

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

MINUTES OF MEETING

Date: November 15, 2021

Time: 10:00 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar

Present: Earl Hasegawa, D.D.S., Chair, Dental Member
Paul Guevara, D.M.D, M.D.S., Vice-Chair, Dental Member
Wallace Chong, III, D.D.S., Dental Member
Sharon Tanaka, Public Member
Andrew Tseu, D.D.S., Dental Member
Joyce Yamada, Ed.D., R.D.H., Dental Hygiene Member
Katherine Fukushima, R.D.H., Dental Hygiene Member
Joseph Chu, D.D.S., Dental Member
George Wessberg, D.D.S., Dental Member
Bryan Yee, Esq., Deputy Attorney General (“DAG”)
Sandra Matsushima, Executive Officer (“EO”)
Erin Emerson, Secretary
Chelsea Fukunaga, Tech Support

Excused: Wesley Choy, D.D.S., Dental Member

Zoom Webinar
Guests: Guy Shampaine
CDCA-WREB Director (*Alex Vandiver*)
Kimber Cobb, RDH, BS
Erika Rydell
Victoria (*Victoria Mongeon*)
Melissa Pavlicek
Michele
SF
Kim Nguyen – HDA (she/her/hers)
Bobak Nayebdadash
Ellie Kelley-Miyashiro
CRDTS Inc.
Cindy Gaskill – CRDTS
Gerraine
Katie Carter

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 procedure and how members of the public could participate in the virtual meeting.

1. Call to Order: There being a quorum present, Chair Hasegawa called the meeting to order at 10:02 a.m.

2. Roll Call: Chair Hasegawa 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. Choy who was excused from the meeting.

Chair Hasegawa announced the Board's procedural format for agenda matters and stated that the meeting will end no later than 12:00 p.m.

3. Approval of Board Meeting Minutes and Executive Session Chair Hasegawa asked the Board members if there were any comments or concerns regarding the open session minutes or executive session minutes of September 20, 2021. There were none.

Minutes of September 20 2021: Upon a motion by Vice-Chair Guevara, seconded by Ms. Tanaka, it was voted and unanimously carried to approve the open session minutes and executive session minutes of September 20, 2021.

4. New Business: a. Presentation and update by the Commission on Dental Competency Assessments ("CDCA") and the American Board of Dental Examiners ("ADEX") regarding dental and dental hygiene licensure exams.

Chair Hasegawa welcomed Kimber Cobb and Alex Vandiver from CDCA-WREB and Guy Champagne from ADEX, to give a presentation to the Board.

Mr. Vandiver greeted the Board and explained that the CDCA has merged with WREB and is now known as CDCA-WREB.

Dr. Champagne provided updated information which included a slideshow presentation on the following main topics:

- Simplifying Licensure Pathways;
- National Examination Standards;

- CDCA / WREB Merger.

Chair Hasegawa asked if any Board members had questions or comments regarding the presentation. There were none.

Chair Hasegawa thanked Dr. Shampaine, Mr. Vandiver and Ms. Cobb for their presentation.

5. Applications: a. Ratifications

It was moved by Vice-Chair Guevara, seconded by Dr. Chu, and unanimously carried to ratify approval of the following dentist licenses, dental hygienist licenses, and certification in the administration of intra-oral block anesthesia:

- Approved Dentists

DT-2939	EVAN A HAMMAMOTO
DT-2940	KIMBERLY ROSE MAH
DT-2941	SCOTT WILLIAM OTTERSON
DT-2942	JENNY THAI
DT-2943	ALEC C NGUYEN
DT-2944	NICOLE A KOOCHI
DT-2945	JAMES H MARTINEAU
DT-2946	LISA P DO
DT-2947	RYAN LE

- Approved Dental Hygienists

DH-2338	WEIFENG SU
DH-2339	MARIS G LEONHARDY
DH-2340	KATHY WU
DH-2341	SONJA F YOUNG
DH-2342	ANNABELLE G MARIANO
DH-2343	JENNIFER A PONCE
DH-2344	JENNIFER D WARREN
DH-2345	WATSANA U ECKERT
DH-2346	BREANNA B CREACY
DH-2347	BRITTANY M MACNEILL
DH-2348	ROBYN M ROSSMEISL

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

DH-2338	WEIFENG SU
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DH-2339 MARIS G LEONHARDY
DH-2340 KATHY WU
DH-2342 ANNABELLE G MARIANO
DH-2343 JENNIFER A PONCE
DH-2345 WATSANA U ECKERT

b. Application for License – Dental Hygienist*

1) Erika Rydell

Chair Hasegawa asked if there were any members from the public, or Ms. Rydell, wishing to provide testimony on this matter.

Chair Hasegawa recognized Ms. Rydell.

Ms. Rydell greeted the Board and provided a brief history of the relationship between the Commission of Dental Accreditation (“CODA”) and the Commission on Dental Accreditation of Canada (“CDAC”), quoting CODA’s Reciprocal Agreement with CDAC:

“...the Commissions agree that the educational programs accredited by the other agency are equivalent to their own and no further education is required for eligibility for licensure.”

Ms. Rydell advised that she is available for any questions.

Chair Hasegawa stated that this matter involved the interpretation of HRS §447-1(a)(2), regarding a diploma from a dental hygiene school accredited by CODA; specifically, whether the term “accredited” included the term “recognized”, as it applied to dental schools and programs globally. He noted that the wording was mirrored in HRS §448-9(3) in relation to dentist applicants. He asked if there were any representatives from the Hawaii Dental Association (“HDA”) or Hawaii Dental Hygiene Association (“HDHA”) that wished to provide testimony on the matter.

Chair Hasegawa recognized Melissa Pavlicek.

Ms. Pavlicek from the HDA advised that while she was available as a resource for the Board, she had no comment.

There were no members from the HDHA that indicated they would like to provide testimony.

Chair Hasegawa requested the EO Matsushima provide a history on the Board's definition of CODA accredited schools.

EO Matsushima quoted the following sections from the HRS and the Hawaii Administrative Rules ("HAR"):

DENTISTRY HRS §448-9(3)(A): Application for licensure. Any person of eighteen years or more shall be eligible for licensure upon submission of:
(3) Documentation and credentials that shall include but are not limited to the following:
(A) A diploma or certificate of graduation from a dental college accredited by the American Dental Association Commission on Dental Accreditation, recognized and approved by the board;

DENTAL HYGIENISTS HRS §447-1(a)(2) and (3):
Who may become dental hygienists; fees. (a) Any person:
(2) Who has a diploma or proper certificate of graduation from a dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation that requires at least a two year course and is recognized by the board of dentistry;
(3) Who has been officially certified in the administration of intra-oral infiltration local anesthesia and intra-oral block anesthesia by an accredited dental hygiene school or by a certification program previously approved by the board;

HAR §16-79-9(a)(5):
(a) A person applying for licensure to practice dentistry shall comply with the following requirements:
(5) Be a graduate from a dental school accredited by CODA.

HAR §16-79-9(b)(5) and (6):

- (b) A person applying for licensure to practice dental hygiene shall comply with the following requirements:
- (5) Be a graduate from a dental hygiene school accredited by CODA; and
 - (6) Be certified in the administration of intra-oral infiltration local anesthesia and intra-oral block anesthesia from an accredited dental hygiene school or certification program approved by the board.

EO Matsushima advised that in a July 21, 2021 email from Dr. Sherin Took, Director of CODA, it was confirmed that CODA's Reciprocal Agreement with CDAC recognized, but did not accredit, the CDAC schools and programs.

EO Matsushima noted that there was a poll conducted by the American Association of Dental Administrators ("AADA") in July 2021 that resulted in responses from fifteen (15) administrators. The results showed the following:

- seven (7) states accept only CODA accredited degrees. Arizona was included in this stat, however, they are in the process of changing their laws to allow for universal licensure.
- eight (8) states require CODA accredited degrees, but may accept a non-CODA accredited degree with a two (2) year advanced degree or a dental specialty degree from a CODA accredited school for dentist applicants.

EO Matsushima stated that Hawaii does not have a dental school, but the University of Hawaii has a CODA accredited dental hygiene program. The university does not offer an advanced dental hygiene program, in which a graduate from a non-CODA accredited degree program could enroll in an advanced course of study, to obtain a CODA accredited degree.

EO Matsushima provided history on the Board's most recent decision regarding an application with a non-accredited degree. She explained that the applicant had a CDAC accredited dental degree and was erroneously granted a Community Service Dentist license ("CSDT") by a former administrator. She noted that the CSDT

application was not reviewed or approved by the Board. Due to the unique situation, the Board granted the applicant's request for a general dentist license.

EO Matsushima advised that she researched the Board's past decisions on applicants with non-accredited degrees from January 2004 to April 2018. She stated that the Board had unanimously voted to not approve these applicants for licensure without meeting the requirements of a CODA accredited degree, pursuant to the Board's HRS and HAR.

Chair Hasegawa asked if DAG Yee had any information to add.

DAG Yee questioned the meaning of the term "accredited" and surmised that it differed from the term "recognized". He opined that the Board did not have the ability to individually evaluate school curriculum to determine if the program meets CODA's accreditation requirements. He explained that legislation would be required to change the current language of the HRS.

Chair Hasegawa summarized that in the past the Board had only approved applications from individuals with CODA accredited degrees. He acknowledged the rare exception, due to administrative error. He reiterated that if there was the desire to change the language of the HRS, that could be done through legislation; however, the Board needed to make a decision on this application based on the current law.

Upon a motion by Dr. Wessberg, seconded by Vice-Chair Guevara, it was voted on and unanimously carried to deny Erika Rydell's Application for License – Dental Hygienist, based on the current language of the HRS and the July 21, 2021 email from CODA director, Sherin Tooks.

Chair Hasegawa asked EO Matsushima to draft a letter to Ms. Rydell outlining the Board's decision and her options moving forward.

Ms. Rydell requested to address the Board.

Chair Hasegawa advised that Ms. Rydell may reach out to EO Matsushima after the meeting if she would like to discuss her options. He noted that if she has additional information, she can be placed on a future agenda for the Board to review.

DAG Yee informed the public meeting attendees that public testimony is taken at the beginning of each agenda item and once public testimony has been closed, no further testimony will be taken. He explained that Ms. Rydell will receive a letter from EO Matsushima detailing her options moving forward. One option would be to request a contested case hearing, in which she would provide her arguments to the hearings officer. Another option would be for her to seek changes to the HRS through legislation.

2) Jernell Delenia

Chair Hasegawa asked if there were any members from the public, or Ms. Jernell, wishing to provide testimony on this matter. There were none.

Chair Hasegawa requested the Board move into executive session to discuss Ms. Delenia's Application for Licensure – Dental Hygienist, along with the following agenda item, Ms. Delenia's Application for Certification in the Administration of Intra-Oral Block Anesthesia.

At 10:55 a.m., it was moved by Vice-Chair Guevara, seconded by Dr. Tseu, and unanimously carried for the Board to enter executive session pursuant to HRS, §92-5(a)(1) and (4), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in 26-9 or both;" and "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities". Board members and staff entered into Microsoft Teams.

EXECUTIVE SESSION

At 11:00 a.m., it was moved by Vice Chair Guevara, seconded by Dr. Chu, and unanimously carried to move out of executive session. Board members and staff

returned to the Zoom Webinar meeting.

It was moved by Dr. Wessberg, seconded by Ms. Fukushima, and unanimously carried to approve Jernell Delenia's Application for Licensure – Dental Hygienist.

c. Application for Certification in the Administration of Intra-Oral Block Anesthesia*

1) Jernell Delenia

It was moved by Dr. Wessberg, seconded by Vice-Chair Guevara, and unanimously carried to approve Jernell Delenia's Application for Certification in the Administration of Intra-Oral Block Anesthesia.

6. Correspondence: a. Email from Victoria Mongeon regarding Dentistry Botox regulations

Chair Hasegawa read the following email inquiry from Victoria Mongeon:

"I contacted The Hawaii Dental Association inquiring about Hawaii's regulations for Botox in Dentistry. I recently moved from the mainland where my dentist provided me with Botox injections. I am currently working as a dental assistant and would love to start a Botox program to help with my employer's bottom line during this pandemic. We would love the opportunity to use Botox to not only help with their dental issues but also to improve their smiles by improving their smile lines around their eyes and the wrinkles in their foreheads. I am curious to Hawaii's rules and regulations for the product. I have been in touch with many people who have verified that Dentist are legally allowed to inject Botox, however I felt as though I should contact someone in the Dental Board before moving forward. Thank you so much for your time and consideration."

Chair Hasegawa asked if there were any members from the public, or Ms. Mongeon, wishing to provide testimony on this matter.

Chair Hasegawa recognized Ms. Mongeon.

Ms. Mongeon greeted the Board and provided a brief history on her experiences with Botox, along with a breakdown of the financial

benefits of providing the service.

Chair Hasegawa asked if Ms. Mongeon was inquiring about herself administering the Botox injections to clients.

Ms. Mongeon clarified that her inquiry was regarding dentists administering Botox injections to clients.

Chair Hasegawa advised that the Board's policy on Botox injections was developed in 2013. Prior to that, only oral surgeons could administer Botox. The topic was previously discussed in reference to a proposed course on Botox and its use for temporomandibular joint disorder ("TMD") and myofascial pain & dysfunction syndrome ("MFPDS").

Chair Hasegawa provided the current policy related to Botox:

The use of Botox is within the scope of practice of dentistry as defined in Chapter 448, Hawaii Revised Statutes ("HRS"). Licensed dentists in Hawaii are allowed to utilize Botox specifically for the treatment of TMD/myofascial pain or other conditions affecting the oral cavity and associated structures as specified in 448.1, HRS. Dental practitioners are required to receive appropriate training and acquire the necessary knowledge skills, and expertise to provide this service in a safe and efficacious manner. Additionally, they should confer with their dental insurance carrier to determine if malpractice coverage for this procedure exists.

The use and placement of dermal fillers by licensed dentists in Hawaii is also within the scope of practice of dentistry. Dermal fillers may be utilized to treat conditions within the oral cavity. Licensed dentists should confer with their dental insurance carrier to determine if malpractice coverage for this procedure exists.

The use of Botox and placement of dermal fillers must be completed by the licensed dentist possessing the appropriate training, knowledge, and skill set. It cannot be delegated to a dental hygienist or dental assistant.

Dermal fillers may be utilized by general practice dentists provided these treatments are specifically reserved only for intraoral conditions/procedures. Those oral maxillofacial surgeons possessing advanced training in cosmetic

maxillofacial surgery may utilize dermal fillers for cosmetic type procedures.

Chair Hasegawa advised that the Botox policy applies to all dentists. Therefore, the language for “other conditions” and “associated structures” was included to allow for oral maxillofacial surgeons to use Botox as allowed given their advanced training. The policy does not delineate by anatomical location, but by training.

Chair Hasegawa explained that if a dentist wants to administer Botox for reasons other than TMD/MFPDS, they would be required to:

- receive appropriate training and acquire the necessary knowledge, skills, and expertise to provide this service in a safe and efficacious manner; and
- confer with their dental insurance carrier to determine if malpractice coverage for this procedure exists.

Chair Hasegawa stated that the policy was left broad to allow for standards to change over time. He noted that dentists are required to prove their competency to provide the service and malpractice carriers could help in determining whether the training and expertise is adequate, based on their willingness to extend coverage.

Chair Hasegawa asked the Board members if they had any comments or concerns.

Dr. Wessberg recalled a situation in the past in which a dentist, trained in Botox, was advertising cosmetic procedures and received a complaint from a physician accusing the dentist of practicing medicine without a license. His recollection was that the Board upheld the complaint.

Dr. Wessberg voiced concern that while using Botox to treat TMD, a dentist could perform cosmetic procedures under the guise of medical treatment. He also noted that by deferring to insurance carriers to determine if malpractice coverage is provided, the Board would be allowing insurance carriers to enforce the HRS, rather than establishing the criteria.

Vice-Chair Guevara advised that he was a member of the Permitted Interaction Group (“PIG”) that proposed the Botox policy

in 2013. He explained that the group used laws written by other state boards to draft the language. He noted that since all licensees in Hawaii receive a general dentist license, the emphasis was on training. When determining the location of injection sites, the PIG specified that derma fillers could be used intraorally, and Botox could be used on associated structures.

EO Matsushima recalled a previous discussion limiting the use of Botox to below the eyes, ending at the jaw bone.

Vice-Chair Guevara advised that the PIG used the term “associated structures”, which he acknowledged could be defined differently based on the individual dentist. He stated that every time this topic arises, the discussion comes down to the training; whether trained via continuing education (“CE”) or through oral surgery training, the level of training would determine the allowable use of Botox. He reiterated that derma fillers were specifically limited to intraoral.

Vice-Chair Guevara suggested that if there was interest in making changes to the policy, the Board move to executive session to consult with DAG Yee.

EO Matsushima recalled that dentists were meant to use Botox to treat pain and the policy was not intended for cosmetic use.

At 11:18 a.m., it was moved by Vice-Chair Guevara, seconded by Dr. Chu, and unanimously carried for the Board to enter executive session in 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”. Board members and staff entered into Microsoft Teams.

EXECUTIVE SESSION

At 11:34 a.m., it was moved by Vice-Chair Guevara, seconded by Dr. Tseu, and unanimously carried to move out of executive session. Board members and staff returned to the Zoom Webinar meeting.

Chair Hasegawa asked if there was any further Board discussion.

Vice-Chair Guevara recommended that the Board issue their current Botox policy statement to Ms. Mongeon.

Chair Hasegawa asked EO Matsushima to provide Ms. Mongeon

with a letter advising of the current Botox policy.

Ms. Mongeon requested to address the Board.

Chair Hasegawa advised that public testimony had been closed on the agenda item and that EO Matsushima would email Ms. Mongeon the current Botox policy after the meeting.

7. Ongoing Business:

a. Hawaii Administrative Rules, Title 16, Chapter 79, Proposed Rule Revisions

Subchapter 15 Dental Records (new)
§16-79-2 Definitions
§16-79-149 Retention of Dental Records

Chair Hasegawa asked Dr. Tseu for a summary of the findings from the PIG that was implemented at the July 19, 2021 Board meeting to discuss the above noted rule revisions.

Dr. Tseu noted that the PIG's recommendations were based upon the research and evaluation of the following:

- Hawaii medical records statutes;
- Other state dental board statutes; and
- General liability requirements.

Dr. Tseu provided the following recommendation:

1. Use the definition of "dental records" as defined by the American Dental Association ("ADA") in a paper titled "Dental Records" published in 2007 and 2010.
2. Retain records for seven (7) years from the last entry.
 - a. Except in the cases of minor. These are to be retained through their minority, plus seven (7) years
3. Dental records may be destroyed after the seven (7) year retention period.
4. Remove the requirement to retain basic information.
5. Defer to HIPAA regarding the availability or accessibility of records.

Dr. Tseu asked if the other members of the PIG, Vice-Chair Guevara and Ms. Tanaka, had any other information they would like to add.

Vice-Chair Guevara advised he did not have any further comments.

Ms. Tanaka advised that she did not have any further comments.

Chair Hasegawa queried if stone models and impression were considered a part of the record.

Dr. Tseu advised that based on the definition of dental records, it would depend if it was diagnostic or not.

Chair Hasegawa asked if any Board members had comments or concerns.

It was moved by Chair Hasegawa, seconded by Dr. Chu, and unanimously carried to accept the recommendations provided by the FIG.

8. Executive
Officer's
Report:

a. 2022 Board of Dentistry Meeting Schedule

EO Matsushima provided the following meeting dates for 2022:

- January 24
- February 7 (Special Legislative Meeting)
- March 7
- April 11 (Special Legislative Meeting)
- May 16
- July 18
- September 19
- November 21

EO Matsushima advised that the two (2) Special Legislative Meeting will be cancelled if there is no legislation to discuss. She noted that all meetings will be conducted virtually unless notified otherwise and that virtual meetings will continue to begin at 10:00 a.m. HST.

b. Biennial License Renewal for period January 1, 2022 to December 31, 2023

EO Matsushima stated that renewals have opened for the upcoming renewal term and renewal reminders have been sent in the mail. Dental licensees may renew their licenses online via their MyPVL account (<https://mypvl.dcca.hawaii.gov/>).

EO Matsushima advised that dentists holding the special privilege to administer anesthesia will be required to renew using a hardcopy

form. These hardcopy renewal forms were mailed out on November 5, 2021. She noted that in order to renew, these dentists will be required to contact the Board to set up a facility inspection.

EO Matsushima noted that information on the continuing education (“CE”) requirements can also be found on the Board of Dentistry’s website (http://cca.hawaii.gov/pvl/news-releases/dental_announcements/), and audits will be conducted in 2022. She advised that at the May 17, 2021 Board meeting the Board voted to approve a waiver allowing for completion of all CE courses through virtual means due to undue hardship from the pandemic, pursuant to HAR §16-79-147. This waiver is for the biennial renewal period of January 1, 2022 to December 31, 2023 and includes Basic Life Saving (“BLS”) courses.

9. Next Meeting: Monday, January 24, 2022
10:00 a.m.
Location: Virtual Videoconference – Zoom Webinar

10. Adjournment: The meeting adjourned at 11:48 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Sandra Matsushima

/s/ Erin Emerson

Sandra Matsushima
Executive Officer

Erin Emerson
Secretary

SM:ee

2/7/2022

[X] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____.