HAWAII MEDICAL BOARD
Professional and 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: Thursday, August 9, 2012

Time: 1:00 p.m.

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

Present: Danny M. Takanishi, M.D., Chairperson, Oahu Member
Gerard K. Akaka, M.D., Oahu Member
Peter C. Chin, M.D., Maui Member
Les Barrickman, D.O., Oahu Member
Niraj S. Desai, M.D., Kauai Member
Thomas S. Kosasa, M.D., Oahu Member
Palasi Puletasi, Public Member
Karen E. Sept, D.O., Oahu Member
Carl K. Yorita, M.D., Oahu Member
Shari Wong, Deputy Attorney General ("DAG")
Constance I. Cabral, Executive Officer
Ahlani K. Quiogue, Executive Officer
Wilma Balon, Secretary

Excused: Brian E. Cody, Public Member, Vice-Chairperson
Sharon “Shay” Bintliff, M.D., Hawaii Member

Guests: Jonathan Spiker, Extern, Office of the Attorney General
Lei Fukumura, Special Deputy Attorney General
Marc Pellicciaro, M.D., Applicant
Kevin Kaneshiro, Esq., Counsel for Timothy W. Broker, M.D.
John Hassler, Esq., Regulated Industries Complaints Office
Satori Izutsu, JABSO
Jeris R. Hedges, JABSO
Christopher Flanders, HMA
Vincent Tenorio, PA-C
Call to Order: The meeting was called to order at 1:10 p.m. at which time quorum was established.

The following agenda items were taken out of order.

Adjudicatory Matters: Chair Takanishi called for a recess from the meeting at 1:10 p.m. to discuss and deliberate on the following adjudicatory matters pursuant to HRS Chapter 91.

a. In the Matter of License to Practice Medicine of Timothy W. Broker, M.D.: MED 2008-51-L

Kevin Kaneshiro, Esq., attorney for Dr. Broker appeared before the Board to answer any questions the Board may have.

After discussion, it was moved by Dr. Chin, seconded by Dr. Akaka, and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Board’s Final Order.

b. In the Matter of License to Practice Medicine of Ishmeal Major, M.D.: MED 2011-10-L

After discussion, it was moved by Dr. Barrickman, seconded by Dr. Desai, and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Board’s Final Order.

c. In the Matter of License to Practice Medicine of Carolyn A. Chambers, M.D.: MED 2011-120-L

After discussion, it was moved by Dr. Barrickman, seconded by Dr. Chin, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board’s Final Order.

d. In the Matter of License to Practice Medicine of Neal S. Mazer, M.D.: MED 2010-152-L

The above matter was deferred.


After discussion, it was moved by Dr. Sept, seconded by Dr. Yorita, and unanimously carried to accept the Settlement Agreement
f. **In the Matter of the Application for a Medical License of Michele J. Lea-Stokes, M.D.: MED-LIC-2011-4**

After discussion, it was moved by Dr. Desai, seconded by Dr. Akaka, and unanimously carried to accept and adopt the Hearing Officer’s findings of facts, conclusions of law and proposed decision as the Board’s Final Order and finds and concludes that the Petitioner did not prove by a preponderance of the evidence that the Board’s denial of Petitioner’s application for medical license was improper.

g. **In the Matter of the Application for a Limited and Temporary Medical License of Peter N. Schneider, M.D.: MED-LIC-2011-3**

Following the Board’s review, deliberation and decision in this matter pursuant to Chapter 91, HRS, Chair Takanishi announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 2:08 p.m.

Additions/Revisions to Agenda:

It was moved by Dr. Barrickman, seconded by Mr. Puletasi and unanimously carried to add Richard J. Frachtman, M.D. under Agenda:

Applications:

b. **Applications:**

It was moved by Dr. Desai, seconded by Dr. Akaka, and unanimously carried to enter into executive session at 2:08 p.m. pursuant to Section 92-5(a)(1), HRS, to consider and evaluate personal information relating to individuals applying for professional license cited in Section 26-9, HRS, and pursuant to Section 92-5(a)(4), HRS, to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities.

b. **Applications:**

Abode L. Hamoush, M.D.
Marc D. Pellicciaro, M.D.
Sergio Paradiso, M.D.
Patrick M. Coyne, M.D.
Brett C. Ferguson, M.D.
Ruth L. Pedro, EMT-B
New Business:  
b. Physician Assistant Scope of Practice  

It was moved by Dr. Sept, seconded by Dr. Akaka and unanimously carried to return to the open meeting at 4:13 p.m.

Approval of the June 14, 2012 Minutes:  

It was moved by Dr. Chin, seconded by Mr. Puletasi and unanimously carried to approve the minutes of the regular session and the minutes of the executive session of June 14, 2012 meeting as circulated.

Applications for License/Certification:  
a. Ratifications:  

(i) List  

It was moved by Dr. Barrickman, seconded by Dr. Desai and unanimously carried to ratify the following applications.

Ralph S. Carungi, D.O.  
Bemadette Chan, M.D.  
Priscilla K. Codiga, M.D.  
John L. Derdeyn, M.D.  
David M. Kent, D.O.  
Paul P. Koonings, M.D.  
Michael L. Levy, M.D.  
Mario Moya, M.D.  
Robert S. Nickolisen, M.D.  
Chad D. Smucker, PA-C
It was moved by Dr. Akaka, seconded by Dr. Yorita and unanimously carried to ratify the attached list of individuals (excluding Uy Q. Vu, M.D. and Chan W. Park, M.D. for licensure or certification).

The Chair appointed Dr. Desai as Chair Pro-Tem as he recused himself from the following matters.

With regard to Drs. Vu and Park, it was moved by Dr. Barrickman, seconded by Dr. Chin and unanimously carried, with the exception of Chair Takanishi who recused himself, to ratify the licenses of those two physicians.

It was moved by Dr. Yorita, seconded by Dr. Barrickman and unanimously carried to approve the following applications:

Jonathan Babbitt, M.D.
Steven A. Baldwin, M.D.
James R. Dudley, M.D.
Peter Farkas, M.D.
Eduardo Gil De Rubio, M.D.
Janet M. Horenstein, M.D.
Sig-Linda Jacobson, M.D.
Nazli A. Janjua, M.D.
James W. Roy, M.D.
Jennifer L. Salcedo, M.D.
Juliet Seigle, M.D.
Jay P. Shah, M.D.
James A.G. Sampson, M.D.
Vantuil L. De Souza Varges, M.D.
Richard J. Frachtman, M.D.

Ross Parker, M.D.

After due consideration of the information received, it was moved by Dr. Sept, seconded by Dr. Chin and unanimously carried to approve Dr. Parker’s application for licensure pending verification of completion of his PGY-1 Residency Training.

Abode L. Hamoush, M.D.

The Board reviewed and considered all of the records and files of Dr. Hamoush’s application and the information received from him as well as from other organizations. After due consideration, it was moved by Chair Takanishi, seconded by Dr. Chin to defer Dr. Hamoush’s application for additional information.
Marc D. Pellicciaro, M.D.

After due consideration of the information received and Dr. Pellicciaro's oral testimony at the Board's meeting, it was moved by Dr. Barrickman and seconded by Dr. Desai and carried by a majority to deny Dr. Pellicciaro's application for licensure, basing its decision on the following grounds in the Hawaii Revised Statute ("HRS"), which find support in the records and files of Dr. Pellicciaro's application:

HRS § 453-8(a)(4): Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

HRS § 453-8(a)(5): Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;

HRS § 453-8(a)(6): Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;

HRS § 453-8(a)(9): Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association; and

HRS § 453-8(a)(11): Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege for reasons as provided in this section.

In particular, the Board is extremely concerned with Dr. Pellicciaro's habitual use of and addiction to Fentanyl, a Schedule II controlled substance. The Board is also very concerned that at the time Dr. Pellicciaro was using Fentanyl and suffered a relapse, he was actively practicing medicine. The Board believes that these actions placed Dr. Pellicciaro, and most importantly his patients' safety and care, at great risk. While the Board acknowledges Dr. Pellicciaro's claim that he has been sober since 2010, the Board is
still very concerned that there is not a documented history of sobriety.

Based upon the foregoing, the Board believes that there is cause for denying Dr. Pellicciaro’s license in accordance with HRS §§ 453-8(a)(4), 453-8(a)(5), 453-8(a)(6), 453-8(a)(9), and 453-8(a)(11).

Sergio Paradiso, M.D.

Dr. Paradiso’s application was deferred at the June 14, 2012 meeting.

In reviewing the supporting documents and a Press Release from the Iowa Board of Medicine (“press release”), the Board noted that formal disciplinary charges were filed against Dr. Paradiso by the Iowa Board on July 12, 2012 and that a hearing is scheduled on October 11, 2012 regarding those charges.

After due consideration of the information, it was moved by Dr. Barrickman, seconded by Dr. Yorita and unanimously carried to defer Dr. Paradiso’s application for licensure until a decision has been made by the Iowa Board.

Patrick M. Coyne, M.D.

The Board reviewed and considered all of the records and files of Dr. Coyne’s application and information received from him as well as from other organizations. The records and files reflect, but are not limited to: 1) the disciplinary actions taken against Dr. Coyne’s Missouri medical license; and 2) Dr. Coyne’s failure to disclose the denial of his application for medical licensure by the Missouri Board of Healing Arts (“Missouri Board”).

After due consideration of this information, it was moved by Dr. Desai, seconded by Dr. Barrickman and unanimously carried to deny Dr. Coyne’s application for licensure, basing its decision on the following grounds in the Hawaii Revised Statute (“HRS”), which find support in the records and files of Dr. Coyne’s application:

HRS § 453-8(a)(7): Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine, osteopathy, or surgery;
HRS § 453-8(a)(9): Conduct or practice contrary to the recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;

HRS § 453-8(a)(11): Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege for reasons as provided in this section; and

HRS § 453-8(a)(15): Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.

Brett C. Ferguson, M.D.

After due consideration of the information received, it was moved by Desai, seconded by Dr. Akaka and unanimously carried to approve Dr. Ferguson’s application and issue a Letter of Education.

The Board notes that on Dr. Ferguson’s application dated April 12, 2012, he answered “no” to question 7.d. which asks:

*With regard to any educational training program or facility, state/federal controlled substance agency, local, state, federal or other military professional or disciplinary body or any hospital privileging or credentialing body, grievance committee or any other medical group, including medical societies and specialty boards: Have you ever been denied or withdrawn an application for privileges or membership, or have you ever resigned, surrendered or failed to renew your privileges or membership?* Emphases added.

Contrary to his “no” answer, the Board received information from the University of Michigan, Pediatric Nephrology Fellowship Program (“Program”) and a written synopsis from Dr. Ferguson which clearly indicates that he resigned from the Program. As such, the Board would like to express its concern with Dr. Ferguson’s failure to appropriately answer the question posed on its application.
While the Letter of Education does not constitute formal disciplinary action, it in no way relieves Dr. Ferguson of his responsibility as a physician to provide accurate information at all time.

Neil Clevenger, EMT-P

Mr. Clevenger requested that Kevin Kuntz, M.D., be approved to do an evaluation and assessment of Mr. Clevenger.

To this end, it was moved by the Chair, seconded by Dr. Barrickman and unanimously carried to have Dr. Kuntz:

1. conduct and complete a comprehensive evaluation and assessment of Mr. Clevenger. Such evaluation shall include an assessment as to whether he is able to safely practice as a paramedic as well as recommendations regarding whether any follow-up or treatment plans are necessary.

2. If Dr. Kuntz determines that Mr. Clevenger is not able to safely practice as a paramedic, Mr. Clevenger shall arrange for Dr. Kuntz to specify what conditions(s) would be recommended for him to safely practice as a paramedic.

3. Prior to the Board’s next review of Mr. Clevenger’s application, he shall arrange for Dr. Kuntz to send directly to the Board a written report including an assessment, determinations, and recommendations.

4. Depending upon the written report and recommendations, the Board may deny or approve Mr. Clevenger’s application for a paramedic license. Also depending upon the written report and recommendations, the Board may evaluate what, if any, conditions are warranted for him to practice as a paramedic in Hawaii and impose such conditions.

Unfinished Business:  
a. Rules Revisions

Due to lack of time, this matter was deferred.

New Business:  
a. RICO: Proposed Legislation

John Hassler, attorney, Regulated Industries Complaints Office (“RICO”) appeared before the Board to discuss the above matter.

The Board reviewed the draft legislative Amendments to Chapter 453, Hawaii Revised Statutes (“HRS”). Mr. Hassler advised that this
amendments represent an attempt by RICO: 1) to address the Board’s previous interest in formulating a more detailed summary suspension provision than currently exists in section 436B-23, HRS; and 2) to expand upon the Board’s authority to order a physical and mental examination to cover licensees as well as applicants.

RICO respectfully requests that the Board review and comment on the draft amendments.

After a short discussion, Chair Takanishi advised Mr. Hassler that the Board will take RICO’s requests under advisement.

b. Physician Assistant Scope of Practice

The Board received an e-mail inquiry dated July 19, 2012, regarding a PA’s scope of practice. In response, the Board referred to HRS section 453-5.3 and section 16-85-44.5(a), Hawaii Administrative Rules. On another note, the Board would like to advise that if there is a concern with a PA who may be practicing beyond the PA’s scope of practice, a complaint may be filed with RICO.

c. Visiting Physicians

Chair Takanishi informed members that the Board had discussed the above matter at its April 2012 meeting and determined that a license is needed. The Board also suggested that HMA may want to submit legislation proposing that this type of activity exempted from licensure.

HMA came before the Board this month to ask if the activities of these physicians could be considered as research and therefore there seems to be something missing here.

Christopher Flanders, HMA, Soturo Izutsu, of JABSOM and Jeris R. Hedges, MD, of JABSOM, briefed the Board on the goals of the program.

Due to lack of time, Chair Takanishi thanked HMA for appearing and informed them that meeting cannot continue after 4:30 p.m. in order to comply with Sunshine laws.

Due to lack of time, the following items were deferred.

Advisory Committees:

a. Physician Assistants
b. Emergency Medical Service Personnel
c. Podiatrists

Chairperson’s Report
None.

Adjournment:
It was moved by Dr. Akaka, seconded by Dr. Chin, and unanimously carried to adjourn the meeting at 4:30 p.m.

Next Meeting:
Thursday, September 13, 2012
1:00 p.m.
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Reviewed and approved by:
/s/Constance I. Cabral
(Ms.) Constance I. Cabral
Executive Officer

Taken and recorded by:
/s/Wilma Balon
Wilma Balon
Secretary

CC:wb
8/31/12

(    ) Minutes approved as is.
(X) Minutes approved with changes; see minutes of September 13, 2012.
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