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 18, 2013

Time: 8:30 a.m.

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

Present: Mark Baird, D.D.S., Chair, Dental Member
Cheryl Nakagawa, R.D.H., Vice Chair, Dental Hygiene Member
Rodney Ching, Public Member
Mark Chun, D.M.D., Dental Member
Staphe Fujimoto, D.D.S., Dental Member
Marilyn Nonaka, R.D.H., Dental Hygiene Member
Marian Grey, Public Member
Paul Guevara, D.M.D., M.D.S., Dental Member
Garrett Ota, D.D.S., Dental Member
Robert Sherman, D.M.D., Dental Member
Melanie Vallejos, D.D.S., Dental Member
Stephen Levins, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer
Sandra Matsushima, Executive Officer
Lisa Kalani, Secretary

Excused: Candace Wada, D.D.S., Dental Member

Guests: Loren Liebling, Hawaii Dental Association ("HDA")
Dr. Lilli Horton, Hawaii Dental Association ("HDA")
Diane Brucato-Thomas, RDH, EF, BS, FAADH, Hawaii Dental Hygienists' Association ("HDHA")
Ellie Kelley-Miyashiro, RDH, BS, Hawaii Dental Hygienists' Association ("HDHA")
Gerraine Hignite, Hawaii Dental Hygienists' Association ("HDHA")
Crystal Bee, Hawaii Dental Hygienists' Association ("HDHA")

1. Call to Order: There being a quorum present, Chair Baird called the meeting to order at 8:58 a.m.
2. **Additions/Revisions to Agenda:**

It was moved by Vice Chair Nakagawa, seconded by Dr. Vallejos, and unanimously carried to add the following to the agenda:

**Under Applications:**

4.b. Application for License Dentist – Military Spouse, CHIGURUTATI, MANEESHA

**Under New Business:**

7.a. AADB Mid-Year Meeting - National Dental Examiners’ Advisory Forum
7.b. CRDTS Newsletter and Directory
7.g. SR No. 104, SCR No. 144
7.i. Ad Hoc Committee on Board Policies
7.j. Request for approval of CE courses
   - Intra-Oral Infiltration and Block Anesthesia Certification Course
   - OSHA Training and Compliance Seminar
7.k. Observation of WREB Dental Hygiene Exam

**Under Correspondence:**

8.g. E-mail from Joyce Yamada regarding supervision of students exposing radiographs in a public health setting
8.h. E-mail from AAOMS relating to surveillance equipment in a dental office
8.i. E-mail from HSOMS regarding administration of Botox

**Under Executive Officer’s Report:**

9.c. DANB Newsletter

**Under Announcements:**

11.a. Confirmation of Mr. Rodney Ching and Staphe Fujimoto, D.D.S.

3. **Approval of Board Meeting Minutes of January 14, 2013:**

It was moved by Dr. Vallejos, and seconded by Dr. Ota, and unanimously carried to approve the January 14, 2013 Board meeting minutes as circulated.
4. **Applications:**
   
a. **Ratifications**

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

   **Approved Dentist**

   - HEARON, Heather
   - MURAOKA, Eric
   - WILDENBERG, Travis
   - CHARKAS, Ahmad
   - PEERS, Matthew

   It was moved by Vice Chair Nakagawa, seconded by Dr. Guevara, and unanimously carried to ratify the following:

   **Approved Dental Hygienist**

   - PACHECO, Alaina
   - PLASENCIA, Kristy
   - WHITE, Rebecca
   - COBB, Yvonne

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

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

   - ZOU-FAJARDO, Celia
   - HARDWICK, Shyla
   - PLASENCIA, Kristy
   - FEIOCK, Heidi
   - BOSSO, Lisa
   - COBB, Yvonne

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

   **Approved Temporary License – Dentist**

   **Waianae Coast Comprehensive Health Center**

   - RAMIREZ, Jennifer
   - ROMAN, Dana
Approved Community Service License – Dentist

Koolauloa Community Health and Wellness Center Inc

- MASON-DOZIER, Charlyne

b. Application for License – Dentist (Military Spouse)

- CHIGURUTATI, MANEESHA

It was moved by Dr. Vallejos, seconded by Dr. Guevara to delegate approval to Mr. Kobashigawa subject to receipt of documentation of passing one of the regional exams and ratification at the next board meeting.

The following agenda item was taken as the next order of business:

6. Old Business: 
   a. Continued Discussion on Board’s Determination Related to Report of Investigative Committee on Use of BOTOX and Dermal Fillers/Correspondence from Dr. Craig Fujioka, Dr. Louis Malmacher and Dr. Earl Hasegawa.

The Investigative Committee (“IC”) provided their current report to the Board dated March 7, 2013.

Vice Chair Nakagawa asked if any changes had been made to the report, as it appears to be the same as previously reported.

Dr. Guevara stated the IC attempted to clarify the use of Botox. The IC agreed that if the individual has received the appropriate training and proper insurance is obtained, then use of Botox is within the scope of practice of dentistry as defined by Hawaii statutes.

Vice Chair Nakagawa clarified with the IC that this procedure is not to be delegated to the dental hygienist or dental assistant.

Dr. Guevara stated the IC mainly discussed what is considered “associated structures” pursuant to the statutes.

Vice Chair Nakagawa clarified if the IC is referring to “associated structures” as stated in Hawaii Revised Statutes, §448.1 Dentistry defined; exempted practices.
A discussion ensued regarding the interpretation of “associated structures”, whether that language is too broad and if the Board would need more specific guidelines.

Dr. Ota questioned if an “associated structure” could mean the forehead.

Dr. Guevara stated that it would be upon the discretion of the dentist and the insurance carrier, if the forehead would qualify as an associated structure.

Vice Chair Nakagawa stated the statute is specific on listing what an associated structure is and suggested the IC add to its report, “associated structures, pursuant to §448.1”.

Ms. Grey asked “What does appropriate training mean?”

Dr. Guevara stated there is no across the board appropriate training for everyone. Should an issue arise, it would be the individual’s responsibility to provide proof of what appropriate training they obtained.

Guest Loren Liebling of the Hawaii Dental Association (“HDA”) spoke on this matter. Mr. Liebling stated some of their members are interested in performing these procedures. However, the question has been whether the insurance companies would cover the procedure. Upon a check with the insurance companies, if it is considered the practice of dentistry, it is covered.

Mr. Levins stated that if it fits the criteria of the practice of dentistry, then it will be an allowable duty. He added that an “associated structure” is a broad term and that the IC may want to add “associated structures, such as….”

Mr. Kobashigawa questioned if “associated structures” could mean from the neck down to the shoulders.

Vice Chair Nakagawa offered a friendly amendment to add that only non-cosmetic procedures be allowed.

Mr. Ching questioned whether the Board could define associated structures.

Dr. Guevara believes the language should be left as is.

Mr. Levins stated that even though there is not a specific
dental licensing law, there is a general law governing all professions, and if the licensee engages in “professional misconduct” that is a basis for disciplinary action. In addition, if someone is clearly doing something inappropriate or does not have the appropriate training and it is not specifically addressed by the dental statutes or rules, there is still a basis to proceed to discipline.

Dr. Ota understands the IC worked very hard on their position statement. However, he believes a general dentist should not be performing these procedures and that it should be left to an oral surgeon.

Ms. Grey stated that she was not comfortable with the words “appropriate training”.

Vice Chair Nakagawa suggested that the IC should meet with the Deputy Attorney General so he can provide guidance.

Dr. Guevara stated these are the same reasons the IC had to revisit their position statement. He reiterated that the IC agreed that the language should be left as is.

Ms. Nonaka stated that those who are uncomfortable with the IC’s position statement have the option to oppose it.

Dr. Sherman arrived 9:49 a.m.

Dr. Sherman believes that the statement should be left broad and the Board can deal with issues as they come up on a case by case basis.

Vice Chair Nakagawa read the March 7, 2013 IC’s Final Position Statement, adding “§448.1”, after the words “associated structures”.

Ms. Nonaka noted that she believes the statement regarding the insurance carrier’s malpractice coverage should not be included in the IC’s final Position Statement.

Mr. Kobashigawa clarified that the IC members are Dr. Guevara, Dr. Sherman, Dr. Vallejos and Dr. Wada. Therefore, Dr. Chong and Dr. Chun were guests at the March 7, 2013 IC meeting.

Upon a motion by Dr. Chun, seconded by Dr. Guevara, it
was unanimously carried to accept the Investigative Committee’s Position Statement on the use of Botox by adding §448.1, with Ms. Grey abstaining and Ms. Nonaka opposed, as follows:

“The use of Botox is within the scope of practice of dentistry as defined in Chapter 448, Hawaii Revised Statutes (“HRS”). Licensed dentists in Hawaii are allowed to utilize Botox specifically for the treatment of TMD/myofacial pain or other conditions affecting the oral cavity and associated structures as specified in §448.1, HRS. Dental practitioners are advised to receive appropriate training and acquire the necessary knowledge, skills, and expertise to provide this service in a safe and efficacious manner. Additionally, they should confer with their dental insurance carrier to determine if malpractice coverage for this procedure exists.

The use and placement of dermal fillers by licensed dentists in Hawaii is also within the scope of practice of dentistry. Dermal fillers may be utilized to treat conditions affecting the oral cavity and associated structures. Licensed dentists should confer with their dental insurance carrier to determine if malpractice coverage for this procedure exists.

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

b. **American Association of Dental Boards ("AADB") Survey on Allowable Procedures**

The AADB conducted a survey of state dental boards which included a question on whether or not dentists were allowed to perform the following:

- Dermal fillers
- Botox injections – maxillofacial area only
- Botox injections – anywhere on the face
- Rhinoplasty
- Blepharoplasty
- Rytidectomy, submental liposuction
- Octoplasty
- Lip Augmentation
- Submental liposuction
- Laser resurfacing
Chair Baird read the position statement from HSOMS that was provided to the Board members regarding the administration of Botox.

Dr. Sherman stated those are procedures that are normally reserved for oral surgeons that have undergone advanced training.

Dr. Guevara clarified that the discussion held just prior to this topic was only allowing the use of Botox and dermal fillers.

The Board discussed answering “yes” to dermal fillers, Botox injections – maxillofacial area and Botox injections - anywhere on the face, and answering “no” to the remaining procedures.

After further discussion, the Board felt that further research was needed and deferred on this matter.

c. Discussion on Amending Board's Application Forms

After discussion, the Board decided to again defer on this matter until the next meeting.

d. E-mail from Nic van der Lee Relating to Dental Assistants Performing Intra-Oral Scanning on Patients for Crown, Inlay, and Onlay Design as Part of CAD/CAM

After discussion, it was moved by Dr. Guevara, seconded by Dr. Chun, and unanimously carried to approve that dental assistants with appropriate training can be delegated to perform intra-oral scanning on patients for crown, inlay, and onlay design as part of CAD/CAM.

e. Continued Discussion on Board's Determination Related to Letter from Professional Protection Plan for Dentist Relating to Use of Botox

After discussion, it was moved by Dr. Vallejos, seconded by Dr. Guevara, and unanimously carried to allow the use of...
Botox by dentists with appropriate training and to inform Professional Protections Plan of the Board’s position.


- AADB’s mid-year meeting and National Dental Examiners’ Advisory Forum will be held on April 21 and 22, 2013. Chair Baird and Dr. Sherman will be attending. Chair Baird is the Board’s delegate.
- The AADB Composite is a publication that is distributed once a year about each state board’s requirements. Mr. Kobashigawa circulated the current edition for the Board to review.

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

- Mr. Kobashigawa reported that Ms. Nonaka provided the 2012 statistics on CRDTS exams. The total number of dental hygiene exam candidates were 1,475. The number of testing sites utilized were 48.
- The dates of the CRDTS dental hygiene exam in Hawaii will be on April 27 and 28, 2013.
- The CRDTS newsletter and directory were distributed to the Board for their information.

c. Matters Relating to the American Board of Dental Examiners (“ADEX”)

- Changes to the ADEX dental hygiene exam were emailed to the Board.
- The dates of the ADEX dental exam in Hawaii are July 27 and 28, 2013.

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

- Vice Chair Nakagawa reported the steering committee now functions as an advisory committee. Vice Chair Nakagawa inquired with NERB as to why the committee is not receiving information and was told it was a logistics and financial issue.
e. Continuing Education Audit

There were no audits to review.

f. Minutes of Legislative Committee and Military Applications Meeting on 02/07/13

It was moved by Dr. Ota, and seconded by Dr. Guevara, and unanimously carried to approve the February 7, 2013 meeting minutes.

The following agenda item was taken as the next order of business:

h. Hawaii Island Oral Health Task Force Meeting

Chair Baird reported that the organization is doing very well. There are 10 clinics throughout the state. There are still some problems with treating difficult patients, however more statistics are needed.

Dr. Sherman also attended this meeting and reported that there is a movement that will take place soon to apply fluoride varnish onto children during their pediatric well-baby check-ups.

ADHOC Committee on Board Policies

Vice Chair Nakagawa reported that the Board and administrative policies were compiled from past minutes for the Boards’ use. Vice Chair Nakagawa requested that an Ad Hoc committee be created so that policies can be put into a comprehensive format that the Board and the Executive Officer can use when there are questions regarding a policy that the Board has already taken a position on. After discussion, the Board delegated Vice Chair Nakagawa to prepare the policies and report back to the Board for approval.

Request for approval of CE courses

- OSHA – Training and Compliance Seminar
- Intra-Oral Infiltration and Block Anesthesia

Upon a motion by Dr. Guevara, seconded by Dr. Ota, it was unanimously carried to approve the CE courses.

k. Observation of WREB exam
Upon a motion by Dr. Sherman, seconded by Ms. Nonaka, it was unanimously carried to request that a Board member be able to observe the WREB clinical dental hygiene exam.

The following agenda item was taken as the next order of business

**g. Legislation**

Mr. Kobashigawa requested that the Board take a position on SB343, SD2, and HB658, HD2.

Vice Chair Nakagawa stated she appreciates the comprehensive research done by Ms. Nonaka and to those who testified and presented the evidence based facts. The application of sealants has been well researched and has shown success in states which have implemented school-based sealant programs. Vice Chair Nakagawa added that the proposed language by the legislators may be more appropriately inserted into §447-3(d) instead of (b), or left as is as the current requirement for state school-based dental services, which includes applying sealants, is already allowed after pre-screening and authorization by the supervising licensed dentist. If the board decides the dental hygienist can apply sealants under general supervision in a public health setting, the board may recommend to the Senate or House committee the following:

“(d) A licensed dental hygienist may operate under the general or direct supervision of the licensed dentist providing dental services in a public health setting. As used in this section, “public health setting” includes dental services in a legally incorporated eleemosynary dental dispensary or infirmary, private school, welfare center, hospital, nursing home, adult day care center or assisted living facility, mental institution, nonprofit health clinic, or the State or any county. A licensed dental hygienist employed in a public health setting may perform dental education, dental screening, sealant applications, and fluoride applications. Other permissible duties shall be pre-screened and authorized by a supervising licensed, subject to the dentist’s determination that the equipment and facilities are appropriate and satisfactory to carry out the recommended treatment plan. No direct reimbursements shall be provided to licensed dental hygienists”.

Vice Chair Nakagawa noted that the rationale for inserting the
language in (d) instead of (b) is as follows:

(1) Our board, during the proposed rules discussion on adding clarifying language on the dental hygiene allowable duties in the updated form of “the dental hygiene process of care” states that a licensed dental hygienist can assess risk. This allows a provision that a dental hygienist can indeed “(recognize and) assess molars before applying sealants”.

(2) Hawaii Primary Care Association’s recommendation to the Senate Committee; the Department of Health partner with an existing program(s) as they fully support the implementation of a statewide school-based dental sealant program and recognized the need for program collaboration while operating with a limited amount of resources.

(3) Loretta J. Fuddy, State Director of Health testified that the fiscal implications of the measure’s appropriation of $100,000 to the Department of Health “may not be sufficient to support full implementation”. The department will require staffing to build an oral health surveillance system as well as staffing to establish, implement and evaluate a dental sealant program. Currently, there are at least two community-based dental sealant programs (Kalihi Kokua Valley and the Waianae Comprehensive Health Center) that may be replicated in other high need schools.

(4) A desired outcome would model Nevada’s Medicaid enrolled “Future Smiles” school-based dental hygiene program or South Carolina’s “Health Promotion Specialists” state-wide school-based dental sealant program that provides a comprehensive service similar to our community health centers’ ever improving dental care program.

Dr. Lily Horton, representing the HDA, stated that the PEW Report should not be taken at face value and that the American Dental Association has not come out with a policy on this issue.

Dr. Sherman commented that children ages 0 to 6 in Hawaii, even with dental insurance, have an extremely high percentage risk of caries. He added that studies have shown that sealants are very effective and there is a high differential between the percentage of cavities on the mainland (being low) and in Hawaii (being much higher).

After much discussion, upon a motion by Ms. Grey, seconded
by Ms. Nonaka, it was carried to support SB No. 343, SD2, with Dr. Chun opposed.

After much discussion, upon a motion by Dr. Guevara, seconded by Ms. Nonaka, it was carried to support HB No. 658, HD2, with the same language “in conjunction with a licensed dentist” that is in SB No. 343, SD2, with Dr. Chun opposed.

Mr. Kobashigawa noted that the DCCA has been testifying in support of SB No. 506, SD2, which includes consideration of the equivalency of examination in its language.

After discussion, the board adopted the guidelines that the Military Applications Committee recommended last year to consider the equivalency of the examination, but would not be testifying on the bill.

8. Correspondence:  a. Letter from PDR Network regarding availability of Risk Evaluation and Mitigation Strategy (“REMS”)-compliant training under the REMS for all extended-release/long-acting opioid analgesic drug products

Information regarding prescribing and training was distributed to the members.

b. E-mail from Loren Liebling requesting an opinion on whether a dentist can do dentistry on animals

HRS §448-1 specifies “human teeth”. Therefore it is the Board’s opinion that dentistry on animals does not fall in the scope of practice of dentistry.

c. Letter from Dr. Michael Dang regarding administering Botox and dermal fillers

This topic was discussed during 6.a Old Business. Mr. Kobashigawa will inform Dr. Dang of the Board's position.

d. Letter from Laura Anderson requesting the Board’s opinion as to whether Hawaii law regarding the practice of dentistry permits a planned school-based, preventative dental health program to be provided by an APRN

Upon a motion by Dr. Ota, seconded by Vice Chair Nakagawa it was unanimously carried to inform Laura Anderson that pursuant to the Board’s statute and rules,
application of fluoride varnish falls under the practice of dentistry and an APRN is not allowed to apply the fluoride varnish. However, it does not necessarily mean that other regulations, such as the practice of medicine, would disallow an APRN or medical assistant from performing the procedure if it could be construed as being under the scope of practicing medicine.

The following agenda item was taken as the next order of business

f. Letter from Dr. Larry Sangrik Relating to Licensure Requirements for Instructors and Participants in a CE course

After much discussion, this matter was deferred. Mr. Kobashigawa will ask Dr. Sangrik for more information.

g. E-mail from Joyce Yamada regarding supervision of students exposing radiographs in a public health/school setting

It was the consensus of the Board that the UH Maui College dental assistant students may perform dental radiographs at Malama I Ke Ola Health Center under the general supervision of a licensed dentist as long as the dentist has pre-screened and authorized the procedures.

h. E-mail from AAOMS regarding surveillance equipment in dental office

After discussion, it was the consensus of the Board that this is not addressed in the dental statutes and rules. Mr. Kobashigawa will refer AAOMS to HIPAA requirements.

i. E-mail from HSOMS regarding administration of Botox

This topic was discussed during 6.a Old Business. Mr. Kobashigawa will inform AAOMS of the Board’s position.

9. Executive Officer’s Report on Matters

a. AGD Transcript

Mr. Kobashigawa reported The AGD transcript is a quarterly e-newsletter sent to each state dental board to make them aware of dental trends and issues across the nation. In the current January 2013 issue it is reported that 38 states (76%) grant hospital privileges to dentists, allowing them to admit patients to hospitals. Twelve (12) states (24%) either do not allow dentists to admit patients or do not have any
specific language in their statutes that grants such privileges.

Related to the Board of Dental Examiners:  

b. CODA Actions from Winter Meeting

Mr. Kobashigawa reported that as a result of action taken by CODA at its February 1, 2013 meeting, many education programs have been notified of the Commission’s “intent to withdraw accreditation” if these programs do not achieve compliance with accreditation standards or policy. Lists of the education programs are available on CODA’s website, www.ada.org/edreports.

c. DANB Newsletter

Mr. Kobashigawa circulated the newsletter to the Board for review.

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

5. Chapter 91, HRS, Adjudicatory Matters:

At 12:50 p.m., Chair Baird recessed the Board’s meeting to discuss the following adjudicatory matter pursuant to Chapter 91, HRS

Guests were excused from the meeting room.

a. In the Matter of the Dental Hygienist’s License of MICHELLE C. PHILLIPS, also known as MICHELLE C. RUTHERFORD. Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board’s Final Order; Exhibits “1” and “2”

It was moved by Ms. Grey, seconded by Dr. Vallejos, and unanimously carried to approve the Board’s Final Order

At 12:54 p.m., the Board came out of Chapter 91, HRS.

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

Executive Session:

At 12:54 p.m., it was moved by Vice Chair Nakagawa, seconded by Dr. Guevara, 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 1:00 p.m., it was moved by Vice Chair Nakagawa, seconded by Dr. Sherman, and unanimously carried to move out of executive session.

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

8. **Correspondence:**
   e. **Letter from Dr. Richard Moreschini requesting waiver of CE requirements**

      Upon a motion by Vice Chair Nakagawa, seconded by Dr. Guevara, it was unanimously carried to not approve Dr. Moreschini’s request for a waiver of the CE requirement, as he does not meet any of the provisions to grant a waiver.

**Approval of Board Meeting Executive Session Minutes of January 14, 2013:**

It was moved by Dr. Guevara, and seconded by Dr. Sherman, and unanimously carried to approve the January 14, 2013 Executive Session minutes as circulated.

10. **Public Comment On Matters Related To the Board Of Dental Examiners:**

    Guest Diane Brucato-Thomas commented that she has not been receiving the minutes at least a week prior to the meeting. She stated when she inquired as to why, she was told because the minutes were not yet approved.

    Mr. Kobashigawa replied that the draft minutes will be mailed or emailed to her prior to the meetings.

11. **Announcements:**

    Confirmation of Mr. Rodney Ching and Staphe Fujimoto, D.D.S.

12. **Next Meeting:**

    Monday, May 20, 2013
    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. Chun, seconded by Dr. Sherman, and unanimously carried to adjourn the meeting at 1:07 p.m.

**Taken and recorded by:**

/s/ Lisa Kalani
Lisa Kalani
Secretary

**Reviewed and approved by:**

/s/ James Kobashigawa
James Kobashigawa
Executive Officer

JK:Ik

4/11/13

[ ] Minutes approved as is.

[ x ] Minutes approved with changes; see minutes of 5/20/13.