

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, July 15, 2013

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., Chair, Dental Member
Rodney Ching, Public Member
Staphe Fujimoto, D.D.S., Dental Member
Paul Guevara, D.M.D., M.D.S., Dental Member
Garrett Ota, D.D.S., Dental Member
Marilyn Nonaka, R.D.H., Dental Hygiene Member
Mark Chun, D.M.D., Dental Member
Melanie Vallejos, D.D.S., Dental Member
Candace Wada, D.D.S., Dental Member
Dennis Nagata, D.D.S., Dental Member
Stephen Levins, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer ("EO")
Sandra Matsushima, Executive Officer
Lisa Kalani, Secretary

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")
Gerraine Hignite, Hawaii Dental Hygienists' Association ("HDHA")
Jill Rethman, Hawaii Dental Hygienists' Association ("HDHA")
Ellie Kelley-Miyashiro, Hawaii Dental Hygienists' Association ("HDHA")
Kelsey Anderson
Jordan Inafuku
Jessica Gima
David Minkin
Denise Balanay, RICO
Lei Fukumura, SDAG-PVL

Carolyn Kuba, University of Hawaii, Manoa
Ann Akamine, University of Hawaii, Manoa
John Hassler, RICO
Daria Loy-Goto, RICO

1. Call to Order: There being a quorum present, Chair Baird called the meeting to order at 10:12 a.m.

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

Executive Session:

At 10:13 a.m., it was moved by Dr. Wada, seconded by Dr. Ota, 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 10:24 a.m., it was moved by Dr. Wada, seconded by Mr. Ching, and unanimously carried to move out of executive session.

2. Additions/ It was moved by Dr. Vallejos, seconded by Dr. Guevara, it was voted on and unanimously carried to add the following to the agenda:

Revisions to Agenda:

Under Ratifications:

- 4.a. Approved Temporary License – Dentist

Community Clinic of Maui

LI, Sheena

Under Correspondence:

- 8.b. E-mail from Dr. Nishime

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

7. New Business:
 - j. Discussion on adoption of proposed amendments to Chapter 16-79, HAR

Mr. Ching addressed representatives from HDA asking what has changed that you would now want to allow dental assistants to perform prohibited practices such as coronal polishing and retraction cords. Also, what impact in your opinion would that have on the public. Mr. Ching also

addressed Ms. Grey asking why she believes it should not be allowed.

Guest Mr. Liebling from HDA stated they believe that coronal polishing is non risk practices and does not involve soft tissue bereavement if done properly. It has been redefined in the rules as a separate definition and believe that process or procedure as defined in the new rules can be done by dental assistants. Regarding retraction cords, HDA feels the same way and wants to remind the Board that dental assistants always work under the direct supervision of a dentist.

Mr. Ching asked how it would be in the public's interest.

Guest Mr. Liebling stated the dental assistant can help the dentist in more ways. Mr. Liebling believes the Board's concern should be with if it hurts the public and HDA believes it does not.

Guest Ms. Grey responded to Mr. Chings question by stating that allowing a dental assistant to perform these procedures can hurt the public. Without proper instruction you could kill a tooth if you overheat it. It may not die instantly, it may not die for two or three years, but severe damage can be done. All this would do is relieve the dentist from hiring a licensed person to do the coronal polishing.

Guest Ms. Kuba stated that she looked at the definition of coronal polishing and it does not state crown only, it states exposed tooth surface. To remind everyone the crown and the root are not of the same structure. The root is able to break down if you polish at high speeds due to the friction and pressure. Therefore, I believe that dental hygienist should retain the function and if dental assistants are to be given this as a permissible function they would need to be properly trained.

Dr. Chun stated this can still be done, one would only need proper training. A dentist can provide training. This should not stymie the Board from making a decision.

Ms. Nonaka asked Chair Baird to call the question if the Board is satisfied that they have enough information to make a decision.

It was moved by Dr. Guevara, seconded by Dr. Vallejos,

and unanimously carried to change the word in section §16-79-9 from college to school and to change the word in section §16-79-69.5 from prosthetic to prosthesis.

It was moved by Ms. Nonaka, seconded by Dr. Vallejos, with Dr. Guevara and Dr. Chun voting nay, and carried by a majority to adopt the amendments to Chapter §16-79, HAR with the two non-substantive changes.

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

3. Approval of
Regular
Board Meeting
Minutes of
May 20,
2013:

It was moved by Dr. Ota, and seconded by Dr. Fujimoto, and unanimously carried to approve the May 20, 2013 Board meeting and Executive Session minutes as circulated.

4. Applications: a. Ratifications

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

Approved Dentist

- ADAMS, Kevin
- BAE, Jin Soo
- BANERJEE, Soumya
- BROWN, Andrew
- CLICK, Vivian
- HSIAO, Chinchai
- PALOLA, Jaclyn M.

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

Approved Dental Hygienist

- EASTMAN, Ashley
- MARTIN, Laura
- EGBERT, Minda
- BATT, Mindy

- BENTO, Lena Ann K.
- CHANG, Traci
- FLIGIEL, Joanne
- OH, Nadiene
- GARDNER, Ne Shone
- UYEHARA, Cheriesse
- CHUN, Courtney
- GOTO, Brianna
- ITA, Ariel
- TERRADO, Pamela
- DONESA, Dollcy
- TSUJI, Kathryn
- COLUCCI, Teal
- DOFA, Kerilyn
- HANDY, Veronica
- HETHERINGTON, Andrea
- KAHAIALII, Mary
- PAET, Marciel
- SAKAMOTO, Chantel
- SOUZA, Kamilla
- HAYES, Krystal
- DIAS, Leesa
- MATLOCK, Pamela
- AGALOOS, Catherine
- WEINSTOCK, Crystal

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

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

- ISHAM, Tiffany
- OH, Nadiene
- CHANG, Traci
- BENTO, Lena Ann K
- TSUJI, Kathryn
- BATT, Mindy
- DIAS, Leesa
- COLUCCI, Teal
- DOFA, Kerilyn
- KAHAIALII, Mary
- PAET, Marcel
- SAKAMOTO, Chantel

- SOUZA, Kamilla
- HANDY, Veronica
- HAYES, Krystal
- HETHERINGTON, Andrea
- DONESA, Dolcy
- TERRADO, Pamela
- ITA, Ariel
- CHUN, Courtney
- GOTO, Brianna
- GARDNER, Ne Shone
- UYEHARA, Cheriesse

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

Approved Temporary License – Dentist

Kokua Kalihi Valley Comprehensive Family Services

- DUBRINSKI, Susan
- GODLA, Christopher
- COLGAN, John
- UWAINE, Erin
- YAMAGUMA, Robin
- INOUYE, Ryan
- SAHOTA, Gurshawn
- HEFFNER, Marcus
- LIU, Cecilia
- VARGAS, Catherine
- CASEY, Paul
- LOW, Kyle
- SEBOURN, Sean
- NAVARRO, Audrey Mae
- CLEMES, Andrew
- SWAN, Ashley
- FEIGENBAUM, Jennafer
- CHUNG, Soojeong
- ARSDALL, Sara
- LI, Sheena

The Queen's Medical Center

- KIEZIK, Eva

Approved Community Service License – Dentist

Aloha Medical Mission

- ZENKER, Kenneth

Koolauloa Community Health and Wellness Center Inc

- HIRADATE, Sena

It was moved by Dr. Guevara, seconded by Dr. Chun, and unanimously carried to defer the following application pending documentation of the active duty military being stationed in Hawaii.

b. Application for Dental Hygiene

- KURTZ, Annie

It was moved by Dr. Guevara, seconded by Dr. Chun, and unanimously carried to defer the following application for evidence of certification in the administration of intra-oral local infiltration and block anesthesia.

- LEUNG, Shelia

It was moved by Dr. Guevara, seconded by Dr. Ota, and unanimously carried to deny the following application on the basis of not having passed the ADEX dental examination.

c. Application for Dentist

- KACEL, Steven

At 10:58 a.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.

5. Chapter 91,HRS, Adjudicatory Matters:
- a. In the Matter of the License to Practice Dentistry of JAY ADAM CAMBRA, D.D.S., DENT 200813-L, Settlement Agreement after filing of Petition for Disciplinary Action and Board's Final Order, Petition for Disciplinary Action Against Dental License; Demand for Disclosure.

It was moved by Dr. Chun, seconded by Dr. Guevara, and unanimously carried to approve the Settlement

Agreement.

At 11:19 a.m., the Board came out of Chapter 91, HRS.

6. Old Business:
- a. Discussion on Amending Board's Application Forms
- Chair Baird called for volunteers for the Applications Committee. Dr. Vallejos and Dr. Ota volunteered to be on the committee.
- The Board deferred discussion on this topic until after the new committee members meet.
- b. Discussion on Board's Policies
- Mr. Kobashigawa reported that the Board made a determination on Botox and dermal fillers at the last meeting and this will be added to the Board's policies.
7. New Business:
- a. Matters Related to the American Association of Dental Boards ("AADB")
- Mr. Kobashigawa reported that Ms. Matsushima and Chair Baird will be attending the 130th AADB Annual Meeting. The EO also reported that AADB is asking for nominees for the third Vice President for the western zone. Nominations should be turned into Dr. Kanna.
 - Mr. Kobashigawa offered The Bulletin to the Board for their information.
- b. Matters Relating to the Central Regional Dental Testing Service ("CRDTS")
- Ms. Nonaka stated that although she did not participate in the recent Dental Hygiene Exam, it is her understanding that two candidates did not pass.
 - Mr. Kobashigawa reported that Drs. Baird and Vallejos, Ms. Nonaka and Mr. Ching will be attending the CRDTS Annual Meeting, August 24, 2013 in Kansas City.
 - Mr. Kobashigawa reported that the April 2013 exam

given in Minneapolis, MN, a hygiene candidate failed to assess the patients' blood pressure and falsified the records that he/she did the blood pressure check of the patient. As a result, the candidate was dismissed from the exam.

- Mr. Kobashigawa distributed the July 14, 2012 minutes of the Dental Hygiene Examination Review Committee to the members for their information.
- Mr. Kobashigawa distributed the Dental Hygiene Occupational Analyses to the members for their information.
- Mr. Kobashigawa reported that CRDTS has been meeting and collaborating with CITA. They are exchanging examiners for each others exams. They will also be scheduling a meeting with WREB.

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

- Chair Baird announced the ADEX 9th Annual Meeting will be held November 8-10, 2013.
- Chair Baird announced the ADEX in Hawaii will be held July 27-28, 2013. Chair Baird will check with the coordinator if Dr. Vallejos can observe the exam.

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

Chair Baird reported he attended the NERB meeting in Maryland at their new headquarters.

e. Legislative Matters

- Mr. Kobashigawa reported Act 185, H.B. No. 1381, C.D.1, Relating to Professional and Vocational Licensing passed. This military spouse act amends the previous statute that was passed in 2012. It clarifies that the military spouse has to be the spouse of an active duty military member or reserve in good standing. The active duty orders must state they are to be stationed in Hawaii for at least one year. A

temporary license can be issued as was specified last year. The big change is if a person gets licensed under this provision, the temporary license is not to exceed five years.

- Mr. Kobashigawa reported Act 182, H.B. No. 1202, S.D.1, Relating to Business passed. This is a catch all under Chapter 436B, Hawaii Revised Statutes, in which a licensee who inadvertently fails to maintain licensing requirements under the appropriately licensing statute who subsequently corrects the failure so that there is no lapse in licensure, will not be guilty of a misdemeanor as the current statute specifies. It is believed that this bill was geared toward contractor licensing in which a contractor is required to maintain current liability and worker's compensation insurance. Often times the department is not notified in a timely manner that the insurance is still current which results in the contractor's license being terminated. However, if the licensee can provide evidence of no lapse in coverage, then they will not be guilty of a violation.

f. Ratification of Approved CE Course

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

- Invisalign Clear Techniques II

g. Election of Vice Chair

Chair Baird called for nominations for Vice Chair.

Ms. Nonaka nominated Dr. Guevara for Vice Chair.

It was moved by Dr. Wada, seconded by Dr. Vallejos and unanimously carried to elect Dr. Guevara to Vice Chair.

h. Discussion on Internet Coupon Offers

Guest Daria Loy-Goto from the Regulated Industries Complaints Office ("RICO") addressed the Board regarding the increase of electronic or internet coupons from companies such as Groupon and Living Social. RICO staff has been working hard to get familiar with the internet and advertising issues and the role that RICO plays in that.

There were a number of Groupon cases that were investigated by RICO on whether or not Groupon advertisements constituted a fee splitting agreement, which is in violation of state law. The understanding is that Groupon has a variety of agreements. Some of them involve a fee that may be paid to Groupon at the time of referral of services. Other agreements are direct advertising agreements that mean you are just posting an ad with the Groupon service. What RICO did was try to determine if there was sufficient information to suggest that the licensee may have been in a fee splitting arrangement with Groupon. In a number of cases warning letters were issued. RICO did speak with some of the licensees who indicated they were not aware that the agreement with Groupon may have violated a specific rule. For those that were issued warning letters, if RICO does not see compliance then they will follow up on the case again.

Dr. Chun asked how fee splitting works with Groupon.

Guest John Hassler from RICO stated typically a practitioner or vendor will contact the coupon site and ask to publicize their services. The coupon site then tells them they can enter into a contract in which you agree to provide so many customers with the goods and/or services that you sell at a discounted rate. The coupon site will advertise the deal and as soon as they sell the number of goods or services that was agreed upon, the deal is closed and their contract is over. The terms cannot be changed and the practitioners are required to honor the deals that were sold. Groupon takes their cut and the practitioners receive the rest.

Ms. Loy-Goto stated RICO has investigated other internet coupon deals with other Boards like Massage and Restaurants deals, so this is something that has been occurring for a while now, but only now reaching out into the healthcare community. When looking at these cases, RICO is not only looking at whether there are fee splitting violations, they are also looking to see if there are any misrepresentation and other violations of the laws and rules that relate to the practice.

Mr. Kobashigawa asked if RICO is receiving copies of the contracts.

Mr. Hassler stated yes.

Guest Loren Liebling of the Hawaii Dental Association (“HDA”) stated these issues have also come through their office. This is a trend that worked fine in non-licensed environments. However, when it went into licensed environments it became an issue of fee splitting because internet coupon sites, specifically Groupon, require a 50/50 split and they collect the money and give it to the dentist. So the dentist does not collect the money from the customer, Groupon does. During the last several months a competing site, Living Social, has reacted by saying they will provide a direct advertising contract by collecting up front whatever the negotiated price is, as an example \$5,000 for 100 coupons and the dentist receives all the money collected thereafter. Groupon however refuses to make modifications to their contracts. Some dental boards have decided the Living Social contract to be simply advertising, whereas the Groupon contract is fee splitting.

Mr. Kobashigawa asked if this type of advertising is against the code of ADA.

Mr. Liebling stated it depends on the language.

Ms. Loy-Goto stated RICO staff is clear on what fee splitting is and what the rule would require.

i. Discussion on Dual Employment with Community Service License

Mr. Kobashigawa informed the Board there is a situation where a licensed Community Service Dentist is full-time at one site and on-call at another site. The statute does not address an individual being at more than one site.

Dr. Guevara asked if the on-call site is also Community Service.

Mr. Kobashigawa stated both sites are Community Service.

Ms. Nonaka asked, whether the statute prevents dual employment from a community service site and a private practice.

Chair Baird stated yes.

Guest Mr. Liebling stated the community service license requires that the doctor be contracted for employment with

one of these community service places. Is the doctor allowed to be contracted with both places?

Mr. Kobashigawa stated that is what the discussion is about.

Mr. Liebling stated it was not said that the doctor was contracted with both places.

Mr. Kobashigawa stated we have letters of employment from both places.

Mr. Liebling stated it was his understanding that in order to receive a community service license one would have to be working as an employee at one of these places.

Mr. Kobashigawa stated the doctor would have an employment contract with both sites.

After further discussion, it was the consensus of the Board that dual employment with a community service license is permissible.

8. Correspondence:
a.

E-mail from Dr. Leesa Miyasato

The Board discussed an email inquiry asking if a hygienist may administer N₂O as prescribed by a licensed dentist.

Mr. Kobashigawa stated pursuant to 16-79-77 specifies that the licensed dentist may administer drugs for nitrous oxide, analgesics sedation by itself or in conjunction with local anesthesia. It does not state a hygienist cannot do it but the requisite is to the dentist performing the procedure and the dentist's credentials.

Ms. Nonaka stated it is her understanding that hygienists are allowed to monitor the use of nitrous oxide. It would however be an additional certification not just an assumed duty.

Dr. Vallejos stated hygienist are allowed to monitor, but the question is can they administer.

Guest Mr. Liebling stated the question is not about monitoring, dental assistants are allowed to monitor in the rules. The question is can a hygienist administer nitrous oxide.

Guest Ms. Brucato-Thomas stated monitoring would be watching only, you do not touch the knobs. If something changes, the hygienist would call the dentist.

Guest Ms. Kelley-Miyashiro stated the hygienist in question contacted her regarding this inquiry. She was told by her doctor that monitoring is the hygienist puts the mask on the patient, the doctor would then turn on the machine, walks out and then the hygienists would monitor by checking with the patient throughout the procedure. If at any point the patient is uncomfortable or does not feel it, the hygienist can adjust the machine and monitor so the patient is at a comfortable level.

Dr. Vallejos stated the hygienist can monitor but not administer.

Dr. Guevara stated monitoring is not turning the knobs. Monitoring is you watch and log things in by time.

Ms. Nonaka stated monitoring is a more passive action.

Mr. Levins stated the statute addresses anesthesia it does not address the application of nitrous oxide.

Dr. Vallejos stated the definition of monitor would be only view, no gesture to touch or adjust.

It was moved by Dr. Guevara, seconded by Dr. Vallejos and unanimously carried that a dental hygienist cannot administer nitrous oxide however can monitor by reporting data but not touching or changing the settings.

b. E-mail from Dr. Nishime

The Board discussed an email inquiry asking for clarification on what is meant by “associated structures” in the use of botox and dermal fillers.

Chair Baird read the Board’s policy statement 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/myofascial pain or other conditions affecting the oral cavity and associated structures as specified in §448.1, HRS. Dental practitioners are

required 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 within the oral cavity. 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.

Dermal fillers may be utilized by general practice dentists provided these treatments are specifically reserved only for intraoral conditions/procedures. Those oral maxillofacial surgeons possessing advanced training in cosmetic maxillofacial surgery may utilize dermal fillers for cosmetic type procedures.

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

a. Matters Related to Commission on Dental Accreditation

Mr. Kobashigawa invited the members to attend the Commission on Dental Accreditation being held August 9, 2013 in Chicago. Dr. Sherman has been nominated to represent AADB.

b. Information on FTC vs North Carolina Dental Board Suit

Mr. Kobashigawa provided an update on the FTC suit against North Carolina Dental Board regarding teeth whitening. It went to the Court of Appeals and the court upheld that the board conduct violated the Sherman Act, therefore ruling in favor of the FTC decision.

c. Matters Relating to the Hawaii Island Oral Health Task Force ("HIOHTF")

- The Newsletter was distributed to the members for their information.
- The next Conference Call Meeting is scheduled for August 22, 2013

d. Matters Related to Dental Assisting National Board

Mr. Kobashigawa reported DANB is looking into having a forum to discuss a new entry level dental assistant certification.

Mr. Kobashigawa offered the DANB 2013 State Fact Booklet to the members for their information.

e. Pu'ulu Lapa'au Annual Conference on August 23, 2013

Mr. Kobashigawa reported there will be a conference on August 23, 2013 titled "Healthcare Reform a Necessary Change, Can We Keep the Art in our Practice". It is geared to physicians, pharmacist, nurses, social workers and psychologist, but there will be important information that is related to all healthcare professions.

10. Public Comment: None

11. Announcements:

a. Appointment of Dr. Dennis Nagata

Chair Baird introduced Dr. Nagata as the new interim dental member. There are still a hygienist and public member vacancies on the Board.

b. Updated Important Notice Regarding Dental Hygiene Exam

The updated exam Important Notice regarding the dental hygiene exam was placed onto the Board's webpage.

12: Next Board Meeting:

Monday, September 16, 2013
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

13. Adjournment: Chair Baird adjourned the meeting at 12:27 p.m.

Taken and recorded by:

/s/ Lisa Kalani

Lisa Kalani,
Secretary

Reviewed and approved by:

/s/ James Kobashigawa

James Kobashigawa,
Executive Officer

JK:lk

7/29/13

[X] Minutes approved as is.

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