

HAWAII MEDICAL BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Thursday, October 8, 2020

Time: 1:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/92720158198>

Present: 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
Darren K. Egami, M.D., Maui 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
Geri Young, M.D., Kauai Member
Shari J. Wong, Deputy Attorney General (“DAG”)
Ahlani K. Quiogue, Executive Officer
Jenny Yam, Secretary
Kellie Teraoka, Secretary
Kelly Wei, Secretary
Christopher Fernandez, Executive Officer
Daniel Jimenez, Executive Officer
Chelsea Fukunaga, Executive Officer
Lei Ana E. Green, Executive Officer

Excused: Danny Takanishi, M.D., Oahu Member

Zoom Webinar
Guest(s): Edward Burton Gogek, M.D., Applicant
Pola Alida Chojecka, M.D., Applicant
Eric A. Irwin, Esq., Regulated Industries Complaints Office
SBillimon
Harriet.Yamada

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes (“HRS”).

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Chair Geimer-Flanders welcomed everyone to the meeting, and proceeded with a roll call of the Board members. All Board members

confirmed that they were present, with the exception of Dr. Takanishi who was excused from the meeting.

Call to Order:

Due to technical difficulties, the meeting was called to order at 1:19 p.m., at which time quorum was established.

By consensus, the Board moved this item out of order:

Approval of the August 13, 2020, Minutes:

It was moved by Vice-Chair Halford, seconded by Dr. Holt, and unanimously carried to approve the minutes of the executive session and the minutes of the open session of the August 13, 2020, meeting as circulated.

By consensus, the Board returned to regular order of the agenda.

Election of Officers:

The floor was opened for nomination for the office of Chairperson and Vice-Chairperson.

Vice-Chair Halford nominated Dr. Geimer-Flanders as Chairperson, the nomination was seconded by Dr. Young, and unanimously carried to elect Dr. Geimer-Flanders as Chairperson.

Chair Geimer-Flanders nominated Dr. Halford as Vice-Chairperson, the nomination was seconded by Dr. Holt, and unanimously carried to elect Dr. Halford as Vice-Chairperson.

It was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to add the following to the agenda under agenda item 4., Chapter 91, HRS, Adjudicatory Matter:

- I. In the Matter of the License to Practice Medicine of Kang Lu, M.D.; MED 2020-49-L (Act 38, SLH 2016)

Adjudicatory Matters:

Chair Geimer-Flanders called for a recess from the meeting at 1:26 p.m., to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, HRS (Note: Board members and staff entered into Microsoft Teams):

- A. In the Matter of the License to Practice Medicine of Parin Patel, M.D.; MED 2016-218-L; MED 2017-94-L

Following the Board's review, deliberation, and decision on these matters pursuant to Chapter 91, HRS, Chair Geimer-Flanders announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:33 p.m. Board members and staff returned to the Zoom meeting.

At 1:34 p.m., Eric Irwin, Esq., appeared on behalf of the Regulated Industries Complaints Office ("RICO"), Department of Commerce and Consumer Affairs, State of Hawaii ("Petitioner"). Mr. Irwin was promoted

from attendee to panelist in the Zoom meeting. Parin Patel, M.D. ("Respondent" or "Dr. Patel") and/or a representative did not appear at this meeting.

Chair Geimer-Flanders advised Mr. Irwin and guests present that the Board would first consider Dr. Patel's request that oral arguments be postponed to a later date.

Mr. Irwin noted that on October 7, 2020, at 12:07 p.m., Hawaiian Standard Time ("H.S.T."), Dr. Patel emailed the Board's Executive Officer, and requested that "oral arguments to be held at a later date (after October 8, 2020) due to a conflicting clinical emergency."

On October 7, 2020, at 1:02 p.m., H.S.T., Mr. Irwin emailed Dr. Patel and Ms. Quiogue, and conveyed his objections to Dr. Patel's request absent any supporting evidence. Should Dr. Patel provide satisfactory support for this last-minute request, Mr. Irwin would withdraw his objection.

On October 7, 2020, at 2:21 p.m., H.S.T., Ms. Quiogue emailed Respondent, asking him to provide any evidence supporting his request to postpone oral arguments. It was noted that Dr. Patel did not respond to Ms. Quiogue's request for supporting evidence to postpone the scheduled arguments.

Chair Geimer-Flanders commenced the proceedings. She explained to Mr. Irwin that he will be given a maximum of ten (10) minutes to present his objections to Dr. Patel's request for postponement of the oral arguments. After Mr. Irwin presents his objections to Respondent's request for postponement of the oral arguments, Chair Geimer-Flanders advised Mr. Irwin that the Board will recess into Microsoft Teams to deliberate on the matter before voting on its decision.

Mr. Irwin thanked the Board for this opportunity, and proceeded with presenting his objections to Dr. Patel's request.

Mr. Irwin noted that Dr. Patel submitted his request for postponement of the oral arguments by email, which should imply that Dr. Patel would check his email for some sort of response from the Board. Mr. Irwin stated further that he asked that Dr. Patel provide any document or evidence to support his request for postponement of these proceedings; however, Dr. Patel did not provide any response to the attempts that the Board or he made to contact him by email or phone.

By way of background, Mr. Irwin informed the Board that it had referred Dr. Patel to RICO for investigation in 2016, due to the surrender of his clinical privileges at the North Hawaii Community Hospital while under investigation.

Mr. Irwin stated that during the administrative hearing proceedings, Dr.

Patel submitted documents to support that he spoke with RICO investigators on two (2) occasions. Mr. Irwin noted that the RICO investigators could not get any further response from Dr. Patel by the end of 2016.

Mr. Irwin noted that during the course of the investigation, RICO found that Dr. Patel also failed to take accountability or report to the Board, as required by law, his medical malpractice settlements or judgments, which led RICO to open another case. RICO investigators did not receive a response from Dr. Patel regarding this subsequent case.

Mr. Irwin stated that there was an attempt to contact Dr. Patel by writing using the two (2) addresses the Board has on file. One of the addresses was registered with the Board as Dr. Patel's mailing address, which was used to serve the Petition to Dr. Patel by certified mail. The certified mail was accepted and signed for and was presumed received by Dr. Patel. Mr. Irwin stated that he tried to contact Dr. Patel by phone again without success.

Mr. Irwin stated that RICO concluded the case in 2019 and RICO investigators were assigned to obtain certified documents from the California courts regarding the judgments issued against Dr. Patel. Mr. Irwin noted that Dr. Patel called him in February of 2019, to inquire how he could obtain information regarding the investigation to provide to the Maryland Board of Physicians because he was applying for licensure.

By telephone call, Mr. Irwin informed Dr. Patel that he planned to file a Petition for Disciplinary Action against his Hawaii medical license. Dr. Patel responded that he needed to go to work and advised Mr. Irwin to call him at a later time. After several attempts to contact Dr. Patel, Mr. Irwin was unsuccessful.

Mr. Irwin filed the Petition for Disciplinary Action against Dr. Patel on September 25, 2019. Dr. Patel was served with the Petition at the address registered with the Board.

Mr. Irwin stated that a prehearing conference was conducted before the Hearing's Officer on November 7, 2019. Dr. Patel failed to appear despite being served. At the prehearing conference, Mr. Irwin indicated that he filed certain documents, his exhibits list, all of which was sent to Dr. Patel's address on record with the Board.

Mr. Irwin indicated that he intended to file a Motion for Summary Judgment. The hearing for Motion for Summary Judgment was scheduled for December 12, 2019, and was rescheduled to January 16, 2020, due to scheduling conflicts.

Mr. Irwin stated that Dr. Patel called him in December 2019, expressed interest in a settlement and informed Mr. Irwin that he retained an

attorney. Mr. Irwin wrote a letter to the Office of Administrative Hearings to request that the hearing on the Motion for Summary Judgment scheduled for January 16, 2020, be converted to a prehearing conference.

Mr. Irwin noted that the Hearings Officer's Recommended Order states that the assigned Hearings Officer spoke with Dr. Patel by telephone on December 19, 2019, to confirm the date and time of the prehearing conference.

Mr. Irwin stated that he sent Dr. Patel an offer to settle the case; however, did not receive any response to that offer. He went on to say that Dr. Patel failed to appear at the January 16, 2020 prehearing conference.

Mr. Irwin stated that the deadline for the settlement offer expired; therefore, he filed a Motion for Summary Judgment on February 14, 2020. The hearing on the Motion for Summary Judgment was scheduled for March 18, 2020, with the status conference to follow.

Mr. Irwin stated that Dr. Patel emailed him stating that he hired a Louisiana attorney; however, the Louisiana attorney did not have a license to practice in Hawaii or in any of the states that Dr. Patel held medical licenses. Mr. Irwin made objections to Dr. Patel's Louisiana attorney representing him in this matter. After these objections were filed, the Louisiana attorney withdrew his representation. Dr. Patel made no other attempts to hire an attorney.

On March 13, 2020, Respondent filed objections to several of Petitioner's exhibits. On March 16, 2020, Respondent requested a continuance of the status conference scheduled for March 18, 2020, due to his "need for [his] personal self-isolation related to Coronavirus and its imposed limits."

On March 16, 2020, the Governor of the State of Hawaii, David Y. Ige, issued a directive to close all State facilities from March 20, 2020 – April 3, 2020 due to the COVID-19 pandemic. Given this order, the hearing for Summary Judgment and the accompanying status conference were rescheduled to May 11, 2020.

On May 3, 2020, Dr. Patel emailed the Office of Administrative Hearings, stating that he had "limited and incomplete legal representation" and that he was unable to access documents located at his American address. Members noted that Dr. Patel resides in Australia. Mr. Irwin emphasized that Dr. Patel received proper notice of the case in December 2019, which allowed 5-6 months for him to obtain legal counsel, and is of the opinion that this was adequate time to obtain legal counsel.

A hearing on the Motion for Summary Judgment and Motion to Dismiss was conducted by phone May 12, 2020. Mr. Irwin and Dr. Patel were present.

Mr. Irwin noted that Dr. Patel filed written exceptions by email on July 9, 2020, to the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order dated July 2, 2020.

Mr. Irwin emphatically objected to Dr. Patel's request to postpone the oral arguments scheduled for today's meeting, and expressed that Dr. Patel has continuously shown a pattern of failing to appear at scheduled hearings and making last minute requests to reschedule hearings. Further, Mr. Irwin reminded members that Dr. Patel did not respond to Ms. Quogue's email, which asked him to provide any evidence supporting his request to postpone oral arguments due to a clinical emergency.

Chair Geimer-Flanders thanked Mr. Irwin for presenting his objections to Dr. Patel's request, and called for a recess from the meeting at 1:47 p.m., to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, HRS (Note: Board members and staff entered into Microsoft Teams).

A. In the Matter of the License to Practice Medicine of Parin Patel, M.D.; MED 2016-218-L; MED 2017-94-L

It was moved by Chair Geimer-Flanders, seconded by Dr. Young, to accept Dr. Patel's request to postpone the oral argument until a later time. A vote was taken and recorded as follow:

Vice-Chair Halford: no
Dr. Chun: no
Dr. Dao: no
Dr. Egami: no
Dr. Fong: unable to unmute his microphone
Dr. Holt: no
Dr. Jaffe: no
Dr. Mun: no
Dr. Young: no
Chair Geimer-Flanders: yes

With the exception of Dr. Fong who was unable to unmute his microphone, the vote was one (1) yes and eight (8) noes, the motion failed to carry.

It was moved by Chair Geimer-Flanders, seconded by Dr. Holt, to deny Dr. Patel's request to postpone the oral arguments. A vote was taken and recorded as follow:

Chair Geimer-Flanders: yes
Vice-Chair Halford: yes
Dr. Chun: yes
Dr. Dao: yes

Dr. Egami: yes
Dr. Holt: yes
Dr. Jaffe: yes
Dr. Mun: yes
Dr. Young: yes
Dr. Fong: yes

As the vote was ten (10) yesses, the motion passed to deny Dr. Patel's request to postpone the presentation of oral arguments.

Board members and staff returned to the Zoom meeting at 2:02 p.m.

The Board considered oral arguments in this matter as scheduled.

Chair Geimer-Flanders commenced the proceedings. She explained to Mr. Irwin that he will be given a maximum of ten (10) minutes to present his oral arguments. After Mr. Irwin presents his oral arguments, the Board will return to Microsoft Teams to deliberate on the matter before voting on its decision.

Mr. Irwin referred to Dr. Patel's written exceptions by email dated July 9, 2020, which state:

1. Lack of fair hearing and allowance for adequate legal and factual document representation.
2. Covid related travel ban restrictions in Australia not allowing gathering of related [sic].
3. Factual inaccuracies of hearings officer and petitioner report related to voluntary surrender of medical staff privileges and its relation to being under investigation at that time.

Mr. Irwin asked the Board to deny Dr. Patel's Written Exception and to uphold the recommended disciplinary sanctions for the following reasons:

- 1) Dr. Patel had almost half a year to find legal counsel.
- 2) Dr. Patel was unable to identify any document that he needed at the hearing on the Motion for Summary Judgment and Motion to Dismiss that was conducted by telephone on May 12, 2020 before the Hearings Officer.

Mr. Irwin stated that every filing, from the Complaint to the Judgment, in each medical malpractice case is certified by the respective California Court. Each renewal application form used to establish the misrepresentation made to the Board by Dr. Patel is certified by the Department of Commerce and Consumer Affairs. Mr. Irwin indicated that these documents meet the Rules of Evidence, which are the backbone of the case against Dr. Patel.

Mr. Irwin argued that there is no evidence that will overturn the fact that: the certified medical judgments for medical malpractice are final; Dr. Patel misrepresented six (6) times on the renewal applications submitted to the Board; and Dr. Patel failed to report those judgments, as required by HRS Section 453-8(a)(14), within thirty days to the Board.

- 3) The North Hawaii Community Hospital, a facility within The Queen's System, reported that Dr. Patel surrendered his clinical privileges while under investigation to National Practitioner Data Bank ("NPDB") in December 2016. Mr. Irwin stated that Dr. Patel contested the NPDB report with the NPDB and Queen's hospital in 2016. To date, neither the NPDB nor Queens changed the report.

Mr. Irwin concluded his arguments by saying that there is substantial evidence to support the NPDB report, and the wording on the renewal application form clearly indicates that Dr. Patel was required to report the surrender of his clinical privileges. Further, there is no evidence that will overturn the certified court documents regarding the Final Judgments. Mr. Irwin stated that the Hearings Officer considered the matter carefully and asked the Board to approve the Hearings Officer's Recommended Order as its Final Order.

Chair Geimer-Flanders called for a recess from the meeting at 2:11 p.m., to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, HRS (Note: Board members and staff entered into Microsoft Teams)

After discussion, it was moved by Chair Geimer-Flanders, seconded by Dr. Jaffe, and unanimously carried to approve the Hearings Officer's Recommended Order as the Board's Final Order. DAG Wong advised the Board that she would add to its Final Order the procedural events of this case, including: a) Dr. Patel's request for postponement of the oral arguments; b) the Executive Officer's request for proof of a "clinical emergency"; and c) RICO's objections.

B. In the Matter of the License to Practice Medicine of Daniel A. Capen, M.D.; MED 2018-116-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

C. In the Matter of the License to Practice Osteopathy of Christopher M. Quinn, D.O.; MED 2020-141-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by

Vice-Chair Halford, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

- D. In the Matter of the License to Practice Medicine of Nancy M. Satur, M.D.; MED 2020-32-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

- E. In the Matter of the License to Practice Medicine of Ruth A. Schack, M.D.; MED 2020-48-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

- F. In the Matter of the License to Practice Osteopathy of Walter Y. Uyesugi, D.O.; MED 2020-113-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

By consensus, the Board moved these items out of order:

- H. In the Matter of the License to Practice Osteopathy of Frank D. Winters, D.O.; MED 2020-140-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Dr. Jaffe, and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order; Exhibit "1".

- I. In the Matter of the License to Practice Medicine of Kang Lu, M.D.; MED 2020-49-L (Act 38, SLH 2016)

After discussion, it was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and unanimously carried to approve the Board's Final Order (Proposed) as the Board's Final Order.

By consensus, the Board returned to regular order of the agenda.

- G. In the Matter of the License to Practice Medicine of Frederick A. Harada, M.D.; MED 2015-118-L

After discussion, it was moved by Chair Geimer-Flanders, seconded by Dr. Holt, and carried by the majority, with the exception of Dr. Young who recused herself from the discussion and vote on this matter, to approve Dr. Harada's request to remove the probationary status from his license.

Following the Board's review, deliberation, and decision on these matters pursuant to Chapter 91, HRS, Chair Geimer-Flanders announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 2:26 p.m. Board members and staff returned to the Zoom meeting.

Applications for
License/
Certification:

A. Applications:

It was moved by Chair Geimer-Flanders, seconded by Dr. Dao, and unanimously carried, to enter into executive session at 2:27 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. (note: Board members and staff entered into Microsoft Teams):

(i) Physician (Permanent/Non-Endorsement):

a. Pola Alida Chojecka, M.D.

Dr. Young recused herself from the discussion and voting on Dr. Chojecka's application, and left the Microsoft Teams meeting at 2:29 p.m.

Dr. Chojecka entered the Microsoft Teams meeting at 2:35 p.m.

Dr. Jaffe left the Microsoft Teams meeting at 2:46 p.m.

Dr. Jaffe returned to the Microsoft Teams meeting at 2:47 p.m.

Dr. Jaffe left the Microsoft Teams meeting at 2:48 p.m.

Dr. Jaffe returned to the Microsoft Teams meeting at 2:49 p.m.

Dr. Jaffe left the Microsoft Teams meeting at 2:53 p.m.

Dr. Jaffe returned to the Microsoft Teams meeting at 2:53 p.m.

Dr. Chojecka left the Microsoft Teams meeting at 3:00 p.m.

It was moved by Chair Geimer-Flanders, seconded by Vice-Chair Halford, and carried by the majority, with the exception of Dr. Young who recused herself from the discussion and left the Microsoft Teams meeting, to return to the open meeting at 3:00 p.m. Board members and staff

returned to the Zoom meeting.

After due consideration of the information received, it was moved by Chair Geimer-Flanders, seconded by Dr. Jaffe, and carried by the majority, with the exception of Dr. Young who recused herself from the discussion and vote on this matter, to approve Dr. Chojecka'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. Chojecka's application:

HRS section 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; and
- (9) Conduct or practice contrary to recognized standards of ethics for the licensed profession or vocation.

Emphasis added.

In addition, the Board members stated that Dr. Chojecka 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 competence, or engaging in fraud or deception, to appropriate entities

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

1. Dr. Chojecka shall remain in a monitoring 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. However, said monitoring contract may be extended by the Board if the Board believes that reasonable grounds exist.
2. Dr. Chojecka may only begin to practice medicine in the State of Hawaii after she receives written confirmation from the Board that she is issued a medical license number by the Board.
3. If, at any time, Pu`ulu Lapa`au determines that Dr. Chojecka 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 and/or limitations are warranted for Dr. Chojecka to practice medicine and impose such conditions and/or limitations on her license. If she fails to refrain from using drugs or alcohol and inappropriate behavior, the Board also will consider whether to suspend, revoke, or otherwise discipline her license.
4. During the period of Dr. Chojecka'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 her conditional and limited license number is issued.
5. 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 Dr. Chojecka violates any further provision of the statutes or rules governing the conduct of physicians in the State of Hawaii, or if she fails to abide by the terms of her conditional license.

6. Should Dr. Chojecka 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. Chojecka shall provide evidence of full compliance with her monitoring contract with Pu`ulu Lapa`au and all other conditions placed on her conditional license.

It was moved by Chair Geimer-Flanders, seconded by Dr. Holt, and unanimously carried, to enter into executive session at 3:06 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. (note: Board members and staff entered into Microsoft Teams):

(i) Physician (Permanent/Non-Endorsement):

- b. Edward Burton Gogek, M.D.

Dr. Jaffe left the Microsoft Teams meeting at 3: 17 p.m.

Dr. Jaffe returned to the Microsoft Teams meeting at 3:18 p.m.

Dr. Gogek entered the Microsoft Teams meeting at 3:18 p.m.

Dr. Jaffe left the Microsoft Teams meeting at 3: 20 p.m.

Dr. Jaffe returned to the Microsoft Teams meeting at 3:21 p.m.

Dr. Gogek left the Microsoft Teams meeting at 3:24 p.m.

(ii) Physician (Endorsement):

- a. Krishna Rao, M.D.

(iii) Physician Assistant:

- a. Margot Elaine Karr, PA-C

It was moved by Vice-Chair Halford, seconded by Dr. Jaffe, and unanimously carried to return to the open meeting at 3:28 p.m. Board members and staff returned to the Zoom meeting.

Applications for

A. Applications:

License/
Certification:

(i) Physician (Permanent/Non-Endorsement):

b. Edward Burton Gogek, M.D.

After due consideration of the information received, it was moved by Dr. Holt, seconded by Dr. Young, and carried by the majority, with the exception of Dr. Fong who was unable to unmute his microphone to vote on this matter, to approve Dr. Gogek's application pending the submittal of a revised application.

(ii) Physician (Endorsement):

a. Krishna Rao, M.D.

After due consideration of the information received, it was moved by Dr. Young, seconded by Dr. Holt, and carried by the majority, with the exception of Dr. Fong who was unable to unmute his microphone to vote on this matter, to defer Dr. Rao's application because he does not meet the requirements for licensure.

(iii) Physician Assistant:

a. Margot Elaine Karr, PA-C

After due consideration of the information received, it was moved by Chair Geimer-Flanders, seconded by Dr. Egami, and carried by the majority, with the exception of Dr. Fong who was unable to unmute his microphone to vote on this matter, to defer Ms. Karr's application pending submission of additional information.

Applications for
License/
Certification:

B. Ratifications:

(i) List

It was moved by Dr. Egami, seconded by Vice-Chair Halford, and carried by the majority, with the exception of Dr. Fong who was unable to unmute his microphone to vote on this matter, to ratify the attached list of individuals for licensure or certification.

Correspondence:

A. Correspondence from Public Citizen: 1) Report dated May 26, 2020 "15-Year Summary of Sexual Misconduct by U.S. Physicians Reported to the National Practitioner Data Bank, 2003 — 2017"; and 2) Letter dated August 19, 2020 with requested

recommendations for state medical and osteopathic boards to protect patients from sexually abusive physicians

The Board members noted that Public Citizen, a national nonprofit consumer advocacy organization, provided a report dated May 26, 2020, entitled “15-Year Summary of Sexual Misconduct by U.S. Physicians Reported to the National Practitioner Data Bank, 2003 — 2017”, which among other things, provides that:

Main Results

Our report presents powerful case examples that illustrate several ways in which largely self-regulated state medical boards and medical peer-review committees in health care organizations deal leniently with sexually abusive physicians, failing to prioritize patients’ protection over the interest of these physicians. Examples include the following:

- (1) Sexual abuse is regarded as a knowledge gap (that can be bridged by boundary or ethics classes) or an illness that can be cured by psychiatric evaluation and “rehabilitation;”
- (2) Private nonreportable agreements, consent decrees, or suspended disciplinary actions often are employed as the first line of action against these physicians;
- (3) A chaperone requirement or limitation/restriction of clinical practice or license are often the second line of action against these physicians until they are “rehabbed” and returned to practice;
- (4) Sexually abusive physicians can be permitted to resign, surrender their licenses or clinical privileges, or retire to avoid revocation actions — allowing them to move to other health care organizations or obtain licenses in other states; and
- (5) Reporting entities may conceal sexual misconduct in the NPDB by using nonspecific Basis for Action Codes, such as “unprofessional conduct,” in lieu of the “sexual misconduct” code.

Conclusions

The number of physicians who have been reported to the NPDB due to sexual misconduct remains low. Therefore, our report only scratches the surface of the full extent of physician sexual misconduct in the U.S. Unfortunately, this problem has not received the attention it deserves from the medical community. It is incumbent on the medical community to adopt an explicit zero-tolerance standard against sexual abuse of patients or others by physicians in all its forms. Such physicians must not be allowed to practice medicine. We also call on the medical community to

make tangible systemic and cultural changes to attain this goal. We provide more than a dozen actionable recommendations to begin the quest for that zero-tolerance standard.

The Board members noted that Public Citizen provided a letter dated August 19, 2020 with requested recommendations for state medical and osteopathic boards to protect the public from sexually abusive physicians:

- (1) Replace the term “sexual misconduct” with the term “sexual abuse of patients” in all your regulations, policies, and communications when referring to any physician conduct that involves any sexual contact between physicians and their patients or any behavior or remarks of a sexual nature by physicians toward their patients. For all forms of sexual misconduct not involving patients, use the term “sexual misconduct not involving patients.”
- (2) Classify physician sexual abuse of patients as a “never event” and implement a zero-tolerance standard for such conduct (as has been adopted by other countries, including New Zealand and parts of Canada).
- (3) Encourage the use of trained practice monitors for all physical examinations and procedures involving the breast, full body, genital, or rectal areas.
- (4) In collaboration with health care institutions in your state, educate the public about how to prevent, recognize, and report physician sexual abuse. Particularly, establish and disseminate to the public detailed guidelines for how medical services (including examinations, procedures, or treatments) involving breast, full-body, genital, or rectal areas should be conducted. Also, require all physicians to maintain and protect medical records referencing these examinations and procedures.
- (5) Encourage and facilitate reporting by patients, patient surrogates, physicians, and other health care professionals of physician sexual abuse by, among other things, improving reporting processes and permitting anonymous and proxy reporting of physician sexual misconduct, and by having patient-advocate professionals on staff with whom patients and their surrogates can be encouraged to discuss such allegations.
- (6) In collaboration with health care institutions in your state, establish and fund programs to provide subsidized psychological counseling for all patients who were found to be sexually abused by their physicians.

- (7) Investigate each complaint of alleged physician sexual abuse of patients and conduct hearings if there are grounds for proceeding. Ensure that board staff involved in investigating alleged physician sexual abuse of patients undergo sensitivity training to be better equipped to help the victims without retraumatizing them.
- (8) Take effective disciplinary actions against physicians who have engaged in any form of sexual abuse of patients. Establish and enforce clear mandatory penalties against sexually abusive physicians and be firm in enforcing these penalties starting with first offenses. Mandate license revocations for all physicians found to have engaged in any form of physical sexual contact with their patients.
- (9) Report physicians who were found to have engaged in sexual intercourse or other forms of physical sexual contact or relations with any patient to law enforcement authorities in all cases.
- (10) Disclose on your website complete information concerning all adverse licensing actions against named physicians found to have sexually abused their patients. Such information should be written in lay-friendly language and be made easily accessible to the public.
- (11) Work with your state legislature to strengthen state laws to protect the public from physician sexual abuse by (a) criminalizing all forms of physician sexual abuse of patients, (b) implementing patient “right-to-know” laws that require physicians who are on probation for sexual abuse or other offenses to notify their patients of these offenses, (c) strengthening and enforcing duty-to-report laws and setting penalties for noncompliance, and (d) lengthening or eliminating statutes of limitation for criminal offenses involving sexual abuse of patients by their physicians.
- (12) Enroll all your licensed physicians in the “continuous NPDB query” program, a feature that automatically sends copies to your board of new reports submitted by other entities anywhere in the U.S. regarding an enrolled physician, and take appropriate action in response to the receipt of new reports involving sexual abuse of patients by any of your licensed physicians. The use of this query option is particularly valuable when physicians are licensed in multiple states because only the board of the state in which a clinical-privileges action is taken or a malpractice payment is made would automatically receive a copy of the

report of such action or payment that is submitted to the NPDB.

Dr. Jaffe expressed his concern regarding Recommendation No. 12 to “enroll all licensed physician in the ‘continuance NPDB query’ program” because it seems to make the Board police the physicians.

Ms. Quiogue clarified that these are only recommendations to the Board, and it will require statutory and/or administrative rule amendments to adopt some of the recommendations.

Next Meeting: Thursday, December 10, 2020
1:00 p.m.
Virtual Videoconference Meeting – Zoom Webinar

Adjournment: The meeting adjourned at 3:40 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/Ahlani K. Quiogue

/s/Jenny Yam

(Ms.) Ahlani K. Quiogue
Executive Officer

(Ms.) Jenny Yam
Secretary

AKQ:jy
10/28/2020

(x)
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Minutes approved as is.

Minutes approved with changes: _____

HAWAII MEDICAL BOARD 10/8/20 - RATIFICATION LIST

LTYPE	LIC NUM	BP NAME PART 1
MD	21357	MURRAY J <GRISSOM<
MD	21358	CHARLENE R <BROWN<
MD	21359	YEHUDA E <PAZ<
MD	21360	PAUL D <HEIDERSCHEIDT<
MD	21361	COLLEEN E <HAUTZINGER<
MD	21362	NATALIE T <CASSELL<
MD	21363	CONNOR B <VENRICK<
MD	21364	KRAIG L H <YOUNG<
MD	21365	CHRISTINE S M <CHOI<
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MD	21369	ERIK O <GILBERTSON<
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MD	21386	MAGED W <BOTROS<
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MD	21392	LATANIA M <AKERS-WHITE<
MD	21393	ASHA <ROBINSON-PARKS<
MD	21394	ANNALISE J <BOISVERT<
MD	21395	STANLEY I <KIM<
MD	21396	LYNN A <KOHLMEIER<
MD	21397	SCOTT R <FLORELL<
MD	21398	MADHURI K <SHORS<
MD	21399	ZOHORA B <JALIL<
MD	21400	JADE L <SCHECHTER<
MD	21401	SARAH B J <FULHAM<

MD 21402 GALEN F <MAZE-ROTHSTEIN<
MD 21403 RADHIKA M <REDDY<
MD 21404 NICOLE E <WILLIAMS<
MD 21405 THOMAS K S <NOH<
MD 21406 INEKE M <AYUBI-MOAK<
MD 21407 ADAM M <BLATT<
MD 21408 FRANCES D <FILGAS<
MD 21409 ARUN <JAIN<
MD 21410 RIPP A <SMITH<
MD 21411 NEIL P <SULLIVAN<
MD 21412 MARK <YOUSSEF<
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AMD 1008 VIVIANFAITH A <OLOO<
AMD 1009 EMILY R <CALLAWAY<

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DOS 2087 CARA A <LUCAS<
DOS 2088 BRIAN D <JAMES<
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DOS 2090 DONA R <BREKKE<
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DOS 2092 KENNETH J <CULLANDER<
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DOS 2094 ANDREW H <SUMIDA<
DOS 2095 ASHA J <MADA<
DOS 2096 RUSSELL A <VAN MAELE<
DOS 2097 LOUIS A <DOAN<
DOS 2098 JULIE K <WACHTEL<
DOS 2099 AARON <EREZ<
DOS 2100 JOHOL C H <CHAN<
DOS 2101 ELIZABETH <HAN<
DOS 2102 NATHANIEL T <HIBBS<
DOS 2103 DOROTHY <IWANSKI<

DOSR 522 SMRUTI M <DESAI<

EMT 3019 ALYCIA R <WAGNER<
EMT 3020 SHANE L <FOGG<

EMT 3021 TIFFANY G T <SAKAMOTO<

EMTA 40 ROBERT J <POWERS<

EMTP 2297 NICOLE M <STANGE<

EMTP 2298 RYAN P <DIES<

EMTP 2299 STEVEN <ROEMBKE<

EMTP 2300 CAMERON W <VENTURA<

EMTP 2301 NATHANAEL D <LINDQUIST<

EMTP 2302 DREW L <MOREHOUSE<

PO 233 ANISA S <PEA<
