

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, May 8, 2017
- Time: Immediately Following Board Meeting
- Place: King Kalakaua 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  
Rodney Ching, Public Member  
Earl Hasegawa, D.M.D., Dental Member  
Garrett Ota, D.D.S., Dental Member  
Janet Primiano, R.D.H., Dental Hygiene Member  
Daniel K. Jacob, Esq., Deputy Attorney General ("DAG")  
James Kobashigawa, Executive Officer ("EO")  
Sandra Matsushima, Executive Officer  
Lori Nishimura, Secretary
- Excused: Mark Chun, D.M.D., Dental Member
- Guests: Diane Brucato, RDH, EF, BS, FAADH, Hawaii Dental Hygienists'  
Association ("HDHA")  
Gerraine Hignite, HDHA  
Joseph P. Mayer, Sr., Public  
Joy B. Y. Shimabuku
- Call to Order: Rules Committee Chair Guevara called the meeting to order at 11:49 a.m. and excused Dr. Chun from today's Committee meeting.

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

- §16-79-149 Retention of dental records (new subsection)
  - Proposal of a new subsection regarding copies of a patient's dental records made available upon request;
  - To discuss whether cast models are considered part of the dental records.

Rules Committee Chair Guevara stated a copy of the proposed amendments has been provided with the agenda. He inquired if anyone needed a copy. No one requested for a copy. Ms. Brucato thanked the Committee for providing a copy with the agenda, commenting that it is "helpful to have an attachment".

Rules Committee Chair Guevara stated these are proposed amendments that the Committee looked at previously and asked if anyone had any comments or recommendations. EO Matsushima stated that at the last Committee meeting, it was noted that the Committee wanted to clarify whether cast models are considered to be a part of dental records.

Committee Chair Guevara inquired with Dr. Hasegawa if he had inquired about cast models. Dr. Hasegawa stated that he did inquire with his insurance company. He also stated that he forwarded a copy of the American Dental Association ("ADA") guidelines on dental records to EO Matsushima, and apologized that he only briefly reviewed those guidelines.

Brief discussion ensued on two types of cast models: diagnostic and fabricated. Committee members agreed that fabricated cast models are usually discarded. Dr. Ota was asked how long he kept his patient's cast models, which he replied that he was not here at the last meeting to discuss this matter, but that he kept all of his patient's diagnostic cast models.

Dr. Hasegawa commented that his insurance company told him that retention should be seven (7) years and further that for underage patient, you would add the seven (7) years after they turned eighteen (18) years of age; thus, the retention period may be longer than seven (7) years. EO Kobashigawa confirmed that this is the medical records retention guidelines. Dr. Hasegawa inquired if this Board is going to follow the medical records retention guidelines; EO Kobashigawa commented that the Board had indicated that they are not following the medical records retention guidelines, and that they are choosing their own retention

period.

Committee Chair Guevara stated that the ADA guideline states that diagnostic and/or treatment cast may be photographed and stored in some cases; however, prior to deferring to one of these methods – the dentist should consult with their own attorney and/or professional liability insurance company and applicable agencies such as HIPAA and defer to the state laws.

EO Matsushima inquired if the Board should reference to follow the ADA guidelines. DAG Jacob suggested the Board should create guidelines more explicitly as possible because ADA guidelines may change, and may not always be clear.

Committee Chair Guevara iterated that according to ADA, cast models are records but that they can be photographed. DAG Jacob commented the Board is not bound by statute to state the minimum requirements for retention of cast models as noted in the ADA guidelines; thus, it is up to the Board whether they want to follow/model after the ADA guideline or require a longer retention period or a shorter retention period. DAG Jacob commented that professionally speaking, there may be a reason why you would want to set a minimum but there is no law that requires it.

Dr. Ota commented taking a picture of a diagnostic cast model and trying to see it two dimensionally is useless, he doesn't see how a picture would help - he would prefer seeing an x-ray.

Committee Chair Guevara inquired if the Board needed to address cast model; Mr. Hasegawa and EO Matsushima commented that this inquiry will be asked to the Board.

Dr. Hasegawa inquired if the Board could reference guidelines from the professional liability insurance companies on cast models. DAG Jacob commented that would be a requirement for professional liability insurance and not a regulatory requirement, not a cause for discipline on a licensee.

Dr. Ota stated that a cast model is a record. DAG Jacob commented that you could define it that for purposes of this guideline, dental cast models are not included in dental records; thus, retention period for cast models is not mandated.

Committee Chair Guevara commented for the military, he has worked with the AFIP (Armed Forces Institute of Pathology) whereby cast models were invaluable in helping to identify remains from a plane wreck; casts, x-rays, and dental records are all helpful. Mr. Mayer commented that the military may use DNA records and has that data bank, and that cast models from orthodontist may be something you want to salvage/maintain. He further commented that treatment casts do not need to be kept, no real value "down the road". Dr. Hasegawa commented that cast models from orthodontists are different from dental cast models, ortho cast models are much more important to orthodontist.

Dr. Hasegawa commented that he is not required to keep patient's cast models but he personally likes to keep it in case he is ever questioned on the treatment plan of his patient(s). He added that his professional liability insurance company told him that cast models are part of the dental record, and they recommended that he keep his cast models for seven (7) years.

Mr. Ching commented that from his public member's standpoint, it makes more sense to keep cast models, making it a part of the dental record and keeping it for seven (7) years. Balancing the potential benefit to defend the treatment plan administered versus the cumbersome nature of keeping the cast models; it is a safer and more conservative approach.

Dr. Ota commented that the more information you have the better; he has kept all his implant cast models since 1997. He commented that cast used for dentures are broken once the dentures are made and the broken cast may be glued back together (adding that would be altering it); thus, further commenting that it is hard to differentiate what is important and what is not.

Mr. Mayer commented if you have a CT scan of the cast model and the device to create a cast from a scan, you wouldn't need to keep the physical cast model. Committee Chair Guevara commented that with new technology, language written in 2007 may be outdated; with advances in technology, you could build a cast from a CT scan by sending it to a 3D printer.

Dr. Ota commented that not every office has a scanner nor access to one. EO Kobashigawa commented to have options on cast models; to state "either/or"; 3D scan or diagnostic cast.

DAG Jacob stated the Board is tasked to set the minimum standard. If the dentist chooses to keep it longer than the minimum – that would be up to them. Discussion ensued with suggestions to state that if they have a diagnostic cast models or 3D scans, it should be kept for seven (7) years. Diagnostic would need to be specified/defined.

Dr. Ota suggested that a physical diagnostic cast model and/or a 3D scan of the patient's jaw shall be kept as part of the dental record. Committee Chair Guevara commented that 3D scan/ photographs are considered dental records. A suggestion was made to keep the physical cast for seven (7) years in lieu of a scan.

DAG Jacob commented that if the Committee is going to make any changes to HAR section 16-79-149, it should be noticed and placed on the agenda to discuss at the next Committee meeting. He commented the Committee should clearly state diagnostic physical/cast models.

Rules Committee Chair Guevara stated the next Committee meeting will include discussion on HAR section 16-79-149, to include language on cast models. He then commented that the Committee had discussed HAR section 16-79-150, and if they were any further discussion. DAG Jacob commented the two HAR sections work hand in hand.

Rules Committee Chair Guevara then asked the public if they had any comments on the proposed draft of HAR section 16-79-150, to propose to the full Board at their next meeting.

There was none.

There being no further discussion, it was moved by Dr. Hasegawa, seconded by Dr. Ota, and unanimously carried to recommend approval of the proposed amendments/new subsection to the following section:

§16-79-150 Availability of dental records

Adjournment:

With no further business to discuss, Rules Committee Chair Guevara adjourned the meeting at 12:23 p.m.

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Reviewed and approved by:

Taken and recorded by:

/s/ Sandra Matsushima

/s/ Lori Nishimura

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Sandra Matsushima  
Executive Officer

\_\_\_\_\_  
Lori Nishimura, Secretary

SM:ln

5/23/17

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_.