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, July 12, 2018

Time: 1:00 p.m.

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

Present: Jone Geimer-Flanders, D.O., Chairperson, Oahu Osteopathic Member
Peter Halford, M.D., Vice-Chairperson, Oahu Member
Sharon “Shay” Bintliff, M.D., Hawaii Member
Maria Chun, Ph.D., Public Member
Franklin V.H. Dao, M.D., Oahu Member
Darren K. Egami, M.D., Maui Member
Peter Holt, M.D., Oahu Member
Palasi Puletasi, Public Member
Karen E. Sept, D.O., Oahu Osteopathic Member
Shari J. Wong, Deputy Attorney General
Ahlani K. Quiogue, Executive Officer
Olga Reppun, Secretary

Excused: Gerard K. Akaka, M.D., Oahu Member
Geri Young, M.D., Kauai Member

Guests: Ava Dysarz, Pre-med Student, Chaminade University
Jared K. Redulla, Administrator, Department of Public Safety, Narcotics Enforcement Division ("NED")
Jenn Pang, Intern, NED
Paige Choy, Healthcare Association of Hawaii ("HAH")
John Hassler, Regulated Industries Complaints Office ("RICO")
Chris Flanders, D.O., Executive Director, Hawaii Medical Association ("HMA")
Mike Robinson, Vice President Government Affairs & Community Relations, Hawaii Pacific Health ("HPH")

Call to Order: The meeting was called to order at 1:04 p.m., at which time quorum was established.

Approval of the June 14, 2018 Minutes:

It was moved by Dr. Bintliff, seconded by Dr. Halford, and unanimously carried to approve the minutes of the executive session and the minutes of the open session of the June 14, 2018, meeting as circulated.
Introduction of guests:

Ms. Dysarz, Mr. Redulla, and Ms. Pang were invited into the meeting room at 1:04 p.m.

Chair Geimer-Flanders greeted the guests. Board members and staff introduced themselves.

Election of Officers:
The floor was opened for nominations for the office of Chairperson and Vice-Chairperson.

Vice-Chair Halford nominated Dr. Geimer-Flanders as Chairperson, the nomination was seconded by Dr. Sept.

Chair Geimer-Flanders nominated Dr. Halford as Vice-Chairperson, the nomination was seconded by Dr. Bintliff.

By consensus, Dr. Geimer-Flanders and Dr. Halford were reelected as Chairperson and Vice-Chairperson, respectively.

Ms. Dysarz, Mr. Redulla, and Ms. Pang were excused from the meeting room at 1:08 p.m.

Applications for License/Certification:

a. Applications:

(i) Physician (Permanent):

a. Derek G. Dombroski, M.D.

b. Jonathan W. Singer, D.O.

(ii) Emergency Medical Personnel:

a. Joseph Puente, EMT

It was moved by Dr. Dao, seconded by Dr. Holt, and unanimously carried to return to the open meeting at 1:38 p.m.

Ms. Dysarz, Ms. Pang, Ms. Choy, and Mr. Hassler were invited into the meeting room at 1:39 p.m.
Applications for  
License/  
Certification:  

b. Ratifications:  

(i) List

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

It was moved by Dr. Egami, seconded by Dr. Dao, and unanimously carried to approve the following application:

(i) Physician:

a. Derek G. Dombroski, M.D.

(i) Physician:

b. Jonathan W. Singer, D.O

After due consideration of the information received, it was moved by Dr. Sept, seconded by Mr. Puletasi, and unanimously carried to deny Dr. Singer’s application for osteopathic medical licensure. The Board based its decision on the following grounds of the Hawaii Revised Statutes (“HRS”) and Hawaii Administrative Rules (“HAR”), which find support in the records and files of Dr. Singer’s application:

HRS §453-8 (a)(7): Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;

HRS §453-8 (a)(8): Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;

HRS §453-8 (a)(9): Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;

HRS §453-8 (a)(11): Revocation, suspension, or other disciplinary action by another state or federal agency of a license,
certificate, or medical privilege for reasons as provided in this section;

HRS §436B-19 (8): Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

HRS §436B-19 (12): Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license;

HAR §16-85-107(a)(1): When the applicant has committed any of the acts for which a license or certificate may be suspended or revoked under sections 453-8 or 463E-6, HRS, or section 16-85-112;

HAR §16-85-107(a)(2): If the applicant fails to demonstrate that the applicant possesses a good reputation for honesty, truthfulness, fairness, and financial integrity;

HAR §16-85-107(a)(3): If the applicant has had disciplinary action taken by any jurisdiction, including any federal or state regulatory body.

In addition, the Board members stated that Dr. Singer failed to uphold the following standards of ethics of the American Osteopathic Association’s Code of Ethics:

Section 13. A physician shall respect the law. When necessary a physician shall attempt to help to formulate the law by all proper means in order to improve patient care and public health.

Section 15. It is considered sexual misconduct for a physician to have sexual contact with any patient with whom a physician-patient relationship currently exists.
(iii) Emergency Medical Personnel:

a. Joseph Puente, EMT

After due consideration of the information received, it was moved by Vice-Chair Halford, seconded by Dr. Bintliff, and unanimously carried to defer Mr. Puente’s application for licensure and request his personal appearance at the Board meeting on August 9, 2018.

License Requirement Inquiry:

a. Inquiry from Jennifer Minthorn, MA, LADC, CCS, PMP, LSSMBB VP-Compliance & Communications, Promerica Health, regarding providing influenza vaccines to employer groups in the State of Hawaii, and whether the physician having oversight of these vaccines and the person signing the standing orders need to be licensed in Hawaii, or whether the Promerica medical director, licensed in Maine could sign the orders.

The Board reviewed an email dated June 18, 2018, from Ms. Minthorn regarding providing influenza vaccines to employer groups in the State of Hawaii, and whether the physician having oversight of these vaccines and the person signing the standing orders need to be licensed in Hawaii, or whether the Promerica medical director, licensed in Maine, could sign the standing orders.

In consideration of this request, the Board members reviewed Hawaii Revised Statutes (“HRS”) § 453-1 which states:

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 or 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 neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationships by the clinical application of osteopathic diagnosis and therapeutic skills for the maintenance of health and treatment disease.

Discussion followed. Chair Geimer-Flanders stated, and the Board members agreed by consensus that pursuant to HRS § 453-1, the physician having oversight of the vaccines and signing the standing orders to provide influenza vaccines to employer groups in the State of Hawaii must obtain a medical or osteopathic medical license in the State.

Lastly, in accordance with Hawaii Administrative Rules § 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 be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

Correspondence: a. National Transportation Safety Board: Letter dated July 2, 2018, regarding the Hawaii Medical Board’s compliance with the Safety Recommendations I-14-1 and -2.

Ms. Quiogue reminded the Board members that the National Transportation Safety Board’s Safety Recommendations I-14-1 and -2 were reviewed and addressed at the Board’s April 12, 2018, meeting.

At that meeting, the Board agreed by consensus to direct its Executive Officer, Ms. Quiogue, to: (1) post on the Board’s webpage, as a separate document and/or addendum to its Memorandum dated March 2016, the article entitled “Evidence that Pilots are Increasingly Using Over-the-Counter, Prescription, and Illicit Drugs”; (2) refer Mr. Marcus to Hawaii Revised Statutes section 329-38.5 (Act 66, SLH 2017), which required the Department of Health to create and place on its website a template for informed consent and requirement for written policies; and (3) provide Mr. Marcus a copy of the of “Informed Consent for Opioid Prescribed Pills”, which contains a statement that a patient must review, understand, and accept regarding the possible hazards of driving, operating machinery, etc. while taking opioids.

The Board members noted that the NTSB letter dated July 2, 2018, addressed to Governor David Ige stated that the Hawaii Medical Board has satisfied both Safety Recommendation I-14-1 and Safety Recommendation I-14-2.

Advisory a. Emergency Medical Personnel:
Committees:

c. Physician Assistants

d. Podiatrists

The Board took a brief break from 1:47 p.m. to 1:58 p.m.

Dr. Flanders, Mr. Redulla, and Mr. Robinson entered the meeting room at 1:55 p.m.

Dr. Bintliff left the meeting at 1:56 p.m.

Introduction of guests: Chair Geimer-Flanders greeted the guests. Board members and staff introduced themselves.

Presentation by Jared K. Redulla, Administrator, Narcotics Enforcement Division, Department of Public Safety, regarding S.B. 2646, SD1, HD3, CD1, (Act 153 (18)), which was signed into law by Governor Ige on July 9, 2018.

The bill added a new section to HRS §329:

Prescriptions; additional restrictions.

(a) The prescription restrictions in this section shall apply in addition to the restrictions described in section 329-38.

(b) No prescriber shall prescribe a schedule II, III, or IV controlled substance without first requesting, receiving, and considering records of the ultimate user from the state electronic prescription accountability system as needed to reduce the risk of abuse of or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary; provided that this subsection shall not apply to:

(1) Any prescription for a supply of three days or less that is made in an emergency situation, by an emergency medical provider, or in an emergency room; and

(2) Any prescription written while the state electronic prescription accountability system is nonfunctional.

(c) The administrator of the state electronic prescription accountability system shall promptly disclose only the requested data to the requesting prescriber or the requesting prescriber's delegate. Disclosure as required under this section is permissible under the duty of
Mr. Redulla informed the Board that in anticipation of the law’s effective date of July 1, 2018, over 1,400 new users applied and were granted access to the Prescription Drug Monitoring Program ("PDMP"), the State’s electronic prescription accountability system.

Mr. Redulla gave an overview of the PDMP, including its history, what is reported into the system, who has access to the system, how to gain access to it, what kind of data is kept in the PDMP, how often the information is updated, and statistics regarding the number of prescriber inquiries by year, dispensation by month, top controlled substances prescribed, and controlled substance prescriptions by county.

Mr. Redulla noted that the NED office is hoping that more prescribers will be using the system as a result of the new law coming into effect. Previously, the number of prescriber inquiries (86,000) was significantly lower than that of inquiries by pharmacists (680,000).

Mr. Redulla also explained to the Board members how a prescriber or a prescriber’s delegate can register in the system and create a patient report.

He also stated that if there were ever a question whether a prescriber checked a patient’s prescription history, the system administrator could input the name of the prescriber and the date range and see all the checks that were made.

Mr. Redulla noted that this is not a perfect law, and that the NED is monitoring and analyzing where there are “growing pains”. The NED is seeking ways and solutions for the prescribers to comply with the law with minimal negative impact on patient care.

Vice-Chair Halford inquired how the NED was able to monitor the prescriptions written by physicians.

Mr. Redulla responded that they would start with the records of dispensed medications and work their way back to the prescriber.
According to the Controlled Substances Act – HRS Chapter 329 – the requirements for records are very clear that these records are to be kept for five (5) years. If there is a need to investigate a case where controlled substances are involved, NED is able to use the records in order to understand what happened.

Mr. Redulla also clarified that the law does not mean that someone with a bad report would not be able to receive opioids after a surgery, if needed. The language of the bill leaves the decision to the discretion of a physician.

Chair Geimer-Flanders and Dr. Egami asked Mr. Redulla for clarification regarding delegation of authority by prescribers to make PDMP checks on their behalf.

Mr. Redulla confirmed that the law allowed such delegation of authority and stated that a prescriber can appoint any number of delegates. He also explained the process through which a prescriber can grant access to his delegates. Mr. Redulla underscored that a prescriber can use their account dashboard to, at any time, quickly terminate access of any of the delegates.

Dr. Dao asked how the NED addressed the issue of older style practices and doctors who are not very tech-savvy.

Mr. Redulla showed the board member the user manual section of the web site which explains how to use the system. He added that there is also IT help in case of technical problems. For those practices that do not use computers things would be, understandably, very challenging.

Dr. Egami asked Mr. Redulla if in a medical emergency where a patient comes into a doctor’s office instead of an emergency room, would this situation qualify as an emergency situation where a 3-days’ supply can be prescribed without consulting the PDMP.

Mr. Redulla responded in the affirmative.

Dr. Egami inquired how often would a physician would be required to run a check for the same patient. For instance, would another check be needed if a patient were to return in five days?

Mr. Redulla replied that the best way to comply with the law is to run a check. However, the language of the law is “as needed”, so the decision is left to the prescriber as to how often to run a check and if the check is necessary. He stressed that it is important to be reasonable in the application of the law.
Mr. Redulla also drew the Board members’ attention to the fact that this law did not provide for criminal penalty, but a referral to RICO and then on to a licensing board for disciplinary action.

Chair Geimer-Flanders inquired if the State of Hawaii shared dispensing information with other states.

Mr. Redulla thanked Chair Geimer-Flanders for the question and responded that, even though this kind of sharing was not prohibited by the law, presently the data is not shared.

Ms. Quiogue asked Mr. Redulla to comment on privacy issues regarding the PDMP information.

Mr. Redulla advised that the best way to treat this information is to guard it the same way as any other patient information. State law is clear on misuse of PDMD information and it would probably meet HIPPA definitions of protected health information.

Chair Geimer-Flanders asked if law enforcement had access to PDMP.

Mr. Redulla replied that unlimited access is only granted to the ten special NED agents. Other law enforcement agencies would have to request access, based on legitimate case needs.

Dr. Sept inquired what would happen if a patient was not in the system what a physician should do in such cases.

Mr. Redulla explained that it could be a data reporting problem, or a patient’s name was not correctly entered into the system, or there is also a possibility of a fraud. He advised the Board members to contact the NED office in such cases.

Chair Geimer-Flanders thanked Mr. Redulla and invited the meeting guests to ask questions.

Mr. Robinson asked Mr. Redulla to confirm that the law provided for physician discretion. Mr. Redulla responded in the affirmative, but he also stressed that, depending on the situation, the patient, or the type of medical practice, it could mean checking the PDMP every time.

Ms. Choy inquired if the delegates of the prescriber would be using the prescriber’s DEA number.

Mr. Redulla explained that all of the identifying information would be entered by the prescriber and access to PDMP would also be approved by the prescriber. The only thing that the delegate
needs to know is the prescriber’s working and active email address.

Ms. Choy also asked Mr. Redulla to clarify if there was any process set up for the referral of cases, and if there were any rules being drafted.

Mr. Redulla stated that the referral process is currently in discussion and the various ways of monitoring the checks are being considered. He also stated that there is no provision for rule making with this particular law. Mr. Redulla added that his agency was currently considering what potential suggestions/recommendations could be made for the improvement of the law for the next legislative session.

Chair Geimer-Flanders thanked Mr. Redulla for his comprehensive and thoughtful presentation.

Open Forum: None.

Next Meeting: Thursday, August 09, 2018
1:00 p.m.
King Kalakaua Conference Room, First Floor
335 Merchant Street
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss, the meeting was adjourned at 2:46 p.m.
HAWAII MEDICAL BOARD 07/12/2018-RATIFICATION LIST

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AMD 841 RICHARD A <GIUDICE>
AMD 842 JASON S <BIGGS>
AMD 843 STACIE B <DUMAS>
AMD 845 TONY S <GREGORY>
AMD 846 STEVEN A <SUGERMAN>
AMD 847 BENJAMIN D <CONTESSA>

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MDR 7520 ERIC A <WIEN>
MDR 7521 AARON T <YOUNG>
MDR 7522 XINTONG <ZUO>
MDR 7553 AARON P <MONTGOMERY>
MDR 7554 KAORU H <SONG>
MDR 7555 MIRIAM L <BRAZER>
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MDR 7559 HEATHER N <VALENZUELA>
MDR 7560 RYAN J <BICKLEY>
MDR 7561 CHRISTIAN A <CRUZ>
MDR 7562 ANDREW J <LOPEZ>
MDR 7563 ANDREW <BIELLO>
MDR 7564 ELENA M <CRECELIUS>
MDR 7565 MICHAEL H <GOTSCHELL>
MDR 7566 DANIELLE M <LEVY>
MDR 7567 AGNES K <SIBILSKI>
MDR 7568 DANIEL L <XU>
MDR 7569 RAYAD H <BARAKAT>
MDR 7570 CYRUS P <BHADHA>
MDR 7571 ISABEL M <BUEHLER>
MDR 7572 CANDUS N <FORD>
MDR 7573 ANDREW J <KEAM>
MDR 7574 JAMES C <MOONEY>
MDR 7575 HANNAH G <RUSSIN>

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