

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

MINUTES OF MEETING

Date: August 29, 2022

Time: 12:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/91593316960>

Present: James Pleiss, D.C., D.A.B.C.O., Chair
Rachel M. Klein, N.D.D.C., Vice Chair
Alicé H. Ogawa, D.C., Member
Rochelle Araki, Executive Officer (“EO”)
John Cole, Deputy Attorney General (“DAG”)
Susan A. Reyes, Secretary
Mia Hoang, Office Assistant, Technical Support
Johnny Li, ISCO, Technical Support

Guests: Lei Fukumura, Special Deputy Attorney General (“SDAG”)
Caleb Craig

Agenda: The agenda for this meeting was posted to the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

Individuals wishing to provide public comment may do so at the beginning of each agenda item. Pursuant to Hawaii Administrative Rules (“HAR”) Section 16-76-62(a)(5), the Board will limit an individual’s public comments to (5) minutes for each agenda item. Public comment on issues not on the agenda may be considered by the Board at a subsequent meeting. The Board is precluded from discussion or acting on items raised by public comment that are not already on the agenda.

A brief video explained meeting procedures and information on how members of the public can participate during the meeting.

Call to Order: There being a quorum present, the meeting was called to order by Chair Pleiss at 12:15 p.m.

Approval of Meeting Minutes: Minutes of the June 6, 2022 Board Meeting
Chair Pleiss asked if there were any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

It was moved by Chair Pleiss, seconded by Dr. Ogawa, to accept the open session and executive session minutes as is.

RICO discussion
with Esther Brown:

Executive Officer Araki advised the Board that Esther Brown is unable to attend the meeting. This agenda item will be deferred.

Scope of Practice
Question from

Dr. Dermody:

Chair Pleiss read Dr. Dermody's scope of practice question: I have gotten some mixed messages within the chiropractic community about liability with using different types of pregnancy pillows for adjusting the pregnant patient. In the state of Hawaii- do I need to use a professionally made pregnancy pillow designed with a patent like ChiroLux or can I make my own and still be covered? I spoke to my malpractice today and they said this falls under a scope of practice umbrella which is determined by the state.

Chair Pleiss does not have any recommendation but advises Dr. Dermody to use his professional judgement in making the determination on what pillow to use for his patients. The Board of Chiropractic's laws and rules does not state any specific pillow to use to adjust their patients. Vice Chair Klein and Dr. Ogawa concurs with Chair Pleiss.

The Board recessed at 12:20 p.m. and returned to open session at 12:35 p.m.

Chapter 91, HRS,
Adjudicatory
Matters:

(A) In the Matter of the License to Practice Chiropractic of AARIES T. ODA, D.C.; CHI 2020-14-L

It was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to approve the settlement agreement, CHI 2020-14-L.

Executive Session:

At 12:39 p.m., it was moved by Chair Pleiss, seconded by Vice Chair Klein, and unanimously carried to enter into Executive Session pursuant to HRS §92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both", and 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.

At 2:22 p.m., it was moved by Chair Pleiss, seconded by Vice Chair Klein, unanimously carried to exit Executive Session and reconvene to the Board's regular order of business.

Applications for

Chiropractic License: Chair Pleiss asked if there were any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

(A) Chiropractor License

(1) Duane Walker

After due consideration of the information received, it was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to approve the chiropractic license application of Dr. Walker.

(2) Leonard Wong

After due consideration of the information received, it was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to approve the chiropractic license application of Dr. Wong.

(3) Caleb Craig

After due consideration of the information received, it was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to deny Dr. Craig's application for licensure.

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

HRS section 436B-19 provides that:

(a) 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:

* * *

(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

(13) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or

applicant for any reason provided by the licensing laws or this section.

(B) Ratification of Issued License(s)

- | | | |
|-----|---------|----------------------|
| (1) | DC-1525 | Jason David Williams |
| (2) | DC-1526 | Richard O. Pinner |
| (3) | DC-1527 | Hannah Bahn |
| (4) | DC-1528 | Alexander M. Dermody |

It was moved by Chair Pleiss, seconded by Dr. Ogawa, and unanimously carried to ratify the above issued licenses.

Tech Support advised the Board that Caleb Craig raised his hand. Chair Pleiss recognized Dr. Craig to speak.

Dr. Craig thanked the Board and stated that he understands the Board denied his application. He asked why the Board denied his application. He stated that he is a good chiropractor and asked "what is so bad about the infractions in the other states" to which he added that it was only a "miscommunication and not filling in the right circle."

Executive Officer Araki advised Dr. Craig that the Board based their decision on Hawaii Revised Statute Sections 436B-19(13) and 436B-19(8). Dr. Craig responded and said that he prescribed a DME unit one (1) day before he was licensed and did not fill in the right circle on a questionnaire.

Chair Pleiss advised Dr. Craig that they are in an open public session and asked if he would rather discuss in executive session – unless he would like to continue in open public session. Dr. Craig responded and asked again for an explanation as to what is so significant on his infractions that his application for licensure is denied. He added that he does not see anything significant on his infractions and that there is nothing significant such as a sexual misconduct, that he would be denied a license.

DAG Cole advised Dr. Craig that the Board cited the statute that the decision was based on when the motion was made. He added that the Board deliberated for quite a while and that their decision was based on what they thought is best for the public of Hawaii. DAG Cole advised Dr. Craig that there is a process to follow if he does not agree with the Board's decision.

Dr. Craig responded and said that he does not see anything on his license record that should prevent him from successfully practicing as a doctor in Hawaii.

DAG Cole advised Dr. Craig again that the Board made their decision and that there is a process to appeal the Board's decision.

Dr. Craig asked again "what have I done that is so bad" that he is being denied licensure.

DAG Cole repeatedly advised Dr. Craig that the Board made their decision based on the statutes that were cited in the motion and that there is a process to appeal the Board's decision.

Dr. Craig is adamant and is repeatedly asking for an explanation on why he is being denied a licensure.

DAG Cole kept on advising Dr. Craig that the Board made their decision and that there is a process to appeal the Board's decision.

Dr. Craig once again asked "what have I done so wrong" that he cannot practice in Hawaii.

Dr. Craig also stated that he does not care about the Board Staff and that he only cares about what his fellow chiropractors in the Board say.

He then added that he has equipment coming and a space ready to lease.

Dr. Craig is misunderstanding the Board Meeting to be an appeals hearing. DAG Cole and Executive Officer Araki repeatedly explained that it is not an appeals hearing but Dr. Craig is insistent in saying that he had appealed his case multiple times.

Dr. Craig kept on asking the Board to give him an explanation on why he was denied licensure because he had nothing significant on his license record.

Dr. Craig stated that he is frustrated and said "Good thing I didn't fly over there today, or we would have all sorts of problems."

DAG Cole advised Dr. Craig that there is a process to appeal.

Executive Officer Araki advised Dr. Craig that a letter will be sent and will include information on how to appeal the Board's decision.

Executive Officer Araki thanked Dr. Craig for his testimony to which Dr. Craig said, "thanks for ruining my day."

The exchange with Dr. Craig lasted approximately 19 minutes.

(C) Other CE Courses

1. To correct the hours originally approved on index number HI 22-024 from (5) hours to (7).

It was moved by Chair Pleiss, seconded by Dr. Klein, and unanimously carried to approve to correct the hours on index number HI 22-024 from (5) hours to (7) hours.

2. Request from James A. Pleiss, D.C. for approval of National Board of Examiners' Part IV Test Committee, May 14 – 15, 2022 for 15 hours of continuing education.

It was moved by Dr. Klein, seconded by Dr. Ogawa, and unanimously carried to approve 15 hours of continuing education for Dr. James Pleiss.

Continuing Education (A)
"CE":

Ratification of CE Courses – New Applications and Re-Registrations (see attached list)

It was moved by Chair Pleiss, seconded by Dr. Ogawa, and unanimously carried, to ratify the approval of the following CE courses:

Index No. HI 22-092 – HI 22-096
Index No. HI 22-098
Index No. HI 22-102
Index No. HI 22-105
Index No. HI 22-107 – HI 22-108
Index No. HI 22-110 – HI 22-111
Index No. HI 22-114 – HI 22-117
Index No. HI 22-119 – HI 22-125
Index No. HI 22-127 – HI 22-132
Index No. HI 18-086 R22 – HI 18-093 R22
Index No. HI 18-010 R22
Index No. HI 18-014 R22
Index No. HI 18-024 R22
Index No. HI 18-026 R22 – HI 18-028 R22

It was moved by Chair Pleiss, seconded by Dr. Ogawa, and unanimously carried to approve the following CE courses with adjusted hours due to recalculation of hours. HAR §16-76-39 provides that continuing education credit shall be given for whole hours only, with a minimum of fifty minutes constituting one class hour:

Index No. HI 22-097, 17 hours approved, out of 17.5 hours requested

Index No. HI 22-099, 33 hours approved, out of 33.5 hours requested

Index No. HI 22-104, 5 hours approved, out of 5.5 requested

It was moved by Chair Pleiss, seconded by Dr. Ogawa, and unanimously carried to approve the following CE courses with adjusted hours. The non-approved hours do not comply with the provisions of Chapter 76, subchapter 6, HAR:

Index No. HI 22-100, 20 hours total/18 hours may be earned out of 20 hours requested

Index No. HI 22-101, 18 hours total/16 hours may be earned out of 18 hours requested

Index No. HI 22-103, 12 hours total/11 hours may be earned out of 12 hours requested

Index No. HI 22-104, 18 hours total/17 hours may be earned out of 18 hours requested

Index No. HI 22-109, 111 hours total/24 hours may be earned out of 111 hours requested

Index No. HI 22-112, 104 hours total/24 hours may be earned out of 104 hours requested

Index No. HI 22-113, 22 hours total/21 hours may be earned out of 22 hours requested

Index No. HI 22-118, 85.5 hours total/22 hours may be earned out of 85.5 hours requested

Index No. HI 22-126, 43 hours total/24 hours may be earned out of 43 hours requested

Index No. HI 22-133, 79 hours total/17 hours may be earned out of 79 hours requested

Index No. HI 22-135, 12 hours total/10 hours may be earned out of 12 hours requested

It was moved by Chair Pleiss, seconded by Dr. Ogawa, and unanimously carried, to defer the following CE courses for clarification of hours:

Index No. HI 22-134, 9 hours requested

Hawaii Administrative
Rules – Amendments
to Chapter 76

(A) Draft Rule Amendments

Chair Pleiss deferred this agenda item for future meeting.

(B) Discussion for Consideration in Draft Rule Amendments

Chair Pleiss deferred this agenda item for future meeting.

Executive

Officer's Report: (A) Random Audit of December 31, 2021 Renewal

Executive Officer Araki reported that 90%, which is 26 out of 29 licensees that were audited were in compliance with the CE requirement. The 3 that were not in compliance were referred to RICO for investigation.

Chairperson's

Report:

Chair Pleiss stated that he and Vice Chair Klein will be attending the Part IV National Board Examination from November 11 to 13, 2022. Chair Pleiss added that the Board Meeting on November 14 will need to be rescheduled.

Next Meeting:

TBD
10:00 a.m.
King Kalakaua Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

(subject to change)

Adjournment:

As there was no further business to discuss, the meeting adjourned at 3:12 p.m.

Taken and recorded by:

/s/ Rochelle Araki
Rochelle Araki, Executive Officer

RA:sar

09/02/22

- () Minutes approved as is.
(X) Minutes approved with changes; see minutes of 10/10/22.