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, August 8, 2019

<u>Time:</u> 1:00 p.m.

Place: King Kalakaua Conference Room

King Kalakaua Building

335 Merchant Street, 1st Floor

Honolulu, HI 96813

<u>Present:</u> Jone Geimer-Flanders, D.O., Chairperson, Oahu Osteopathic Member

Peter Halford, M.D., Vice-Chairperson, Oahu Member

Maria Chun, Ph.D., Public Member Franklin V.H. Dao, M.D., Oahu Member Andrew "Rick" Fong, M.D., Hawaii Member

Peter Holt, M.D., Oahu Member

Michael Jaffe, D.O., Oahu Osteopathic Member

Wesley Mun, Public Member

Danny Takanishi, M.D., Oahu Member Geri Young, M.D., Kauai Member Shari J. Wong, Deputy Attorney General Ahlani K. Quiogue, Executive Officer Kellie Teraoka, Division Secretary Josephine Madiro, Secretary

Excused: Darren K. Egami, M.D., Maui Member

Guests: Jennifer L. Griesel, M.D., Applicant

Alana Peacott-Ricardos, Esq., Goodsill Anderson Quinn & Stifel, Counsel

for Dagoberto J. Rodriguez, M.D.

Elizabeth Char, M.D., Emergency Medical Personnel Advisory Committee

("EMP Committee"), Vice-Chairperson

Jeffrey Zuckernick, Paramedic, EMP Committee, Member

<u>Call to</u> The meeting was called to order at 1:01 p.m., at which time quorum

Order: was established.

guests:

<u>Introduction of</u> Vice-Chair Halford greeted the meeting guest. Board members, staff, and

the guest, Dr. Griesel, introduced themselves.

<u>Election of</u> The floor was opened for nominations for the office of Chairperson and

Officers: Vice-Chairperson.

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

Dr. Holt nominated Dr. Halford as Vice-Chairperson, the nomination was seconded by Dr. Young.

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

Delegate to the Federation of State Medical Boards:

Dr. Young nominated Dr. Holt as the Delegate to the Federation of State Medical Boards, the nomination was seconded by Dr. Takanishi.

By consensus, Dr. Holt was elected as the Board's delegate to the Federation of State Medical Boards.

Approval of the July 11, 2019 Minutes:

It was moved by Dr. Takanishi, seconded by Dr. Fong, and unanimously carried to approve the minutes of the executive session and the minutes of the open session of the July 11, 2019, meeting as circulated.

Adjudicatory Matters:

None.

Dr. Griesel was excused from the meeting room at 1:06 p.m.

Applications for License/ Certification:

a. Applications:

It was moved by Dr. Dao, seconded by Dr. Young, and unanimously carried to enter into executive session at 1:07 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) Physician (Permanent):
 - a. Jennifer L. Griesel, M.D.

Chair Geimer-Flanders entered the meeting room at 1:13 p.m.

- Mr. Mun entered the meeting room at 1:17 p.m.
- Dr. Griesel was invited into the meeting room at 1:44 p.m.
- Dr. Griesel left the meeting room at 2:02 p.m.

Dr. Young recused herself from the discussion and voting on Dr. Griesel's application and left the meeting room from 2:02 p.m. to 2:07 p.m.

- b. Robert L.G. Stears, M.D.
- c. Richard T. Arriviello, D.O.
- d. Aubrey A. Camacho, M.D.
- e. Alexander K. Chen, M.D.
- f. Matthew D. Epstein, M.D.
- g. Jane C. Nelson, M.D.
- h. Christopher D. Tran, M.D.
- i. David L.C. Wells, M.D.

DAG Wong left the meeting room at 2:35 p.m. and returned at 2:38 p.m.

- (ii) Physician (Endorsement):
 - a. Harry Harrison, Jr., M.D.
- (iii) Emergency Medical Personnel:
 - a. Adam J. Kealiher, EMT
- (iv) Request for Reconsideration of License Denial:
 - a. Dagoberto J. Rodriguez, M.D.

It was moved by Chair Geimer-Flanders, seconded by Dr. Holt, and unanimously carried to return to the open meeting at 2:57 p.m.

- (iv) Request for Reconsideration of License Denial:
 - a. <u>Dagoberto J. Rodriguez, M.D.</u>

Alana Peacott-Ricardos, Esq., counsel for Dagoberto J. Rodriguez, M.D., appeared before the Board to discuss Dr. Rodriguez's request dated July 26, 2019.

Dr. Rodriguez requests, among other things, that the Board: (1) reconsider its decision to deny his application for medical licensure; and (2) refrain from reporting the denial of his application to the National

Practitioner Data Bank. To the extent the Board is unwilling to grant Dr. Rodriguez a medical license to practice in Hawaii, an alternative would be to reverse or retract the denial and allow him to withdraw his application with no findings. Dr. Rodriguez would also agree to never apply for a Hawaii license in the future.

Executive Officer Quiogue inquired whether it would be more appropriate to discuss the details of this matter in executive session.

Given the type of information that would be discussed, it was moved by Chair Geimer-Flanders, seconded by Dr. Holt, and unanimously carried to enter into executive session at 2:58 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.

It was moved by Vice-Chair Halford, seconded by Dr. Holt, and unanimously carried to return to the open meeting at 3:03 p.m.

It was moved by Dr. Young, seconded by Vice-Chair Halford, and unanimously carried to grant Dr. Rodriguez's request for reconsideration and to enter into a settlement agreement with Dr. Rodriguez, in which he agrees to never apply for a license to practice medicine in Hawaii pursuant to Chapter 453, Hawaii Revised Statutes. In reliance upon, and in consideration for, Dr. Rodriguez's agreement to not practice medicine in Hawaii, the Board will:

- 1. Rescind its decision to deny Dr. Rodriguez's application at its meeting on June 13, 2019;
- 2. Allow Dr. Rodriguez to formally withdraw his application dated January 22, 2019; and
- 3. Not file a report to the NPDB regarding its decision of June 13, 2019.

To expedite this matter, it was moved by Dr. Takanishi, seconded by Dr. Halford, and unanimously carried to have Chair Geimer-Flanders sign the agreed upon settlement on behalf of the Board.

Ms. Peacott-Ricardos was excused from the meeting room at 3:10 p.m.

Dr. Holt left the meeting at 3:10 p.m.

It was moved by Dr. Takanishi, seconded by Vice-Chair Halford, and unanimously carried to enter into executive session at 3:10 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.

- (iv) Request for Reconsideration of License Denial:
 - b. Mark R. Rogers, M.D.
 - c. Juan Manzur, M.D.

It was moved by Dr. Takanishi, seconded by Dr. Fong, and unanimously carried to return to the open meeting at 3:21 p.m.

Dr. Griesel, Dr. Char, and Mr. Zuckernick entered the meeting room at 3:23 p.m.

Applications for License/ Certification:

a. Applications:

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

- (i) Physician (Permanent):
 - c. Richard T. Arriviello, D.O.
 - f. Matthew D. Epstein, M.D.
 - g. Jane C. Nelson, M.D.
 - h. Christopher D. Tran, M.D.
 - i. David L.C. Wells, M.D.

It was moved by Chair Geimer-Flanders, seconded by Dr. Takanishi, and unanimously carried to approve the following application:

(iii) Emergency Medical Personnel

a. Adam J. Kealiher, EMT

Applications for License/ Certification:

b. Ratifications:

(i) List

It was moved by Dr. Takanishi, seconded by Vice-Chair Halford, and unanimously carried to ratify the attached list of individuals for licensure or certification.

Applications for a. Applications:

<u>License/</u> Certification:

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

a. Jennifer L. Griesel, M.D.

After due consideration of the information received, it was moved by Dr. Dao, to approve Dr. Griesel's application subject to certain conditions, including, but not limited to having:

- Dr. Griesel enter into a contract with Pu`ulu Lapa`au, The Hawai`i Program for Healthcare Professionals ("Pu`ulu Lapa`au"). The length of the contract shall be determined by Pu`ulu Lapa`au, but be no less that one (1) year or the longer of the two periods; and
- 2. Pu`ulu Lapa`au submit quarterly reports to the Board regarding Dr. Griesel's status with her monitoring contract.

Prior to this motion being seconded, Dr. Jaffe sought clarification regarding the proposed conditions as it is his understanding that the Board was also considering whether to require the chief of service or her employer to submit quarterly reports to the Board regarding Dr. Griesel's competency and professionalism.

In reference to Dr. Jaffe's comments, Vice-Chair Halford and Chair Geimer-Flanders were of the opinion that this was not necessary, and that Pu`ulu Lapa`au would be able to provide the appropriate monitoring.

Executive Officer Quiogue advised the Board that it should enter into executive session to consider and evaluate the personal information relating to Dr. Griesel's application and to consult with the Board's attorney.

Dr. Griesel, Dr. Char, and Mr. Zuckernick were excused from the meeting room at 3:28 p.m.

It was moved by Dr. Takanishi, seconded by Vice-Chair Halford, and unanimously carried to enter into executive session at 3:28 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.

Dr. Young recused herself from the discussion and voting on Dr. Griesel's application and left the meeting room from 3:28 p.m. to 3:43 p.m.

It was moved by Dr. Chun, seconded by Dr. Jaffe, and unanimously carried to return to the open meeting at 3:43 p.m.

Dr. Griesel entered the meeting room at 3:43 p.m.

Dr. Young returned to the meeting room at 3:43 p.m.

After due consideration of the information received, it was moved by Chair Geimer-Flanders, seconded by Dr. Takanishi, and carried by a majority, with the exception of Dr. Young who recused herself from discussion and voting on this matter, to approve Dr. Griesel'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 factual support in the records and files of Dr. Griesel's application:

HRS §436B-19 provides that:

In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

- (7) Professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of the licensed profession or vocation:
- (9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation.

In addition, the Board members stated that Dr. Griesel failed to uphold the following American Medical Association's 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.

For reasons contained in the records and files of Dr. Griesel's application, the Board placed the following conditions on her conditional license:

1. Dr. Griesel shall enter into a monitoring contract with Pu'ulu Lapa'au ("Pu'ulu Lapa'au"), The Hawai'i Program

for Healthcare Professionals. The length of the contract shall be determined by Pu`ulu Lapa`au, but be no less that one (1) year or the longer of the two periods. However, said monitoring contract may be extended by the Board if the Board believes that reasonable grounds exist.

- 2. Dr. Griesel shall provide a copy of the fully executed contract with Pu`ulu Lapa`au to the Board within seventy-five (75) days of the date of the conditional letter.
- 3. Dr. Griesel may only begin to practice medicine in the State of Hawaii after she receives written confirmation from the Board that she has secured proper monitoring in the State of Hawaii with Pu`ulu Lapa`au and is issued a medical license number by the Board.
- 4. If, at any time, Pu`ulu Lapa`au determines that Dr. Griesel is not in compliance with the monitoring contract, she shall immediately notify the Board and immediately cease practicing medicine until Pu`ulu Lapa`au specifies to the Board what conditions, if any, it recommends for her to safely resume the practice of medicine. Depending upon Pu`ulu Lapa`au's written report and recommendations, the Board may evaluate what, if any, further conditions are warranted for Dr. Griesel to practice medicine and impose such conditions on her license. If she fails to refrain from alcohol use, the Board also will consider whether to suspend, revoke, or otherwise discipline her license.
- 5. During the period of Dr. Griesel's conditional license, she 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) her compliance with the monitoring contract; and (2) her ability to safely practice as a physician. The first quarterly report is due within ninety (90) days from the date of her conditional license number is issued.
- 6. 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 you violate any further provision of the statutes or rules governing the conduct of physicians in the State of Hawaii, or if you fail to abide by the terms of your conditional license
- 7. Should Dr. Griesel wish to have any condition removed from her license, she shall make a request in writing to the Board, at which time the Board would consider her

request. When doing so, Dr. Griesel shall provide evidence of full compliance with her monitoring contract with Pu`ulu Lapa`au and all other conditions placed on her conditional license.

Dr. Griesel left the meeting room at 3:50 p.m.

b. Robert L.G. Stears, M.D.

After due consideration of the information received, it was moved by Dr. Takanishi, seconded by Dr. Dao, and unanimously carried to approve Dr. Stears's application for licensure, issue a nondisciplinary letter of education, and require him to submit a revised application.

d. Aubrey A. Camacho, M.D.

After due consideration of the information received, it was moved by Vice-Chair Halford, seconded by Dr. Jaffe, and unanimously carried to deny Dr. Camacho's application for licensure.

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

* * *

- (7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;
- (8) Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;
- (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; and

(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.

* * *

(c) Where the board has reasonable cause to believe that a licensee is or may be unable to practice medicine with reasonable skill and safety to protect patients, the board may order the licensee to submit to a mental or physical examination or any combination thereof, by a licensed practitioner approved by the board, at the licensee's expense. The examination may include biological fluid testing and other testing known to detect the presence of alcohol or other drugs.

In addition, the Board members stated that Dr. Camacho failed to uphold the following American Medical Association's Principles of Medical Ethics:

- A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights;
- (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;
- (VIII) A physician shall, while caring for a patient, regard responsibility to the patient as paramount.
- e. <u>Alexander K. Chen, M.D.</u>

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

(ii) Physician (Endorsement):

a. <u>Harry Harrison, Jr., M.D.</u>

After due consideration of the information received, it was moved by Dr. Takanishi, seconded by Vice-Chair Halford, and unanimously carried to defer Dr. Harrison's application pending submission of additional information.

(iv) Request for Reconsideration of License Denial:

b. Mark R. Rogers, M.D.

After due consideration of the information received, it was moved by Dr. Takanishi, seconded by Chair Geimer-Flanders, and unanimously carried to deny Dr. Roger's request for reconsideration and affirm the Board's denial of his initial application for medical licensure.

c. Juan Manzur, M.D.

After due consideration of the information received, it was moved by Chair Geimer-Flanders, seconded by Dr. Takanishi, and unanimously carried to deny Dr. Manzur's request for reconsideration of the Board's denial of his initial application for medical licensure.

Dr. Char and Mr. Zuckernick entered the meeting room at 3:57 p.m.

Advisory Committees:

a. Emergency Medical Personnel

(i) Request of informal opinion of section 16-85-59, Hawaii Administrative Rules.

The Board considered a letter from its Emergency Medical Personnel Advisory Committee ("EMP Committee") dated August 2, 2019, which requested clarification regarding the Board's administrative rules.

By way of background, Dr. Char explained that the EMP Committee met on July 24, 2019, and discussed, among other things, the scopes of practice of Emergency Medical Technicians ("EMT"), Advanced Emergency Medical Technicians ("AEMT"), and Paramedics as set forth in section 16-85-59, Hawaii Administrative Rules ("HAR"). She went on to say that the EMP Committee did so after a legislative hearing before the Senate Committee on Commerce, Consumer Protection and Health.

For the Board's information, Executive Officer Quiogue referred to the letter dated August 2, 2019, and stated that HAR §16-85-59, states:

- (a) The scope of practice of an EMT shall be restricted to the performance of basic emergency medical care and transportation of patients, cardiac defibrillation, and IV access.
- (b) The scope of practice of an AEMT shall include the EMT scope of practice and be restricted to the

performance of limited advanced skills focused on the acute management and transportation of patients and basic, limited advanced, and pharmacological interventions.

(c) The scope of practice of a Paramedic shall include the AEMT scope of practice and be restricted to the performance of advanced skills focused on the acute management and transportation of patients and invasive and pharmacological interventions.

Dr. Char explained to the Board that the EMP Committee interprets each of these sections to mean, that:

 An EMT shall be restricted to the performance of: (1) basic emergency medical care of patients; (2) transportation of patients; (3) cardiac defibrillation; and (4) IV access.

The EMP Committee interprets this to mean that an EMT may perform four (4) separate types of tasks.

 An AEMT shall include the EMT scope of practice and be restricted to the performance of: (1) limited advanced skills focused on the acute management of patients; (2) the transportation of patients; (3) basic, limited advanced interventions; and (4) pharmacological interventions.

The EMP Committee interprets this to mean that an AEMT may perform: the four (4) types of tasks of an EMT plus the four types of tasks listed for an AEMT.

 A paramedic shall include the AEMT scope of practice and be restricted to the performance of: (1) advanced skills focused on the acute management of patients; (2) the transportation of patients; (3) invasive interventions; and (4) pharmacological interventions.

The EMP Committee interprets this to mean that a Paramedic may perform the four (4) types of tasks of an AEMT plus the four (4) types of tasks listed for a Paramedic.

Dr. Char informed the Board that the EMP Committee interprets these subsections to allow an EMT, AEMT, or Paramedic to perform the appropriate interventions separately and independently. Further, the EMP Committee interprets subsections 16-85-59(a), 16-85-59(b), and 16-85-59(c) to allow an EMT, AEMT, and Paramedic to perform the appropriate interventions even when not transporting patients.

Dr. Char queried whether the Board interprets these subsections in the same manner as the EMP Committee.

Dr. Takanishi stated, and members agreed, that the Board does not disagree with the EMP Committee's interpretation of these subsections. However, to be prudent and in order to make an appropriate decision, Dr. Takanishi asked what the status is of the Attorney General opinion sought by the Department of Health.

Dr. Char informed the Board that it could be weeks to months before the opinion is issued by the Attorney General's office.

Discussion followed. It was moved by Dr. Takanishi, seconded by Dr. Young, and unanimously carried to inform the EMP Committee that it does not disagree with its interpretation; however, to be prudent the Board shall request a copy of the Department of Health's correspondence sent to the Attorney General's office and request the status of the Attorney General's determination.

Lastly, in accordance with section 16-201-90, the above is for informational or explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

b. Physician Assistants

None.

c. Podiatrists

a.

None.

Correspondence:

Email correspondence dated July 25, 2019 – July 29, 2019 between Beth Arnold, Pharm.D, BCPP, Professional Services Project Manager, Costco Wholesale Pharmacy, and the Board's Executive Officer, regarding the Board's interpretation of what it means for a patient to be "seen" by a licensed physician as provided in section 461-1, HRS, The Practice of Pharmacy.

It was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to defer this agenda item to the next meeting.

Legislation: a. Amendments to section 453-1, Hawaii Revised Statues

It was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to defer this agenda item to the next meeting. Hawaii Medical Board Minutes of Meeting of August 8, 2019 Page 14

Open Forum:	None.	
Next Meeting:	Thursday, September 1:00 p.m. King Kalakaua Confer 335 Merchant Street Honolulu, Hawaii 968	erence Room, First Floor
Adjournment: The meeting adjour		ned at 4:02 p.m.
Reviewed and approved by:		Taken and recorded by:
/s/ Ahlani K. Quiogue (Ms.) Ahlani K. Quiogue Executive Officer		/s/ Josephine Madiro
		(Ms.) Josephine Madiro Secretary
AKQ:jm 08/27/19		
() (x)	Minutes approved as Minutes approved wi	

HAWAII MEDICAL BOARD 08/08/2019-RATIFICATION LIST

LTYPE	LIC NUM	BP NAME PART 1

MD	20590	RAMYA <srinivasan<< td=""></srinivasan<<>
MD	20591	ELIZABETH R <england<< td=""></england<<>
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