

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, May 21, 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
Robert Sherman, D.M.D., Dental Member
Melanie Vallejos, D.D.S., Dental Member
Candace Wada, D.D.S., Dental Member
James Paige, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer
Sandra Matsushima, Executive Officer
Terry Akasaka-Toyama, Secretary
- Excused: Paul Condry, Public Member
Marilyn Nonaka, R.D.H., Dental Hygiene 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
Garrett Ota, D.D.S.
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. Chong, seconded by Ms. Grey, and unanimously carried to add the following to the agenda:
- Under New Business, b. Matters Relating to the Central Regional Dental Testing Service ("CRDTS"), add "Dental Hygiene Examination Report".
 - Under New Business, c. Matters Relating to the American Association of Dental Boards ("AADB"), add "AADB Midyear Meeting 2012".
 - Under New Business, e. Matters Relating to the American Dental Association ("ADA"), add "Letter from Alabama Board Relating to the ADA Portfolio-Style Examination".
3. Approval of Board Meeting And Executive Session Minutes of March 19, 2012: It was moved by Dr. Vallejos, seconded by Dr. Chong, and unanimously carried to approve the March 19, 2012 Board meeting minutes with the following amendments:
- On page 3, under Chapter 91, HRS, Adjudicatory Matters, it should read as, "At 9:14 a.m., Vice Chair Chong [Baird] recessed the Board's meeting to discuss the following adjudicatory matters pursuant to Chapter 91, HRS. Guests were excused from the meeting room." (underlined material added, while bracketed material is to be deleted)
 - On page 4, under Correspondence, c. Email from Cindy Dellman, to clarify the second paragraph it should read as:

"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 not prohibited [allowed] to use laser for curettage and has not changed its determination. Therefore lasers can be used for treating periodontal pockets." (underlined material is to be added, while bracketed material is to be deleted)
 - On page 5, to clarify the first paragraph it should read as:

"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 not prohibited [allowed] to use laser for curettage and has not changed its determination. Therefore lasers can be used on soft tissue." (underlined material is to be added, while bracketed material is to be deleted)

Executive Session:

At 9:22 a.m., it was moved by Dr. Chong, 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 9:25 a.m., it was moved by Ms. Nakagawa, seconded by Dr. Chong, and unanimously carried to move out of executive session.

It was moved by Dr. Wada, seconded by Dr. Chong, and unanimously carried to approve the Executive Session minutes of the March 19, 2012 meeting as amended.

4. Approval of Board Meeting Minutes of January 23, 2012:

It was moved by Dr. Sherman, seconded by Dr. Chong, and unanimously carried to approve the January 23, 2012 Board meeting minutes with the following amendment:

- On page 4, under Applications, b. Application for License – Dentist – Dr. Rashmi Vasudeva, the paragraph should read as follows:

"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 448-9.4 [448-94], Hawaii Revised Statutes, which requires passage of the ADEX dental licensure examination." (underlined material is to be added, while bracketed material is to be deleted)

5. Applications: a. Ratifications

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

Approved Dentist

- NOORDMANS, Caleb
- OAKLEY, Jeremy
- SWISHER, Christopher

Approved Dental Hygienist

- ALGOHARY, Ayman
- IDE, Janessa
- MCPEAK, Laurel
- PROVANCHA, Laura
- STEILE, Sami
- SYDNES, Sara
- WILLETT, Hannah

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

- BAYS, Janelle
- MATSUNO, Carole

Approved Temporary License – Dentist

- CHASE, Bernita (Aloha Medical Mission)
- MARKOS, Theodore (Waianae Coast Comp. Health Center)
- SORIANO, Gregory (Aloha Medical Mission)

6. Old Business a. Discussion on 2012 Legislation

Act 81 (S.B. 2013, S.D.1, H.D.2) – Relating to Dental Hygienists

This act requires a dental hygienist's certificate of licensure to be prominently displayed in the workplace and requires a dental hygienist's pocket identification card to be available for viewing upon request.

Mr. Kobashigawa also reported on the following bills which would affect the Board and are awaiting approval at the Governor's Office:

H.B. 2257, H.D.1, S.D.1 – Relating to Professional and Vocational Licensing

This bill would permit licensure by endorsement or licensure by reciprocity in certain situations for a nonresident military spouse. It establishes procedures for a nonresident military spouse to receive a license by endorsement or license by reciprocity and permits issuance of a temporary license if

certain requirements are met. This bill also requires the licensing authority to expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a qualified nonresident military spouse.

H.B. 2258, H.D.2, S.D.1 – Relating to Professional and Vocational Licensing

This bill would require professional and vocational licensing boards to consider relevant military education, training, and service as part of the evaluation process toward the qualification of a license.

There was discussion if this would also allow military dentists to work outside of a military facility, if having obtained prior approval from their Commander to moonlight on the side. There was no concern regarding the experience, education and licensure of military dentists and dental hygienists.

Having only seen these bills for the first time, Mr. Liebling questioned whether H.B. 2258 was considered as licensure by credentials and if the Board had changed their stance on the matter as the Board did not submit any testimony in opposition.

The following agenda item was taken out of order to be discussed later:

- b. Correspondence from Dr. Craig Fujioka

The Board returned to its regular order of business.

- c. Discussion on Amending the Board's Application

By consensus of the Board, this matter will be deferred.

- d. E-mail from Spencer Williams

Mr. Williams, of the American Dental Hygienists' Association, had several questions regarding a hygienists' use of lasers to perform certain procedures to which the Board responded as follows:

1. May a hygienist use an appropriate laser device for:

periodontal maintenance: *No law, rule or policy*
curettage: *No law, rule or policy*
bleaching: *No law, rule or policy*
light cure restorations: *No law, rule or policy*

2. Does the board have any policy or rules concerning a hygienist utilizing:

Diagnadent or other similar devices to detect possible caries? *No law, rule or policy*

Upon further review, the Board previously made a determination at its January 13, 2003 meeting that hygienists can utilize Diagnodent to get readings, but the dentist must diagnose.

Visilite or similar light based devices to identify possibly suspicious soft tissue lesions? *No law, rule or policy*

3. Is there any certification or other requirements for a dental hygienist to use any of these? *None*

The following agenda items were discussed together:

6. Old Business:
 - b. Correspondence from Dr. Craig Fujioka
 - e. Report of Investigative Committee on Use of BOTOX and dermal fillers
8. Correspondence:
 - b. Letter from Dr. Louis Malcmacher

Dr. Sherman reported that he spoke to several oral surgeons and did not receive any negative feedback to the recommendation from the Investigative Committee. It was questioned if use of Botox and dermal fillers by general dentists would be acceptable if they are confined to only the oral cavity.

Executive Session:

At 9:55 a.m., it was moved by Ms. Nakagawa, seconded by Dr. Chong, 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 10:33 a.m., it was moved by Dr. Chong, seconded by Ms. Nakagawa, and unanimously carried to move out of executive session.

6. Old Business: a. Discussion on 2012 Legislation
(continued)

Upon returning to the meeting room, Mr. Liebling stated that after having read through the bills, he was supportive of the language in H.B. 2257, H.D.1, S.D.1 and H.B. 2258, H.D.2, S.D.1.

NOTE: After the meeting, Mr. Liebling clarified his remarks:

"As you will recall I spoke quite clearly about the HDA and the Board of Dental Examiners historically being opposed to any form of licensure by credential other than the community service license.

I later spoke further, after reading the bills, and stated that these two bills were (one for licensing active duty military leaving service by credentials (and Dr. Fujii pointed out that the bill language does not say it is only for active duty military leaving service but to all military) and the second bill was for licensing of nonresident spouses) clearly licensure by credentials bills.

I stated that we were opposed to these bills even though the exact licensing by "credentials" terminology was not used. In one of the bills they used licensing by "endorsement" and licensing by "reciprocity" – two alternate terms for licensing by credentials.

I did state, however, that the HDA supports our U.S. Military and that may have been misinterpreted to mean that we support these two bills. I said that HDA would have to review these bills. In fact, our legislative program did review the bills and it has been determined that we do not support these bills. We will be issuing a letter to the Governor asking him to veto these bills.

If our support of the military was misunderstood as our support of the bills and that misunderstanding appears in the notes for the minutes as such, would you please correct that for the record? We do not support these bills."

The Board returned to discuss the following agenda items:

6. Old Business:
- b. Correspondence from Dr. Craig Fujioka
 - e. Report of Investigative Committee on Use of BOTOX and dermal fillers
8. Correspondence:
- b. Letter from Dr. Louis Malcmacher

After discussion, by consensus of the Board, the matter regarding use of Botox and dermal fillers will be deferred for further research.

The Board returned to its regular order of business.

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

- ADEX Annual Meeting Report

The report was circulated to the members for their information.

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

- 2012 Exam Results

The report was circulated to the members for their information.

- Dental Hygiene Examination Report

Ms. Chang reported that the dental hygiene exam was held at the Pearl Harbor Dental Clinic on April 28-29, 2012. There were 27 candidates, 15 of which were University of Hawaii students. 3 of the 27 candidates did not pass.

She thanked Dr. Wada for volunteering to be the supervising dentist during the exam. Thanks was also given for the use of the Pearl Harbor Dental Clinic; however, there was concern regarding the ability to get on base as a list of names of the patients, drivers, candidates, etc. needed to be submitted 3 weeks prior to the examination.

Ms. Chang suggested that once the clinic at Maui Community College is completed that it may be possible to rotate the dental hygiene examination to this site as well as the Pearl Harbor Dental Clinic.

She also inquired whether it was still necessary to require candidates to sign a disclaimer regarding the examination. This form was originally used when the Board administered its own exam.

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

- Launch of AADB Assessment Services Program ("ASP")

The ASP is specifically designed to assist dental boards throughout the discipline process. The program consists of two (2) separate services: Dentist-Professional Review and Evaluation Program ("D-PREP") and Expert Review Assessment ("ERA"). The intent of D-PREP is to detect, evaluate and suggest possible remediation of deficiencies in dental practitioners referred to the program by their boards. The ERA program is a service provided to dental board in need of an independent expert witness in disciplinary case review. Details of the program can be viewed at their website www.dentalasp.org.

- The Bulletin

The 129th AADB Annual Meeting is scheduled for October 17-18, 2012 in San Francisco, CA.

- Survey on Allowable Procedures

AADB inquired whether dentists were allowed to perform the following: dermal fillers, Botox injections (maxillofacial area only), Botox injections (anywhere on the face), rhinoplasty, blepharoplasty, rhytidectomy, submental liposuction, otoplasty, lip augmentation, laser resurfacing, browlift, platysmal muscle placcation, dermabrasion, eyelifts, and facelifts.

Currently, the Board does not have a law or rule specifying whether or not dental personnel can perform these functions.

- AADA Meeting

The meeting of the Administrators of Dental Boards will be held on October 15-16, 2012 in conjunction with the AADB Annual Meeting in San Francisco, CA.

- AADB Midyear Meeting 2012

Dr. Baird made the following report:

- ✓ Prescription drug abuse was discussed such as prescription opioid abuse, where dentists are the top prescribers of opioids to teenagers and young adults and possibly responsible for initiating them into this category of drug abuse since dentists prescribe immediate release opioids (Vicodin) and not extended release opioids (Oxycodone).

ADA has been trying to get the word out to demonstrate that the profession has become more mindful of its prescribing practice and that failure by the licensee could result in mandates and CE credits for relicensure of their DEA license.

- ✓ The most important discussion was the D-PREP. The program is functional as of May 1, 2012 and AADB can appear before individual boards to make a presentation of the program. All remediation and monitoring would be tailored to your state. Currently there are 3 sites available for a comprehensive remediation course: University of Maryland School of Dentistry, Marquette University School of Dentistry and Louisiana State University School of Dentistry.
- ✓ So far the Dental Therapist Program has only been implemented in Minnesota. Other programs were halted in the other states. This has not been a successful program and it may be another year before CODA will be able to develop any accreditation standards for the existing school programs even though there are some licensed Dental Therapists who passed the CRDTS exam and are practicing in Minnesota. Other states targeted were Connecticut, New Mexico, Oregon, Washington, Kansas, Maine, Vermont, New Hampshire, Ohio, California, and Missouri.

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

- Consultant Examiners

Since ADEX has recently expanded to include additional states and testing agencies, they are planning to consolidate and have joint examiner exchange to standardize the examination process across the country. Therefore, for the time being, NERB will not be accepting non-board member recommendations for new consultant examiners, but is still seeking participation of current active dental board members to serve on examining teams.

- Continuing Education ("CE") for Training and Calibration of Examiners

NERB inquired whether the Board would approve issuing CE certification for such activities as training and calibration of examiners, development of new exam processes and procedures, and clinical observation and assessment in conjunction with the development and administration of the dental and dental hygiene examinations.

By consensus of the Board, a maximum of 4 hours of CE would be acceptable for exam calibration.

- Steering Committee

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 News Article on Federal Trade Commission ("FTC")

On March 2, 2012, five (5) bipartisan members of Congress urged the FTC "to cease any further intrusion in the state regulation of the practice of medicine or dentistry and withdraw from the actions you have already taken."

The FTC issued an opinion and final order on December 2, 2011, asserting that the North Carolina Board of Dental Examiners "sought to, and did, exclude nondentist providers from the market for teeth whitening services." On January 13, 2012, the board filed an application for "stay of order" pending review by the U.S. Court of Appeals, which the Commission granted on February 10, 2012, an action temporarily delaying the administrative proceedings for judicial review.

The five (5) lawmakers from three (3) committees of the House of Representatives cited this and other recent FTC actions targeting state legislatures' and state health regulatory boards' decisions, proposed rules and legislation regarding who may provide certain services to patients. (For information only)

The following agenda items were discussed together:

- Letters from Iowa, Nevada and Arkansas Dental Boards Relating to the ADA Portfolio-Style Examination
- Letter from Alabama Board Relating to the ADA Portfolio-Style Examination

The Iowa, Nevada, Arkansas and Alabama Dental Boards wrote in opposition to ADA's proposal to develop a portfolio-style examination for dental licensure.

After discussion, by consensus of the Board, Dr. Baird will draft a letter similar to those sent by other dental boards to ADA.

f. Request for Approval of Continuing Education ("CE") Course

It was moved by Ms. Nakagawa, seconded by Dr. Wada, and unanimously carried to approve the following courses:

- Pro Trainings, LLC
"ProCPR"; 4 CE hours
- Pro Trainings, LLC
"ProFirstAid Advanced"; 4 CE hours

It was moved by Ms. Nakagawa, seconded by Dr. Wada, and unanimously carried to approve the following course:

- "Infection Control/OSHA Update for Dental Professionals"
Kim Laudenslager & Gayle Chang
7 CE hours for initial training seminar
4 CE hours for retraining update seminar

8. Correspondence: a. (continued)

E-mail from Dr. Alex Pijpaert

Dr. Pijpaert inquired whether clinical time spent in a dental residency qualifies for the 1,000 hours per year worked prior to applying for a community service dental license.

By consensus of the Board, clinical time spent in a dental residency does not qualify for the 1,000 hours per year of active practice of clinical dentistry.

c. Letter from Affiliated Monitors, Inc.

Affiliated Monitors specializes in monitoring licensed practitioners and businesses that have been sanctioned through settlement or other agreements. (For information only)

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

Joint Commission on National Dental Examinations Update on the Progress of the Committee for an Integrated Examination ("CIE")

In November 2011, the CIE posted two documents on the Integrated National Board Dental Examination ("INBDE") website (www.ada.org/5553.aspx): 1) *the Model of the Domain of Dentistry* and 2) *the Foundation Knowledge for the General Dentist*. As work progresses and to ensure that all stakeholders have their input, the INBDE doesn't foresee the launch date anytime sooner than 2017. Comments, ideas, etc., they can be e-mailed to them at jcndecie@ada.org.

b. Commission on Dental Accreditation ("CODA")

CODA is calling for nominations to fill up-coming vacancies on review committees and one public member of the Commission. This request is for nominations of general dentist practitioners and educators, specialty dentists, GPR & AEGD educators, and dental assisting educators. (For information only)

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

11. Announcements: Dr. Sherman reported that ADA had sent out correspondence expressing concerns about dentists offering referral gifts and Groupon-like discounts could violate state or federal laws. Many states have regulations that prohibit or restrict the awarding of gifts as a means of soliciting patient or prohibit fee splitting between dentists and a third party. HDA also posted in their newsletter that splitting fees is illegal in Hawaii.

Mr. Kobashigawa stated that this matter will be placed on the next Board meeting agenda for discussion.

12. Next Meeting: Monday, July 16, 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 Dr. Chong, seconded by Ms. Nakagawa, and unanimously carried to adjourn the meeting at 11:50 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
6/19/12

[X] Minutes approved as is.
[] Minutes approved with changes; see minutes of _____.