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").
<u>Date:</u>	Thursday, January 17, 2019
<u>Time:</u>	1:00 p.m.
<u>Place:</u>	King Kalakaua Conference Room King Kalakaua Building 335 Merchant Street, 1 st Floor Honolulu, HI 96813
<u>Present:</u>	Peter Halford, M.D., Vice-Chairperson, Oahu Member Gerard K. Akaka, M.D., Oahu Member Sharon "Shay" Bintliff, M.D., Hawaii Member Maria Chun, Ph.D., Public Member Peter Holt, M.D., Oahu Member Palasi Puletasi, Public Member Karen E. Sept, D.O., Oahu Osteopathic Member Geri Young, M.D., Kauai Member Shari J. Wong, Deputy Attorney General Ahlani K. Quiogue, Executive Officer Olga Reppun, Secretary
Excused:	Jone Geimer-Flanders, D.O., Chairperson, Oahu Osteopathic Member Franklin V.H. Dao, M.D., Oahu Member Darren K. Egami, M.D., Maui Member
<u>Guests:</u>	Lei Fukumura, DCCA-PVL, Special Deputy Attorney ("SDAG") Roxanne Haverkort-Yeh, Intern, Senator Rosalyn H. Barker's Office Nicole Ryan, Intern, Senator Rosalyn H. Baker's Office Lee Ann Teshima, DCCA-PVL, Executive Officer, Board of Nursing Vincent Tenorio, PA-C
<u>Call to</u> Order:	The meeting was called to order at 1:00 p.m., at which time quorum was established.
Approval of the December 13, 2018, Minutes:	It was moved by Dr. Bintliff, seconded by Dr. Young, and unanimously carried to approve the minutes of the executive session and the minutes of the open session of the December 13, 2018, meeting as circulated.
<u>Adjudicatory</u> <u>Matter</u> :	Vice-Chair Halford called for a recess from the meeting at 1:01 p.m. to discuss and deliberate on the following adjudicatory matter pursuant

a.

to Chapter 91, HRS:

a. <u>In the Matter of the License to Practice Medicine of John Ogai,</u> <u>M.D.: MED 2016-228-L</u>

After discussion, it was moved by Dr. Holt, seconded by Dr. Sept, and unanimously carried to approve the Settlement Agreement After Filing of Second Amended Petition for Disciplinary Action and Board's Final Order; Exhibits "1"-"3".

Following the Board's review, deliberation, and decision in this matter pursuant to Chapter 91, HRS, Vice-Chair Halford announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:04 p.m.

SDAG Fukumura was excused from the meeting room at 1:04 p.m.

<u>Applications for</u> <u>License/</u> Certification:

It was moved by Dr. Bintliff, seconded by Dr. Sept, and unanimously carried to enter into executive session at 1:04 p.m. pursuant to HRS §92-5(a)(1) to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9, and pursuant to HRS §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.

(i) <u>Physician (Permanent):</u>

Applications:

a. Glenn D. Cunningham, M.D.

Dr. Akaka entered the meeting room at 1:07 p.m.

It was moved by Dr. Sept, seconded by Dr. Bintliff, and unanimously carried to return to the open meeting at 1:08 p.m.

<u>Additions to the</u> <u>Agenda:</u> It was moved by Dr. Holt, seconded by Dr. Sept, and unanimously carried to add the following items to the meeting agenda:

- 3. Adjudicatory Matters: Chapter 91, HRS:
 - b. In the Matter of the License to Practice Medicine of Eric J. Grigsby, M.D.; MED 2017-166-L
- 6. Proposed Legislation:
 - d. Relating to Physician Assistants

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> Amends Chapter 453, Hawaii Revised Statutes, by expanding the role and scope of practice throughout this chapter, adding a definitions section, expanding amending the Hawaii Medical Board by the addition of a physician assistant and requiring at least two physicians who have worked with physician assitants, requiring 40 units of Continuing Medical Education of licensing renewal in lieu of recertification by the NCCPA, expanding the number of documents a PA may sign, expanding the number of and reasons for license revocation.

e. <u>H.B. 39 Relating to Health</u>

Establishes a three-year pilot program to create a new category of professional licensure for assistant physicians: recent medical school graduates who have passed certain medical exams but have not been placed into a residency program and who work under the supervision of a licensed physician to provide primary care in medically underserved areas.

SDAG Fukumura entered the meeting room at 1:10 p.m.

AdjudicatoryVice-Chair Halford called for a recess from the meeting at 1:11 p.m.Matter:to discuss and deliberate on the following adjudicatory matter pursuant
to Chapter 91, HRS:

b. In the Matter of the License to Practice Medicine of Eric J. Grigsby, M.D.: MED 2017-166-L

After discussion, it was moved by Dr. Young, seconded by Dr. Sept, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibits "1"-"3".

SDAG Fukumura was excused from the meeting room at 1:14 p.m.

Following the Board's review, deliberation, and decision in this matter pursuant to Chapter 91, HRS, Vice-Chair Halford announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:16 p.m.

Applications for a. Applications:

License/ Certification:

It was moved by Dr. Bintliff, seconded by Dr. Sept, and unanimously carried to enter into executive session at 1:16 p.m. pursuant to HRS §92-5(a)(1) to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9, and pursuant to HRS §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.

- (i) <u>Physician (Permanent):</u>
 - b. Christopher J. Rubel, M.D.
 - c. Alphonso B. Benton, M.D.
 - d. Mark O. Hansen, M.D.
 - e. Todd M. Jarrell, M.D.
 - f. Michael Smith, M.D.
 - g. John C. Tonkin, M.D.
 - h. James J. Zerner, M.D.
- (ii) <u>Physician Assistant:</u>
 - a. Timothy R. Smith, PA-C

It was moved by Dr. Bintliff, seconded by Dr. Akaka, and unanimously carried to return to the open meeting at 1:40 p.m.

Meeting guests were invited into the meeting room at 1:42 p.m.

Applications for License/ Certification: Applications:

a.

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

- (i) <u>Physician (Permanent):</u>
 - d. Mark O. Hansen, M.D.
 - e. Todd M. Jarrell, M.D.
 - f. Michael Smith, M.D.
 - h. James J. Zerner, M.D.
- (i) <u>Physician (Permanent):</u>
 - a. <u>Glenn Cunningham, M.D.</u>

After due consideration of the information received, it was moved by Vice-Chair Halford, seconded by Dr. Akaka, and carried by a majority, with the exception of Dr. Sept and Dr. Chun, who opposed the motion, to approve Dr. Cunningham's application for licensure.

b. <u>Christopher J. Rubel, M.D.</u>

After due consideration of the information received, it was moved by Dr. Sept, seconded by Dr. Holt, and unanimously carried to deny Dr. Rubel's application for licensure.

The Board based its decision on the following grounds of the Hawaii Revised Statutes ("HRS"), which find factual support in the records and files of Dr. Rubel's application:

HRS §453-8 provides that:

(a) In addition to any other actions authorized by law, any license to practice medicine and surgery may be revoked, limited, or suspended by the board at any time in a proceeding before the board, or may be denied, for any cause authorized by law, including but not limited to the following:

* * *

- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;
- (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;
- (11) Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege; and

(15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact

In addition, the Board members stated that Dr. Rubel failed to uphold the following AMA Principles of Medical Ethics:

> (II) A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.

c. <u>Alphonso B. Benton, M.D.</u>

After due consideration of the information received, it was moved by Dr. Young, seconded by Dr. Bintliff, and unanimously carried to defer Dr. Benton's application for licensure pending submission of additional information.

g. John C. Tonkin, M.D.

After due consideration of the information received, it was moved by Dr. Holt, seconded by Dr. Sept, and unanimously carried to defer Dr. Tonkin's application for licensure pending submission of additional information.

(iii) <u>Physician Assistant:</u>

a. <u>Timothy R. Smith, PA-C</u>

After due consideration of the information received, it was moved by Dr. Young, seconded by Mr. Puletasi, and unanimously carried to approve Mr. Smith's application for licensure subject to certain conditions.

The Board based its decision on the following grounds of the Hawaii Revised Statutes ("HRS"), which find support in the records and files of Mr. Smith's application:

HRS §436B-19(3): Being addicted to, dependent on, or a habitual use of a narcotic, barbiturate, amphetamine, hallucinogen, opium, cocaine, or other drugs or derivatives of a similar nature;

For reasons contained in the records and files of Mr. Smith's application, the Board placed the following conditions on his conditional license:

- Within <u>thirty (30) days</u> of Mr. Smith's conditional license number being issued by the Board, he shall notify all jurisdictions in which he holds/held a healthcare related license of the conditions placed on his conditional license. A copy of each letter notifying those jurisdictions shall also be provided to the Board. Copies of these letters shall be mailed or emailed to the Board.
- Mr. Smith shall enter into a career-length monitoring contract with Pu`ulu Lapa`au ("Pu`ulu Lapa`au"), The Hawai`i Program for Healthcare Professionals within <u>sixty</u> (<u>60) days</u> of the date of his conditional license number being issued.
- 3. Mr. Smith shall provide a copy of the fully executed contract with Pu`ulu Lapa`au to the Board within <u>seventy-five (75) days</u> of his license number being issued.
- 4. Mr. Smith shall only begin to practice as a physician assistant in the State of Hawaii, after receiving written confirmation from the Board that he has secured proper monitoring in the State of Hawaii with Pu`ulu Lapa`au.
- 5. If, at any time, Pu`ulu Lapa`au determines that Mr. Smith is not in compliance with the monitoring contract, he shall immediately notify the Board and immediately cease practicing as a physician assistant until Pu`ulu Lapa`au specifies to the Board what conditions, if any, it recommends for him to safely resume his practice. Depending upon Pu`ulu Lapa`au's written report and recommendations, the Board may evaluate what, if any, further conditions are warranted for Mr. Smith to practice and impose such conditions on his license. If he fails to refrain from using drugs or alcohol, the Board also will consider whether to suspend, revoke, or otherwise discipline his license.
- 6. During the period of Mr. Smith's conditional license, he shall ensure that Pu`ulu Lapa`au submits quarterly written reports to the Board. These written reports shall include, but not be limited to, assessments regarding: (1) his compliance with the monitoring contract; and (2) his ability to safely practice as a physician assistant. <u>The first</u>

<u>quarterly report is due within ninety (90) days from the</u> <u>date of her conditional license number is issued</u>.

		7.	The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Mr. Smith violates any further provision of the statutes or rules governing the conduct of physician assistants in the State of Hawaii, or if he fails to abide by the terms of his conditional license.
		8.	Should Mr. Smith wish to have any condition removed from his license, he shall make a request in writing to the Board, at which time the Board would consider his request. When doing so, Mr. Smith shall provide evidence of full compliance with his monitoring contract with Pu`ulu Lapa`au and all other conditions placed on his conditional license.
Applications for License/	b.	Ratific	cations:
Certification:		(i)	List
		unan	s moved by Dr. Bintliff, seconded by Dr. Holt, and imously carried to ratify the attached list of individuals for sure or certification.
Proposed	a.	<u>Relati</u>	ng to Health Care
<u>Legislation</u>	scope	of prac	ensed health care practitioners' action within the lawful ctice to perform abortions. Expands the permissible locations prtion may be performed to include certain medical offices.
	This agenda item was taken out of order and combined with agenda item 5.a., Correspondence, in order to accommodate meeting guests and better facilitate a discussion.		
Correspondence:	a.	Office	dated January 3, 2019, from Lee Ann Teshima, Executive r, Hawaii Board of Nursing, regarding clarification of Hawaii
		<u>Revis</u>	ed Statutes §453-16 and Sharp Debridement.
	Board	's opini	embers noted that the abovementioned letter is seeking the on on whether it would consider uterine aspirations and ement surgical procedures.

Ms. Quiogue suggested that the Board review the January 3, 2019, letter from the Hawaii Board of Nursing in combination with the agenda item

6.a., Proposed Legislation: Relating to Healthcare. She informed the Board members that, in connection with this proposed bill, the Senate Committee on Commerce, Consumer Protection, and Health ("Committee") was also seeking clarification from the Board on whether abortions, either vacuum aspiration or dilation and extraction, are considered surgery.

Vice-Chair Halford stated, and Board members agreed, that a uterine aspiration is an invasive procedure and it would certainly be considered surgical.

Ms. Quiogue invited Ms. Haverkort-Yeh, Ms. Ryan, and Ms. Teshima to have a seat at the meeting table.

Vice-Chair Halford welcomed the meeting guests. Guests, Board members and staff introduced themselves.

For the edification of meeting guests, Ms. Quiogue restated the Board's opinion that uterine aspirations and dilation and extraction abortions are considered surgical procedures.

Ms. Quiogue asked the Board members for their opinion regarding sharp debridement.

Vice-Chair Halford stated that, as a surgeon, it is his opinion that debridement is a surgical procedure. Debridement can be a very simple or a very complex procedure, but to answer the Board of Nursing's question, any type of debridement is surgical by nature.

Vice-Chair also added that, in a hospital environment, APRNs routinely perform various surgical procedures, such as inserting chest tubes or debriding wounds, for instance.

Dr. Young also added that there are APRNs who transport newborns from the neighbor islands, and they are putting in chest tubes, if necessary, and performing other procedures that could be characterized as surgical.

Ms. Haverkort-Yeh and Ms. Ryan inquired whether an aspiration abortion is in the scope of practice of an APRN.

Vice-Chair Halford and Ms. Quiogue advised Ms. Haverkort-Yeh and Ms. Ryan that Hawaii Medical Board does not oversee or regulate the nursing profession. A question about a nurse's scope of practice would be appropriate for the Hawaii Board of Nursing.

Ms. Quiogue asked if the Board members or guests had any other questions.

Vice-Chair Halford stated that he would like to make a comment regarding the language of the proposed bill. He recommended that the term "licensed health care practitioner" be replaced with the term "independent licensed health care practitioner". He went on to say that, in his opinion, the term "health care practitioner" is too broad.

Ms. Quiogue advised Ms. Teshima that she will relate the Board's concerns regarding the measure's language directly to the Committee, separately from the Board of Nursing.

Vice-Chair Halford and Ms. Quiogue asked the meeting guests if they had any other questions.

The guests responded in the negative.

Ms. Teshima, Ms. Haverkort-Yeh, and Ms. Ryan left the meeting room at 1:53 p.m.

Proposed b. <u>Relating to Licensure of Midwives</u> Legislation

The Board members reviewed a proposed bill, which would amend the Hawaii Revised Statutes by adding a new chapter entitled "Midwives".

Ms. Quiogue drew the Board members' attention to the fact that a licensed midwives category would be different from certified nursemidwives regulated by the Board of Nursing pursuant to HRS Chapter 457. The bill intends to establish a licensing program, not a board, with an advisory committee to assist the program director with the implementation of the chapter and the rules adopted thereto. The chapter is intended to sunset on January 1, 2025.

Ms. Quiogue stated that, at this time, the bill was provided to the Board for information only.

c. <u>Relating to Physician Assistants</u>

The Board members reviewed the proposed bill, which would establish biennial requirements of forty credit hours in specified continuing medical education programs for renewal of physician assistant license, beginning with the renewal for the licensing biennium on 2/1/2020, and every biennial renewal thereafter. The bill would also authorize the Hawaii Medical Board to conduct random document audits to enforce compliance.

Ms. Quiogue asked Mr. Tenorio if Ms. Christina Starks had any comments regarding the suggested amendments to the proposed bill's language.

Mr. Tenorio responded that both he and Ms. Starks were in agreement with the comments that Ms. Quiogue provided via email.

Mr. Tenorio also stated that he would have to confirm with Mr. Laudadio and Ms. Starks what their position is on Ms. Quiogue's comment regarding NCCPA certification.

Ms. Quiogue informed Mr. Tenorio that the Board, in agreement with its position of the 2018 Legislative Session, will be providing testimony in support of this proposed bill.

d. Relating to Physician Assistants

The Board members reviewed the proposed bill, which would amend Chapter 453, Hawaii Revised Statutes, by expanding the role and scope of practice throughout this chapter, adding a definitions section, expanding amending the Hawaii Medical Board by the addition of a PA and requiring at least two physicians who have worked with PAs, requiring 40 units of Continuing Medical Education of licensing renewal in lieu of recertification by the NCCPA, expanding the number of documents a PA may sign, expanding the number of, and reasons for, license revocation.

Ms. Quiogue informed Mr. Tenorio that the proposed measure was just sent to the Board's office the evening before the meeting and the Board members have not had an opportunity to carefully review the document before the meeting.

Ms. Quiogue asked Mr. Tenorio if he knew who were the proponents of the bill.

Mr. Tenorio stated that it was a professional group from the Big Island and that he recommended to Ms. Starks that she contact the group and advise them that introducing two bills at the same time would be counterproductive.

Dr. Sept and Dr. Young commented that it appears that the document contains a lot of changes and ideas.

Ms. Quiogue suggested to Mr. Tenorio that, before something as radical and complex as this proposed bill is introduced, all interested parties should come together, discuss the matter, and possibly draft a bill that is satisfactory to all parties. Mr. Tenorio stated that, as far as he was aware, this proposed measure would be put on hold for the moment.

Ms. Quiogue indicated her understanding and suggested that the group could work on this matter after the current legislative session concludes, in preparation for the next session.

Mr. Tenorio left the meeting at 2:04 p.m.

e. <u>H.B. 39 Relating to Health</u>

The Board reviewed the proposed bill which establishes a three-year pilot program to create a new category of professional licensure for assistant physicians: recent medical school graduates who have passed certain medical exams but have not been placed into a residency program and who work under the supervision of a licensed physician to provide primary care in medically underserved areas.

Dr. Sept and Dr. Chun asked Ms. Quiogue to confirm that this bill is similar to the bill introduced during the 2018 session.

Ms. Quiogue responded in the affirmative.

The Board members reviewed the open session minutes of the March 8, 2018, meeting, which document the Board's 2018 position and concerns regarding this bill.

Ms. Quiogue asked the Board members if they still hold the same position regarding this bill.

Members responded in the affirmative.

It was moved by Dr. Sept, seconded by Dr. Bintliff, and unanimously carried to strongly oppose the bill.

<u>Advisory</u> Committees:	a.	Emergency Medical Personnel
<u>commuees.</u>	a.	Physician Assistants
	a.	Podiatrists
Open Forum:	None.	

Next Meeting: Thursday, February 14, 2019 1:00 p.m. Hawaii Medical Board Minutes of Meeting of January 17, 2019 Page 13

> King Kalakaua Conference Room, First Floor 335 Merchant Street Honolulu, Hawaii 96813

Adjournment: The meeting adjourned at 2:10 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Ahlani K. Quiogue

/s/ Olga Reppun

(Ms.) Ahlani K. Quiogue Executive Officer (Ms.) Olga Reppun Secretary

AKQ:or 02/08/19

(x) Minutes approved as is.
() Minutes approved with changes: see ______

HAWAII MEDICAL BOARD 10/17/2019 - RATIFICATION LIST

LTYPE	LIC NUM	BP NAME PART 1
MD	20101	KAMRAN ALI <haydar<< td=""></haydar<<>
MD	20102	PAUL S <brown<< td=""></brown<<>
MD	20103	ANDREW SUN <fang<< td=""></fang<<>
MD	20104	ERIKA <heard<< td=""></heard<<>
MD	20105	PETER C <iversen<< td=""></iversen<<>
MD	20106	DAVID R <peterson<< td=""></peterson<<>
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