

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, March 12, 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
Gerard K. Akaka, M.D., Oahu Member
Maria Chun, Ph.D, Public Member
Darren K. Egami, M.D., Maui Member
Jone Geimer-Flanders, D.O., 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: Sharon "Shay" Bintliff, M.D., Vice-Chairperson, Hawaii Member
Peter Halford, M.D., Oahu Member

Guests: Lei Fukumura, Special Deputy Attorney General
Vincent Tenorio, PA-C
Stephen Bradley, M.D., A.T. Still University School of Osteopathic Medicine
("ATSU")
Jennifer Miller, ATSU
Ashley Baldauf, ATSU
Rachel Greatwood, ATSU
Devin Hazama, ATSU
Donald Lao, ATSU
Jodi Vanagida, ATSU
Abbie Schmolze, ATSU
Rachael Galvin, ATSU

Call to Order: The meeting was called to order at 1:04 p.m. at which time quorum was established.

Additions/
Revisions to
Agenda:

It was moved by Dr. Kosasa, seconded by Dr. Sept, and unanimously carried to revise the agenda by adding "NCCPA's Code of Conduct for Certified and Certifying PAs", under new business.

Approval of the
November 13, 2014
Minutes:

It was moved by Dr. Holt, seconded by Dr. Kosasa, and unanimously carried to approve the minutes of the regular session meeting with the following correction:

On page 6, under Martin L. Meyers, M.D., a typographical error existed with regard to the statutory citation "HRS § 453-(a)(9)", the statutory citation should read "HRS § 453-~~8~~(a)(9)".

It was moved by Dr. Holt, seconded by Dr. Kosasa, and unanimously carried to approve the minutes of the executive session meeting with the following correction:

On page 12, under Martin L. Meyers, M.D., a typographical error existed with regard to the statutory citation "HRS § 453-(a)(9)", the statutory citation should read "HRS § 453-~~8~~(a)(9)".

Approval of the
February 12, 2015
Minutes:

It was moved by Dr. Geimer-Flanders, seconded by Dr. Holt, and unanimously carried to approve the minutes of the executive session and the minutes of the regular session meeting as circulated.

It was moved by Dr. Kosasa, seconded by Dr. Geimer-Flanders, and unanimously carried to approve the minutes of the Public Hearing as circulated.

Adjudicatory
Matters:

Chair Desai called for a recess from the meeting at 1:07 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 Mark D. Herbst, M.D.; MED 2014-134-L

After discussion, it was moved by Dr. Kosasa, 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 Application for a Medical License of Marvin B. Padnick, M.D.; MED-LIC-2014-005

Dr. Egami entered the meeting room at 1:19 p.m.

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 1:24 p.m.

The following agenda item was taken out of order.

New Business:

a. Legislation

H.B. No. 1176, H.D. 2, Relating to Consumer Protection

Executive Officer Quiogue informed members that the purpose of this bill would be to prohibit persons licensed pursuant to Chapters 453 (M.D./D.O.) and 463E (podiatrists), Hawaii Revised Statutes, from prescribing more than a ninety-day supply (three thirty-day prescriptions) of narcotic drugs included in schedule II of Title 21 USC § 812. This bill would also prohibit the refill for a schedule III narcotic drug more than five times.

Executive Officer Quiogue indicated that based on prior discussions with the Department of Public Safety, Narcotic Enforcement Division ("DPS-NED"), DPS-NED suggested that this language or similar language be placed in Chapter 329, HRS, the Uniformed Controlled Substance Act, so that all registrants authorized to prescribe controlled substances in the State (e.g. dentists, advanced practice registered nurses with prescriptive authority, etc.) be subject to the same requirements.

Members stated that its Executive Officer shall submit testimony in support of the intent of the measure because it would deter licensed practitioners from overprescribing, and limit drug abusers from doctor shopping. However, members indicated that the testimony should also recommend that the language in H.B. 1176, H.D. 2, be placed in Chapter 329, HRS as discussed above.

S.B. No. 798, Relating to Health

The purpose of the bill is to require a chronic pain medication agreement to be executed between a patient and any prescriber of a narcotic drug within the State for use as chronic pain medication under certain conditions. It would also require the administrator of the narcotics enforcement division to develop and make available a template of a chronic pain medication agreement for use in the State.

Dr. Geimer-Flanders indicated that some of the requirements in this measure would subject a physician to a Class C conviction. For example, if a physician fails to execute a pain medication agreement, that physician would be subject to a conviction.

Discussion followed. Members expressed their concern with some of the provisions of this measure.

Executive Officer Quiogue indicated that she would track this measure. However, because this measure does not directly impact the Board's statutory chapters, she suggested that the Board not submit testimony. However, this in no way prohibits each member from submitting testimony as private individuals regarding this matter.

S.B. No. 695, Relating to Medicine

Executive Officer Quiogue informed the Board that this measure was passed unamended by the Senate Committee on Health. However, it was not heard by the Senate Committee on Ways and Means.

S.B. No. 231, Relating to Medicine.

Executive Officer Quiogue informed members that Dr. Geimer-Flanders provided testimony in opposition to the Senate Committee on Health. At that hearing, the Committee deferred the measure.

H.B. No. 1390, Relating to Massage.

Executive Officer Quiogue informed the Board that H.B. 1390, Relating to Massage was deferred by the House Committee on Consumer Protection on February 18, 2015.

b. NCCPA's Code of Conduct for Certified and Certifying PAs

Executive Officer asked Board members to re-review the NCCPA's Code of Conduct for Certified and Certifying PAs which it had previously reviewed at its February 2015 meeting. She asked members that it consider adopting this Code as the recognized code of conduct for PAs.

After thoughtful discussion, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and unanimously carried to adopt the National Commission on Certification of Physician Assistants ("NCCAPA") and NCCPA Code of Conduct for Certified and Certifying Physician Assistants.

Correspondence:

a. Email from Jeffrey Sedgewick, M.D., Re: License Requirements for Physicians who Practice Consulting Telemedicine Services

The Board reviewed a letter dated March 2, 2015, from Jeffrey Sedgewick, M.D., regarding whether "a consultant physician from an outside state or territory who offers their services to a licensed practitioner in Hawaii and who observes the restrictions listed below [Hawaii Revised Statutes ("HRS") §§ 453-1.3 and 453-2], is not required to be licensed in Hawaii."

Discussion followed. After due consideration of Dr. Sedgewick's email, 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.

In addition, HRS § 453-2 sets forth certain exceptions for the license requirement, one of which is for purposes of consultation. Specifically, pursuant to HRS § 453-2(b)(3), nothing herein shall:

Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, **nor to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides;** provided that:

- (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;
- (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
- (C) The laws and rules relating to contagious diseases are not violated.

Members noted that according to Dr. Sedgewick's letter inquiry, the consultant doctor:

- Retrospectively reviews another doctor's patient records via the internet. The doctor who is examining the patient will be licensed in Hawaii and will have already established a bona fide doctor-patient relationship in Hawaii.
- Will review patient charts only after the patient has left the [Hawaii-licensed] doctor's office and the assessment and plan has been [drafted] for that patient. The consultant doctor will not be performing "real time" consultations. The consultant doctor will not [make or] receive phone calls or have any other direct communication with the patient.
- Will not be billing insurance companies. The [Hawaii-licensed] doctor will be reimbursing the consultant doctor directly.
- Will not prescribe medications or offer direct treatments to any patients in Hawaii.
- Holds an unrestricted, active license to practice medicine in the state or territory in which they perform the consults.
- Is board certified in their specialty by the nationally recognized organization.
- Does not have an office or a clinical practice in Hawaii, [will not receive calls within the limits of Hawaii for the care of a patient who is located in Hawaii,] and will not be examining patients in Hawaii.
- Does not render any final clinical decisions to the [Hawaii-licensed] doctor, who has requested [the consultant doctor's] retrospective review of their patient charts.
- Will not render any treatment to patients in Hawaii. They will only retrospectively offer recommendations to the [Hawaii-licensed] [d]octor who may [or may not] implement their recommendations, according to the [Hawaii-licensed] doctor's final judgment.
- Will act only through the [Hawaii-licensed] [d]octor, who has ultimate authority and responsibility for all clinical decision making.
- Abide by all federal laws regarding patient confidentiality.

- Will have malpractice and/or errors and omissions coverage for the state of Hawaii.
- Does not retain any patient records. They [only] access the licensed doctor's EMR.

Discussion followed. Members stated that based upon the foregoing, it appears that the consultant doctor may be exempt from licensure pursuant to HRS §453-2(b)(3), provided that the consultant doctor works in consultation with a Hawaii-licensed physician or osteopathic physician. If the consultant doctor anticipates working in consultation with any practitioner (e.g. optometrist, dentist) other than a physician or osteopathic physician licensed pursuant to HRS Chapter 453, then the Board suggests that the consultant doctor seek guidance from the appropriate board or program regarding providing consultative services to practitioners who are not regulated by the Board.

Additionally, the Board cautions Dr. Sedgewick that all consultant doctors shall err on the side of caution, and consider obtaining a license in the State.

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 be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

Advisory
Committees:

a. Physician Assistants

Vince Tenorio, PA-C, inquired about the status of the Board's administrative rules, and was advised that it is being routed to the Governor's Office for final approval and signature. Subsequent to that, the rules will then be transmitted to the Lt. Governor's Office where it will be stamped "filed". The effective date is ten days after the rules have been stamped "filed" by the Lt. Governor's Office.

b. Emergency Medical Service Personnel

c. Podiatrists

Applications for
License/
Certification:

a. Ratifications:

- (i) List

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

It was moved by Dr. Egami, seconded by Dr. Sept, and unanimously carried to enter into executive session at 2:03 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.

b. Applications:

Kathleen M. Callaghan, M.D.
Anne Cramer, M.D.
Erik Diaz, M.D.
Brent W. Galloway, Jr., M.D.
Paul E. Howard, M.D.
Allen W. Lalor, M.D.
Cairine McNamee, M.D.
Siavash S. Okhravi, M.D.
Marc S. Rosenthal, M.D.
Jonathan Woolery, M.D.

Request to Have
Conditions Removed
From Conditional
License:

c. Michael S. Jackowitz, D.O.

Request for
Reconsideration

d. Grant D. Geske, D.O.

It was moved by Dr. Egami, seconded by Mr. Puletasi, and unanimously carried to return to the open meeting at 2:42 p.m.

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

Kathleen M. Callaghan, M.D.
Anne Cramer, M.D.
Erik Diaz, M.D.
Brent W. Galloway, Jr., M.D.
Paul E. Howard, M.D.
Allen W. Lalor, M.D.
Cairine McNamee, M.D.
Siavash S. Okhravi, M.D.
Marc S. Rosenthal, M.D.
Jonathan Woolery, M.D.

Request to Have
Conditions Removed
From Conditional
License:

Michael S. Jackowitz, D.O.

After due consideration of the information received, it was moved by Chair Desai, seconded by Dr. Holt, and unanimously carried to remove the conditions placed on Dr. Jackowitz's conditional Hawaii Osteopathic Medical License, License No. DOS-1571.

Request for
Reconsideration

Grant D. Geske, D.O.

This matter will be placed on the Board's April 9, 2015 agenda for further discussion.

Executive Officer's
Report:

None.

Chairperson's
Report:

None.

Next Meeting:

Thursday, April 9, 2015
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment:

It was moved by Dr. Sept, seconded by Dr. Kosasa, and unanimously carried to adjourn the meeting at 2:50 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
3/25/15

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

HAWAII MEDICAL BOARD (03/12/2015-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 17991 ROY K <ESAKI<
MD 17992 JOSHUA <BREWSTER<
MD 17993 MATTHEW K <SMITH<
MD 17994 BRANDON D <YOUNG<
MD 17995 JOSEPH <EBY<
MD 17996 MICHELLE C <TSAI<
MD 17997 BENJAMIN A <THOMPSON<
MD 17998 JOHN M <ISKANDER<
MD 17999 CRAIG J <JACKSON<
MD 18000 SHANDHINI <RAIDOO<
MD 18001 VALERIE A <CACHO<
MD 18002 RAPHAEL G <LOUTOBY<
MD 18003 JAMES P <DEMETRIOU<
MD 18004 TONY H D <YUAN<
MD 18005 NARIN <SRIRATANAVIRIYAKUL<
MD 18006 GARY K <ADAMS<
MD 18007 RODERICK L <PARAS<
MD 18008 STEPHEN <FULLER<
MD 18009 KODY <EL-MOHTAR<
MD 18010 AVEZ A <RIZVI<
MD 18011 ALLISON L <SUMMERS<
MD 18012 KATHRYN M <STAHL<
MD 18013 SUSAN L <TAN<
MD 18014 MICHAEL A <YEHL<
MD 18015 KATHERINE A <CARLISLE<
MD 18016 MIKELA H <YARAWAMAI<
MD 18017 DAVE <RAVI<
MD 18018 CANDICE <MYHRE<
MD 18019 ERIC L <STIRLING<
MD 18020 RAPHAEL H <BUENCAMINO<
MD 18021 STEVEN S <LOCK<
MD 18022 MARY ANGELI J <DEL ROSARIO<
MD 18023 BENJAMIN S <THOMAS<
MD 18024 JIGNESH <DESAI<
MD 18025 HANGYUL M <CHUNG-ESAKI<

MDR 6800 ANNA M <CEDAR<
MDR 6801 DANIELLE S <DOYLE<
MDR 6802 MEGAN B <CORE<
MDR 6803 VICTORIA <WOO<
MDR 6804 PRITIKA <GUPTA<

MDS 4052 WILLIAM F <RACHAL<

3/12/2015-RATIFICATION LIST

PAGE 2

AMD 596 CLAIRE A <LOOMIS<
AMD 597 MAUREEN E <HANNAN<
AMD 598 ALISSA T <HINO<
AMD 599 SUSAN G <WHITTINGHILL<
AMD 600 DAVID T <AUER<
AMD 601 AMBER R <BELL<
AMD 602 KRISTY E <RODGERS<
AMD 603 AMY L <BIGGS<
AMD 604 LEA L <GATTONI<
AMD 605 KIMBERLY M <BURKE<

DOS 1642 AMIR A <GAFUR<
DOS 1643 SARAH R <FEENSTRA<
DOS 1644 RYAN J <SCHLUETER<
DOS 1645 LAWRENCE W <MCMILLION<
DOS 1646 JOHN L <HOLLERAN<
DOS 1647 SAAD <HUSSAIN<
DOS 1648 MIKI A <CAIN<
DOS 1649 JACQUELINE A <WOODRUM<

DOSR 326 CHAD A <SANDER<
DOSR 327 JASON MATTHEW <CAGE<

EMTP 2078 JULIA K C <GABAYLO<
EMTP 2079 ASHLEY A M <HASHIMOTO<
EMTP 2080 KRYSTL D <MATSUNAGA<
EMTP 2081 IAN S <MCCAULLEY<
EMTP 2082 JAKE C <STYNER<
EMTP 2083 EUGENE <TAKAHASHI<
EMTP 2084 JARED T <TANOUYE<
EMTP 2085 LANDON T <TOSHI<
EMTP 2086 LEE T <VIERRA<
EMTP 2087 CHRISTOPHER D <WHITWORTH<
EMTP 2088 MELANIE <FLENNIKEN<

EMTB 2601 DENNIS P <NARDO<