

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 13, 2015

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
Maria Chun, Ph.D, Public Member
Darren K. Egami, M.D., Maui 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: Jone Geimer-Flanders, D.O., Oahu Member
Thomas S. Kosasa, M.D., Oahu Member

Guests: Jyothi Gunta, M.D.
Cindy Ellen Russell, Star-Advertiser
Lei Fukumura, Special Deputy Attorney General

Call to Order: The meeting was called to order at 1:00 p.m. at which time quorum was established.

Approval of the July 9, 2015 Minutes: It was moved by Dr. Chun, seconded by Dr. Bintliff, and unanimously carried to approve the minutes of the regular session meeting as circulated, and to approve the minutes of the executive session with the following amendments:

On page 3, under the application of Pamela A. Sebastian, M.D.:

The third paragraph, first sentence should read as follows:

"...for which **she was** placed...."

The fourth paragraph, first sentence should read as follows:

“...Block 8 elective,...”

The second to the last paragraph, should read as follows:

“...1:37 p.m.”

On page 5, under the application of Pamela A. Sebastian, M.D., the third paragraph, should read as follows:

“...Academic Warning is...”

On page 9, under the application of Scott C. Serrano, M.D., the second paragraph, should read as follows:

“...residency/specialty training, which...”

Additions/
Revisions to
Agenda:

It was moved by Chair Desai, seconded by Dr. Holt, and unanimously carried to revise the agenda by adding the following adjudicatory matter:

- c. In the Matter of the Physician’s License of Augusto Chiriboga, M.D.; MED-2015-10-L

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 HRS Chapter 91.

- a. In the Matter of the Emergency Medical Technician Certificate of Derek Bitterman; MED 2014-89-L

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

- b. In the Matter of the Emergency Medical Technician Certificate of Khalil P.A. Salibi; MED 2012-100-L

After discussion, it was moved by Dr. Halford, seconded by Dr. Holt, 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 the Physician’s License of Augusto Chiriboga; M.D.; MED-2015-10-L

After discussion, it was moved by Dr. Halford, seconded by Dr. Egami, and unanimously carried to accept the First Amended Settlement

Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

Following the Board's review, deliberation and decision in this matter pursuant to Chapter 91, Hawaii Revised Statutes ("HRS"), Chair Desai announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:15 p.m.

Applications for
License/
Certification:

a. Ratifications:

- (i) List

It was moved by Dr. Egami, seconded by Dr. Bintliff and unanimously carried to ratify the attached lists of individuals for licensure or certification.

It was moved by Dr. Sept, seconded by Dr. Akaka, and unanimously carried to enter into executive session at 1:17 p.m. pursuant to Section 92-5(a)(1), HRS, to consider and evaluate personal information relating to individuals applying for professional licenses 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.

Applications for
License/
Certification:

b. Applications:

Jyothi Gunta, M.D.

It was moved by Dr. Egami, seconded by Mr. Puletasi, and unanimously carried to return to the open meeting at 2:06 p.m.

Jyothi Gunta, M.D.

After due consideration of the information received, it was moved by Chair Desai, seconded by Dr. Halford, and unanimously carried to defer Dr. Gunta's application. In deferring Dr. Gunta's application, the Board requests that Dr. Gunta provide proof of successful completion and credit of an additional year or 12-months of ACGME or AOA accredited residency training in order to meet its statutory requirements for licensure pursuant to HRS § 453-4(b)(2)(B).

Lastly, the Board would like to remind Dr. Gunta that pursuant to HRS § 436B-9(b), "an application shall be considered abandoned if an applicant fails to provide evidence of continued efforts to complete the licensing process for two consecutive years." In order to avoid the abandonment of her application, Dr. Gunta shall notify the Board periodically of her interest in obtaining a license and meeting its license requirements.

It was moved by Dr. Holt, seconded by Dr. Sept, and unanimously carried to enter into executive session at 2:10 p.m. pursuant to Section 92-5(a)(1), HRS, to consider and evaluate personal information relating to individuals applying for professional licenses 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.

Applications for
License/
Certification:

b. Applications:

Jitendra S. Chadda, M.D.
Mohamed El-Gabalawy, M.D.
Pejman Bady, M.D.
Lydia Bartholomew, M.D.
Adam Corman, M.D.
Tushar K. Desai, M.D.
David R. Edwards, M.D.
Anthony J. Froix, M.D.
Robert M. Labinson, M.D.
David Marx, M.D.
Brent J. Matsuda, M.D.
Marc A. Notrica, M.D.
Elias Said, M.D.
Thomas M. Seay, M.D.
Alexei Zhadkevich, M.D.
Naema A. Osman, M.D.
Jason K. Chillingworth, EMT-B

It was moved by Dr. Egami, seconded by Mr. Puletasi, and unanimously carried to return to the open meeting at 3:03 p.m.

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

Jitendra S. Chadda, M.D.
Mohamed El-Gabalawy, M.D.
Pejman Bady, M.D.
Lydia Bartholomew, M.D.
Adam Corman, M.D.
David R. Edwards, M.D.
Anthony J. Froix, M.D.
Robert M. Labinson, M.D.
David Marx, M.D.
Brent J. Matsuda, M.D.
Marc A. Notrica, M.D.
Thomas M. Seay, M.D.
Jason K. Chillingworth, EMT-B

Tushar K. Desai, M.D.

After due consideration of the information received, it was moved by Dr. Halford, seconded by Dr. Bintliff, and unanimously carried to approve Dr. Desai's application pending receipt of official license verifications from the Ohio State Medical Board and the New Jersey State Board of Medical Examiners.

Elias Said, M.D.

After due consideration of the information received, it was moved by Dr. Egami, seconded by Dr. Bintliff, and unanimously carried to deny Dr. Said's application, basing its decision on the following grounds of the HRS and Hawaii Administrative Rules ("HAR"), which find factual support in the records and files of Dr. Said's application:

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|---------------------|--|
| 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)(7): | Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery; |
| 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; |
| 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;

HRS § 453-8(a)(12): Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician or osteopathic physician, notwithstanding any statutory provision to the contrary;

HRS § 436B-19(8): Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

HRS § 436B-19(12): Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license;

HAR § 16-85-107(a)(1): When the applicant has committed any of the acts for which a license or certificate may be suspended or revoked under sections 453-8 or 463E-6, HRS, or section 16-85-112;

HAR § 16-85-107(a)(2): If the applicant fails to demonstrate that the applicant possesses a good reputation for honesty, truthfulness, fairness, and financial integrity; and

HAR § 16-85-107(a)(3): If the applicant has had disciplinary action taken by any jurisdiction, including any federal or state regulatory body.

The Board considers Dr. Said's conduct to be extremely concerning and contrary to the recognized standards of medical ethics as adopted by the American Medical Association ("AMA"). Specifically, the Board determined that Dr. Said failed to uphold the following AMA Principles of Medical Ethics:

- II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities; and
- III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements that are contrary to the best interests of the patient.

Alexei Zhadkevich, M.D.

After due consideration of the information received, it was moved by Dr. Halford, seconded by Dr. Bintliff, and unanimously carried to defer Dr. Zhadkevich's application for medical licensure.

In deferring Dr. Zhadkevich's application, the Board requests that Dr. Zhadkevich participate, at his sole expense, in a post-licensure assessment program. The post-licensure assessment program shall, at a minimum, evaluate Dr. Zhadkevich's: medical knowledge; clinical judgment; and patient management skills. Following his assessment, a written report must be submitted directly to the Board.

Lastly, Dr. Zhadkevich's application shall be considered abandoned if he fails to provide evidence of continued efforts to complete the licensing process for two consecutive years pursuant to HRS §436B-9.

Naema A. Osman, M.D.

After due consideration of the information received, it was moved by Dr. Sept, seconded by Dr. Bintliff, and unanimously carried to approve Dr. Osman's application for medical licensure and issue a Non-Disciplinary Letter of Education. The Board also requires that Dr. Osman submit a revised application with an affirmative response to question 7.a.

New Business:

- a. Legislation
 - (i) S. 1778 / HR 3081: TELEmedicine for MEDicare Act of 2015 or the TELE-MED Act of 2015

The Board reviewed and discussed S.1778 and HR3081, The TELEmedicine for MEDicare Act of 2015 ("legislation/measure"), which would allow a Medicare provider licensed in *any* state to treat a Medicare beneficiary located in another state through telemedicine without being licensed in the state where the patient is located.

Discussion followed. The Board expressed its concern with these measures. In particular, the passage of any legislation that would expand state medical licensure exceptions for the purposes of telemedicine would significantly undermine the Board's ability to protect the people of Hawaii as it was directed to do so by the Hawaii legislature.

The Board noted that while it is supportive of expanding the use and availability of telemedicine in a safe and accountable manner, it cannot support legislation which will significantly limit its ability to carry out its mission.

Chair Desai reminded members that the Board has previously opined that the practice of medicine occurs where the patient is located. Therefore, the Board currently has jurisdiction, through the licensing process, over any physician who provides care to patients within the State. However, if either of these measures were enacted, the Board will have no ability to ensure that the physician providing the medical care to Hawaii residents (1) have met the qualifications for licensure; or (2) will be investigated or receive disciplinary action if a physician were to practice in a substandard manner or cause harm to a Hawaii resident.

Chair Desai stated that it would be burdensome and challenging for Medicare patients to research the qualifications or disciplinary history of their physician or to file a complaint with a faraway state medical board.

Members stated that along with the Federation of State Medical Boards ("FSMB"), they are committed to continuing to seek methods to streamline the licensing process for physicians, obtain data regarding the physician workforce and shortage areas, and promote access to quality care by expanding the availability of telemedicine in a safe and accountable manner. Members stated that they believed that the FSMB's Interstate Medical Licensure Compact is a viable option for medical license portability and telemedicine.

Members indicated that they believe S.1778 / HR3081 would significantly undermine their ability to protect the people of Hawaii and could compromise patient safety by making it less likely that improper or unprofessional care is identified, reported to the appropriate state medical board, and thoroughly investigated and prosecuted.

Scope:

a. Non-trained Service Animals Such as and Emotional/Comfort/Psychiatric Support Animal

The Board reviewed and discussed an email dated July 6, 2015, from Kristen Foster regarding whether a physician (license number prefix "MD") or osteopathic physician (license number prefix "DOS") may: write letters on behalf of their patients to allow them to travel with a non-trained service animal such as an emotional, comfort or psychiatric support animal; and treat an individual for a medical or emotional disability.

After due consideration of Ms. Foster's letter, the Board informally opined that anyone engaged in the practice of medicine, as defined by HRS § 453-1, requires a license in the state of Hawaii. HRS § 453-1, defines the practice of medicine as:

For the purposes of this chapter the practice of medicine by a physician or an osteopathic physician includes the use of drugs and medicines, water, electricity, hypnotism, osteopathic medicine, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject;

provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person's attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person.

This section shall not amend or repeal the law respecting the treatment of those affected with Hansen's disease.

For purposes of this chapter, "osteopathic medicine" means the utilization of full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological, and other electromagnetic emissions, and placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationships by the clinical application of the osteopathic diagnosis and therapeutic skills for the maintenance of health and treatment of disease.

The Board noted that based on the information Ms. Foster provided and the aforementioned definition, a Hawaii licensed-physician or Hawaii license-osteopathic physician may write these types of letters.

Lastly, in accordance with HAR § 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 Department of Commerce and Consumer Affairs.

b. Procedures Provided at Medi-spas or Similar Facilities without First Obtaining a Beauty Shop License

The Board reviewed Mr. Ross emails dated July 22, 2015 and July 27, 2015, regarding whether "a beauty shop license [must be obtained by] medi-spas in order to provide cosmetic/esthetic procedures such as: facials, chemical peels, waxing, and tinting. "

The Board also considered an email dated July 22, 2014, from Ms. Laureen Kai, Executive Officer, Hawaii Board of Barbering and Cosmetology.

Discussion followed. It is the Medical Board's informal non-binding interpretation that if cosmetic/esthetic procedures are being provided in an establishment such as medi-spas, then the Board of Barbering and Cosmetology's laws and rules prevail. Accordingly, a medi-spa must obtain the appropriate beauty shop license.

Lastly, pursuant to HAR §16-201-90, this informal interpretation is for informational and explanatory purposes only and is not an official opinion or decision. Thus, it shall not be viewed as binding on the Medical Board or the Department.

Advisory
Committees:

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

Chairperson's
Report:

- a. FSMB Board of Directors State Medical Board Liaison Program

Chair Desai appointed Dr. Holt to serve as the State Board Liaison Representative for the Hawaii Board.

As the Board's Liaison, Dr. Holt will have the opportunity to discuss matters that are important to the Board, voice concerns, share ideas, and/or request information on specific "hot topic" issues.

Executive Officer's
Report:

None.

Next Meeting:

Thursday, September 10, 2015
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment:

It was moved by Dr. Bintliff, seconded by Dr. Egami, and unanimously carried to adjourn the meeting at 3:20 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/Ahlani K. Quiogue

/s/Wilma Balon

(Ms.) Ahlani K. Quiogue
Executive Officer

Wilma Balon
Secretary

AKQ:wb
8/28/15

- () Minutes approved as is.
- (X) Minutes approved with changes; see minutes of September 10, 2015.

HAWAII MEDICAL BOARD (8/13/2015-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 18221 JOHN C <HEAPHY<
MD 18222 ROY L <MOSS<
MD 18223 CAITLIN E <STIGLMEIER<
MD 18224 MARYE L <MCCROSKEY<
MD 18225 ANDREW M <NORRIS<
MD 18226 NADIA V <PELAEZ<
MD 18227 LIN <MIAO<
MD 18228 VICTOR F <SULIT<
MD 18229 OLIVIA T <HUNTE<
MD 18230 DANIEL S <ROY<
MD 18231 HUY <NGO<
MD 18232 DOUGLAS P <TAPPER<
MD 18233 HENRY H <KALIR<
MD 18234 CHRISTIAN C <SCHRADER<
MD 18235 ANALIZA T <JUSTO<
MD 18236 NATHAN <PRIDDY<
MD 18237 THOMAS J <STEIDLER<
MD 18238 DAVID Y S <PARK<
MD 18239 JOHN K <PAGE<
MD 18240 GEORGE L <MURRELL<
MD 18241 DWIGHT J <JOHNSON<
MD 18242 PATRICIA A <COMBS<
MD 18243 MIRIAM J <SEITZ<
MD 18244 JAMES R <TEMPLEMAN<
MD 18245 STEVE W <WANG<
MD 18246 PAMELA A <SEBASTIAN<
MD 18247 MELODIE J <MOPE<
MD 18248 ROBERT C <ATKINS<
MD 18249 THOMAS C <KELLER<
MD 18250 RICHARD L <HOLVE<
MD 18251 TIN TOAN <NGUYEN<
MD 18252 STANFORD R <PLAVIN<
MD 18253 JANE N <SELLS<
MD 18254 MICHAEL J <NISCO<
MD 18255 TODD A <GLAUSER<
MD 18256 JINGWEN <HOU<
MD 18257 DAN M <HECIMOVICH<
MD 18258 ESTHER W C <WONG<
MD 18259 SARAH A <APONTE<
MD 18260 NANCY L <COVINGTON<
MD 18261 JAMES K <GRIFFETH<

MD 18262 ERIC J <NORDSIECK<
MD 18263 LESLIE D H <CHO<
MD 18264 JOHN A <DURKAN<
MD 18265 KORD S <HONDA<
MD 18266 SURINDER <KUMAR<
MD 18267 LAWRENCE G <LAREAU<
MD 18268 RAINIER D D <BAUTISTA<
MD 18269 KAI <MATTHES<
MD 18270 TANYA M <HERRERA<
MD 18271 DAVID A <STEVENSON<
MD 18272 DANIEL M <CHEVY<
MD 18273 DANIEL E C <BOYCE<
MD 18274 DONG H <KIM<
MD 18275 PATRIZIA <RICCARDI<
MD 18276 PATRICK M <ELLISON<
MD 18277 MOJGAN <KAVEH-TALLEY<
MD 18278 RICHARD R <RIEMERSMA<
MD 18279 TRAVIS K <WATAI<
MD 18280 PAUL S <BEIGHLEY<
MD 18281 KENNETH C <SCHWAB<

MDR 6951 CAMERON H <WYNN<
MDR 6952 KATELYN R <MORETTI<
MDR 6953 CHRISTOPHER R <CLARK<
MDR 6954 CARYNNE M <FOX<
MDR 6955 STEPHANIE <KONG<
MDR 6956 ASHISH <PREMKUMAR<

DOS 1680 JEFFREY T <HAINSWORTH<
DOS 1681 MYLES K <KAWAMURA<
DOS 1682 BONNIE B <HUNT<
DOS 1683 WILLIAM A <KELLEY<
DOS 1684 NANCY M <BASTAWROS<
DOS 1685 NICHOLAS K <MURAOKA<
DOS 1686 ANTONIO <ZAMORANO<
DOS 1687 DEEPAK K <REDDY<
DOS 1688 PAULA E <YOUNG<
DOS 1689 KATIE S <MELTON<
DOS 1690 MITCHELL A <LEGG<
DOS 1691 MARIA <ARGANOZA-PRIESS<

AMD 619 JESSICA K <REY<
AMD 620 CLETUS N <IBE<
AMD 621 DAVID J <MENDONSA<
AMD 622 CAMERON A <DAVIS<
AMD 623 JEREMY S <JOHNSTON<
AMD 624 CYNTHIA M <MCPHERSON<
AMD 625 KELSEY LYN <BROWN<
AMD 626 MALAIKA K <BAYER<
AMD 627 AMANDA M <GOULD<
AMD 628 JOSH <KELLER<
AMD 629 GABRIEL B <WOFFORD<
AMD 630 SARAH A <PALM<
AMD 631 MARK A <GLOBERMAN<
AMD 632 JOSEPH M <BRACALENTO<
AMD 633 JENNIFER L <BOWMAN<
AMD 634 ROBIN M <WAGGONER<
AMD 635 BERNARD <TONEY< JR
AMD 636 JENNIFER L <LEHNER<
AMD 637 ANNE M <FISCHER<
AMD 638 LEAH M <FLEETWOOD<

EMTP 2095 MATTHEW S <MAXWELL<

EMTB 2648 NOELANI <MCMAHON<
EMTB 2649 MALEK <HURD<
EMTB 2650 PAUL <TAGARIELLO<
EMTB 2651 DAVID W <PULELLA<
EMTB 2652 MARK <VOILES<