

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 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
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 Wong, Deputy Attorney General ("DAG")
Ahlani K. Quiogue, Executive Officer
Wilma Balon, Secretary

Excused: Thomas S. Kosasa, M.D., Oahu Member

Guests: J. Daniel Gifford, M.D., FACP, FSMB
Michael P. Dugan, MBA, FSMB

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

Approval of the October 8, 2015 Minutes: It was moved by Dr. Egami, seconded by Dr. Holt, and carried by a majority, with Dr. Sept abstaining to approve the minutes of the October 8, 2015 meeting as circulated:

Additions/Revisions to Agenda: None.

Adjudicatory Matters: Chair Desai called for a recess from the meeting at 1:04 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 Martha M. Grout, M.D.; MED 2014-187-L

Dr. Halford entered the meeting room at 1:05 p.m.

After discussion, it was moved by Dr. Bintliff, 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. Accordingly, pursuant to the terms of the Settlement Agreement, Dr. Grout's Hawaii Medical License, License No. MD-12627, is hereby reprimanded.

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 1:09 p.m.

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.

Applications for
License/
Certification:

- b. Applications:

It was moved by Dr. Sept, seconded by Mr. Puletsi, and unanimously carried to enter into executive session at 1:11 p.m. pursuant to Section 92-5(a)(1), Hawaii Revised Statutes ("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.

Javier M. Figueroa II, M.D.
Colleen M. Nakamura, PA-C
Mark A. Anderson, M.D.
Vincent C. Fan, M.D.
Haywood Hall, M.D.
Heyoung L. McBride, M.D.
Chawki E. Nahabet, M.D.
Seth I. Rosenthal, M.D.
Duane E. Vanderslice, M.D.
Nelvis Velasquez, M.D.
Lihang Chen, M.D.

It was moved by Dr. Halford, seconded by Dr. Holt, and unanimously carried to return to the open meeting at 2:11 p.m.

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

Colleen M. Nakamura, PA-C
Mark A. Anderson, M.D.
Vincent C. Fan, M.D.
Haywood Hall, M.D.
Heyoung L. McBride, M.D.
Seth I. Rosenthal, M.D.
Duane E. Vanderslice, M.D.
Nelvis Velasquez, M.D.

Javier M. Figueroa II, 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. Figueroa's application for licensure pending receipt of three (3) hours of Category 1 approved American Medical Association or three (3) hours of Category 1A American Osteopathic Association approved continuing medical education ("CME") in professionalism. This information is to be provided to the Board's office within ten (10) business days of the date of notification.

Chawki E. Nahabet, M.D.

After due consideration of the information received, it was moved by Dr. Egami, seconded by Dr. Akaka, and unanimously carried to defer Dr. Nahabet's application for medical licensure pending additional information and review.

Lihang Chen, M.D.

It was moved by Dr. Geimer-Flanders, seconded by Dr. Halford, with Dr. Akaka recusing himself, and carried by the majority to approve Dr. Chen's application for medical licensure.

The following agenda items were taken out of order.

Advisory

Committees:

- a. Physician Assistants
- b. Emergency Medical Service Personnel
 - (i) National Registry Emergency Medical Technician (NREMT) Representative: Christopher C. Gilbert, EMT-P

It was moved by Dr. Akaka, seconded by Dr. Bintliff, and unanimously carried to approve Christopher C. Gilbert as its NREMT Representative.

c. Podiatrists

Federation of State
Medical Boards'
Presentation:

J. Daniel Gifford, M.D., FACP, Board Chair, Federation of State Medical Boards ("FSMB"), Inc., and Michael P. Dugan, MBA, FSMB Chief Information Officer presented information on the background; services and educational offerings; and advocacy update.

Dr. Gifford indicated that FSMB serves as an innovative leader, helping state medical osteopathic boards shape the future of medical regulation by protecting the public and promoting quality health care. It is the voice for state medical and osteopathic boards, supporting them through education, assessment, research and advocacy while providing services and initiatives that promote patient safety, quality health care and regulatory best practices.

Dr. Gifford provided information on FSMB's services that are designed to assist member medical boards in their role as public protectors.

The FSMB provides several services and educational offerings for the Board, its staff, and the public. In particular, Board staff receives daily USMLE exam transcripts, physician profiles and FCVS credentials to assist in the application process. Board members and select staff participate in the FSMB's Annual Meetings which allow the Board chair and executive officer to network and discuss the latest medical regulatory trends. The FSMB recently launched DocInfo, a free search portal for the public. The public may find out: where their physician is licensed; where their physician went to medical school; or whether their physician has been disciplined by a medical/osteopathic licensing board.

As requested, Dr. Gifford and Mr. Dugan provided information regarding the FSMB's Interstate Licensure Compact ("Compact") as summarized below:

In 2013, the FSMB House of Delegates voted to aggressively study the Compact.

The Compact represents an initiative to streamline and expedite the licensure process for eligible physicians that improves license portability and increases patient access to care. In order to be a participating member board of the Compact, the medical/osteopathic board must have legislation introduced and enacted. It is their understanding that the Compact language may not be changed in any way. State legislatures must ensure that the language is enacted in the same form as the model language drafted by the FSMB.

The Compact, unlike the general means of obtaining a medical license, sets forth the maximum requirements for obtaining a license, including, but not limited to: successful completion of an accredited core residency training program; ABMS or AOA board certification; and having no board disciplinary action.

As of October 6, 2015, there are: 11 jurisdictions which enacted the Compact; 9 jurisdictions which introduced legislation; 11 jurisdictions which support the concept, including Hawaii; and the remainder have no position.

Executive Officer Quiogue stated that the Board is generally supportive of this initiative. However, there are still some unanswered questions. For instance, the Board is unsure how much of an impact the enactment of the Compact will place on current staff; and the costs associated with being a member board of the Compact (to be determined by the Compact Commission – which has not officially been created yet).

Discussion followed. Dr. Gifford indicated that participation in the Compact may be beneficial for states that import a majority of its practicing physicians.

Dr. Gifford and Mr. Dugan thanked the Board for the opportunity to present information.

New Business:

a. 2016 Board Meeting Schedule

The 2016 Board meeting schedule was distributed to members for informational purposes.

Scope:

a. Hawaii Medical License / Cruise Ship Inquiry

The Board reviewed and discussed emails from Graham S. Meyer, M.D. dated October 26, 2015 and November 3, 2015, regarding whether a Hawaii medical license is required to “work on the Pride of America, a cruise ship which is registered in the United States and sails out of Hawaii. The ship goes into international waters each day.” It is the Board’s further understanding that “NCL America, which operates the ship, stated that it is a requirement of the State of Hawaii, that the Doctor have a Hawaiian Medical License.”

After due consideration of Dr. Meyer’s emails, the Board informally opined that anyone engaged in the practice of medicine within the boundaries of the State of Hawaii is subject to the laws of the State of Hawaii, which requires a Hawaii medical or osteopathic medical license . Hawaii Revised Statutes (“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.

The Board is not authorized to determine the jurisdictional boundaries of the State of Hawaii, nor does the Board opine on the location of those boundaries. The Board suggested that Dr. Meyer seek private legal counsel in determining the demarcation/boundaries of the State, and whether his medical activities occur within those boundaries.

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. Medical Marijuana Certifications and Dispensaries:

The Board reviewed and discussed emails from Dr. Otto, beginning in May 2015, and his most current email dated October 10, 2015, as well as the Nevada Board of Medical Examiners June 2014 Advisory Opinion and Nevada State Board of Osteopathic Statement of Policy Regarding Medical Marijuana approved September 9, 2014. In particular, Dr. Otto inquired whether the following questions or scenarios would be violations of the Board's laws or rules:

1. A physician who was part owner of a [medical marijuana] dispensary could be considered aiding and abetting a patient in obtaining a federally illegal controlled substance, unless it could be shown that

the customer did not have a doctor-patient relationship with the physician owner.

Members stated that dispensing a controlled substance falls under the purview of the state Department of Public Safety, Narcotics Enforcement Division ("NED"). Adverse/disciplinary actions taken by the NED are grounds for possible disciplinary action against a licensed physician or osteopathic physician.

2. If the DEA were to revoke a physician's federal narcotics registration for such activity, then this would justify revoking a physician's medical license.

Members stated that the revocation of a physician's federal narcotics registration constitutes grounds to discipline a physician or osteopathic physician's license.

3. Physicians working as private contractors who provide medical consultation to dispensaries; and

Members stated that providing medical consultation to a medical marijuana dispensary outside of a doctor-patient relationship is not the practice of medicine.

4. What does the Board consider such issues? A potential violation?

Members stated that given the complexity of issues and numerous hypothetical scenarios, the Board advised that Dr. Otto seek private legal advice to ensure adherence to all state and federal laws.

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.

Chairperson's
Report:

Chair Desai discussed the recent series of Articles in the Star-Advertiser regarding the Board. Chair Desai encouraged the Board members to read the articles if they have not done so.

Discussion followed. Members of the Board expressed their concern with how RICO handles investigations. It was suggested that this matter be placed on the December agenda and to invite respective speakers from RICO.

Executive Officer's
Report:

None.

Next Meeting: Thursday, January 14, 2016
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, HI 96813

Adjournment: It was moved by Dr. Halford, seconded by Dr. Sept, and unanimously carried to adjourn the meeting at 3:50 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
11/06/15

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

HAWAII MEDICAL BOARD (11/12/2015-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 18365 JOHN A <UHL<
MD 18366 SUSANA <SAMANIEGO<
MD 18367 GENE C <ROLAND<
MD 18368 JARED K <OYAMA<
MD 18369 CHRISTIAN <INGUI<
MD 18370 JULIAN A <GARCIA<
MD 18371 MARK P <BRIDENSTINE<
MD 18372 LUIS G <ALVAREZ<
MD 18373 GENEVA M <OSTEEN<
MD 18374 KATHRYN A <GIBLIN<
MD 18375 ARJUN G <KARKHANIS<
MD 18376 KARA E <SAWYER<
MD 18377 MARCI L K <PERALTO<
MD 18378 MITCHELL T <HAMELE<
MD 18379 TIMOTHY A <MORTON<
MD 18380 LISA ANN <LEPINE<
MD 18381 HARRY H <AHN<
MD 18382 DAVID J B <HSIANG<
MD 18383 NATHAN C <KING<
MD 18384 MOHAMMAD <JARBOU<
MD 18385 KARLA M <PERRIZO<
MD 18386 JOHN R <MILLS<
MD 18387 LISA A <JACOBSON<
MD 18388 ROMANA <ZVEREVA<
MD 18389 SUSAN E <BIFFL<
MD 18390 CAROL E <TRASK<
MD 18391 HELDER <CHIN<
MD 18392 DAVID A <BURNS<
MD 18393 RANDALL D <HOWERTON<
MD 18394 JING T A <CHIANG<
MD 18395 FRANCESCA K <LITOW<
MD 18396 SUMMER P <CHONG<
MD 18397 CHRISTOPHER P <COST<
MD 18398 JESSICA C <OSWALD<
MD 18399 MAMDOUH M <RIAD<

MDR 6975 ANDREA K <KNITTEL<
MDR 6976 RIHAM M <ALWAN<
MDR 6977 EMILY <GORDON<
MDR 6978 JUSTIN T <HUGGINS<

MDR 6979 DAVID A <CALCARA<
MDR 6980 MISHA R <OWNBEY<

DOSR 364 LUKE K <METZKER<
DOSR 365 PAARTH J <RAJ<
DOSR 366 KATY L <PICARD<

AMD 655 SCOTT P <SEAGER<
AMD 656 BRENDA J <SHAW<
AMD 657 JESSE T <FENGER<
AMD 658 NICHOLLE M <HASSELL<

EMTP 2102 VANCE <KAAUAMO<
EMTP 2103 NATHAN J <QUINN<

EMTB 2674 HUMBERTO G <PARODI<