

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, November 13, 2014

Time: 1:00 p.m.

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

Present: Sharon "Shay" Bintliff, M.D., Vice-Chairperson, Hawaii Member
Gerard K. Akaka, M.D., Oahu Member
Maria Chun, Ph.D, Public Member
Peter Halford, M.D., Oahu Member
Peter Holt, M.D., Oahu Member
Thomas S. Kosasa, 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: Niraj S. Desai, M.D., Chairperson, Kauai Member
Jone Geimer-Flanders, D.O., Oahu Member

Guests: Chad Cryer, M.D., Applicant
Brad Bliss, Counsel for Marvin Padnick, M.D.
Lei Fukumura, Special Deputy Attorney General

Call to Order: The meeting was called to order at 1:05 p.m. at which time quorum was established.

Approval of the October 16, 2014 Minutes: It was moved by Dr. Halford, seconded by Dr. Akaka, and unanimously carried to approve the minutes of the regular session meeting as circulated, and to approve the minutes of the executive session meeting with the following amendments:

On page 1, the last paragraph should read as follows:

'...contract, which then expired on...'

On page 10, all references to 'briefed the Board on this application which Board members reviewed' should be amended to reflect 'briefed the Board on this application, which Board members reviewed'

Additions/
Revisions to
Agenda:

None.

Adjudicatory
Matters:

Dr. Bintliff called for a recess from the meeting at 1:06 p.m. to discuss and deliberate on the following adjudicatory matters pursuant to HRS Chapter 91.

- a. In the Matter of the License to Practice Medicine of Fathalla M. Mashali, M.D.; MED 2014-26-L

After discussion, it was moved by Dr. Kosasa, seconded by Dr. Sept 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 License to Practice Medicine of Michael D. Massey, D.O.; MED 2011-118-L

After discussion, it was moved by Dr. Sept, seconded by Mr. Puleasi and unanimously carried to accept and adopt the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order. Furthermore, members declined to review the additional information submitted by Dr. Massey after the administrative hearing had concluded.

Following the Board's review, deliberation and decision in this matter pursuant to Chapter 91, HRS, Dr. Bintliff announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:14 p.m.

Applications for
License/
Certification:

It was moved by Dr. Kosasa, seconded by Dr. Holt, and unanimously carried to enter into executive session at 1:14 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.

The following agenda item(s) were taken out of order

Request to Remove
Report Filed with the
National Practitioner
Data Bank:

- d. Marvin B. Padnick, M.D.

The Board resumed to its regular agenda item(s)

b. Applications:

Chad M.T. Cryer, M.D.

It was moved by Dr. Sept, seconded by Dr. Holt and unanimously carried to return to the open meeting at 2:03 p.m.

Chad M.T. Cryer, M.D.

After due consideration of the information received, as well as oral testimony provided by Dr. Cryer, it was moved by Dr. Halford, seconded by Dr. Kosasa and unanimously carried to approve Dr. Cryer's application for licensure subject to certain conditions, basing its decision on the following grounds of the Hawaii Revised Statutes ("HRS"), which find support in the records and files of Dr. Cryer's application:

- HRS § 436B-19(4): Practicing the licensed profession or vocation while impaired by alcohol, drugs, physical disability, or mental instability;
- HRS § 436B-19(7): Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation; and
- HRS § 436B-19(9): Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation.

As such, based on the foregoing, the Board hereby imposes the following conditions to Dr. Cryer's conditional license:

1. Dr. Cryer's conditional license shall remain conditioned for a period of no less than five (5) years from the date of the conditional license letter, or a length to be determined by Pu`ulu Lapa`au, Hawaii Program for Healthcare Professionals ("Pu`ulu Lapa`au").
2. Dr. Cryer shall, at his sole expense, enter into, and remain in a monitoring contract with Pu`ulu Lapa`au. During the period of the contract he shall refrain from using drugs, except as provided by his treating physician, and alcohol. Dr. Cryer shall arrange for Pu`ulu Lapa`au to send quarterly reports to the Board regarding Dr. Cryer's compliance.
3. Dr. Cryer's first quarterly report shall be due to the Board within 120 days.

4. If at any time Pu`ulu Lapa`au determines that Dr. Cryer is not in compliance with the monitoring contract, Dr. Cryer shall immediately notify the Board and immediately cease practicing medicine until Pu`ulu Lapa`au specifies to the Board what conditions, if any, it recommends for Dr. Cryer to safely resume the practice of medicine. Depending upon Pu`ulu Lapa`au's written report and recommendations, the Board may evaluate, what, if any, further conditions are warranted for Dr. Cryer to practice medicine and impose such conditions on his license. If Dr. Cryer fails to refrain from using drugs or alcohol, the Board also will consider whether to suspend, revoke, or otherwise discipline his license.
5. Should Dr. Cryer wish to have any condition removed from his conditional license, he shall make a request in writing to the Board, at which time the Board would consider such request. When doing so, Dr. Cryer shall provide evidence of full compliance with the conditions.

It was moved by Dr. Holt, seconded by Dr. Akaka, and unanimously carried to enter into executive session at 2:07 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:

Edward P. Bahk, D.O.
John R. Alm, M.D.
Laurence J. Anderson, D.O.
John S. Chiara, M.D.
Laura A. Flath, M.D.
Lee D. Jacobs, M.D.
Mark W. Levin, M.D.
Nicolas P. Limthong, M.D.
Mark O. McInturff, M.D.
Martin L. Meyers, M.D.
Victor T. Nicolas, M.D.
Philip G. Owen, M.D.
Kenneth R. Wilcox, M.D.
Grace Cheng, EMT-B
Paul L. Goulart, EMT-P
Christopher D. Gouveia, EMT-B
Christopher K. Kelly, EMT-P
Kevin R. Malone, EMT-B
Elik Vodovoz, EMT-B

Palmer L. Winters, EMT-B

c. Request to Remove A Ground for Denial

Rajitha Johnson, M.D.

It was moved by Dr. Halford, seconded by Dr. Holt and unanimously carried to return to the open meeting at 3:15 p.m.

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

John R. Alm, M.D.
Laurence J. Anderson, D.O.
Laura A. Flath, M.D.
Lee D. Jacobs, M.D.
Mark W. Levin, M.D.
Nicolas P. Limthong, M.D.
Victor T. Nicolas, M.D.
Philip G. Owen, M.D.
Paul L. Goulart, EMT-P
Christopher D. Gouveia, EMT-B
Christopher K. Kelly, EMT-P
Kevin R. Malone, EMT-B
Elik Vodovoz, EMT-B
Palmer L. Winters, EMT-B

Edward P. Bahk, D.O.

It was moved by Dr. Sept, seconded by Mr. Puletasi, and unanimously carried to defer Dr. Bahk's application for osteopathic licensure pending a comprehensive evaluation from Pu`ulu Lapa`au, Hawai`i Program for Healthcare Professionals.

John S. Chiara, M.D.

After due consideration of the information received, it was moved by Dr. Holt, seconded by Dr. Kosasa and unanimously carried to defer Dr. Chiara's application pending additional information.

Mark O. McInturff, M.D.

After due consideration of the information received, it was moved by Dr. Halford, seconded by Dr. Holt and unanimously carried to approve Dr. McInturff's application for medical licensure, provided that he submits a revised application, and issue him a Non-Disciplinary Letter of Education due to his failure to provide accurate information on his application.

Martin L. Meyers, M.D.

After due consideration of the information received, it was moved by Dr. Holt, seconded by Dr. Sept and unanimously carried to deny Dr. Meyers' application for medical licensure, basing its decision on the following grounds of the Hawaii Revised Statutes ("HRS"), which find factual support in the records and files of Dr. Meyers'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)(7): Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine, osteopathy, or surgery;
- HRS § 453-(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.

The Board considers Dr. Meyers' conduct as referenced in several documents to be extremely concerning and contrary to the recognized standards of medical ethics as adopted by the American Medical Association ("AMA"). Specifically, the Board believes that Dr. Meyers 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.

Kenneth R. Wilcox, M.D.

It was moved by Dr. Halford, seconded by Dr. Akaka, and unanimously carried to defer Dr. Wilcox's application for medical licensure pending additional information.

Grace Cheng, EMT-B

It was moved Dr. Holt, seconded by Dr. Akaka, and unanimously carried to approve Ms. Cheng's application for Emergency Medical Technician.

Request to a remove
Ground for denial:

- c. Rajitha Johnson, M.D.

After due consideration of the information received, it was moved by Dr. Sept, seconded by Dr. Kosasa and unanimously carried to grant Dr. Johnson's request to withdraw/dismiss §453-8(a)(15), Hawaii Revised Statutes as one of the grounds for denial of Dr. Johnson's application for medical licensure. However, all other statutory grounds cited in the Board's denial letter September 25, 2014, remain unchanged.

Request to Remove
Report Filed with the
National Practitioner
Data Bank:

- d. Marvin B. Padnick, M.D.

The Board reviewed and considered Mr. Bliss' letter dated October 24, 2014 and relevant sections of the National Practitioner Data Bank ("NPDB") Guidebook, his letter dated November 7, 2014 and Exhibits "A – D-4", as well as Mr. Bliss' oral presentation, requesting that the Board immediately file a void report with the NPDB concerning the denial of Dr. Padnick's application.

In considering Mr. Bliss' request, the Board reviewed: 1) Chapter E, pages E-1 to E-6, and E-24 and E-25, of the September 2001 NPDB Guidebook; 2) Chapter E, page E-10 of the February 2000 Healthcare Integrity Data Bank ("HIPDB") Guidebook; and 3) Title 45 CFR §60.9, **Reporting licensure and certification actions taken by states.**

After due consideration of this information, it was moved by Dr. Halford, seconded by Dr. Kosasa to deny Mr. Bliss' request to void the report filed with the NPDB regarding Dr. Padnick's denial of licensure based on Title 45 CFR §60.9, which states in relevant part, that:

(a) *What actions must be reported.* Each state is required to adopt a system of reporting to the NPDB actions, as listed below, which are taken against a health care practitioner, health care entity, provider, or supplier (all as defined in §60.3 of this part). The actions taken must be as a result of formal proceedings (as defined in §60.3). **The actions must be reported are:**

(3) Any other loss of license or loss of the certification agreement or contract for participation in a government health care program, or the right to apply for, or renew, a license or certification agreement or contract of the health care practitioner, health care entity, provider or supplier, whether by operation of law, voluntary surrender, nonrenewal (excluding non-renewals due to nonpayment of fees, retirement, or change to inactive status), or otherwise;

(4) **Any negative action or finding by such authority, organization, or entity regarding the health care practitioner, health care entity, provider, or supplier.**

Emphases added.

Furthermore, Chapter E, page E-10 of the HIPDB Guidebook, states under the section entitled “**Examples of Reportable Actions**,” the following adverse licensure actions must be reported to the HIDPB: “**The denial of an application for licensure (initial or renewal).**” (Emphases added.)

Applications for
License/
Certification:

- a. Ratifications:
(i) List

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

New Business:

- a. Services Provided at Medi-Spas / MedSpas / Medical Spas:

The Board considered the Board of Barbering and Cosmetology’s inquiry regarding services provided at medi-spas, medspas, or medical spas. Specifically, the Board was asked whether the following procedures are considered the practice of medicine:

1. Use of Light and Heat Energy Devices;
2. Chemical Peels;
3. Microdermabrasion;
4. Spray/Airbrush Tanning; and
5. Dermapen/Micro Needling

After due consideration of the inquiry, and specific information regarding each procedure, the Board informally opined that unless authority is granted by a statute or administrative rule other than those included in 453, Hawaii Revised Statutes, and Chapter 16-85, Hawaii Administrative Rules (the laws that govern the practice of medicine in Hawaii), the use of light and heat energy devices; chemical peels; microdermabrasion; and Dermapen/microneedling constitute the practice of medicine. However, the Board also informally opined that spray/airbrush tanning does not constitute the practice of medicine. The Board further informally opined that the delegation of these procedures may only be made to those professions which are regulated by the State of Hawaii.

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 Department of Commerce and Consumer Affairs.

Advisory
Committees:

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

Chairperson's
Report:

Dr. Bintliff reminded members that a Public Hearing will be conducted on December 11, 2014 prior to the Board meeting. The purpose of this public hearing is so that the Board may consider the proposed amendments to §16-85-8(e), Hawaii Administrative Rules, which would eliminate the requirement that all applicants shall have passed all three parts of the USMLE within seven years.

Executive Officer's
Report:

Executive Officer Quiogue requested that the Board consider delegating to staff the authority to approve applications of EMT-B and EMT-P applicants who graduated from out-of-state EMT programs provided that they meet all licensure requirements.

DAG Wong stated that in order for the Board to consider certain delegations, those delegations must be in accordance with HRS § 436B-8. She stated further that delegations must be ministerial in nature, and should not require staff to exercise its expertise and discretion.

Executive Officer Quiogue stated that she would bring an application to the Board for its consideration if there were circumstances that required the exercise of her discretion. Furthermore, if she felt uncomfortable

about ministerially carrying out the Board's delegation, she would bring the application to the Board.

After thoughtful discussion, it was moved by Dr. Kosasa, seconded by Dr. Akaka, and unanimously carried to delegate to the Executive Officer, in accordance with HRS § 436B-8, the authority to review and issue licenses to EMT-B and EMT-P applicants who have graduated from an out-of-state EMT program, and meet all licensure requirements, and whose records and files do not include substantive derogatory information

Adjournment: It was moved by Mr. Puletasi, seconded by Dr. Holt, and unanimously carried to adjourn the meeting at 3:35 p.m.

Next Meeting: Thursday, December 11, 2014
1:00 p.m.
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Reviewed and approved by:

/s/Ahlani K. Quiogue

(Ms.) Ahlani K. Quiogue
Executive Officer

AKQ:wb
12/2/14

Taken and recorded by:

/s/Wilma Balon

Wilma Balon
Secretary

- () Minutes approved as is.
(X) Minutes approved with changes; see minutes of December 11, 2014.

HAWAII MEDICAL BOARD (11/13/2014-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 17828 SAMMY <CHITAYAT<
MD 17829 ELLEN <CHUANG<
MD 17830 SUSAN A <FRENCH<
MD 17831 ROBERT G <DOE<
MD 17832 EDITH D <CANBY-HAGINO<
MD 17833 ISMADELYNE <ANTOINE<
MD 17834 ALEKSANDRA J <ZABROCKI<
MD 17835 KAREN D <YOUNG<
MD 17836 PATRICIA M <MAYER<
MD 17837 ANNE E <DEMPSEY<
MD 17838 SANDHYA V <KANADE<
MD 17839 SUZANNE <BEN-KANE<
MD 17840 SRIKALA <AYYAGARI<
MD 17841 JULIE E O <PELLETIER<
MD 17842 DAVID <WILLIAMS<
MD 17843 ARTURO <AGUILAR<
MD 17844 TONY T <CHOI<
MD 17845 CRISTINA <GUERRA<
MD 17846 EVAN C <EWERS<
MD 17847 ARTUR <KARIMOV<
MD 17848 NATASCHA W H <CHING<
MD 17849 DOUGLAS P <ORSEL<
MD 17850 MARIA R <VER<
MD 17851 ROY M <MATSUYAMA<
MD 17852 CHRISTINE M <BRAUN<
MD 17853 BENJAMIN H <EVENCHIK<
MD 17854 JANET <CHIANG<
MD 17855 JENNIFER M <ZALLA<
MD 17856 SUNGJIN A <SONG<
MD 17857 ANITA <ANKOLA<
MD 17858 VLODOMYR <STATSEVYCH<
MD 17859 SHAWN S <EVERTS<
MD 17860 DAVID A <PETERSEN<
MD 17861 SARAH K <ANISOWICZ<
MD 17862 LESLIE A <TEEPLE<
MD 17863 DAVID H <BERNS<
MD 17864 NICHOLAS D <ALTMAN<
MD 17865 MARK E <SHOGRY<
MD 17866 PATRICIA L <BORMAN<
MD 17867 VERN R <WILLIAMS<
MD 17868 RANDALL J <COUSINS<
MD 17869 LINDA A <GUNSHEFSKI<
MD 17870 MARK A <HENZLER<
MD 17871 MARTIN L <HOPP<
MD 17872 MURAD A <SUNALP<

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MD 17873 CYRUS <YAGHMAI<
MD 17874 ANATTE E <KARMON<
MD 17875 MICHAEL D <LAM<
MD 17876 STEVEN J <THORUP<
MD 17877 ANGELA J <MCCARTHY<
MD 17878 ZACHARY J <BEVIS<
MD 17879 JI YOON <YOON<
MD 17880 CHARLES K <TASHIMA<
MD 17881 CHRISTOPHER A <PEDERSON<
MD 17882 STEVEN A <KLEIN<
MD 17883 DONNA Y Y <DENG<
MD 17884 EDWARD J <FORD<
MD 17885 JENNY H <WELHAM<
MD 17886 HELEN A <MARKOWSKI<
MD 17888 DAVID L <BROWN<
MD 17889 RICHARD D <NGUYEN<
MD 17890 DAVID J <ENGLE<
MD 17891 AHMAD <HAMAD<
MD 17892 ROBERT H <PANTELL<
MD 17893 SCOTT P <PELLETIER<
MD 17894 ELIZABETH <GARCIA-JANIS<
MD 17895 LUIS N <ENRIQUEZ<
MD 17896 EMILY Y <CHAN<
MD 17897 RICHARD J <RENNER<

MDR 6766 QUY T <NGUYEN<
MDR 6767 JAMES R <BOULDEN<
MDR 6768 WESLEY M <STONELY<
MDR 6769 ALEX C <FOX<
MDR 6770 VICTORIA <MANUELLI<
MDR 6771 JONATHAN L <FROMMELT<
MDR 6772 JOSHUA A <SHULMAN<
MDR 6773 NAMITA <JAYAPRAKASH<

AMD 580 JOY A <GORDON<
AMD 581 NICOLE L <DUSENBURY<
AMD 582 DAWN L <SEXTON<
AMD 583 TYRE M <CONREY<
AMD 584 KRISTINE YVETTE B <PALILEO<
AMD 585 NADIA P <HERRERA<
AMD 586 TIARE K <HARTMAN<
AMD 587 ERIN E <BAXTER<

DOS 1618 JEFFREY S <FOUNTAIN<
DOS 1619 REUEL M <GREGORY<

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DOS 1620 MARK J <KROPINAK<
DOS 1621 LISA J <PARSONS<
DOS 1622 J PATRICK <BERTROCHE<
DOS 1623 NATALIE J <MURTA<

PO 214 TRAVON <OWENS<

EMTP 2069 MICHAEL L <MEKKERS<
EMTP 2070 JORDAN D <MAEDA<
EMTP 2071 JEREMY <TEKURIO<
EMTP 2072 JOSE A K <LIZARDI<

EMTB 2567 ANGELA N <MOROLES<
EMTB 2568 DANIEL A <RICE<