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, July 14, 2016
Time: 1:13 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 J. Wong, Deputy Attorney General (“DAG”)
        Ahlani K. Quiogue, Executive Officer
        Wilma Balon, Secretary

Excused: Maria Chun, Ph.D, Public Member

Guests: Pouya Benyamini, M.D.
        Justin Groode, M.D.
        Jean-Francois Benoist
        Constance Cabral, Executive Officer, Department of Commerce
        & Consumer Affairs, Professional & Vocational Licensing Division
        Jeffrey Zuckernick, EMT-P, Kapiolani Community College
        Mark Kunimune, EMT-P, Kapiolani Community College
        Dennis Ma`ele, EMTP, Chair, Emergency Medical Personnel Advisory
        Committee (“EMP Advisory Committee”)
        Clayton Chan, Department of Health, Emergency Medical Services &
        Injury Prevention System Branch
        Elizabeth Char, M.D., Member, EMP Advisory Committee
        Speady Bailey, American Medical Response (“AMR”)
        Andy Ancheta, AMR
        Dory Clisham, AMR
Call to Order:
The meeting was called to order at 1:14 p.m. at which time quorum was established.

Approval of the June 9, 2016 Minutes:
It was moved by Dr. Geimer-Flanders, seconded by Dr. Holt, and unanimously carried to approve the minutes of the June 9, 2016 meeting as circulated.

Additions/Revisions to Agenda:
It was moved by Dr. Akaka, seconded by Dr. Halford, and unanimously carried to revise the agenda by adding the following application under agenda item 5.b., Applications:

Cynthia S. Holt, PA-C

New Business:

a. Consideration of Amendment to Chapter 16-85, Hawaii Administrative Rules

Chair Desai called for a discussion on the proposed rule amendment. He stated that the purpose of the proposed amendments are to: (1) repeal the section on definitions; (2) certify three levels of emergency ambulance service personnel; (3) establish certification requirements; (4) require information on date of birth; (5) update the guidelines for a temporary certification; (6) allow for the transition of current licensees to the newly created levels; (7) establish recertification requirements; (8) repeal the section on courses of training; (9) establish the scope of practice for the three levels; (10) retitle the section relating to supervision and responsibility and clarify that guidelines for the supervision of emergency ambulance service personnel falls under the Department of Health; and (11) make technical, non-substantive changes.

There being no further discussion, it was moved by Dr. Geimer-Flanders, seconded by Dr. Egami, and unanimously carried to adopt the rule amendments presented at the public hearing.

Election of Officers:
The floor was opened for nominations for the office of Chairperson. Dr. Egami nominated Dr. Desai as Chairperson. The nomination was seconded by Mr. Puletasi. There were no other nominations for Chairperson. Dr. Desai was elected Chairperson by acclamation.

The floor was opened for nominations for the office of Vice-Chairperson. Dr. Egami nominated Dr. Bintliff. The nomination was seconded by Mr. Puletasi. There were no other nominations for Vice-Chairperson. Dr. Bintliff was elected Vice-Chairperson by acclamation.

Applications for License/Certification:

a. Ratifications:

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

It was moved by Dr. Akaka, seconded by Dr. Sept, and unanimously carried to enter into executive session at 1:18 p.m. pursuant to Hawaii Revised Statutes (“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.

b. Request to Have Conditions Removed from License:

Pouya Benyamini, M.D.

c. Applications:

Pouya Benyamini, M.D.

It was moved by Dr. Sept, seconded by Dr. Bintliff, and unanimously carried to return to the open meeting at 1:31 p.m.

b. Request to Have Conditions Removed from License:

Pouya Benyamini, M.D.

After due consideration of the information received, as well as Dr. Benyamini’s oral testimony, it was moved by Dr. Sept, seconded by Dr. Geimer-Flanders, and carried by a majority, with Dr. Halford recusing himself, to approve Dr. Benyamini’s request to remove the conditions placed on his Limited and Temporary License for Residency or Specialty Training, License No. MDR-6336.

c. Applications:

Pouya Benyamini, M.D.

After due consideration of the information received, as well as Dr. Benyamini’s oral testimony, it was moved by Dr. Sept, seconded by Dr. Geimer-Flanders, and carried by a majority, with Dr. Halford recusing himself, to approve Dr. Benyamini’s application for permanent medical license.

It was moved by Dr. Akaka, seconded by Dr. Sept, and unanimously carried to enter into executive session at 1:33 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.

Applications for License/Certification:

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<th>Applications:</th>
<th>Justin S. Groode, M.D.</th>
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It was moved by Dr. Sept, seconded by Dr. Holt, and unanimously carried to return to the open meeting at 2:42 p.m.

Justin S. Groode, M.D.

The Board reviewed and considered all of the records and files of Dr. Groode’s application and information received from him as well as from other organizations. After due consideration of the information received, as well as Dr. Groode’s oral testimony, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and carried by a majority, with Dr. Bintliff recusing herself, to deny Dr. Groode’s application for medical licensure, basing it on the following grounds of the HRS and Hawaii Administrative Rules (“HAR”), which find factual support in the records and files of Dr. Groode’s application and oral testimony:

- 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)(15): Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or
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; 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. Groode’s conduct very concerning and contrary to the recognized standards of medical ethics as adopted by the American Medical Association (“AMA”). Specifically, the Board believes that Dr. Groode failed to uphold the following AMA Principles of Medical Ethics:

I. A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity.

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 the appropriate entities;

IV. A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy with the constraints of the law; and

VIII. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

It was moved by Dr. Holt, seconded by Mr. Puletasi, and unanimously carried to enter into executive session at 2:48 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.

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<th>c. Applications:</th>
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<td>License/Certification:</td>
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<td>James I. Collins, M.D.</td>
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<td>John W. Durst, M.D.</td>
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<td>Michael K. Jason, M.D.</td>
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<td>Mark I. Kaminski, M.D.</td>
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Charles A. Kellerman, M.D.
Girish N. Makwana, M.D.
Devanand Mangar, M.D.
Robert M. McFarland, M.D.
Edward J. McPherson, M.D.
Cynthia M. Mosbrucker, M.D.
Elizabeth M. Pepe, D.O.
Ali A. Pitafi, M.D.
Michael D. Tino, M.D.
RoseMarie Toussaint, M.D.
Cynthia S. Holt, PA-C

d. Request for Reconsideration of License Denial:

Luther Mangoba, M.D.

It was moved by Dr. Sept, seconded by Dr. Egami, and unanimously carried to return to the open meeting at 3:43 p.m.

Request for Reconsideration Of License Denial:

Luther Mangoba, M.D.

The Board reviewed Dr. Mangoba's letter dated June 24, 2016, requesting a reconsideration of the Board's February 11, 2016 denial of his application for a license.

After due consideration of this information, it was moved by Dr. Geimer-Flanders, seconded by Dr. Bintliff and unanimously carried to grant the request for reconsideration and to accept and review the additional new information, including a letter dated June 22, 2016, from Serafin Salazar, M.D., Chief of Staff, Parkview Community Hospital Medical Center.

It was moved by Dr. Akaka, seconded by Dr. Holt, and unanimously carried to enter into executive session at 3:45 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.

Applications for License/Certification:

Luther Mangoba, M.D.

It was moved by Dr. Sept, seconded by Dr. Egami, and unanimously carried to return to the open meeting at 3:47 p.m.
Request for Reconsideration Of License Denial: Luther Mangoba, M.D.

After due consideration of the additional new information, it was moved by Dr. Holt, seconded by Dr. Bintliff, and unanimously carried to affirm its denial of Dr. Mangoba’s application for a license, and dismiss the following grounds for denial:

HRS § 453-8(a)(15): Submitting to or filing with the Board any notice, statement or other document required under this chapter which is false or untrue or contains any material misstatement or commission of fact;

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

AMA Principle 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.

All other grounds for denial shall remain in effect.

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

James A. Calabrese, M.D.
James I. Collins, M.D.
John W. Durst, M.D.
Michael K. Jason, M.D.
Mark I. Kaminski, M.D.
Charles A. Kellerman, M.D.
Girish N. Makwana, M.D.
Devanand Mangar, M.D.
Robert M. McFarland, M.D.
Cynthia M. Mosbrucker, M.D.
Elizabeth M. Pepe, D.O.
Ali A. Pitafi, M.D.
Cynthia S. Holt, PA-C
Edward J. McPherson, M.D.

It was moved by Dr. Halford, seconded by Dr. Bintliff, and carried by a majority, with Dr. Egami recusing himself, to approve Dr. McPherson’s application for medical licensure.

Michael D. Tino, M.D.

After due consideration of the information received, it was moved by Dr. Bintliff, seconded by Chair Desai, and unanimously carried to defer Dr. Tino’s application for licensure pending additional information.

RoseMarie Toussaint, M.D.

The Board reviewed and considered all of the records and files of Dr. Toussaint’s application and information received from her as well as from other organizations. After due consideration of the information received, it was moved by Dr. Egami, seconded by Dr. Halford, and unanimously carried to deny Dr. Toussaint’s application for medical licensure, basing its decision on the following grounds of the HRS, which find factual support in the records and files of Dr. Toussaint’s application:

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 § 453-8(a)(8): Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;

HRS § 453-8(a)(9): Conduct or practice contrary to the 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, certification, or medical privilege for reasons as provided in this section; and

HRS § 436B-19(8): Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity.
Correspondence: a. Email from Elisa Hester, MBA/HCM, Regarding Delegation of Medical Tasks: Allergy Testing Percutaneous / Allergy Testing Intradermal / Immunotherapy Mixing / Immunotherapy Injections / RAST (Blood Testing).

The Board reviewed and discussed Ms. Hester's email dated June 27, 2016, regarding the delegation of certain medical tasks to allergy technicians, including: allergy testing percutaneous; allergy testing intradermal; immunotherapy mixing; immunotherapy injections; and RAST (blood testing).

After due consideration of Ms. Hester'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 neuromusculoskeletal 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.

Discussion followed. The Board determined that the above medical tasks appear to fall within the definition of the practice of medicine. Furthermore, the Board informally opined that the delegation of such medical tasks shall only be delegated to those professions which are regulated by the State of Hawaii and whose scopes of practice allow that professional to perform such tasks.
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. **Email from Angela Gagliardi, M.D., Regarding State Regulations on Writing Prescriptions/Orders for Biomedical Devices – Neuromuscular Electronic Stimulation.**

The Board reviewed Ms. Gagliardi’s email dated July 3, 2016, regarding State regulations on writing prescriptions/orders and who may provide the treatment for biomedical devices – neuromuscular electronic stimulation.

After due consideration of Ms. Gagliardi’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 neuromusculoskeletal 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.
Discussion followed. The Board determined that the above medical task appears to fall within the definition of the practice of medicine. As such, a physician may write prescriptions or orders for this device and provide the treatment using such device. Furthermore, the Board informally opined that the delegation of such medical task shall only be delegated to those professions which are regulated by the State of Hawaii and whose scopes of practice allow that professional to perform such task.

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.

Advisory Committees:

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

Chairperson’s Report: None.

Executive Officer’s Report: None.

Next Meeting: Thursday, August 11, 2016
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment: It was moved by Dr. Egami, seconded by Mr. Puletasi, and unanimously carried to adjourn the meeting at 4:01 p.m.

Reviewed and approved by: Taken and recorded by:

/s/ Ahlani K. Quiogue /s/Wilma Balon
(Ms.) Ahlani K. Quiogue Wilma Balon
Executive Officer Secretary

AKQ:wb
07/28/16

( X ) Minutes approved as is.
( ) Minutes approved with changes; see minutes of ______________________.
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MDR 7084 TOMOKI <SEMPOKUYA>
MDR 7085 STEVEN N <CHO>
MDR 7086 ERIN L <CROSSEY>
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MDR 7090 RANDI L U T F <OLDS>
MDR 7091 LAUREN K <OSHIMA>
MDR 7092 PATTARA <RATTANAWONG>
MDR 7093 STEFFAN K <SOOSMAN>
MDR 7094 ERIC P <SORENSEN>
MDR 7095 CHRISTOPHER <NGUYEN>
MDR 7096 BRIAN C <IMADA>
MDR 7097 KIMBERLEE A <HASHIBA>
MDR 7098 TALISA E <DE CARLO>
MDR 7099 ROBERT W <BJERREGAARD>
MDR 7100 VINCENT C <GIANI> JR
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MDR 7105 CHRISTOPHER <MILLER>
MDR 7106 IRANDOKHT M <JOONIANI>
MDR 7107 TALITHA A <ASHBY>
MDR 7108 NATSAI C <NYAKUDARIKA>
MDR 7109 RASLEEN K <SALUJA>
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MDR 7111 AMI <MON>
MDR 7112 HANNAH V <SCHMITZ>
MDR 7113 KIRTH A <CUCUECO>
MDR 7114 RICKY Y <KANESHIRO>
MDR 7115 JACLYN E <KAGIHARA>
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MDR 7117 GORDON H <LEE>
MDR 7118 ANDREW G <SMITH>
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DOS 1731 BRUCE S M <KINNEY>
DOS 1732 ASHGAN A <ELSHINAWY>
DOS 1733 NISHEETH <RAI>
DOS 1734 RACHEL JOY L <SY-LAYUG>
DOS 1735 JILLIAN E I <YOSHIMOTO>
DOS 1736 AMY L <CARD>
DOS 1737 MATTHEW T <MURRAY>
DOS 1738 MICHAEL S <YANG>
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DOS 1740 RUTH N <MONDOLFI>
DOS 1741 CARMEN F <ALFONSO>

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DOSR 377 LINDSEY A <CHOI>
DOSR 378 WINSTON A <TURNAGE>
DOSR 379 BENJAMIN C <PIERSON>
DOSR 380 KEVIN L <HAMMOND>
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EMTB 2712 TRACIE K Y <LOCK>
EMTB 2713 SCOT C H <PARK>
EMTB 2714 NEAL C <VAN DER WALL> III
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EMTB 2716 JACK D <TAUSEND>
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EMTB 2718 ANNA K <GILARSKI>
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EMTB 2723 CLEMENT H <ENOMOTO>
EMTB 2724 SHAYNA-LYNN P <HILL>
EMTB 2725 KU'ULEIMOMI P <GONZALEZ>
EMTB 2726 GABRIEL-VERANIO L <TONGSON>

EMTP 2119 JEFFREY J <BRUYNELL>
EMTP 2120 RICHARD A <ELKINS>
EMTP 2121 BRIAN R <ANDERSON>
EMTP 2122 CHAD P <WINTON>