to the "Sunshine Law" requirements, the Board cannot make a determination at this meeting and will have further discussions and make a determination at its next meeting scheduled for May 21, 2012.

c. Discussion on Amending the Board's Application

By consensus, this matter was deferred to the next meeting.

d. American Board of Dental Examiners Dental Licensure Examination ("ADLEX") Date of Examination

The next exam is scheduled for July 20-22, 2012 at the Pearl Harbor Dental Clinic.

7. New Business: a. Matters Relating to the American Board of Dental Examiners ("ADEX")

- ADEX Annual Meeting Report

By consensus, this matter was deferred to the next meeting.

b. Matters Relating to the Central Regional Dental Testing Service ("CRDTS")

- CRDTS Report

Ms. Chang made the following report:

- ✓ The next dental hygiene exam is scheduled for April 28-29, 2012 at the Pearl Harbor Dental Clinic. University of Hawaii students will be examined, but there are no graduating students from Maui Community College.
- ✓ Dr. Baird recently attended the Steering Committee meeting.
- ✓ The Annual Meeting is scheduled for August 23-25, 2012 in Kansas City, MO.

- Annual School Report

For information only.

- 2012 Directory

For information only.

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

- AADB Representatives to the Commission on Dental Accreditation ("CODA"), Council on Dental Education and Licensure ("CDEL") and Joint Commission on National Dental Accreditation ("JCNDE")

The AADB is seeking members who are interested in serving on CODA, CDEL and JCNDE.

- AADB Mid-Year Meeting

Dr. Baird will be attending this meeting which is scheduled for April 22-23, 2012 in Chicago, IL.

- American Association of Dental Administrators ("AADA") Mid-Year Meeting

This meeting is scheduled for April 22, 2012 in Chicago, IL.

- AADB Citizen of the Year Nomination Request

AADB is seeking nominations for this award. The nominee should be an AADB member who has made significant contributions to the dental profession in general and the dental examining community in particular. Dr. Stanwood Kanna was last year's recipient.

- AADB Composite

The 23rd edition (January 2012) of the Composite was circulated to the members for their information.

- Data Bank Merger

The National Practitioner Data Bank ("NPDB") and Healthcare Integrity and Protection Data Bank ("HIPDB") are proposing to merge their operations. Information can also be found at

www.npdb-hipdb.hrsa.gov/news/news/jsp#NPRMHipdb.

- Letter from Congressional Members to the Federal Trade Commission ("FTC")

Several members of Congress wrote to the FTC expressing their concern regarding recent FTC actions targeting state legislatures' and state health regulatory boards' decisions, proposed rules, and legislation as to who may provide certain services to patients.

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

The Steering Committee will be meeting on June 8-9, 2012 in Washington, D.C. Dr. Baird, Dr. Sherman, and Ms. Nakagawa will be attending this meeting.

- e. Matters Relating to the American Dental Association ("ADA")

- ADA Letter to West Virginia Board of Dental Examiners
- ADA Letter to Louisiana State Board of Dentistry
- ADA Letter to Oregon Board of Dentistry
- ADA Letter to Wyoming Board of Dental Examiners

The ADA thanked the above boards for their correspondence regarding the House of Delegates' action directing the ADA to prepare a Request for Proposals (RFP) calling for the development of a portfolio-style examination for initial licensure purposes.

- George M. White vs. ADA, The Texas State Board of Dental Examiners; and Texas Dental Association

Judgment was passed granting the Texas Dental Association's Motion to Dismiss, the Texas State Board of Dental Examiners' Motion to Dismiss Plaintiff's Amended Complaint and the ADA's Motion to Dismiss All Claims Without Leave to Amend. Mr. White contended that he was wrongly deprived to be allowed to practice as a denturist.

- Update on the Progress of the Committee for an Integrated Examination ("CIE")

The CIE periodically updates all stakeholders on the progress of the Integrated National Board Dental Examination ("INBDE") which can also be found on their website at www.ada.org/5553.aspx.

f. Matters Relating to the Academy of General Dentistry ("AGD")

None

g. Ratification of Continuing Education ("CE") Course Approval

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

- Improving Oral Hygiene in the Orthodontic Patient (2 CE hours) Sean R. Holliday, DDS, MS

8. Correspondence: a. Letter from Dr. Randal Matsumoto
(continued)

At the previous Board meeting, Dr. Matsumoto's request to waive the 32 hours CE requirement for the biennium ending December 31, 2013 was denied. He is now requesting a modification of the CE requirement as he missed the

opportunity to take classes at the Hawaii Dental Association's Convention. He's requesting for either a modification to the number of required CE or the amount of CE credits allowed to take online due to his disability.

It was pointed out that if Dr. Matsumoto is able to get to a dental office to supervise dental hygienists, he should be able to attend a CE course.

After discussion, it was moved by Dr. Sherman, seconded by Dr. Guevara, and unanimously carried that Dr. Matsumoto complete 32 hours of CE for the biennium ending December 31, 2013 with no modification to allow additional online courses.

- b. Letter from Minnesota Board of Dentistry
- f. Letter from Tennessee Board of Dentistry
- g. Letter from Wyoming Board of Dental Examiners

The above boards reviewed and submitted their objections to the ADA regarding the House of Delegates' action directing the ADA to prepare a Request for Proposals (RFP) calling for the development of a portfolio-style examination for initial licensure purposes.

9. Executive Officer's Report on Matters Related to the Board of Dental Examiners:
(continued)

- a. E-mail from Dr. Louis Malcmacher

For information only

- c. Practice Management Article on Mid-Level Providers

A legislative bill was introduced in California to study the benefits of alternative dental care providers. The California Dental Association ("CDA") supports the proposed legislation, but two other state dental groups, the California Academy of General Dentistry and the California Association of Oral and Maxillofacial Surgeons oppose the concept of midlevel providers saying they lack the necessary training to do irreversible procedures. This bill would also establish a state dental director who could help California secure federal funds for subsidized dental programs.

d. Letter from Complete Credentialing and Background Services

Inquiring if the Board would be interested in utilizing their services for a comprehensive license verification and background check on license applicants.

e. Inquiry from New Jersey Board of Dentistry

The New Jersey Board of Dentistry inquired whether the Board has taken a position on the use of dental amalgams.

By consensus of the Board, they support ADA's stance regarding amalgams.

f. Professional Licensing Report

From the November/December 2011 issue:

- "FTC Sanctions board for anti-competitive practices"

The Federal Trade Commission ("FTC") issued an opinion and final order in its case against the North Carolina board of Dental Examiners. The ruling prohibits the board from issuing cease and desist letters to providers of teeth-whitening services or from claiming any authority to declare unlicensed teeth-whitening services in violation of the law. Although the state's dental act prohibits unlicensed individuals from removing stains from teeth, it does not give the dental board the power to enforce that prohibition on its own.

- "Medical board must accept ALJ's findings of fact & conclusions of law"

The Texas Board of Medical Examiners may no longer go its own way on contested cases. In addition to eliminating anonymous complaints, the state medical board must dispose of contested cases by issuing a final order based on the findings of fact and conclusions of law of an administrative law judge ("ALJ") at the State Office of Administrative Hearings.

10. Public Comment None.
 On Matters Related
 To the Board of
 Dental Examiners:

11. Announcements: a. Parking Information

Ms. Akasaka-Toyama reminded Board members the do's and don'ts of using their parking passes to attend Board meetings as Parking Control has been diligently checking the parking lots.

b. Update on Renewals

Mr. Kobashigawa reported on the statistics of the percentages of those having renewed their licenses.

Executive
Session:

At 10:52 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)(4), 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 11:05 a.m., it was moved by Ms. Nonaka, seconded by Ms. Nakagawa, and unanimously carried to move out of executive session and return to its regular order of business.

12. Next Meeting: Monday, May 21, 2012
 9:00 a.m.
 Queen Liliuokalani Conference Room
 King Kalakaua Building
 335 Merchant Street, 1st Floor
 Honolulu, Hawaii 96813

13. Adjournment: It was moved by Ms. Nonaka, seconded by Ms. Nakagawa, and unanimously carried to adjourn the meeting at 11:05 a.m.

Taken and recorded by:

/s/ Terry Akasaka-Toyama

Terry Akasaka-Toyama
Secretary

Reviewed and approved by:

/s/ James Kobashigawa

James Kobashigawa
Executive Officer

JK:tat

4/19/12

[] Minutes approved as is.

[X] Minutes approved with changes; see minutes of 5/21/12.