

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

MINUTES OF MEETING¹

Date: March 13, 2023

Time: 10:00 a.m.

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

Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/99760115710>

Members Present: Paul Guevara, D.M.D, M.D.S., Chair, Dental Member
Andrew Tseu, D.D.S., Vice-Chair, Dental Member
Wallace Chong, III, D.D.S., Dental Member
Wesley Choy, D.D.S., Dental Member
Sharon Tanaka, Public Member
Joyce Yamada, Ed.D., R.D.H., Dental Hygiene Member
Craig Yamamoto, D.D.S., Dental Member
Joseph Chu, D.D.S., Dental Member
Staphe Fujimoto, D.D.S., Dental Member
Jonathan Lau, D.D.S., Dental Member
Katherine Fukushima, R.D.H., Dental Hygiene Member
Joy Shimabuku, Public Member

Staff: Chelsea Fukunaga, Executive Officer (“EO Fukunaga”)
Lee Ann Teshima, Executive Officer (“EO Teshima”)
Sheena Choy, Executive Officer (“EO Choy”)
Bryan Yee, Esq., Deputy Attorney General (“DAG”)
Marc Yoshimura, Secretary

In-Person Guests: Joseph P. Mayer Jr., D.D.S.
Carol Diener Weber, D.D.S., M.S.

Zoom Webinar Melissa Pavlicek, Hawaii Dental Association
Guests:

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

Virtual Meeting
Instructions:

A short video regarding virtual meetings was played for attendees.

The Chair provided information on internet and phone access for today's virtual meeting and announced that today's meeting was being recorded and that the recording will be posted on the Board's web page.

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").

Call to Order:

There being a quorum present, Chair Guevara called the meeting to order at 10:07 a.m.

Roll Call:

Chair Guevara welcomed everyone to the meeting and proceeded with a roll call of the Board members. All Board members confirmed that they were present; those on Zoom confirmed they were present and alone.

Chair's Report:

Announcements

Chair Guevara asked if there were any announcements. Seeing none, the Chair moved to the next agenda item.

Approval of the Minutes of the January 23, 2023 Meeting

Chair Guevara asked if there were any corrections or discussion to the minutes for the January 23, 2023 meeting, or any public comments.

Seeing none, Chair Guevara asked for a motion to approve the minutes of the January 23, 2023 meeting.

Dr. Yamamoto joined the Zoom call at 10:09 a.m.

Upon a motion by Vice-Chair Tseu, seconded by Ms. Shimabuku, it was voted on and unanimously carried to approve the minutes of the January 23, 2023 meeting.

Applications:

Ratification Lists

After reading the license number on the ratification list, Chair Guevara asked if there was any public testimony.

Seeing no public testimony, public testimony was closed. Chair

Guevara asked for a motion to approve the ratification lists.

Upon a motion by Ms. Shimabuku, seconded by Dr. Tseu, it was voted on and unanimously carried to approve the following ratification list:

DT, license number 3057 (1).

Applications for License

Chair Guevara asked if there was public testimony.

There being none, he asked if the Board had any discussion.

Chair Guevara said that this issue has been brought up in the past.

There being no discussion, the Chair called for a motion.

Upon a motion by Chair Guevara, seconded by Dr. Lau, it was voted on and unanimously carried to approve the following application:

Dentists

Manrique, Theresa

New Business:

Email from Dr. Carol Weber regarding request for reconsideration of Board's previous position RE: practicing under a restricted dental license

Chair Guevara asked if there was any public testimony.

Attendee Carol Dinner Weber, D.D.S., M.S. stated that she would like to address the Board.

The Chair welcomed Dr. Weber to the meeting and invited her to address the Board.

Dr. Weber introduced herself and apologized, stating that she may have given the wrong impression of her practice intentions when she last came before the Board at its November 21, 2022 meeting. She clarified that she does intend to practice endodontics for determining the need for preventative endodontic care. She stated that she would be practicing within the scope of her restricted Hawaii dental license. To prevent caries and their later progression into urgent endodontic needs, she will be prescribing sealants to

permanent teeth in an underserved population. She believes that her proposed work falls under Hawaii Revised Statutes §447(f), which states, "A licensed dental hygienist shall practice only under the supervision of a licensed dentists as provided in this chapter." Dr. Weber stated that there are no qualifications as to the type of "licensed dentist" reference; therefore, she desires to practice as a licensed endodontist in this capacity.

Dr. Weber stated that she believes the Board's vote at its November 21, 2022 meeting was based on a misconception regarding her scope of practice intentions. She respectfully requested that the Board revisit the issue and reverse its prior determination.

Chair Guevara thanked Dr. Weber for providing her testimony and asked if there were any other public comments on this matter.

Attendee Joseph P. Mayer, Jr. D.D.S. stated that he would like to address the Board.

The Chair welcomed Joseph P. Mayer Jr., D.D.S. to the meeting and invited him to address the Board.

Dr. Mayer asked, with regards to Dr. Weber's scope of practice question, how the Board came up with the definition of "scope of practice," stating that he could not find anything in the Hawaii Administrative Rules or Hawaii Revised Statutes. Chair Guevara replied that the Board would have to look up the exact definition and get back to Dr. Mayer.

Chair Guevara asked if there was any further public testimony. Seeing none, public testimony was closed.

Chair Guevara asked the Board if there were any questions for Dr. Weber.

Vice-Chair Tseu asked Dr. Weber what the protocol, direct purpose, and processes were for her participation in the Hawaii Keiki Dental Sealant Program coordinated by UH School of Nursing and Hawaii Dental Service. Dr. Weber replied that she was in the process of being hired, so she couldn't completely answer the question. However, she is aware that she will be examining children in the second and third grades for caries, diagnosing, and prescribing sealants. If there is anything in need of restorative care, she would refer them to a dental home.

Chair Guevara asked if there were any further questions from the Board.

There were none.

EO Teshima asked Dr. Mayer to clarify which section he was referring to regarding "scope of practice." Dr. Mayer replied that he just wanted to be shown where the Board's authority comes from to define scope of practice.

Dr. Weber apologized that her reply to Vice-Chair Tseu's earlier question could not be as comprehensive as possible since she has not yet been hired for the position. However, she offered to provide the Board with the contact information for questions regarding the position.

Chair Guevara asked for Dr. Weber to clarify whether or not she knows what her responsibilities would be under the proposed position. Dr. Weber replied that as far as she knows, she is doing screenings on children, and if she sees permanent teeth in need of sealants or carries, dental hygienists are available to assist. For more urgent needs, she would refer them to medical home services.

At 10:20 a.m., upon a motion by Ms. Shimabuku, seconded by Vice-Chair Tseu, it was voted on and unanimously carried to move into executive session in accordance with HRS §92-4 and §92-5(a)(1) and (4) "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 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."

At 10:37 a.m., upon a motion by Vice-Chair Tseu, seconded by Ms. Shimabuku, it was voted on and unanimously carried to move out of executive session.

Chair Guevara stated that he knows Dr. Weber is qualified as a dentist, and that the Board knows that dentists are qualified to diagnose caries. He also stated that the Board has been discussing the nature of her restricted license, which was granted under Act 121, as their primary consideration in deciding this matter.

Chair Guevara asked if Dr. Weber happened to know if she would qualify as an endodontist applying for the same position in another state. Dr. Weber replied that she has not researched such a

scenario but knows of articles where dental hygienists are working with endodontists.

Dr. Lau stated that sometimes when he sends his patients to the endodontist, they notice dental caries on the adjacent tooth when reviewing the x-ray. He asked Dr. Weber to clarify whether endodontists diagnose and advise the dentist about treatment options for caries. Dr. Weber confirmed that endodontists are able to diagnose and advise regarding treatments for caries and mentioned that she sent an email to the Board with attachments and details regarding the work of an endodontist. Dr. Lau reiterated that as an endodontist, Dr. Weber's scope of work includes diagnosing and providing recommendations. Dr. Weber replied that she looks at the referral as well as the entire dentition and she does her own diagnosis in case things have changed since the patient was last under the care of the general dentist. She stated that she makes a comprehensive exam, diagnosis, and then communicates closely with the general dentist.

Chair Guevara asked if the Board had any further questions.

Chair Guevara stated that he is an endodontist who also holds a general dentist license. Chair Guevara clarified that Hawaii only offers general dentistry licenses and does not license by specialty. As an endodontist, Chair Guevara diagnoses caries every day and is able to determine whether or not a tooth is restorable. He clarified that he does not work with dental hygienists. He stated that he is also licensed in Nevada, where he holds a restricted license to only practice within the scope of endodontics.

Dr. Lau asked if Chair Guevara's restricted license stipulates that these dentists cannot work with hygienists. Chair Guevara clarified that his Nevada restricted license only lays out what he is permitted to do. Dr. Guevara stated that he would like the Board to focus on Hawaii, however, as his restricted license in Nevada is based on Nevada's interpretation.

Chair Guevara asked if there were any motions regarding their November 21, 2022 determination regarding Dr. Weber's case.

Upon a motion by Dr. Lau, seconded by Ms. Yamada, it was voted on by Chair Guevara, Vice-Chair Tseu, Dr. Chong, Dr. Choy, Ms. Tanaka, Ms. Yamada, Dr. Yamamoto, Dr. Chu, Dr. Fujimoto, Dr. Lau, and Ms. Shimabuku voting "yes" and Ms. Fukushima abstaining, to reconsider its November 21, 2022 determination regarding Dr. Weber's inquiry and to informally opine that the scope

permitted under Dr. Weber's restricted license allows her to practice as described in her submittals. Specifically, Dr. Weber's submittals indicate that she will be practicing within her restricted Hawaii dental license for the Hawaii Keiki Dental Sealant Program as it pertains to: dental screening of keiki (ages 7-8) in Title I schools, determining the need for sealants for these keiki and supervising the hygienists' placement of sealants. In addition, if there are emergent needs, Dr. Weber will practice within her license to refer the keiki to primary health care or a dental home.

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

The Board recessed for a break at 10:48 a.m.

The Board returned to the meeting at 10:56 a.m. noting that Dr. Yamamoto had not rejoined the meeting at this time.

Email from Dr. Char regarding 2nd opinion dental consultations and reports with an inactive license

Chair Guevara read the email from Dr. Char where he states that he has an inactive dental license expiring at the end of the year. He is retired from practicing clinical dentistry and wants to know if he can continue doing second opinion dental consultations and reports with an inactive license. He claims that he was informed by the dental board years ago that as long as he has a dental degree, he can continue doing consultations and is seeking confirmation of this allowance.

Dr. Yamamoto rejoined the meeting at 10:58 a.m.

Chair Guevara asked if there was any public testimony on this matter.

Seeing none, public testimony was closed.

Chair Guevara asked if there were any comments or discussion from the Board.

Vice-Chair Tseu stated that his opinion is that the Board needs more information from Dr. Char regarding who he would be

providing the “dental consultations” for in order to analyze the situation specifically. He stated that there is a difference if Dr. Char is providing consultation for a legal firm as opposed to a commercial insurance company and so forth.

Ms. Shimabuku stated that she would need clarification on the definition of an “inactive license,” because her understanding is that holders of an inactive license may not practice within the scope of their license.

Chair Guevara agreed that the Board would need more information from Dr. Char regarding the nature of the consultations.

EO Teshima asked that the Board also ask Dr. Char for clarification and documentation regarding mention of “previous Board approval” of providing consultations under the circumstance specified in his email.

The Board deferred decision making on this issue until further information is provided by Dr. Char.

Survey from ADA - Joint Commission on National Dental Examination (JCNDE) request for Board’s input on the potential development of a National Board Dental Therapy Examination (NBDTE)

Chair Guevara asked if there was any public testimony.

Attendee Joseph P. Mayer, Jr. D.D.S. stated that he would like to address the Board.

Dr. Mayer was invited to address the Board. He stated that Alaska currently allows dental therapists and other states are considering this license type. He believes the matter should remain with the American Dental Association (ADA) to define “dental therapists” and related licensure requirements.

Chair Guevara asked if there was any further public testimony.

Seeing none, public testimony was closed.

Chair Guevara clarified that Hawaii currently does not have any laws or rules that allow dental therapists. He stated that he is aware of very few states that allow dental therapists.

EO Fukunaga stated that Board staff wanted to get a temperature

check from the members regarding their positions on dental therapists. She stated that there has been legislation which proposed introducing dental therapist licensure in Hawaii in past years.

Chair Guevara stated that at past dental conferences he's attended, it seemed that there was not much broad support for licensing dental therapists. He stated that dental therapists are typically engaged to address the needs of underserved populations. They are able to do simple extractions and fillings and he was unsure about their level of supervision. Personally, he is not in full support of licensing dental therapists in Hawaii at this time.

Vice-Chair Tseu stated that at this time, he does not believe the dental therapy license is a good fit for Hawaii. However, he is open to looking at it again in the future should changes be made and more information be available from other states.

EO Choy provided a recap of the legislative and Board discussion history regarding dental therapists. She stated that the issue of dental therapists came up in the 2015 legislative session and was deferred to the 2016 session, and then came up again in 2020. She stated that each time the dental therapy bills were introduced, they were not heard.

EO Choy stated in 2015 and 2016, the Board had limited discussion about the proposed dental therapy bill and requested a sunrise analysis, which was not completed because the bill did not pass. In 2020, the Board again requested a sunrise analysis, but the bill died before a study could be conducted. The Board's main concerns were: 1) that it was impossible to monitor if dental therapists were practicing under the supervision of a licensed dentist, which could potentially lead to abuse of the license; 2) as provided by the bills, dental therapists would be able to supervise dental assistants; 3) although the intention of the bills was to address access to care, in practice it was hard to limit licensees to specific practice areas; and 4) debate if this was actually an "access to care" issue.

EO Fukunaga asked if the Board's position had changed from past Board discussion.

Chair Guevara stated that he is personally opposed to the introduction of dental therapists in Hawaii.

Vice-Chair Tseu stated that it is difficult to provide a Board position

without being able to analyze the exact provisions of an actual bill. However, while he is not currently in support, his opinion is that the Board should be open to considering it as new information arises.

The Board deferred discussion of the issue of dental therapists until a bill is introduced in future legislative sessions.

Executive Officer's Report: **Discussion of 2023 Legislative Bills**

Chair Guevara asked if there was any public testimony.

Attendee Melissa Pavlicek, Hawaii Dental Association ("HDA"), raised her hand and was promoted to panelist.

Chair Guevara welcomed Ms. Pavlicek and invited her to address the Board. Ms. Pavlicek shared HDA's position on several bills on the Board's agenda. HDA provided comments on S.B. 162, Related to Dentistry Licenses. HDA requested language be amended so that the bill would specify only allowing graduates of dental or dental hygiene colleges with a "reciprocal agreement" with the American Dental Association (ADA) Commission on Dental Accreditation (CODA). This change was made in the legislation so HDA supports S.B. 162. It has not yet been scheduled for hearing in the House and H.B. 519, with a similar intent, did not advance.

HDA supported the intent of H.B. 617 which establishes an oral health task force and commented that the bill is currently configured to include only one dentist out of 20 members, yet the comments in the legislation seek to address what it says is the need for more private section dentists to implement the adult dental Medicaid program. Therefore, HDA's testimony on March 13, 2023 requested that there at least be a dentist from each island on the task force. Companion bill S.B. 679 did not get a hearing and is not advancing.

Ms. Pavlicek added that HDA previously testified in opposition to having dental therapists as a lower qualified professional doing irrevocable procedures.

Finally, Ms. Pavlicek stated that HDA has been supporting tobacco cessation bills as oral health measures and has also been supporting the inclusion of dental services in general excise tax exceptions for medical services.

Melissa Pavlicek was returned to an attendee.

Chair Guevara asked if there was any further public testimony.

Attendee Joseph P. Mayer, Jr. D.D.S. stated that he would like to address the Board.

Dr. Mayer was invited to address the Board. Dr. Mayer stated he is providing comments on S.B. 162. He stated that the Senate Committee on Commerce and Consumer Protection (CPN) met on March 2, 2023 to discuss S.B. 162 and that he showed up to provide testimony but was told that they were no longer accepting testimony. He stated that the Committee Chair mentioned they were going to use the submission from the Dental Board with regards to amendments to the proposed legislation. Dr. Mayer stated that he has been unable to find a copy of what the Board suggested and requested a copy of the Board's testimony be provided to him by email.

EO Teshima confirmed that the Board submitted testimony on S.B. 162 to the CPN committee. She clarified that CPN only heard the bill for decision making. Therefore, you could not provide oral testimony, but needed to submit written testimony ahead of time, which should be posted on the legislature's website. Dr. Mayer replied that he also submitted written testimony. He was unable to find the written testimony on the legislature's website. EO Teshima stated that she would provide Dr. Mayer with a copy of the Board's testimony.

Chair Guevara asked if there was any further public testimony.

Seeing none, public testimony was closed.

Chair Guevara asked EO Choy to provide legislative updates.

EO Choy stated that the legislature is halfway through the 2023 session and has reached "crossover," which means that Senate Bills that have made it through will go to the House, and vice versa, for further consideration.

S.B. 162, Relating to Dentistry Licenses

EO Choy stated that S.B. 162 was heard by the Senate Committees on Health & Human Services, and Commerce & Consumer Protection. The Board offered comments.

Since the Board last discussed the bill in its January 23, 2023 meeting, the language of the bill has been updated to clarify that the issuance of community service licenses and temporary licenses

without examination pursuant to this measure only applies to graduates of a dental college or dental hygiene college with a "reciprocal agreement" with CODA, rather than "recognized" by CODA. The committees also updated the sections reference the "Integrated National Board Dental Exam" to be consistent.

EO Choy stated that the Board already decided on their position on S.B. 162 at their last meeting, and that the Executive Officers would assume the Board's position is still split, unless someone has changed their mind.

Chair Guevara asked if the Board had any further discussion on S.B. 162.

Dr. Lau stated that he read somewhere that Canada has a reciprocity agreement with Australia. He asked if this bill was proposing something different. EO Choy clarified that the bill is restricted to programs that have a "reciprocal agreement with CODA."

Dr. Chong asked if there were any other schools that are "CODA recognized," but not in Canada. EO Choy said that currently CODA only has a reciprocal agreement with the Commission on Dental Accreditation of Canada (CDAC), and that as EO Fukunaga mentioned in the last meeting, only Saudi Arabia has a CODA-accredited school.

Ms. Fukushima asked if there was a school in Mexico that was CODA-recognized. EO Teshima replied that there was not.

Chair Guevara asked if any members wanted to change their position from the January 23, 2023 meeting. Seeing none, the Board moved to the next discussion point.

H.B. 519, Relating to Dentists and Dental Hygienists

EO Choy stated that this is not a companion bill to S.B. 162, but that the intent and substance was the same. She stated that because the bill was not heard by the 2nd referral committee, it is dead and will not move to crossover.

H.B. 617, Relating to Oral Health

EO Choy stated that this bill is moving to crossover. It is the bill that proposes the creation of an oral health task force. It was heard by the Senate committees on Health & Homelessness and Finance.

The Board is tracking this measure. There have been no major changes to the original draft of the bill, and there is similar language also in HCR 32 that the Board is also tracking.

S.B. 679, Relating to Oral Health

EO Choy stated that this is the companion to H.B. 617. It was not heard by committee and is therefore dead.

Next Meeting: Monday, April 3, 2023 (TBD)
10:00 a.m.

In-Person: Queen Liliuokalani Conference Room
HRH King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Virtual

Participation: Virtual Videoconference Meeting – Zoom Webinar

Chair Guevara noted that the April 3, 2023 meeting is “to be determined.” It would be a purely legislative meeting; Board members were advised to stand by for confirmation.

Adjournment: The meeting adjourned at 11:29 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Sheena Choy
Sheena Choy
Executive Officer

/s/ Marc Yoshimura
Marc Yoshimura
Secretary

SC:my

03/22/2023

[X] Minutes approved as is.

[] Minutes approved with changes; see minutes of