

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 §92-7(b), Hawaii Revised Statutes ("HRS").

Date: Thursday, March 10, 2016

Time: 1:00 p.m.

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

Present: Niraj S. Desai, M.D., Chairperson, Kauai Member
Sharon "Shay" Bintliff, M.D., Vice-Chairperson, Hawaii Member
Gerard K. Akaka, M.D., Oahu Member
Darren K. Egami, M.D., Maui Member
Jone Geimer-Flanders, D.O., Oahu Member
Peter Halford, M.D., Oahu Member
Peter Holt, M.D., Oahu Member
Palasi Puletasi, Public Member
Karen E. Sept, D.O., Oahu Member
Shari Wong, Deputy Attorney General ("DAG")
Ahlani K. Quiogue, Executive Officer
Wilma Balon, Secretary

Excused: Thomas S. Kosasa, M.D., Oahu Member
Maria Chun, Ph.D, Public Member

Guests: Lei Fukumura, Special Deputy Attorney General ("SDAG")
Rob Perez, Star-Advertiser
Steven Levine, M.D.

Call to Order: The meeting was called to order at 1:01 p.m. at which time quorum was established.

Approval of the February 11, 2016 Minutes: It was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and unanimously carried to approve the minutes of the February 11, 2016 meeting as circulated, and to approve the minutes of the executive session of the February 11, 2016 meeting, as follows:

Page 2, first full paragraph, 'mitochondrial...'

Page 2, last paragraph, 'Dr. Ohnemus...'

Additions/
Revisions to
Agenda:

None.

Adjudicatory
Matters:

Chair Desai called for a recess from the meeting at 1:04 p.m. to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, Hawaii Revised Statutes ("HRS").

It was noted that Mr. Perez and Dr. Levin were present for agenda item 4.b. Chair Desai informed the guests that they would be excused from the meeting room during the Board's deliberation and discussion of all adjudicatory matters.

a. In the Matter of the License to Practice Medicine of Luke S. Cesaretti, M.D.; MED 2015-88-L

After discussion, it was moved by Dr. Geimer-Flanders, seconded by Dr. Bintliff, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

Accordingly, pursuant to the terms of the Settlement Agreement, Dr. Cesaretti's Hawaii Medical License, License No. MD-9658, is hereby reprimanded.

b. In the Matter of the License to Practice Medicine of Elaine Tsukayama, M.D.; MED 2015-3-L

After discussion, it was moved by Dr. Geimer-Flanders, seconded by Dr. Halford, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

c. In the Matter of the License to Practice Medicine of Daniel C. Susott, M.D.; MED 2014-110-L

The Board reviewed and deliberated on this matter. Pursuant to Chapter 91, HRS, Chair Desai announced that Board reconvene to its regular Chapter 92, HRS, meeting at 1:29 p.m.

Members of the public were invited back into the meeting room at 1:30 p.m.

In the Matter of the License to Practice Medicine of Daniel C. Susott, M.D.; MED 2014-110-L

After discussion, it was moved by Chair Desai, seconded by Dr. Bintliff, and unanimously carried to accept and adopt the Hearings Officer's Findings of Fact, Conclusions of Law, and issue a Board's Proposed Final Order in this matter.

Additionally, in order to handle this matter expeditiously, it was moved by Chair Desai, seconded by Dr. Bintliff, and unanimously carried to delegate to the Executive Officer the authority to sign the Board's Proposed Final Order, and to provide by certified mail, copies to the affected parties.

Applications for
License/
Certification:

- a. Ratifications:
(i) List

It was moved by Dr. Holt, seconded by Dr. Geimer-Flanders, and unanimously carried to ratify the attached lists of individuals for licensure or certification.

Applications for
License/
Certification:

- b. Applications:

It was moved by Dr. Akaka, seconded by Dr. Egami, and unanimously carried to enter into executive session at 1:32 p.m. pursuant to HRS §92-5(a)(1) to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9, and pursuant to HRS §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.

Travis B. Bond, M.D.
Larry R. Myers, M.D.
Maurice J. Norman, M.D.
Emi Ota, M.D.
Said H. Sana, M.D.
Jonathan A. Sy, M.D.
Yuka Yonebayashi, M.D.
Tariq A. Parwani, PA-C
Jeffrey A. Eisenbach, EMT-B
Benjamin S. Waugh, EMT-B

It was moved by Dr. Sept, seconded by Dr. Bintliff, and unanimously carried to return to the open meeting at 2:13 p.m.

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

Maurice J. Norman, M.D.
Emi Ota, M.D.
Said H. Sana, M.D.
Jonathan A. Sy, M.D.
Yuka Yonebayashi, M.D.
Tariq A. Parwani, PA-C
Jeffrey A. Eisenbach, EMT-B
Benjamin S. Waugh, EMT-B

Travis B. Bond, M.D.

After due consideration of the information received, it was moved by Dr. Geimer-Flanders, seconded by Dr. Akaka, and unanimously carried to defer Dr. Bond's application for licensure.

Larry R. Myers, M.D.

The Board reviewed and considered all of the records and files of Dr. Myers' application and information received from him as well as from other organizations. After due consideration of the information received, it was moved by Dr. Egami, seconded by Dr. Sept, and unanimously carried to approve Dr. Myers' application for medical licensure pending a receipt of either: a completed Hospital Form by an appropriate representative of IHS New Mexico; or a letter from an IHS New Mexico administrative officer or medical officer, verifying Dr. Myers standing at the time he left the facility and/or their inability to provide a written response to the Board's Hospital Form, and the questions posed on that form.

New Business:

a. Addition to the Regulated Industries Complaints Office Medical Advisory Committee

It was moved by Dr. Halford, seconded by Dr. Bintliff, and unanimously carried to approve the addition to the Regulated Industries Complaints Office Medical Advisory Committee.

b. Legislation

Chair Desai stated that it is extremely important for members to participate in all Board matters. However, it is also incumbent on a member to recognize when they cannot be impartial and objective. Members should make full disclosure regarding any possible conflicts of interest, and should recuse themselves if there is an obvious conflict.

Dr. Holt stated that members are consistently faced with possible dilemmas, and should be able to recognize when something can appear to be self-serving.

Dr. Geimer-Flanders agreed with all of the prior statements, and indicated that she had recently attended a course on ethics, disclosure, etc. She went on to relay that as an example, she and the Executive Officer would be having lunch together, but to remain unbiased and impartial so that there are no appearances of her trying to garner favoritism with the Board or its staff, she would be paying for her own lunch.

Dr. Egami stated that at the last meeting he was advised to recuse himself regarding a bill that would directly affect sports medicine physicians, his practice specialty. In particular, the original form of the bill

would exempt sports medicine doctors from licensure so that they may provide continuous care to athletes and coaching staff. He went on to relay that he believes all members may have some kind of conflict.

Dr. Egami disclosed that he was recently elected as the Hawaii Orthopedic Association's President. Additionally, he assisted the proponents of the sports medicine bills with the language of the bill.

Dr. Egami indicated that an exemption from licensure would be esoteric to the specialty. He explained that these physicians are providing services voluntarily and without compensation because of their love of the sport and the athletes.

Discussion followed. Executive Officer Quiogue asked members to provide their positions regarding the following bills. For informational purposes, Board members were provided copies of these measures.

H.B. No. 2335/S.B. 2844 Relating to Physician Discipline

The Board discussed HB2335, H.D.1/SB2844, S.D.1, Relating to Physician Discipline.

The purpose of this bill is to authorize the Board to impose the same disciplinary action against a licensee as was taken by another state or federal agency; establishes conditions for the disciplinary action; and prohibits the licensee from practicing until a final order of discipline is issued if the licensee has been prohibited from practicing in another state.

Executive Officer informed members that HB 2335, HD1 was amended to authorize the Board to summarily suspend a licensee's license within 48 hours of receipt of evidence of revocation, suspension, or other disciplinary action against a licensee by another state or federal agency.

Dr. Halford felt that this particular amendment was a step in the right direction. He went on to express his frustration and dissatisfaction with the current disciplinary process.

Several members voiced similar concerns regarding the current disciplinary process. Specifically, it was noted that the Board is being criticized about a disciplinary process in which it has very limited influence. Members stated that in cases of a settlement, the Board is limited to accepting or rejecting it. It does not have the power to recommend to the Regulated Industries Complaints Office specific sanctions, etc.

Executive Officer stated that while the intent of the amendment is positive, it is not practical, and would be almost impossible to carry out administratively.

DAG Wong commented that there may be logistical details that need to be resolved concerning the Sunshine Law, notice, delegation to a screening committee, and special meetings.

Chair Desai stated that there are numerous limitations placed on the Board because of various statutes. He went on to say that the Board should demand reports from RICO regarding the number of complaints it receives, the reasons for such complaints, and how many of those complaints end in actual disciplinary action or are closed. Furthermore, it was suggested that these reports include the length of time it takes to resolve a matter, from complaint to final disposition.

Dr. Bintliff asked when the Board is notified that a Hawaii-licensed physician is disciplined by another jurisdiction.

Executive Officer Quiogue stated that she is notified by the FSMB within 24-36 hours from the time the disciplinary action is reported to the FSMB by the jurisdiction taking the action.

Discussion followed. It was moved by Dr. Halford, seconded by Dr. Geimer-Flanders, and unanimously carried to submit testimony in support of this bill as it will expedite the disciplinary process when a Hawaii licensee is disciplined by another state or federal agency. However, members stated that they prefer the language of the companion measure, S.B. 2864, S.D. 1.

H.B. No. 2430/S.B. 2675, SD 1 Relating to Licensing

The Board discussed HB2430/SB2675, S.D. 1, Relating to Licensing.

Executive Officer Quiogue informed members that HB2430 was not scheduled for hearing. However, its companion, SB2675, SD1 is moving.

SB2675, SD1 authorizes the Board to impose the same disciplinary action against a licensee as was taken by another state or federal agency, establishes conditions for the disciplinary action, and prohibits the licensee from practicing until a final order of discipline is issued if the licensee has been prohibited from practicing in another state.

Additionally, SB 2675, SD1, proposes to allow the Board, at its discretion, to deny a license to any applicant who has been disciplined by another state or federal agency.

It was moved by Dr. Halford, seconded by Dr. Geimer-Flanders, and unanimously carried to provide testimony in support of Sections 3 and 7 only, as it will expedite the disciplinary process when a Hawaii licensee is disciplined by another state or federal agency. Most importantly, SB 2675, SD1, affords the Board with certain safety mechanisms which

allows it to carry out its legislative mandate to protect the consumers of this State from unsafe or incompetent practitioners.

H.B. No. 2439 Relating to the Hawaii Medical Board

The Board discussed HB2439, Relating to the Hawaii Medical Board.

The purpose of the bill is to adjust the number of physicians and lay persons on the Hawaii Medical Board.

Executive Officer Quiogue reminded members that at its February meeting, the Board was in support with the intent of this measure but expressed its concerns regarding this bill. Specifically, the Board suggested adding two lay members and deleting the reference allowing a county medical society to provide recommendations.

Executive Officer informed members that the bill was not heard.

H.B. No. 1675/S.B. 2615 Relating to Minors

The Board discussed HB1675/SB2615, Relating to Minors.

The purpose of these bills is to prohibit teachers and persons who are licensed to provide professional counseling from engaging in or advertising sexual orientation change efforts on students and persons under eighteen years of age.

Executive Officer informed members that HB 1675 was deferred indefinitely. After discussion, the Board determined that it would take no position on this matter.

H.B. No. 1677 Relating to Marijuana

The Board discussed HB1677, Relating to Marijuana.

The purpose of the bill is to require the Department of Commerce and Consumer Affairs (“DCCA”) to submit an annual report regarding physician discipline concerning medical marijuana certifications and would require the Board to investigate potential misconduct regarding medical marijuana, take appropriate disciplinary action, and submit an annual report.

At its February meeting the Board opposed the intent of this measure and determined that this type of legislation would distract the Board from its mandate, which is to ensure that physicians practice safely, competently, and professionally.

Executive Officer informed members that this bill was not heard.

H.B. No. 1708 Relating to Medicine & Surgery /S.B. 2331 Relating to Sports Medicine

The Board discussed HB1708, HD 1, Relating to Medicine and Surgery and SB2331, Relating to Sports Medicine.

SB 2331 proposes to allow out-of-state licensed physicians affiliated with a sports team or national sport governing body to provide medical services for team members and coaching staff under certain conditions without a Hawaii license to practice medicine. This bill would also allow the Board to enter into agreements with the medical licensing boards of other states to implement the provisions of the bill.

Executive Officer Quiogue informed members that the House Committee on Consumer Protection passed HB1708 with a House Draft 2, which creates a visiting sports physician temporary license for visiting sports physicians.

Members also referred to the FSMB's 2014 "Regulation of Team and Volunteer Physicians – Board-by-Board Overview." Chair Desai indicated that based on the research done by the FSMB, there appears to be more jurisdictions that require some form of licensure versus a full exemption of licensure.

Chair Desai asked why sports medicine physicians are seeking legislation like this and whether these types of physicians are compensated either by the team or sponsors.

Dr. Egami stated that team physicians may receive nominal compensation; however, most do it for the love of the athletes and the sport.

In reference to the FSMB documents, Dr. Egami stated that he would prefer language similar to that of South Carolina, which states:

A physician licensed in another state, territory or jurisdiction of the US or of any other nation or foreign jurisdiction is exempt from the requirements of licensure in SC if the physician:

- a) Holds an active license in the other jurisdiction
- b) Engages in the active practice of medicine in the other jurisdiction;
and
- c) Is employed or designated as the team physician by an athletic team visiting the State for a specific sporting event.

A physician's practice pursuant to this section is limited to members, coaches, and staff of the team by which the physician is employed or designated. A physician practicing in SC pursuant to this section does not have practice privileges in any licensed health care facility and is not authorized to issue orders or prescriptions or to order testing at a medical facility in SC. Code 1976 § 40-47-30(B).

After much discussion, it was moved by Dr. Bintliff, seconded by Dr. Geimer-Flanders, and unanimously carried to submit testimony in support of HB1708, HD2, Relating to Medicine and Surgery, which would require team physicians to obtain a temporary license.

H.B. No. 1740 Relating to Medicine

Executive Officer Quiogue informed the Board that this measure was not heard.

H.B. No. 1949/S.B. 2388 Relating to the John A. Burns School of Medicine Special Fund

The Board discussed HB1949, H.D. 1/SB2388, Relating to the John A. Burns School of Medicine Special Fund.

The purpose of these bills are to permit moneys in the John A. Burns school of medicine special fund to be used for loan repayment for certain health care professionals. Removes the cap on expenditures from the special fund. Removes the sunset date from the physician workforce assessment fee and related requirements for use of moneys in the special fund. It was noted that the repeal date of June 30, 2017 was extended to June 30, 2021.

Members expressed their concern regarding these measures. Specifically, members believe that this assessment fee should be repealed on June 30, 2017, and that any fees assessed should be used to support the Board in its mission to protect the consuming public.

After much discussion, it was moved by Chair Desai, seconded by Dr. Sept, with the exception of Dr. Akaka who abstained from the vote, and carried by a majority to submit testimony as outlined above.

H.B. No. 2233/S.B. 3041 Relating to Health Care Professionals

The Board reviewed HB2233, H.D.2 /SB304, Relating to Health Care Professionals.

The purpose of HB2233, H.D.2, is to require every laboratory director of health care provider, including physicians and osteopathic physicians, to provide the State of Hawaii Department of Health ("DOH) with an electronic mail address ("email") for the purpose of enabling the DOH to provide public health information on communicable disease in the State. This measure would also require certain health care professionals, including physicians and osteopathic physicians, to attend an annual continuing education ("CE") course developed by the DOH on health issues that are unique to the State.

After discussion. The Board determined that it should oppose this measure for the following reasons:

- With regard to setting content standards for CE requirements, the Board believes that a physician should obtain CE within their specialty or area of focus. As such, the Board prefers to give physicians the latitude to determine what those CE should be.
- The Board believes that physicians may obtain information and current updates related to this content specific matter in a more timely manner through the United States Centers for Disease Control or the State of Hawaii Department of Health versus mandating it through Continuing medical education.

With regard to Section 2 of the bill which would require the DOH to obtain email addresses, the Board takes no position.

Based on the above concerns, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and unanimously carried to submit testimony in opposition to Section 1 of the bill only.

S.B. No. 3105, SD1 Relating to Health Care Referrals

Drs. Halford and Akaka recused themselves from the discussion and vote on this matter.

The Board discussed SB3105, S.D.1, Relating to Health Care Referrals.

The purpose of this bill is to clarify that a health care provider who refers patients to facilities in which the health care provider has a financial interest, must provide patients with sufficient information regarding financial incentives for referral in order to allow the patient to make meaningful treatment decisions.

Members noted that their position remains the same, in support of the intent of this measure.

Executive Officer informed members that the remainders of the remainder of the bills were provided for their information only, and are being tracked by staff.

Correspondence:

- a. January 19, 2016, Letter from Kathleen Bennett, DDS, Regarding Physicians providing non-custom oral appliances for the treatment of obstructive sleep apnea (OSA)

The Board was provided this information for informational purposes only.

b. Hawaii Medical Association Inquiry Regarding Itinerant Care

Dr. Geimer-Flanders recused herself from the discussion and vote on this matter.

The Board reviewed Christopher D. Flanders, D.O. email dated March 4, 2016, regarding itinerant care, as well as emails from Dr. Wong dated March 3, 2016, and AMA Opinion 10.01. In particular, Dr. Wong stated that there have been Hawaii-licensed from the mainland, provide a service at a lower fee, and then leave the State without appropriate follow-up care provided to the patient.

After due consideration of this information, the Board declined to opine on individual practice decisions or arrangements between physicians and patients. Alleged violations of informed consent, violations of written agreements, and other instances of unprofessional behavior should be forwarded to the Regulated Industries Complaints Officer and the appropriate professional societies.

Lastly, in accordance with Hawaii Administrative Rules §16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the DCCA.

Advisory
Committees:

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

Chairperson's
Report:

None.

Executive Officer's
Report:

None.

Next Meeting:

Thursday, April 14, 2016
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment:

It was moved by Dr. Akaka, seconded by Dr. Bintliff, and unanimously carried to adjourn the meeting at 3:41 p.m.

Reviewed and approved by:

/s/Ahlani K. Quiogue

(Ms.) Ahlani K. Quiogue
Executive Officer

AKQ:wb
03/24/16

Taken and recorded by:

/s/Wilma Balon

Wilma Balon
Secretary

- Minutes approved as is.
- Minutes approved with changes; see minutes of April 14, 2016.

HAWAII MEDICAL BOARD (03/10/2016-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 18486 DESMOND J <FOO<
MD 18487 RONALD D <LAU<
MD 18488 KATHERINE L <BROWN<
MD 18489 RAYMOND C G <HORTON<
MD 18490 SARAH B <POYEN<
MD 18491 DAVID C <GRIFFIN<
MD 18492 SHIVRAJ J <DESAI<
MD 18493 PETER <VIAVANT<
MD 18494 SHALANDA <WEBB<
MD 18495 RONALD L <TEED<
MD 18496 KRISTY A <BAUMAN<
MD 18497 GREGORY B <MARTIN<
MD 18498 JONATHAN S <TAY<
MD 18499 ROBERT J <PALLOW< JR
MD 18500 CHRISTINE A <LITWIN-SANGUINETTI>
MD 18501 TIMOTHY S <SCHMIDT<
MD 18502 JOSHUA L <PARTNOW<
MD 18503 PAVEL <POLEHNA<
MD 18504 BOBBY K W <KANG<
MD 18505 HERMILO O <JAZMINES<
MD 18506 CHANDRA G R <MARTENS<
MD 18507 NARENDRA K <GARG<
MD 18508 RYAN F <GIBBONS<
MD 18509 SOREN N <CARLSEN<
MD 18510 JENNIFER M <KATADA<
MD 18511 SARAH P <ZIMMERMAN<
MD 18512 RYAN B <LUNDQUIST<
MD 18513 MICHAEL A <JUBOORI<
MD 18514 ROBERT L <MAZOR<
MD 18515 RUSSELL W <UNGER<
MD 18516 SEPAND <SALEHIAN<
MD 18517 ARLENE S <BOBONICH<
MD 18518 AFSHIN <KARIMI<

MDR 7006 MICHAEL A <KANWISHER<
MDR 7007 SALLY R <GREENWALD<
MDR 7008 BRAD <JOHNSON<
MDR 7009 DAVID <RUBY<
MDR 7010 NATHAN M <O'BRIEN<
MDR 7011 MICHAEL <GALANTE<

MDR 7012 DOUGLAS A <ROMNEY<
MDR 7013 KUSH M <DESAI<

AMD 667 RESHMA <LALWANI<
AMD 668 GRETCHEN H <BAILEY-CAHANA<

DOS 1714 GHAZALEH K <MOAYEDI<
DOS 1715 WILLIAM B <HATTEN<
DOS 1716 KRISTIN A G <CHILDERS<

DOSR 367 LUKE F <HUSBY<

EMTB 2689 SASHA-LORRAYE Y <DOORISH<
EMTB 2690 ELENA <VASCAK<
EMTB 2691 DARREN E <MERTZ<
EMTB 2692 ROBERT U <PANTOCA<