

BOARD OF DENTAL EXAMINERS
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF COMMITTEE MEETINGS
Rules Committee

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: Wednesday, November 6, 2013

Time: 12:00 p.m.

Place: Likelike Conference Room
King Kalakaua Building
335 Merchant Street, 3rd Floor
Honolulu, Hawaii 96813

Present: Paul Guevara, D.M.D., M.D.S., Dental Member
Marilyn Nonaka, R.D.H., Dental Hygiene Member
Rodney Ching, Public Member

Via teleconference

Mark Baird, D.D.S., Chair, Dental Member
Garrett Ota, D.D.S., Dental Member

James Kobashigawa, Executive Officer
Sandra Matsushima, Executive Officer

Guests: None

Call to Order: There being a quorum present, Chair Guevara called the meeting to order at 12:05 p.m.

Discussion on Amendments to Chapter 16-79, Hawaii Administrative Rules

Chair Guevara discussed the latest proposed language to the draft rules amendment, under §16-79-78 [General] Administration of general anesthesia and [intravenous-conscious] sedation. Chair Guevara noted that he had some questions regarding how the Certified Registered Nurse Anesthetist ("CRNA") would run their practice and whether they would bring in their own equipment or work in a permitted office that is equipped for their use.

Dr. Ota added that he believed the CRNAs could work in an office that is already equipped and permitted, although he had concerns on other dental offices that do not have such equipment in their offices and have no permits. Dr. Ota suggested that the representative of the CRNAs appear before the Board since he had some questions and concerns regarding the required equipment, liability, malpractice insurance, permits, etc.

It was noted that licensed dentists are not required to have malpractice insurance, as it is not in the dental laws.

Ms. Nonaka added that the CRNAs are regulated by the RN license and she believed that the liability would fall under the RN license, not the dental license.

Chair Guevara stated that under the RN license, they could bring in their own equipment and not need to work under the supervision of the dentist. As an independent contractor, they could be called into a dental office and bring their own equipment. The dentist would do the procedure and the CRNA would do the general anesthesia ("GA") as an independent contractor.

Dr. Ota commented that he had concerns, as the dentist would be ultimately responsible for what happens in the dental office. He added that there is an expansive checklist when inspecting an oral surgeon's office for a permit, which ensures public safety. Dr. Ota wondered if the Nursing Board or our Dental Board should have such a checklist when approving the CRNAs. Dr. Ota noted that for public safety, maybe the Board could issue a permit to allow the CRNAs to do the GA in a dental office.

Chair Guevara noted that the CRNAs are requesting for this approval and that they should have a checklist. He added that it is the Nursing Board who regulates them.

Dr. Baird commented that it is a nice option and efficient for dentists who have special cases. The dentist could contract with a CRNA to do the GA in their office.

Mr. Kobashigawa stated that the dentist has to decide whether to employ or allow the CRNA to come into their office to provide that service, as the CRNAs are already licensed to practice it.

Ms. Nonaka noted that the permit is for the facility and for the dentist to provide that service. She added that it would be helpful if the President of the Nursing Association would appear before the Board to answer our questions. Can the CRNAs comply with the checklist? Can the CRNAs be employed as independent contractors? Would they work in permitted offices only?

Mr. Ching added that if the CRNA is not compliant, the dentist could still be sued. He believed that the CRNAs are not aware of the liability when offering these services. Mr. Ching noted that the safest thing the Committee should do is to allow the CRNAs to practice at designated sites, such as a hospital or a dental office that is already permitted.

Ms. Nonaka concurred that the dentist should be required to have a permitted office or the CRNA, as an independent contractor, needs to have met all of the required items, as per the oral surgeon's office checklist.

Dr. Ota added that the dental office still needs to have a permit to have the MD anesthesiologist to come into their office, so the same requirement should be with the CRNAs.

Chair Guevara concurred that the office needs to be permitted, the CRNA is regulated and practices under the Nursing laws, and that the dentist practice under the dental laws. He suggested that the only revision to the rules should be to remove "under the supervision" of the rules.

Ms. Nonaka wondered if the Committee should ask whether they are independent contractors who have their own equipment.

Mr. Kobashigawa inquired whether the CRNAs are presently on staff at accredited hospitals. This is in the current provisions related to physician anesthesiologists.

Chair Guevara proposed that the Committee suggest to remove entire paragraph (g) and hospital language for CRNAs or MD anesthesiologists to practice GA in a dental office that must be permitted.

The Committee voted unanimously to suggest this amendment to the full Board at its next meeting,

Justification/discussion

It is consistent with what the Board has in place. No restrictions on CRNAs or MD anesthesiologist.

The office inspection checklist – the oral surgeons have their own list and do their own inspections as well. After a discussion, it was noted that the oral surgeons checklist is more stringent than the Board's list. However, §16-79-78 HAR, states that in order for a dental office to receive the permit, the office would need to comply with the oral surgeons anesthesia guidelines.

Chair Guevara reiterated that the site needs to be compliant and permitted. He agreed that the Board should require the oral surgeon's inspection checklist for permitting the offices.

Dr. Ota clarified that the oral surgeon's office checklist will be for the dentists who wish to employ an anesthesiologist or a CRNA in their dental office.

Addition of minor amendments

Mr. Kobashigawa then requested that the Committee review some minor amendments for clarity.

Page 21. Under §16-79-69.10 allowable duties of license dental hygienists. Mr. Kobashigawa suggested that the Committee delete "direct supervision" because the current language in the proposed rules appear to have no clause for exemption in the public health settings.

After a brief discussion, the Committee agreed to include language to read "...direct supervision, except as provided for in §447-3(d), Hawaii Revised Statutes." That sentence would read as follows:

"Also, a licensed dental hygienist may perform the following [shall be performed only] procedures pursuant to the delegation of and under the direct supervision of a licensed dentist, except as provided for in §447-3(d), Hawaii Revised Statutes:"

Page 71. Under §16-79-141 Continuing education [courses] categories, subsection (a)(1)(B) and (C) to delete the words "seventeen" and "eleven" and include proposed language "...of at least more than half of the required CE hours". This amendment would not limit the number of CE hours in the event of a future change in the number of required hours. The subsections would read as follows:

- (B) Shall be comprised of [at least seventeen] more than half of the required CE hours per biennium for each dentist; and
- (C) Shall be comprised of [at least eleven] more than half of the required CE hours per biennium for each dental hygienist;

Page 71. Under §16-79-141 Continuing education [courses] categories, subsection (a)(2)(B) to change the language from "applicant" to "sponsoring organizations", for consistency. The subsection would read as follows:

(B) Shall be sponsored by the American Heart Association, the American Red Cross, or from [an applicant] sponsoring organizations approved pursuant to section 16-79-143;

The Committee agreed to all of these amendments.

Chair Guevara adjourned the meeting at 1:55 p.m.

Respectfully submitted by:

/s/ Sandra Matsushima
Sandra Matsushima
Executive Officer

- Minutes approved as is.
 Minutes approved with changes; see minutes of _____.