

BOARD OF DENTAL EXAMINERS
Professional & 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: Monday, February 13, 2017

Time: 9:00 a.m.

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., Chair, Dental Member
Candace Wada, D.D.S., Vice Chair, Dental Member
Staphe Fujimoto, D.D.S., Dental Member
Garrett Ota, D.D.S., Dental Member
Coy Rebmann, D.D.S., Dental Member
Mark Chun, D.M.D., Dental Member
Dennis Nagata, D.D.S., Dental Member
Earl Hasegawa, D.D.S., Dental Member
Janet Primiano, R.D.H., M.P.H., Dental Hygiene Member
Marianne Timmerman, R.D.H., Dental Hygiene Member
Joy B. Y. Shimabuku, Public Member
Rodney Ching, Public Member
Andrew Goff, Esq., Deputy Attorney General
James Paige, Esq., Deputy Attorney General
Daniel Jacob, Esq., Deputy Attorney General
James Kobashigawa, Executive Officer ("EO")
Sandra Matsushima, Executive Officer ("EO")
Lisa Kalani, Secretary

Guests: Diane Brucato, RDH, EF, BS, FAADH, Hawaii Dental Hygienists' Association ("HDHA")
Kathleen Lee, HPPA for Hawaii Dental Association ("HDA")
Steve Wilhite, Hawaii Dental Association ("HDA")
Robert Baysa, Hawaii Dental Association ("HDA")
Chris Lee, Hawaii Dental Association ("HDA")

1. Call to Order: There being a quorum present, Chair Guevara called the meeting to order at 9:08 a.m.

2. Approval of Board Meeting Minutes and Executive Session Minutes of January 23, 2017 Chair Guevara called for a motion in regards to the Board meeting minutes of January 23, 2017.

There being no discussion, it was moved by Vice Chair Wada seconded by Dr. Ota and unanimously carried to approve the Board Meeting minutes as circulated.

Chair Guevara called for a motion in regards to the Executive Session minutes of January 23, 2017.

There being no discussion, it was moved by Dr. Ota seconded by Dr. Fujimoto and unanimously carried to approve the Executive Session minutes.

3. Old Business: a. Discussion on Administrative Rules

- Approval of the Rules Committee Minutes of January 23, 2017 Meeting.

Chair Guevara called for a motion in regards to the Rules Committee minutes of January 23, 2017.

There being no discussion, it was moved by Ms. Primiano, seconded by Dr. Fujimoto and unanimously carried to approve the Rules Committee minutes.

Chair Guevara stated these were the proposed amendments that the Rules Committee recommended approval on at its last meeting. As the Board just approved the Rules Committee Minutes, approval of the proposed amendments is needed.

There being no discussion, it was moved by Ms. Shimabuku, seconded by Dr. Fujimoto and unanimously carried to approve the recommended proposed amendments to the following:

- §16-79-3 Renewal of a dental or dental hygiene license
- §16-79-3.1 Restoration of forfeited license
- §16-79-146 Certification of compliance and audit
- §16-79-141.5 Ethics
- §16-79-142 Approved sponsoring organizations

- §16-79-143 Requirements for approval by the board
- §16-79-149 Retention of dental records

Ms. Matsushima stated that she just wanted to remind the Board that at its July 2016 meeting it also approved amendments to sections 16-79-142, 16-79-141, 16-79-78, 16-79-69.1, and 16-79-69.5. These will be incorporated as part of today's approval and included in the draft that will be created with the amendments that were also approved today for the rule amendment process.

Ms. Brucato asked when the public hearing will be and will the public get to see the draft before the public hearing.

Ms. Matsushima stated a draft will be put together and made available to the public. There are multiple steps to be taken before the public hearing occurs in the rule making process. Nothing further will be added to this draft for rule amendment.

The following agenda item was moved as the next order of business:

Executive Session:

At 9:22 a.m., it was moved by Dr. Hasegawa seconded by Dr. Ota, and unanimously carried to enter into executive session pursuant to HRS §§ 92-4 and 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. Guests were excused from the meeting room.

Andrew Goff, Esq., Deputy Attorney General left 9:31 a.m. and James Paige, Esq., Deputy Attorney General arrived 9:31 a.m.

At 10:07 a.m., it was moved by Dr. Ota, seconded by Dr. Rebmann, and unanimously carried to move out of executive session.

The following agenda item was moved as the next order of business:

4. New Business:

a. Legislative Matters

The Board reviewed the following bills:

- SB343 / HB560 Relating to Dental Licensure

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA is opposed to these bills as written.

After a brief discussion, the Board supports the intent of this measure, however, the Board cannot support the bill as written and is opposed to a reciprocal license as some states license dentists via additional education without the passage of a clinical examination. The Board believes there may be a public safety issue by not focusing on the competency of the practitioner rather than the quantity of practitioners. Passage of the clinical examination is essential in measuring competency and ensuring the safety of the public.

It was moved by Dr. Nagata, seconded by Vice Chair Wada, with Ms. Shimabuku opposed, it was voted on and the motion carried to support the intent of the measures, however does not support SB343 and HB560 as written and is opposed to a reciprocal license without passage of a clinical exam.

- SB344 / HB374 Relating to Dental Assistants

Chair Guevara asked if the audience had any comments?

Ms. Brucato stated HDHA supports these bills.

Dr. Wilhite stated HDA is opposed to these bills as written.

Dr. Ota asked if the way these bills are written, would it mean that anything that would come under the scope of dental hygienist, a dental assistant could no longer do?

Mr. Kobashigawa stated the reference to this is the scope of practice as defined in Chapter 447. So whatever it says in Chapter 447 is in a dental hygienist scope of practice and cannot be delegated to a dental assistant.

Chair Guevara stated the main thing this would prohibit a dental assistant from doing is applying a topical chemical.

Ms. Primiano stated that Hawaii is the only state that does not allow it. In the 2015 State Fact Booklet put out by the Dental Assistant National Board says that there are 50 states and jurisdictions that allow dental assistants to apply fluoride and other medicaments. They do not feel it is a public safety issue.

Dr. Fujimoto stated the problem he has is that this takes what is in the rules and places it into statute which would not allow the Board to make any changes, especially with changes to the practice of dentistry and improvements to technology and equipment. It would take the powers out of the Boards hands.

After a brief discussion, it was moved by Ms. Shimabuku, seconded by Vice Chair Wada and unanimously carried to oppose SB344 and HB374 because it would prohibit dental assistants from performing a simple procedure that is currently defined as the scope of practice of dental hygiene and the Board believes that dental assistants, with appropriate training, can safely apply fluoride to patients, similarly as all other states allow dental assistants to apply fluoride.

James Paige Esq., Deputy Attorney General left 10:51 a.m. and Daniel Jacob, Esq., Deputy Attorney General arrived 10:51 a.m.

- SB371 / HB564 Relating to the Board of Dentistry and Dental Hygiene

Chair Guevara asked if the audience had any comments?

Ms. Brucato stated HDHA supports these bills.

Dr. Wilhite stated HDA is opposed to these bills.

Chair Guevara stated it will be very difficult to find a public health dentist.

Mr. Jacobs asked what defines a public health dentist? Is it someone with a public health background? A degree in public health dentistry?

Mr. Kobashigawa stated he believes the intent regarding public health dentistry, is someone who holds a community service license.

Chair Guevara stated that would need to be clarified, and asked for comments on the portion of the bill that proposes to change the boards' name.

Dr. Wilhite asked if there is any other states that include Dental Hygienist or Dental Hygiene in its boards' name?

Chair Guevara replied he does not know.

Dr. Chun stated changing the name to Board of Dentistry and Dental Hygiene implies that dental hygiene is a separate entity from dentistry.

Dr. Hasegawa stated dentistry encompasses so many different areas, it includes the entire dental team.

Mr. Kobashigawa stated he thinks the bill is just trying to say that the board consists of dentists and dental hygienist.

Ms. Matsushima stated in the past the board was in favor of an additional hygiene member but did not want to change the name and believed that the industry is one profession, a combination of dentist, dental hygienist, and auxiliary staff.

Ms. Primiano suggested changing the name of the board to the "Board of Dentistry".

Chair Guevara stated what the Board said in the past still applies today.

There being no further discussion, it was moved by Dr. Chun, seconded by Dr. Fujimoto and unanimously carried to support the intent of the measures, however the Board is opposed to changing its name. Regarding increasing its current composition, the Board supports the addition of a dental hygienist member, however with regard to the addition of a public health dentist, the Board is requesting clarification on the definition. Regarding developing a conflict of interest policy, the Board believes that it has procedures in place already to avoid conflicts of interest and in regards to teleconference access for neighbor island members, this is not something routinely used due to its limitations, accessibility and availability.

Ms. Shimabuku was excused at 11:42 a.m.

- SB380 / HB563 Relating to Dental Hygienists

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA supports these bills with the following comments:

- No block anesthesia;
- Only for patient of record;
- Treatment plan in place within a year; and
- No irreversible procedures performed.

Ms. Primiano stated the dental assistant is not allowed to assist the dental hygienist if they are under general supervision.

Chair Guevara stated right now we don't have any provisions for a dental assistant to assist a dental hygienist without the direct dentist supervision. This measure only addresses whether a dental hygienist can work under general supervision of the dentist.

Ms. Primiano stated she would support these measures and likes the comments included by Dr. Wilhite.

Ms. Brucato stated she knows of dentists that have had incidents resulting in them having to close down their dental office for months. The problem with that is everything stopped, the staff could not work, there was no income for that dentist, and the patients of record could not get in for their maintenance appointments. This measure would be a win for patient access to care, for the staff to still be able to work, and for the dentist to have an income while he/she is unable to work.

Dr. Hasegawa stated it is the dentist responsibility to supervise his/her office. He is concerned about emergency situations. From a safety standpoint, it is best that the dentist remains present in the office.

Ms. Timmerman stated if this bill should pass, it does not mean that every dentist has to allow general supervision.

Dr. Wilhite stated he surveyed some dental hygienist and was surprised by their response that they did not want to work without the dentist present in the office.

There being no further discussion, it was moved by Dr. Rebmann, seconded by Ms. Shimabuku and opposed by Dr. Hasegawa, to support the intent of SB380 and HB563, however recommends the dental hygienist remain under direct supervision for the following procedures:

- Intra-oral block anesthesia;
- Soft tissue curettage; and
- Any irreversible procedures to be performed.

In addition, the Board recommends that the dental hygienist may work under general supervision only for patients of record and only for patients with an existing treatment plan.

- SB381 / HB565 Relating to Dental Assistants

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA opposes these measures.

Ms. Brucato stated HDHA supports these measures.

Chair Guevara stated if these measures pass, this would remove the allowable and prohibited duties of dental assistants from the rules and places them in the statutes, thereby preventing the Board from making amendments without legislative action.

Mr. Jacob stated that may not be true, The Board could still add allowable duties of a dental assistant as long as they did not fall within the scope of practice of a dental hygienist.

Mr. Kobashigawa asked Ms. Brucato if the intent of this bill is only so that dental assistants have appropriate training to administer fluoride, why do this?

Ms. Brucato stated HDHA did not put this bill forward.

Mr. Kobashigawa asked whether the HDHA is supporting this bill?

Ms. Brucato replied yes they are supporting it but it was not their idea.

Dr. Chun asked why they are supporting this?

Ms. Brucato stated they are not against dental assistants doing this procedure, they are against dental assistants doing this without some kind of regulation and education because it is a public safety issue.

Dr. Rebmann stated one of the key things he sees in these bills is overlap. There is going to be overlap in teamwork and duties, but overlap does not necessarily compromise patient safety and patient care.

Dr. Hasegawa asked why would a dentist who trains his/her staff need to take a continuing education program on how to provide training to auxiliary personnel? Does this CE even exist?

Mr. Kobashigawa stated Kapiolani Community College is ready and willing to come up with this course.

Chair Guevara asked if anyone has comments in support of these measures?

There being no further discussion, it was moved by Chair Guevara, seconded by Dr. Fujimoto and unanimously carried to oppose SB381 and HB565 for the same reasons as discussed in SB344 and HB374.

- SB740 Relating to Health

Chair Guevara stated his comment would be to include D.M.D.

There being no further discussion, it was moved by Dr. Hasegawa, seconded by Ms. Primiano and unanimously carried to support the intent of this measure, with the addition of Doctor of Dental Medicine (“D.M.D.”).

- HB561 Relating to Dentistry

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA is opposed to the wording in this bill. HDA thinks it is appropriate for dentist that perform sedation in their office that have been granted a permit to have to post signage, but not every dentist.

Chair Guevara stated a lot of what is in this bill is already in place in the rules regarding inspection of offices that perform sedation.

There being no further discussion, it was moved by Dr. Nagata, seconded by Ms. Shimabuku and unanimously carried to support the intent of the measure, however the language in the bill is already provided for in the current laws and administrative rules, which is also held at a higher standard than the language in the bill. With regard to the requirement to post signage at every dental office, the Board believes this should be generally applicable to all PVL boards/programs and the language be placed in Chapter 436B.

- HB562 Relating to Dentistry

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA supports this measure.

There being no further discussion, it was moved by Dr. Ota, seconded by Dr. Rebmann to support HB562.

- SB191 / HB726 Relating to Health Care Practitioner Transparency

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA supports these measures.

Ms. Brucato stated she is in support, but believes the badge or I.D. would need to be specifically placed to avoid contamination.

Chair Guevara asked how would we be able to wear a badge or I.D. on our clothes and keep it sterile?

There being no further discussion, it was moved by Vice Chair Wada, seconded by Dr. Hasegawa and unanimously carried to support the intent of these measures, however is concerned that infection control may be compromised and enforcement may be difficult.

- SB738 Relating to Healthcare Practitioners

Chair Guevara asked if the audience had any comments?

Dr. Wilhite stated HDA supports this measure.

Chair Guevara stated right now dentist do not have to display their dental degree in their office. If a dentist works in multiple offices, I assume you would need to make copies of your degree to display it at every office.

There being no further discussion, it was moved by Ms. Primiano, seconded by Ms. Timmerman and unanimously carried to support SB738.

b. American Association of Dental Boards (“AADB”)

- 2017 AADB Mid-year meeting, April 23-24, 2017, Chicago, IL

Chair Guevara stated he will be attending unless someone else would like to attend in his place.

- January 2017 Monthly Report

The January 2017 monthly report was provided to the Board members to review at their perusal.

- The Bulletin

The Bulletin was provided to the Board members to review at their perusal.

c. Commission on Dental Competency Assessments (“CDCA”)

- 2017 Annual Meeting Report, January 12-14, 2017

Ms. Matsushima provided a written report to the Board.

Ms. Primiano reported she attended the review of how to use the tablet and scoring. She also provided a written report of the Steering Committee meeting to the Board members to review at their perusal.

d. Central Regional Dental Testing Service (“CRDTS”)

- Steering Committee Meeting Report

Dr. Fujimoto reported the 2017 Annual CRDTS Meeting will be held August 24-26, 2017, in Kansas City. To improve Friday check-in at the hotel the Committee is proposing condensing the meeting format by shifting some of the workshop meetings from Friday afternoon to Saturday. This would allow the Thursday and Friday schedule to primarily focus on Committee meetings. The report of the Director of Analysis indicated that in 2016 there were 2,259 hygiene candidates at 73 testing sites with a failure rate of 11.02%. Finally, there has been a debate in Iowa regarding licensure and testing, so CRDTS, members of the legislature, ASDA and the Board of Dental Examiners got together for a meeting on the future of licensing in Iowa and basically it came down to the students do not want a patient based exam for licensure.

5. Correspondence:

a. Continuing Education review for Restoration of License

- Dr. Jonathan Mah
- Dr. Grace Chen

Ms. Matsushima stated this came to the Board at the last meeting however she wanted to bring it back because in the past the Board would accept “live” interactive web-based courses. There was some concern that the online CE courses taken by these two dentists were not “live” interactive web-based courses.

Ms. Matsushima did some research on the A.C.E.S. Advanced Continuing Education webcast courses; the VIVA Learning online (interactive and on-demand) courses; and the Colgate Oral Health Network courses and provided the Board with this information. It appears that some courses offered by these sponsors are actually “live” interactive web-based courses.

The course certificates submitted by Dr. Mah and Dr. Chen were the “live” interactive web-based courses.

It was moved by Chair Guevara, seconded by Vice Chair Wada, with Dr. Ota recusing himself, the motion carried to approve the CE’s of Dr. Mah and Dr. Chen for restoration of their licenses.

6. Executive Officer’s Report on Matters Related to the Board of Dental Examiners:

a. Professional Licensing Report – ProForum News

The Board was provided with a copy of the following for their information.

- Federal court overturns dismissal of suit challenging the Ohio Dental Board’s ban on specialty advertising by general practitioners;
- Sunset review criticizes licensee self-audits, missing licensee data, lax continuing education monitoring by the Tennessee Board of Dentistry.

b. DCCA Disciplinary Actions

The DCCA Disciplinary Actions were passed around for the Board members to review at their perusal. There was one dental disciplinary action.

c. DANB Infection Control Education Initiative

The Board was provided with a copy of a memo regarding the DANB Infection Control Education Initiative for their information.

d. Information on Dental CE Live Interactive Webcast Courses

This was discussed previously under a. Continuing Education review for Restoration of License.

7. Public Comment:

Ms. Brucato thanked the Board for discussing Legislative matters openly and for allowing the public to comment on the matters.

8. Announcements: None.
9. Next Meeting: Chair Guevara announced the next meeting as Monday, March 20, 2017.
- Monday, March 20, 2017
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
10. Adjournment: Chair Guevara adjourned the meeting at 12:52 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

2/28/17

Minutes approved as is.

Minutes approved with changes; see minutes of _____.