

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: Monday, September 19, 2016

Time: Immediately Following Board Meeting

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Paul Guevara, D.M.D., M.D.S., Rules Committee Chair
Mark Chun, D.M.D., Dental Member
Rodney Ching, Public Member
Janet Primiano, R.D.H., Dental Hygiene Member
Garrett Ota, D.D.S., Dental Member
Earl Hasegawa, D.M.D., Dental Member
James Kobashigawa, Executive Officer
Sandra Matsushima, Executive Officer
Daniel Jacob, Deputy Attorney General
Lisa Kalani, Secretary

Guests: Diane Brucato, RDH, EF, BS, FAADH, Hawaii Dental Hygienists' Association ("HDHA")

Call to Order: Rules Committee Chair Guevara called the meeting to order at 11:39 a.m.

Discussion on Possible Amendments to Chapter 79, Hawaii Administrative Rules ("HAR")

- ✓ Proposed 16-79-149 Retention of dental records
- ✓ Proposed 16-79-150 Availability of dental records

Ms. Matsushima stated the Committee had wanted information on which states have laws pertaining to dental records.

Committee Chair Guevara reported some of the states that have dental records laws and/or rules are:

- Arizona, 6 years from date of last treatment, minors at least 3 years after their 18th birthday, and others by written request;
- California, 7 years;
- Florida, 4 years;
- Illinois, 10 years;
- Kansas, 10 years;
- New York, 6 years;
- Texas, 5 years;
- Washington, 5 years;

Other requirements for minors is 1 year after 18 years of age, 6 years after minor patient reaches age 21, so that would be age 27. Until patient reaches 21 years old or 5 years from date of last treatment, whichever is longer. So there is some variations when it comes to pediatric patients.

Ms. Matsushima passed around a copy of the ADA dental records policy for the Committee to review.

Dr. Chun asked how long do attorneys have to keep records?

Mr. Ching stated 6 years.

Committee Chair Guevara stated that the ADA dental records policy defers to state law, which right now we don't have any. The draft that Ms. Matsushima provided at the last meeting, which was taken from the medical rules states, the dentist shall be liable for the preservation of basic information for dental records for 25 years after the last entry. Dental records may be destroyed after 7 years retention period after minification.

Ms. Matsushima stated she just mirrored this draft after the retention of medical records statute, so it can be conformed to dental.

Committee Chair Guevara stated we should look at what the western states require, perhaps Arizona or California.

Mr. Kobashigawa stated you have justification for 7 years based on the medical requirements as well as the insurance company recommendations.

Mr. Jacob stated you don't have to make a separate requirement for pediatric patients, you could just make it 7 years across the board.

Committee Chair Guevara stated he is okay with recommending 7 years to the Board if the rest of the Committee is okay with that.

It was moved by Dr. Chun, seconded by Ms. Primiano and unanimously carried to recommend dental records be retained for 7 years for both adult and minor patients.

Botox (botulinum toxin; neurotoxin) and dermal fillers

Chair Guevara stated we talked about this before and decided to keep the policy statement as status quo.

Mr. Kobashigawa stated you have it as a policy statement right now, did you want to incorporate it into your rules?

Committee Chair Guevara stated a policy statement is adequate for now.

Ms. Matsushima asked if you want to just change the name from Botox to the name of the drug, which is botulinum toxin; neurotoxin.

It was moved by Dr. Ota, seconded by Dr. Chun and unanimously carried to keep the policy statement as is but just change the name of Botox to the actual base drug botulinum toxin.

2018 License Renewal/Continuing Education ("CE") Audit

Ms. Matsushima stated she would like to get this started before the next renewal. How this works is 5% of licensees on the randomly selected audit list will be sent a letter prior to the renewal deadline requiring them to submit evidence of their completed CE's prior to renewal. Those on the audit list will not be able to renew online and will need to submit a hardcopy renewal with their CE's.

Committee Chair Guevara clarified, these licensees will receive their notice to renew, plus this audit letter that tells them they have to submit evidence of their CE's together with their renewal. They cannot renew online and get their license renewed without submitting evidence of their CE's

Ms. Matsushima asked if you would like to begin the pre-audit for the 2017 renewal or the 2019 renewal?

It was moved by Ms. Primiano, seconded by Dr. Ota and unanimously carried to begin the pre-renewal CE audit for the 2019 renewal for both dentist and dental hygienist.

Mr. Kobashigawa stated the revised rules that were just approved includes the ethics CE requirements for dental hygienist. Do you want to include this requirement for the 2017 renewal or wait until the 2019 renewal?

Dr. Chun asked when is the dentist ethics CE required?

Mr. Kobashigawa stated for dentists the law was passed in 2015 to require 3 hours of ethics courses per year after January 1, 2016.

Ms. Primiano stated many hygienist are already aware of the ethics CE requirements.

Committee Chair Guevara stated it might be easier for the hygienists to wait for the 2019 renewal.

Ms. Primiano asked how will hygienists be notified about this new requirement if they are not part of HDHA?

Mr. Kobashigawa stated we will post an important notice on our webpage, but not everybody will see it. You are going to have licensees especially in the mainland who may not see it.

Ms. Matsushima wondered if we make it effective for the 2017 renewal and they get audited and are found not to have completed the ethics CE, are we going to allow them time to complete it? Ms. Matsushima asked the DAG when would the new rules be effective?

Mr. Jacob replied the rules are effective upon promulgation.

Ms. Matsushima stated then the 2 hours of ethics CE's for dental hygienist would be effective immediately and due by the December 31, 2017 renewal.

Adjournment: With no further business to discuss, Rules Committee Chair Guevara adjourned the meeting at 12:14 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Sandra Matsushima
Sandra Matsushima
Executive Officer

/s/ Lisa Kalani
Lisa Kalani, Secretary

SM:lk

10/3/16

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