

**BOARD OF DENTISTRY**  
Professional & Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING<sup>1</sup>**

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, March 11, 2019

Time: 9:00 a.m.

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

Present: Paul Guevara, D.M.D., M.D.S., Chair, Dental Member  
Staphe Fujimoto, D.D.S., Vice Chair, Dental Member  
Pearl Arrington, R.D.H., Dental Hygiene Member  
Mark Chun, D.M.D., Dental Member  
Earl Hasegawa, D.D.S., Dental Member  
Dennis Nagata, D.D.S., Dental Member  
Garrett Ota, D.D.S., Dental Member  
Coy Rebmann, D.D.S., Dental Member  
Joy B. Y. Shimabuku, Public Member  
Marianne Timmerman, R.D.H., Dental Hygiene Member  
Bryan Yee, Esq., Supervising Deputy Attorney General ("DAG")  
Sandra Matsushima, Executive Officer ("EO")  
Jennifer Fong, Secretary

Excused: Sharon Tanaka, Public Member

Guests: Kim Nguyen, Hawaii Dental Association ("HDA")  
Ellie Kellie-Miyashiro, Hawaii Dental Hygienists' Association ("HDHA")  
Gayle Chang, HDHA  
Jessica Chang, HDHA  
Danny Cup Choy, HDA

1. Call to Order: There being a quorum present, Chair Guevara called the meeting to order at 9:00 a.m.

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<sup>1</sup> Comments from the public were solicited on each agenda item. If no public comments were given, the solicitation for and lack of public comment are not explicitly stated in these minutes.

2. Approval of Board Meeting Minutes and Executive Session Minutes of January 28, 2019 and Board Meeting Minutes of February 11, 2019:
- Chair Guevara asked the Board members if there were any comments or concerns regarding the Board meeting minutes of January 28, 2019.
- There were none.
- Chair Guevara called for a motion to approve the Board meeting minutes of January 28, 2019.
- It was moved by Dr. Hasegawa, seconded by Ms. Shimabuku, and unanimously carried to approve the January 28, 2019 Board meeting minutes as circulated.

At this time, Chair Guevara announced the Board's procedural format for agenda matters and stated that the meeting will end no later than 1:00 p.m.

Chair Guevara asked the Board members if there were any comments or concerns regarding the Board meeting minutes of February 11, 2019.

There were none.

Chair Guevara called for a motion to approve the Board meeting minutes of February 11, 2019.

Dr. Hasegawa requested the following change to the last paragraph on page 4 (underlined material added):

Chair Guevara agreed and suggested that the Board should consider not listing a specific provider such as DANB in the statute. He is concerned that there may be other organizations that can provide what is requested.

Chair Guevara asked if there were any other corrections to the minutes.

There being no further discussion or amendments to the minutes, it was moved by Dr. Hasegawa, seconded by Ms. Shimabuku, and unanimously carried to approve the February 11, 2019 Board meeting minutes as amended.

Chair Guevara asked the Board members if there were any comments or concerns regarding the Executive Session minutes of January 28, 2019.

There were none.

Chair Guevara called for a motion to approve the Executive Session minutes of January 28, 2019.

It was moved by Ms. Shimabuku, seconded by Ms. Timmerman, and unanimously carried to approve the January 28, 2019 Executive Session minutes as circulated.

3. Legislative Matters:

a. H.B. 221 – RELATING TO DENTAL ASSISTANTS

*Requires the Board of Dentistry to adopt rules for the regulation of dental assistants using certification options based on education level and permitted duties. Requires the Board to report to the Legislature. (HB221 HD2)*

EO Matsushima reported this bill has crossed over. If the bill is scheduled for a hearing, the Board's last position on the bill is that they are in favor of HD2. If the language of the bill changes, the Board may not have time to come up with a position.

b. H.B. 88 – RELATING TO WORKERS' COMPENSATION (Companion Bill – S.B. 207)

*Amends requirements for medical examinations in workers' compensation claims by requiring that the examining physician be mutually selected by the employer and employee or appointed by the Director of Labor. Provides for document distribution, cost allocation, and physician qualifications.*

EO Matsushima reported both versions of this bill have died.

c. H.B. 112 – RELATING TO TAXATION (S.B. 1114)

*Requires a tax clearance before a professional or vocational license may be issued or renewed. Applies to taxable years after 12/31/2020.*

EO Matsushima reported that both bills have been deferred. At their last meeting, the Board determined that they would take no position on this bill.

d. H.B. 677 – RELATING TO HEALTH CARE PRACTITIONERS (Companion Bill – S.B. 528)

*Expands the pool of orthodontists who are eligible to perform*

*medically necessary orthodontic services for treatment of certain orofacial anomalies covered by health insurance.*

EO Matsushima reported that H.B. 677 has died and S.B. 528 has been deferred. At their last meeting, the Board determined that they would take no position on this bill.

e. H.B. 906 – RELATING TO DENTAL HEALTH

*Restores basic adult dental health benefits to Medicaid enrollees. Appropriates funds for this purpose.*

EO Matsushima reported that this bill has died.

f. H.B. 1381 – RELATING TO LOBBYISTS

*Prohibits former legislators and executive branch employees subject to senate confirmation from engaging in lobbying for 24 months after termination of employment as a legislator or executive branch employee. (HB1381 HD1)*

EO Matsushima gave a brief synopsis of the bill, noting that a previous version said that board members were considered state employees and former board members would be prohibited from lobbying. HD1 removed that language.

g. H.B. 1528 – RELATING TO COMMERCE AND CONSUMER AFFAIRS

*Repeals the existing statutory requirement that \$2,000,000 of certain taxes collected on bank and financial corporations be deposited to the compliance resolution fund. Requires adjustments to fees and assessments collected by the Division of Financial Institutions based on the amount of moneys credited to the division in the compliance resolution fund. Establishes criteria to determine the amounts to be assessed for fees and expenses regulated under title 25, HRS. Provides for the reduction or cessation of fees or interest paid into the mortgage loan recovery fund, contractors recovery fund, contractors education fund, real estate recovery fund, real estate education fund, and condominium education fund if the balance in the funds attain a certain dollar amount. Sets the annual fee assessed on cable operators at 4.5% of the income received from subscribers for cable services rendered during the preceding calendar year. Authorizes the Director of the Department of Commerce and Consumer Affairs to reduce the fee if the amount exceeds the amount necessary to administer chapter*

440G, HRS. (HB1528 HD1)

EO Matsushima gave a brief synopsis of the bill.

h. S.B. 202 – RELATING TO PROFESSIONAL AND VOCATIONAL REGULATORY PROGRAMS

*Establishes repeal dates for all professional and vocational regulatory programs under the professional and vocational licensing division of the department of commerce and consumer affairs. Requires the auditor to perform an evaluation of each program prior to repeal.*

EO Matsushima gave a brief synopsis of the bill and noted that at their last meeting, the Board determined that they would oppose this bill as they believe the regulation of dentistry and dental hygiene is needed to ensure public safety.

i. S.B. 748 – RELATING TO BOARD MEMBERS

*Permits two or more members of a board to attend state of the city, state of the county, state of the State, or state of the judiciary addresses; provided that the board members do not discuss board business and no commitment to vote is made or sought by board members. (SD1)*

EO Matsushima reported that this bill is moving forward.

DAG Yee noted that previously, there were issues if board members attended the same professional conference. The law was changed to allow for those situations. This bill appears to clarify situations where there is the potential to discuss board business. He said it probably would primarily affect boards with broader purpose where board issues could be discussed, such as the Office of Hawaiian Affairs.

j. S.B. 774 – RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING (Companion Bill – H.B. 73)

*Prohibits a licensing authority from using rules to supersede requirements set forth in licensing laws and adopting rules that authorize an unlicensed individual to perform duties, activities, or functions that, if performed by another professional, would require licensure of that professional. Exempts persons who are working toward licensure, including but not limited to apprentices, trainees, graduates, or students and personnel under the supervision of a*

*licensee and who are not otherwise required to obtain a license, in certain circumstances. (SD1)*

EO Matsushima gave a brief synopsis of the bill and noted that at their last meeting, the Board determined that they would take no position on H.B. 73, the companion bill, however, S.B. 774, S.D. 1 is different from H.B. 73.

Chair Guevara asked if there were any comments from the public.

Ms. Kellie-Miyashiro stated that the bill affects many licensees, not just dental assistants. HDHA feels that the bill is being misinterpreted by the Board and the HDA. She noted in particular, HRS § 447-3(b) provides five defined duties of dental hygienists. The bill would only prohibit dental assistants from performing these five duties. Dental assistants would still be able to perform other duties. The way HDHA interprets the bill is that the Board would be prohibited from adopting rules pertaining to allowing dental assistants to perform those five defined duties.

DAG Yee stated that the bill prohibits dental assistants from performing activities which require the licensure of dentists. He asked Ms. Kellie-Miyashiro if she has reviewed the dentist's scope of practice to see if any of the five defined duties are allowed to be performed by dentists. He noted that with regards to her statement that it affects many licensees, on page 3, beginning at line 19, the bill specifically states that the exemption shall not apply to auxiliary personnel regulated under chapter 448, which is the dentistry chapter. He asked if she could identify a profession affected by this bill other than dentistry.

Ms. Kellie-Miyashiro stated that she is not aware of who is the maker of the bill, however, she feels the language was carried over from a previous version. She does not know of other professions and cannot speak on how this would affect those professions. HDHA is only looking at the bill from the perspective of dentistry. She stated that HDHA was not involved in drafting the bill, nor were they consulted on the contents of the bill.

EO Matsushima stated that when the bill originally came out, the Professional and Vocational Licensing Division was strongly opposed to the language as it would have affected all trainees and support personnel. She asked Ms. Kellie-Miyashiro if that was her understanding of the original version of the bill.

Ms. Kellie-Miyashiro stated that she was not looking at the bill from

the perspective of all licensing professions. She said she thinks she first thought about it during the testimony for the bill.

EO Matsushima noted that now, the bill exempts all auxiliary personnel except those under HRS Chapter 448 which means the bill would solely impact dentists and dental assistants.

Ms. Kellie-Miyashiro stated that she thinks it is because dentistry is the only profession which allows for the use of personnel with no formal training.

Ms. Shimabuku said that is untrue as other professions such as cosmetology allow for similar training.

Chair Guevara said personally, it appears that the bill is singling out the dental profession.

Dr. Chun asked DAG Yee if there are any legal ramifications to the bill passing.

DAG Yee said it would not be a constitutional or legal problem. He said the legal standard for this type of case is very loose. As long as there is some sort of rational basis for the bill, there is no legal basis for a lawsuit. He noted that the fairness or equitability cannot be determined because it is outside of a legal analysis.

EO Matsushima asked DAG Yee to provide his interpretation of the bill.

DAG Yee stated that the bill includes a broad prohibition and an almost equally broad exemption. As far as he can tell, the provision only applies to HRS Chapter 448 and the regulation of dental assistants. Basically, work done by a dental hygienist or a dentist will not be able to be done by a dental assistant.

Executive  
Session:

At 9:35 a.m., it was moved by Chair Guevara, seconded by Dr. Ota, it was voted on and unanimously carried (by roll call with Chair Guevara, Vice Chair Fujimoto, Ms. Arrington, Dr. Chun, Dr. Hasegawa, Dr. Nagata, Dr. Ota, Dr. Rebmann, Ms. Shimabuku, and Ms. Timmerman voting aye) to move into executive session 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".

Guests were excused from the meeting room.

At 10:12 a.m., it was moved by Ms. Shimabuku, seconded by Dr. Hasegawa, and unanimously carried to move out of executive session.

Guests re-entered the meeting room.

At 10:13 a.m., Ms. Shimabuku left the meeting.

Recess: At 10:14 a.m., Chair Guevara called for a recess.

Reconvene: At 10:24 a.m., the Board reconvened their meeting.

Chair Guevara reiterated that the bill's current language has changed from the original version. It appears to single out HRS Chapter 448 so it does not affect any other profession. He asked if there are any board members who support the current version of the bill.

Dr. Hasegawa stated that he strongly opposes the bill.

Ms. Timmerman said she is in opposition of the bill because dental assistants will not be able to do their jobs.

Chair Guevara noted that if the bill prohibits dental assistants from performing their current duties, essentially more than 4,000 people will lose their jobs. It will affect a lot of people. There will be a large ramification on the economy as well as the general public.

Dr. Hasegawa noted that dentists will be losing 4,000+ sets of eyes and ears in the office to help keep patients safe. Potentially, half of the dental office staff will be gone.

Dr. Chun said it is a major safety issue as dental assistants are like the dentist's right hand.

Chair Guevara said dental assistants are an extra set of eyes as well as insurance that something does not go wrong.

DAG Yee stated that he thinks the bill is meant to exclude dental assistants from performing any activities covered under the scope of practice of a dental hygienist.

Upon a motion by Vice Chair Fujimoto, seconded by Dr. Chun, it was voted on and unanimously carried to oppose the bill as written for the following reasons: 1) it would restrict dentists from employing auxiliary personnel such as dental assistants to assist



dentist and dental hygienists in a dental office; 2) approximately 4,000 dental assistants would lose their jobs; 3) dental assistants are vital team members in the dental practice; 4) it will have a negative effect on the profession as well as the general public as patient safety and access to care will be greatly reduced; and 5) if the bill passes, Hawaii will be the only state that does not allow use of dental assistants.

Ms. Arrington noted that there are also dental hygiene assistants.

Dr. Chun stated that they would also be considered auxiliary personnel and could basically only perform office duties.

EO Matsushima noted that she will need someone to testify on the bill tomorrow at 10 a.m. She asked the Board to check their schedules and let her know as soon as possible if they are available to testify.

4. Old Business: a. Report from the Board's Anesthesia Permitted Interaction Group regarding Anesthesia Permit Renewals, Fees and Inspections

Dr. Hasegawa noted that the Anesthesia Permitted Interaction Group ("PIG") provided the Board with draft guidelines for applicants and draft guidelines for volunteer evaluators.

Chair Guevara asked if there were any questions regarding the drafts for the PIG members.

There were none.

EO Matsushima noted that the Board's goal is to send out notices about six months prior to the renewal deadline.

Dr. Hasegawa asked if the Board inspects an office now, would the office be required to get another inspection before the end of the year.

DAG Yee asked if he means if an inspection is done to get the initial license now, would they have to get another inspection for the license renewal.

Dr. Hasegawa said yes.

DAG Yee said that is something the Board would have to consider. His understanding is that when an initial license is issued during the time renewal is underway, the applicant is allowed the option to

also pay for the license renewal at the same time the initial license is issued. He reminded the Board that they cannot make any decision on the drafts until the next meeting.

- b. Inquiry from Daniel Montero, DDS regarding requirement for applicants to be a graduate from a dental school accredited by the American Dental Association Commission on Dental Accreditation

The Board reviewed and discussed Dr. Montero's request in which he inquired if his three-year Prosthodontic residency from a Commission on Dental Accreditation ("CODA") accredited university would be acceptable to meet the Board's education requirements.

EO Matsushima noted that at their last meeting, the Board deferred discussion on this matter to allow for additional research. She gave a brief synopsis on the Board's history and decisions regarding this issue.

DAG Yee noted that he provided the Board with his research on the sufficiency of a Master's Program to satisfy the requirements of dentist licensure.

Chair Guevara reminded the Board that according to Dr. Montero's letter, he has a DDS degree from the Universidad Latina de Costa Rica.

Dr. Ota noted that Dr. Montero stated that he has completed a 3-year Prosthodontic residency from the University of Alabama at Birmingham ("UAB").

DAG Yee said the prospectus from UAB states that there is a graduate and post-graduate program, however, Dr. Montero's letter does not specify what program he completed.

Chair Guevara said in most specialty programs, you can go through a certificate program and/or a master's degree program. Usually, the degree requires additional training. For example, in his endodontics program, the degree required an additional year of training.

Dr. Ota asked if someone can complete the program and not get the certification.

Chair Guevara said no.

EO Matsushima noted that Hawaii Administrative Rules (“HAR”) §16-79-11(a)(3) requires that all dental licensure applicants have a dental degree from a dental school accredited by CODA. It does not specify whether the degree is a general degree. It could also mean a specialty degree. She asked if the Board is going to continue making a decision on a case-by-case basis.

Chair Guevara said one of the interpretations is that it is the four-year general degree only. He stated that some specialty programs are only one year in length, however, in the past, the Board has approved an applicant with a two-year endodontics degree from the University of North Carolina to sit for the ADLEX exam.

Dr. Ota said in reviewing the Board’s past history, he is fine with the Board making decisions on a case-by-case basis.

After some discussion, upon a motion by Dr. Ota, seconded by Dr. Nagata, it was voted on and unanimously carried to direct the EO to inform Dr. Montero to submit his complete application, including all required supporting documents, for the Board to review.

5. New Business: *For Informational Purposes Only*

a. Matters Related to the American Dental Association (“ADA”)

- Commission on Dental Accreditation (“CODA”) Unofficial Report of Major Actions February 7-8, 2019

b. Matters Related to the American Association of Dental Boards (“AADB”) and the American Board of Dental Administrators (“AADA”)

- Richard Hetke, former Executive Director of AADB, is the new Vice President of Business Development for Accreditation Association for Dental Offices
- AADA Discussion of a Dental Licensing Compact
- Letter from AADB Board Members and Past Presidents requesting the resignation of Luis J. Fujimoto, D.M.D. as President of the AADB Board of Directors

c. Dental Assisting National Board, Inc. (“DANB”)

- DANB Certified Press – Vol. 38, Issue 2 (Spring 2019)

A copy of the newsletter was circulated to the members for their information.

Chair Guevara asked if there was any public comment regarding any of the new business items.

Ms. Kellie-Miyashiro asked if the letter from AADB Board Members and Past Presidents stated why they are asking Dr. Fujimoto to resign.

EO Matsushima said no.

6. Correspondence: a. Email from Maria Pung inquiring whether a licensed dental hygienist is allowed to perform laser bacteria reduction on patients

The Board reviewed and discussed Ms. Pung's email in which she inquired if her license (dental hygienist with certification in the administration of intra-oral block anesthesia) would allow her to perform laser bacteria reduction ("LBR"). Ms. Pung explained that LBR is used to reduce bacteria that can be introduced into the bloodstream and is accomplished by the technician using a non-cutting dental diode laser. The high intensity light energy of the laser is focused around the teeth and into the periodontal pockets.

Chair Guevara asked if any of the dental hygienists are aware of LBR being performed currently.

Ms. Kellie-Miyashiro said she doesn't personally perform LBR, however, she knows a lot of offices do. She noted that she can think of at least 10 dental offices off the top of her head that perform LBR.

Vice Chair Fujimoto questioned if the issue of using lasers was brought up a few years ago.

EO Matsushima noted the following:

- In May 2001, it was the consensus of the Board that dental hygienists are allowed to use lasers for soft curettage under the Board's current rules.
- In January 2003, it was the consensus of the Board that dental hygienists are allowed to utilize the Diagnodent (laser caries detecting instrument).
- In August 2007, the Board determined that dental hygienists are allowed to use laser devices only under the direct

supervision of a licensed dentist and with the appropriate training.

- In March 2012, the Board determined that dental hygienists can use lasers for treating periodontal pockets.

Ms. Timmerman noted that her office has a laser. The sales representative sent them a document which states dental hygienists are allowed to use it in Hawaii. She said she will forward the document to EO Matsushima.

Ms. Kellie-Miyashiro asked if the Board would consider adding laser use to the rules under allowable duties for a dental hygienist.

EO Matsushima suggested that the next time the rules are being revised, HDHA can submit a request for the Board to consider.

After some discussion, upon a motion by Vice Chair Fujimoto, seconded by Dr. Ota, it was voted on and unanimously carried to direct the EO to inform Ms. Pung that dental hygienists are allowed to perform laser bacteria reduction under the direct supervision of a licensed dentist and with the appropriate training.

7. Executive Officer's Report on Matters Related to the Board of Dentistry:

a. Department of Commerce and Consumer Affairs ("DCCA") Disciplinary Actions – January 2019

A listing of DCCA Disciplinary Actions for January 2019 was circulated to the members for their information.

There were no sanctions from the Board in the listing.

b. Current licensees as of February 8, 2019

EO Matsushima reported the following licensee statistics:

- For Community Service Dental Hygienists, there are a total of 3 (all on the Big Island).
- For Community Service Dentists, there is a total of 24 (Oahu – 7, Big Island – 4, Maui – 1, Kauai – 1, Molokai – 1, Lanai – 0, Mainland – 9, Foreign – 1).
- For Dental Hygienists, there is a total of 1,061 active status licensees (Oahu – 606, Big Island – 80, Maui – 114, Kauai – 40, Molokai – 4, Lanai – 0, Mainland – 217, Foreign – 0). There is a total of 80 inactive status licensees (Oahu – 22, Big Island – 2, Maui – 2, Kauai – 1, Molokai – 0, Lanai – 0, Mainland – 53,

Foreign – 0).

- For Dentists, there is a total of 1,449 active status licensees (Oahu – 831, Big Island – 111, Maui – 100, Kauai – 48, Molokai –3, Lanai – 1, Mainland – 344, Foreign – 11). There is a total of 104 inactive status licensees (Oahu – 22, Big Island – 5, Maui –6, Kauai – 1, Molokai – 1, Lanai – 0, Mainland – 66, Foreign – 3).
- For Temporary Licenses, there is a total of 44 (Oahu – 17, Big Island – 2, Maui – 1, Kauai – 0, Molokai – 0, Lanai – 0, Mainland 24, Foreign – 0).

c. Update on dental mannequins and chair mounts for donation

EO Matsushima reported that the dental mannequins and chair mounts were donated to Dr. Jason Hiramoto from Kokua Kalihi Valley Health Center. Dr. Hiramoto said he would also distribute mannequins and chair mounts to the other health centers on Oahu.

8. Applications:

a. Reactivation Application for License – Dentist

1) Nghia Duy Bui

EO Matsushima reported that Dr. Bui is reactivating his dentist license and submitted his continuing education certificates to the Board for review.

Chair Guevara asked if there were any questions or comments.

There being none, upon a motion by Dr. Nagata, seconded by Dr. Chun, it was voted on and unanimously carried to approve Dr. Bui's application for reactivation.

b. Ratifications

It was moved by Dr. Hasegawa, seconded by Dr. Ota, and unanimously carried to ratify approval of the following:

- Approved Dentist License

DT 2796 JOSEPH K AHLO  
DT 2797 KEVIN K F CHENG  
DT 2798 SUPRIYA KOIRALA

- Approved Dental Hygienist License

DH2161 YUKO LEE  
DH2162 MARQUERITE K BALDWIN  
DH2163 CHRISTY D BURKLEY  
DH2164 MADISON B STEADMAN  
DH2165 TIALEI O AGADER  
DH2166 BEATRICE I JOAQUIN  
DH2167 RYAN A MCBURNIE

- Approved Certification in the Administration of Intra-Oral Block Anesthesia

DH2161 YUKO LEE  
DH2162 MARQUERITE K BALDWIN  
DH2164 MADISON B STEADMAN  
DH2166 BEATRICE I JOAQUIN

9. Next Meeting: Chair Guevara announced the next meeting as:

Monday, May 20, 2019  
9:00 a.m.  
King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

10. Adjournment: It was moved by Vice Chair Fujimoto, seconded by Dr. Rebmann, and unanimously carried to adjourn the meeting at 11:28 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Sandra Matsushima

/s/ Jennifer Fong

\_\_\_\_\_  
Sandra Matsushima  
Executive Officer

\_\_\_\_\_  
Jennifer Fong  
Secretary

SM:jaf

3/25/19

[  ] Minutes approved as is.

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

