

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 §92-7(b), Hawaii Revised Statutes ("HRS").

Date: Thursday, September 8, 2016

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
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

Guests: Mary Diane Eckert, M.D., Program Director, University of Hawaii Psychiatry
Residency Program
Ryan Louie, M.D., Applicant
Christina Higa, University of Hawaii, Pacific Basin Telehealth Research Center
("PBTRC")
Mike Robinson, Hawaii Pacific Health
Deborah Peters, University of Hawaii, PBTRC
Lorrin Kim, Department of Health

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

Approval of the August 11, 2016 Minutes: It was moved by Dr. Holt, seconded by Dr. Halford, and unanimously carried, with the exception of Dr. Akaka who abstained from the vote, to approve the minutes of the executive session of the August 11, 2016 meeting as circulated, and to approve the minutes of the regular session with the following corrections:

On page 1, under Present, **Thomas S. Kosasa, M.D., Oahu Member** should be deleted.

Additions/
Revisions to
Agenda:

None.

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 Chapter 91, Hawaii Revised Statutes ("HRS").

a. In the Matter of the License to Practice Medicine of Stanley C. Newhall, M.D.: MED 2014-176-L

After discussion, it was moved by Dr. Holt, seconded by Dr. Geimer-Flanders, with the exception of Dr. Egami who abstained from the vote, and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order as its Final Order.

Dr. Egami entered the meeting room at 1:11 p.m.

Following the Board's review, deliberation and decision in this matter pursuant to Chapter 91, HRS, Chair Desai announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:12 p.m.

Applications for
License/
Certification:

a. Ratifications:

- (i) List

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

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

b. Applications:

Ryan K. Louie, M.D.

It was moved by Dr. Halford, seconded by Dr. Bintliff, and unanimously carried to return to the open meeting at 1:20 p.m.

Ryan K. Louie, M.D.

After due consideration of the information received, as well as the oral testimony provided by Dr. Louie and Dr. Eckert, it was moved by Dr. Holt, seconded by Dr. Geimer-Flanders, and unanimously carried to approve Dr. Louie's renewal application for a Limited and Temporary License for Residency/Specialty Training.

It was moved by Dr. Bintliff, seconded by Dr. Egami, and unanimously carried to enter into executive session at 1:21 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.

b. Applications:

Michael D. Tino, M.D.
Taryn M. Park, M.D.
Sandra R. Petersen, M.D.
Eric V. Reinertson, M.D.
Alan E. Rosenbach, M.D.
LuDane T. Simmons, M.D.
Veronica Sloatsky, M.D.

New Business:

b. Federation of State Medical Boards Interstate Medical Licensure Compact

Applications for License/
Certification:

b. Applications:

Alan E. Rosenbach, M.D.

It was moved by Dr. Egami, seconded by Dr. Sept, and unanimously carried to return to the open meeting at 2:29 p.m.

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

Michael D. Tino, M.D.
Sandra R. Petersen, M.D.
Eric V. Reinertson, M.D.
Alan E. Rosenbach, M.D.
LuDane T. Simmons, M.D.
Veronica Sloatsky, M.D.

Taryn M. Park, M.D.

It was moved by Dr. Sept, seconded by Mr. Puletasi, and unanimously carried to approve Dr. Park's application for licensure and issue her a Non-Disciplinary Letter of Education. The Board also requires that Dr. Park submit a revised application.

The following agenda item was taken out of order.

New Business: b. Federation of State Medical Boards Interstate Medical Licensure Compact

The following guests were present to discuss both Agenda Item a. Legislation, (i) Act 226, SLH 2016, Relating to Telehealth and Agenda Item b. Federation of State Medical Boards Interstate Medical Licensure Compact ("FSMB Compact"): Christina Higa, University of Hawaii PBTRC, Mike Robinson, V.P. of Government Affairs and Community Relations, Hawaii Pacific Health, Deborah Peters, University of Hawaii PBTRC, and Lorrin Kim, Department of Health ("DOH").

Chair Desai welcomed the guests, and asked if anyone would like to make a statement.

Mr. Kim thanked the Board for allowing him to participate in the discussion of these matters.

Mr. Kim advised the Board that DOH is officially examining whether proposed legislation adopting the FSMB Compact would address issues regarding access to care for patients, especially those patients located on the neighbor islands. He went on to say that one of DOH's top three strategic priorities is telehealth, and the FSMB Compact could move this initiative in the right direction.

If DOH were to introduce legislation adopting the FSMB Compact, Mr. Kim asked for the Board's position.

Chair Desai inquired whether the guests believed that the FSMB Compact would grant licenses more quickly or if they believed mainland doctors licensed through the FSMB Compact could provide services more quickly. He went on to ask whether DOH has begun an analysis of this information.

Mr. Kim informed the Board that they have just begun obtaining quantitative and qualitative information regarding this matter. He went on to say that obtaining a license through reciprocity or having an expedited license will address provider issues.

Mr. Kim stated that Governor Ige has not been informed of, or approved this plan.

Chair Desai informed the guests that access to care and physician shortages have been discussed numerous times at Board meetings. Chair Desai referred to several reports, such as: The Dartmouth Atlas of Health Care; the Association of American Medical Colleges; and USA Today. Chair Desai stated that these reports as well as the FSMB's 2014 Physician Census all indicate that Hawaii has a much higher ratio of physicians to patients compared to other states.

Chair Desai suggested that energies be placed into studying access to care and physician shortages by using local resources to address these issues.

Regarding the Board's position of the FSMB Compact, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and unanimously carried that the Board supports measures that would improve access to health care for Hawaii residents. However, members expressed their concern that ceding/delegating elements of the vetting process to another organization may compromise the Board's ability to ensure the health, safety, and welfare of the people of Hawaii.

Regarding the FSMB Compact Proposed Adoption of Administrative Rule Chapter 5, Expedited Licensure, it was moved by Chair Desai, seconded by Dr. Bintliff, and unanimously carried to provide written comments.

In particular, the Board's comments pertain to Section 5.2 Definitions., *p. "Discipline by a licensing agency in any state, federal, or foreign jurisdiction means discipline reportable to the National Practitioner Data Bank."* The Board requests that the Bylaws and Rules Committee consider expanding this definition. The Board expressed its concern that many important state and medical training program disciplinary actions would be omitted under this current definition.

a. Legislation:

(i) Act 226, SLH 2016, Relating to Telehealth

Mr. Robinson thanked the Board for allowing him to participate in the discussion of this matter.

Mr. Robinson informed members that S.B. 2395, SD1, HD2, CD1, Relating to Telehealth was signed into law as Act 226, SLH 2016. Mr. Robinson stated that it was unclear what the Board's position was with regard to this measure or if it had any concerns based on the testimony submitted. In general, the Board's testimony reflected that it did not have any opportunity to review the bill.

Mr. Robinson stated that the purpose of this measure, among other things, is to enhance access to care via telehealth, including: requiring Medicaid managed care and fee-for-service programs to provide

reimbursement for services provided by telehealth in the same manner as those provided in person; lifting restrictions and limitations on patient setting and applicable telehealth technology; and clarifying relationship requirements between patients, insurers, and providers.

Chair Desai indicated that in general, the only concern regarding this measure was on page 27, lines 1-5, which states:

A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent information to the telehealth provider.

With regard to that specific language, Chair Desai expressed concerns that we not allow the creation of a physician-patient relationship where, in the case of harm to patients, the State would have no authority to take action.

Executive Officer Quiogue referred to the same language, and asked whether this language would conflict with HRS Chapter 329, The Uniformed Controlled Substance Act. In particular, HRS §329-1, requires a physician to establish a physician-patient relationship as well as personally perform a face-to-face history and physical examination of a patient in order to prescribe any controlled substance.

Executive Officer Quiogue asked how this provision, specifically with regard to the telehealth provider, can be read with the standards of HRS §329-1 to prescribe a controlled substance.

Mr. Robinson indicated that they would look into this matter.

Without further discussion, Chair Desai thanked the guests for attending the meeting, and excused them from the meeting room at 2:52 p.m.

- (ii) S. 2943, The National Defense Authorization Act for Fiscal Year 2017

The Board reviewed and discussed S. 2943, The National Defense Authorization Act for Fiscal Year 2017 (“legislation/measure”), limited to the Location of Care provision only, which states:

(d) LOCATION OF CARE. – For purposes of reimbursement, licensure, professional liability, and other purposes relating to the provision of telehealth services under this section, providers of such services shall be considered to be furnishing such services at their location and not the location of the patient.

Discussion followed. Members stated that this provision would compromise patient safety by making it exceedingly difficult and potentially impossible for patients and state medical boards where medical care is rendered to address improper or unprofessional care.

After further discussion, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and unanimously carried to submit a letter to Senator Hirono and Senator Schatz expressing the Board's concerns.

Correspondence: a. Letter dated August 15, 2016, from Thomas J. Nasca, MD, MACP, Chief Executive Officer, Accreditation Council for Graduate Medical Education (ACGME), Regarding ACGME Milestones

The Board reviewed the letter from Dr. Nasca, advising the Board about Milestones and their appropriate use.

Discussion followed. Members noted that they understand the hazards when measures that are meant for aggregate use and structural improvement, are instead used for individual licensing determinations. The Board expressed its concern that the increasing use of hospital and physician-specific clinical data they are seeing in medicine, is a reminder that information intended for informational purposes can also easily be used to restrict or restrain.

Additionally, Board members expressed that they often find themselves in situations with limited information regarding applicants' abilities in ACGME core competency areas. As such, it would be difficult to read that a 4th-year resident seems to be functioning barely beyond internship on a residency evaluation, to not infer serious and irremediable deficits in the acquisition and retention of new clinical knowledge.

Members suggested that the ACGME consider emphasizing to Residency Program Directors that comprehensive written summaries about an applicant's progress and performance, in lieu of Milestone numbers, might be more helpful and create less misunderstanding.

Chair Desai suggested that a panel discussion at the Federation of State Medical Boards Annual Meeting involving ACGME representatives would likely be well-received.

b. Email Inquiry dated September 1, 2016, from Brian Stolley, MD, Regarding Delegation of Procedures such as Laser Treatments to Non-Medical Personnel

The Board reviewed Dr. Stolley's email dated September 1, 2016, asking for clarification on, among other things, the use of non-medical personnel for the purpose of administering cosmetic treatments in a physician's office. In particular, Dr. Stolley asked the following two questions:

1. In your opinion on the August 14th, 2014, the board mentions “laser” treatment only. As I noted above, there are other procedures and devices beyond laser treatments and it is unclear of the board’s opinion on those.
2. What does an “unofficial opinion” mean in regards to a physician in the state of Hawaii? What would be required to create an official opinion?

With regard to Dr. Stolley’s first question, members instructed its Executive Officer to inform Dr. Stolley that unofficial opinions are issued at the request of any person, including but not limited to: consumers, organizations, applicants, and/or licensees. The Board noted that in the case of the August 4, 2014 informal opinion, the Board received a request from Michael Pasquale, D.O., regarding a certain procedure. As such, the Board’s response is limited to that procedure only.

Furthermore, the Board noted that Dr. Stolley is requesting advice on his unique and individual situation. As such, the Board suggested that Dr. Stolley exercise his right to consult with his own private counsel. The Board recommended that Dr. Stolley refer to pages 9-11, of its October 8, 2015 Meeting Minutes, Scope: b. Inquiry from the Board of Barbering and Cosmetology. At this meeting, the Board determined that it will not issue approvals of specific procedures or devices. However, it is the Board’s informal opinion that anyone engaged in the practice of medicine as defined by HRS §453-1, requires a medical license or osteopathic medical license in the State.

With regard to the first part of Dr. Stolley’s second question, Executive Officer Quiogue referred to HAR Chapter 16-201, Subchapter 5, which states that an “unofficial opinion” or “informal interpretation” is a means to “facilitate prompt decision making in matter where no formal ruling is desired or needed by any person and where the interpretation can be stated without the necessity of an evidentiary hearing and without consideration of legal arguments.” HAR § 16-201-85.

With regard to part two of Dr. Stolley’s second question on what would be required to create an official opinion, Executive Officer Quiogue stated that HAR Chapter 16-201, Subchapter 3, provides information regarding a petition for declaratory relief. Furthermore, HAR §16-201-50, provides the grounds for which a petition shall be denied.

Advisory
Committees:

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

Chairperson's

Report: None.

Executive Officer's

Report: None.

Next Meeting:

Thursday, October 13, 2016
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment:

It was moved by Dr. Holt, seconded by Dr. Egami, and unanimously carried to adjourn the meeting at 3:12 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
09/26/16

- () Minutes approved as is.
- (X) Minutes approved with changes; see minutes of October 13, 2016.

HAWAII MEDICAL BOARD (09/08/2016-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 18753 LINH C <NGUYEN<
MD 18754 GEORGE S <EL BAYADI<
MD 18755 FLOYD C <WISEMAN<
MD 18756 ANDRES G <ZULETA<
MD 18757 DAVID C <SORLEY<
MD 18758 DOUGLAS J <ROSE<
MD 18759 DELORES J <LEE<
MD 18760 MATTHEW E <MARVEL<
MD 18761 KENT <NORTHCOTE<
MD 18762 ALEXANDER D <WIELAARD<
MD 18763 MICHAEL S <TREECE<
MD 18764 DAVID J <DABBS<
MD 18765 EDWARD J <KIMBALL<
MD 18766 CARLOS <RAMOS<
MD 18767 SUMITA P <CHOWDHURY<
MD 18768 IAN D <COWAN<
MD 18769 ROBERT D <LEVIN<
MD 18770 BRETT W <DARWIN<
MD 18771 ANNE <DONOHUE<
MD 18772 EDWARD W <EISSMANN<
MD 18773 HING B <LUONG<
MD 18774 STEVEN B <SINGLETON<
MD 18775 CHI-CHENG <MOREHEAD-YANG<
MD 18776 MONTU K <PAREKH<
MD 18777 BENJAMIN J <RONEY<
MD 18778 JOHN M <ARIAS<
MD 18779 JENNIFER H T <JOHNSTON<
MD 18780 LOUIS P <DANDURAND<
MD 18781 MICHAEL J <ORLOSKY<
MD 18782 RICKY N <AMII<
MD 18783 KENDAL T <SNIDER<
MD 18784 RODERICK D <MORGANN<
MD 18785 WALTER B <IGAWA-SILVA<
MD 18786 RICHARD H <COHEN<
MD 18787 BENJAMIN S <CLOWER<
MD 18788 ROMEO F <ESQUIVEL<
MD 18789 ALI <NADERI<
MD 18790 DEBORAH B <SURETTE<
MD 18791 TAI-HWANG M <FAN<
MD 18792 LAUREN H <STUART<
MD 18793 ROBERT C <TURNER<
MD 18794 MATTHEW J <STEIN<

MD 18795 VONA B <DIENER<
MD 18796 STEVEN R <WILDING<
MD 18797 ANTOINETTE S <LENTON<
MD 18798 LINDSEY A <NELSON<
MD 18799 SUE H <SCHLER<
MD 18800 EMEKA B <OKWUJE<
MD 18801 WILLIAM M <WHETSELL<

AMD 701 KATHRYN R <RULIFFSON<
AMD 702 CATHERINE A <MARQUETTE<
AMD 703 CHRISTOPHER A <PALACIOS<
AMD 704 KATIE E <MURPHY<
AMD 705 TRACEY A <BREBNER<
AMD 706 KAI K <TANG<
AMD 707 MILITZA <RIVERA CORTES<
AMD 708 LAKEISHA Y <COLTER<
AMD 709 JULIE B <CROCKER<

DOS 1748 TRACY J <SNOW ALLAN<
DOS 1749 JACQUELINE M <BELL<
DOS 1750 JOSHUA K <PASCHKE<
DOS 1751 DANE K <KURATSU<
DOS 1752 MICHAEL R <BRADY<
DOS 1753 THOMAS J <YI<
DOS 1754 KEITH R <HURST<
DOS 1755 JENNIFER A <GUYANT<
DOS 1756 ELIZABETH M <PEPE<
DOS 1757 BENJAMIN N <ATCHIE<
DOS 1758 JULIANNE <GRISWOLD<
DOS 1759 JAMES <BOVIENZO<
DOS 1760 CRAIG F <BEYER<

MDR 7163 PARISA A <SAMIMI<
MDR 7164 CAROLINE L <BRADY<
MDR 7165 MARISA E <TAMBORSKI<
MDR 7166 LETICIA R <DACONTI<
MDR 7167 JUSTIN P <TALARICO<
MDR 7168 JOY <ROSENBLATT<
MDR 7169 DEANNA F <MINISEE-RYCE<

DOSR 384 ERIK A <HAMILL<

EMTB 2742 JAKE D <PENNY<
EMTB 2743 NEIL C <BIDDIX<
EMTB 2744 JONATHAN A <UCKER<
EMTB 2745 KEANU-RAY C <BERGFELD<
EMTB 2746 FRANCIS <BLAS< III
EMTB 2747 JOHN E <NICKENS<
EMTB 2748 TANYA-JO K <MOLLER<
EMTB 2749 DUSTIN A <LOPEZ<
