

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

MINUTES OF MEETING¹

Date: January 22, 2024

Time: 10:00 a.m.

Place: PVL Exam Room, 3rd Floor
King Kalakaua Building
335 Merchant Street
Honolulu, Hawaii 96813

Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/81417573417>

Zoom Recording Link: <https://youtu.be/LEzr6X6-ckk>

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
Staphe Fujimoto, D.D.S., Dental Member
Katherine Fukushima, R.D.H., Dental Hygiene Member
Jonathan Lau, D.D.S., Dental Member
Joy Shimabuku, Public Member
Joyce Yamada, Ed.D., R.D.H., Dental Hygiene Member
Craig Yamamoto, D.D.S., Dental Member

Members Excused: None

Staff Present: Sheena Choy, Executive Officer (“EO Choy”)
Chelsea Fukunaga, Executive Officer (“EO Fukunaga”)
Randy Ho, Executive Officer (“EO Ho”)
Alexander Pang, Executive Officer (“EO Pang”)
Bryan Yee, Esq., Deputy Attorney General (“DAG Yee”)
Marc Yoshimura, Secretary
Robyn Alameida, Secretary

In-Person Guests: Charles Kamimura
Dr. Joseph Mayer

Zoom Webinar Guests: Patrick Donnelly, Hawaii Oral Health Coalition

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.

Mai Hall, Hawaii Oral Health Coalition
Kim Nguyen, HDA
Dr. Don Sand
Danny Cup Choy, HDA
Gerraine Hignite
Ells
Matt Shafer, Deputy Policy Director, National Center for Interstate
Compacts

Virtual Meeting
Instructions:

A short video regarding virtual meetings was played for attendees.

Ms. Fukushima 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").

Roll Call:

The Vice Chair welcomed everyone to the meeting, announced that he will be facilitating today's 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.

Call to Order:

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

Approval of
Minutes:

Approval of the Minutes of the November 20, 2023 Meeting

The Vice Chair asked if there was any discussion of, corrections to, or public comments regarding the November 20, 2023 minutes.

Dr. Joseph Mayer raised his hand in-person and was invited to present oral testimony.

Dr. Mayer stated that he is testifying as a member of the public. He stated that on page 17 of the Board's November 20, 2023 meeting minutes, the Board seems not to have reported out of Executive Session. He would like to remind the Board of this reporting requirement in line with Sunshine Law.

EO Choy stated that the Board seems to meet the reporting requirement as they entered Executive Session to confidentially discuss applications and consult with the Board's attorney in accordance with HRS 92-4 and 92-5(a)(1) and (4). The Board voted regarding those applications in Open Session, which is recorded in the minutes.

DAG Yee clarified that when the Board comes out of an Executive Session it needs to report in Open Session. In instances where the entirety of the Executive Session is essentially confidential (e.g.

discussion of applications), the Board should still report and reflect in the Open Session minutes that the Board discussed confidential information related to applications and consulted with its attorney, even if the contents of the session cannot be disclosed.

Seeing no further public comments or Board discussion, the Vice Chair asked for a motion to approve the minutes of the November 20, 2023 meeting.

Upon a motion by the Chair, seconded by Ms. Shimabuku, it was voted on and unanimously carried to approve the Open Session minutes of the November 20, 2023 meeting.

Upon a motion by the Chair, seconded by Ms. Shimabuku, it was voted on and unanimously carried to approve the Executive Session minutes of the November 20, 2023 meeting.

The Vice Chair stated that he would like to re-order an agenda item to begin "New Business" with agenda item 3.e. "Written testimony from Dr. Joseph Mayer regarding HRS §92.1 'Sunshine Law' and the Public Comment Period." The rest of the agenda will remain in the same order.

New Business:

**Written testimony from Dr. Joseph Mayer regarding HRS §92.1
"Sunshine Law" and the Public Comment Period**

Dr. Mayer read in-person the written testimony that he had submitted to the Board:

"I would appreciate/request the Board add to the next agenda, a review of the current Public Comment Period and compliance with HRS 92.1. Currently, closing the Public Comment Period, [as was done at the November 20, 2023, meeting] prior to the Board's discussion of their concerns or focus, does not allow additional public input to address the Board's concerns. *"Opening up the government processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest."* Permitting the public to add to the discussions, deliberations, decisions and action of governmental agencies would thereby comply with the Sunshine Law policy and the intent to conduct meetings as openly as possible.

Please confirm the date of the next Board Meeting. The November 20, 2023 agenda lists January 22, the Board website has February 5."

Dr. Mayer requested that the Board consider changing its policy of closing the public comment period. Currently, the Board invites public comment before Board discussion and closes the public comment period after no further comments are offered. Dr. Mayer suggested that the Board re-open public comments after Board discussion to afford the public the opportunity to further comment on issues that have been clarified or newly introduced during Board discussion.

§92-1 Declaration of policy and intent. In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

EO Choy stated that the Office of Information Practices ("OIP") has opined that public testimony must be taken before a board's discussion of an agenda item. It is a procedural decision for the Chair, or whichever Board member is presiding over the meeting, as to whether to take public testimony during or after Board discussion of agenda items. The Board's requirement per Sunshine Law is only that, at minimum, public testimony is taken before the Board's discussion of an agenda item in order to comply with OIP's position (OIP S Memo 18-5, dated June 28, 2018).

Dr. Mayer stated that his request is for the Board to consider more than the minimum requirement regarding public testimony.

EO Choy stated that the decision to make procedural changes is at the discretion of the Board.

The Chair reiterated that the Board's standard practice has been to ask for public comments before Board discussion. Therefore, the Board is not in violation of Sunshine Law policy per OIP's position that public testimony be taken at minimum before the Board's discussion of any agenda item. The Chair stated that the Board has openings and suggested that Dr. Mayer, as a Hawaii licensed, practicing dentist, consider applying for a seat on the Board if he wishes to learn more about Board processes.

Dr. Mayer respectfully declined the Chair's suggestion.

EO Choy stated that the Board must be standardized in its acceptance of public comments after Board discussion. If public comments are re-opened after Board discussion at a meeting, they should be re-opened for the whole meeting and testimony must be allowed from all interested parties. EO Choy asked the Vice Chair to clarify if the Board will solicit comments after the initial public comment period by raise of hands.

The Vice Chair replied in the affirmative.

Seeing no further Board discussion, the Vice Chair announced the next agenda item.

Presentation from the Council of State Governments (“CSG”) on the CSG Interstate Dental Compact – Matt Shafer, Deputy Policy Director, National Center for Interstate Compacts

The Vice Chair reminded the Board that at its last meeting, Dr. Art Jee from the American Association of Dental Boards (“AADB”) presented on the AADB Compact. Today, they will be hearing from Mr. Shafer from the Council of State Governments (“CSG”) on the CSG Compact. Both organizations have been invited to present on their compacts so that the Board can gather the necessary information to make informed decisions about the impact dental compacts may have on the health, safety, and welfare of the Hawaii public.

Matt Shafer raised his hand and was promoted to panelist on Zoom.

The Vice Chair welcomed Matt Shafer to the meeting and reminded him that he has five minutes to share his presentation to the Board.

Mr. Shafer outlined the basic process for obtaining a CSG Compact privilege:

1. A dentist or dental hygienist holds an active, unencumbered license in a compact state and applies for a compact privilege.
2. The practitioner undergoes an FBI background check.
3. The practitioner’s license and eligibility are verified; the practitioner pays fees and completes jurisprudence requirements.
4. The practitioner receives a compact privilege and now has legal authorization to practice in the remote state where they hold a compact privilege.

Mr. Shafer summarized the key requirements to qualify for a compact privilege as follows:

1. Hold a qualifying license issued by a participating state
2. Passage of National Board Examinations of the Joint Commission on National Dental Examinations
3. Graduation from a pre-doctoral dental education program, leading to the D.D.S. or D.M.D. degree, or a dental hygiene education program accredited by the Commission on Dental Accreditation (CODA) or another accrediting agency recognized by the U.S. Department of Education for the accreditation of dentistry
4. Successful completion of a clinical assessment
5. Completion of a criminal background check

Mr. Shafer stated that Iowa, Tennessee, and Washington are current

compact member states; Colorado, Indiana, Kansas, Maine, Michigan, Minnesota, Missouri, Nebraska, Ohio, Virginia, and Wisconsin have pending legislation; Alaska, D.C., Florida, Illinois, Indiana, Kentucky, Massachusetts, New Jersey, New Mexico, South Dakota, and Vermont have expressed initial interest in the CSG Compact.

The Vice Chair thanked Mr. Shafer for his presentation and asked if there was any public comment.

Dr. Joseph Mayer raised his hand in-person and was invited to share his comments.

Dr. Mayer stated that he has a list of questions regarding the presentation with copies for the Board members.

EO Choy stated that they cannot distribute copies in-person that the Board members online do not have access to, but she is happy to share copies of the questions with all the Board members after the meeting.

DAG Yee advised that the purpose of the public comments period is not to engage in a questions and answers period. Individuals may not require that presenters answer questions, but they can pose their questions and the presenter can decide whether to answer.

Dr. Mayer stated the following questions:

1. I would like to make sure that I understand the intent and purpose for any "Dental Compact." As I understand the purpose of a "Dental Compact," it is to provide dental services to a state that has an insufficient number of dentists and for a population that is lacking in access to dental care. Therefore, a "Dental Compact" would not be necessary in a state where there are a sufficient number of dentist[s] to staff a school based sealant program, where there aren't 280,000 Medicaid eligible patients lacking access to dental care and where arranging a "Dental Home" for Medicaid eligible school students is not a problem because there are sufficient number of dental providers willing to accept Medicaid patients. In your opinion, is that correct?
2. It is my understanding that a participating dental provider in the CSG Dental Compact has an active state dental license in at least 1 of the participating states. And that if that dentist were a "bad actor" the dental boards in all the participating states would be informed of any "bad act," pending investigation, and any adjudication, in a "Timely Manner." Is that correct and what would be a "Timely Manner?"
3. As I understand the CSG Dental Compact, in Section (1), the first paragraph, the last sentence, lines (10) thru (13), the state dental boards maintain the authority to regulate the practice of dentistry and dental hygiene, to include the scope of practice and any disciplinary action. Is that correct?
4. If a participating state's dental board made a change to the scope of practice, would the "privilege" dentist be subject to the revised scope

- of practice or “grandfathered” under the previous scope of practice?
5. Regarding the CSG Dental Compact, Section 1, how can the Dental Compact claim on line (2) that the “privilege” to provide dental services, “does not interfere with the licensure requirements established by a Participating state,” when the state does not license the “privileged dentist?”
 6. Regarding the CSG Dental Compact, Section 3, item (7), and Section 4, item (6) the requirement to “Accept the National Board Examination of the Join[t] Commission on National Dental Examinations or another examination accepted by Commission Rule, as a licensure examination.” Is that referring to the ADA Commission on Dental Accreditation? This that the ADA National Dental Board Examination Part II or the more recent “Integrated National Board Dental Examination?” And does passing that examination retroactive 20, 30, or 40 years?
 7. What “Other examination” might that section and line be referring?
 8. Regarding the CSG Dental Compact, Section 4, item (9), please explain the details of the “Clinical Assessment” for licensure.
 9. It was mentioned in the presentation by the AADB Dental Compact, that the participating state have different “Continuing Education” requirements. For example, California requires 50 hours to renew a license. Here in Hawaii the State Dental Board requires 32 hours of “CE” plus 6 hours of Ethics. Would the Hawaii State Dental Board be required to increase “CE” requirements to participate in the CSG Dental Compact?
 10. As I stated, the Hawaii State Dental Board requires 6 hours of ethics training for licensure renewal. Since the CSG requires jurisprudence training in each state before a dental provider obtains the “privilege” to provide dental services, could Hawaii roll the 6 hours of ethics training into that jurisprudence requirement?
 11. If the purpose of joining a “Dental Compact” is to provide care to patients currently lacking access to care, is it possible for the “Dental Compact” to require a non-state licensed, “privilege” dentist to limit treatment to that patient population? Or require a significant number of Medicaid patients in that practice? Does the CSG Dental Compact permit a non-state licensed, “privileged” dentist to open a general dental practice or an ADA recognized specialty practice?

The Vice Chair asked Mr. Shafer if he would like to respond to Dr. Mayer’s questions.

Mr. Shafer stated that the primary purpose of the CSG Compact is to alleviate barriers to multi-state practice so that individuals do not have to apply for individual licenses in each state in which they wish to practice. While CSG foresees access to care being a byproduct of the CSG Compact, the primary purpose is to facilitate multi-state practice.

Mr. Shafer stated that with regards to the question of timely reporting of disciplinary action, reporting timeframe requirements will be decided by the Compact Commission’s rulemaking process. There is a governing

structure for the CSG Compact called the “Compact Commission.” Each state that joins the Compact elects a person to sit on the Commission, either a Board member or Board staff. The nurse compact requires daily uploads of their licensing data, the physical therapist compact requires weekly uploads; different compacts establish different requirements.

Mr. Shafer stated that the CSG Compact does not interfere with states’ scope of practice requirements. The principle is that you adhere to the scope of practice in whichever state you are practicing.

Mr. Shafer stated that the CSG Compact will create a separate licensure process from each state’s individual licensure requirements. For example, Hawaii will still be able to maintain the current individual Hawaii licensure process for dentists and dental hygienists through the Board. However, if Hawaii chooses to participate in the CSG Compact, individuals would alternatively be able to practice in Hawaii with a Compact privilege gained in Hawaii or in another participating compact state.

Regarding the questions around the education requirements, Mr. Shafer stated that the reference to “or another examination accepted by Commission Rule” in the CSG Compact is meant to allow the Compact Commission the flexibility to accept other examinations in the future, should the current exams no longer be valid or in existence. With regards to clinical examinations, the CSG Compact recognizes all the regional hands-based and computer-based assessments as viable pathways to Compact privilege.

Under the CSG Compact, an individual with a Compact privilege would only be required to fulfill the CE requirements of the state in which they were originally licensed. Individuals would not have to also meet the CE requirements of any of the other participating Compact states.

Mr. Shafer stated he was only able to write down the questions from Dr. Mayer that he just addressed and would be happy to answer any other questions in writing.

The Vice Chair asked if there were any Board comments or discussion.

Ms. Fukushima asked if the CSG Compact would adversely affect the number of dentists and dental hygienists in Hawaii. She commented that with Hawaii’s high cost of living and isolation from the continental United States, licensees may be inclined to leave Hawaii after gaining Compact privilege.

Mr. Shafer stated that he does not have any data to comment on Ms. Fukushima’s question. He noted that CSG has worked on 15 other occupational licensure compacts and Hawaii has only adopted one to date (the physicians medical compact).

EO Choy asked which of the 15 existing CSG occupational licensing

compacts the CSG Dental Compact is most closely modelled after, and why.

Mr. Shafer stated that the CSG compacts for psychology, physical therapy, occupational therapy, audiology, and speech pathology all utilize the “compact privilege” model. He stated further that CSG did not follow the medical model when structuring the Dental Compact for the following reasons:

1. Cost: The cost for the medical compact at \$700 is significantly more than for any other existing compact. To contrast, the physical therapist compact privilege fee is \$45. The fee difference is because the medical compact model is for expedited licensure, which tasks the medical compact commission with high administrative burdens, while the dental compact model is for compact privilege. CSG predicts that there will not be many dental hygienists who would utilize the CSG Dental Compact if fees were in the \$700 range.
2. Ease of multi-state practice: Under the medical compact, individuals must still maintain a license in each state they wish to practice (e.g. individual state CE requirements, renewal fees, etc.) Under the dental compact, individuals would only need to maintain their initial state license.

EO Choy asked how participating states are made aware that an individual is practicing in their state when they only have a “privilege” and not a license issued by that state.

Mr. Shafer replied that the Commission will own a data system that houses licensee data updated by participating states.

EO Choy asked for clarification that a state would know who has obtained the compact privilege to practice in their state, but they wouldn't be able to necessarily track where the individual is practicing.

Mr. Shafer confirmed that states would not be able to know precisely when an individual is practicing in their state, but they would be able to generally confirm whether an individual has access to practice in their state.

Dr. Lau asked Mr. Shafer to clarify continuing education requirements – for example, if an individual gets licensed in Hawaii, but then relocates to California, which state CE requirements would they have to fulfill.

Mr. Shafer clarified that individuals would only have to meet the CE requirements of the state in which they initially gained licensure. Therefore, in Dr. Lau's example, the Hawaii-licensed dentist who moved to California would only maintain Hawaii CE requirements, not California CE requirements, under the CSG Compact.

The Chair asked if a Hawaii dentist obtains a compact privilege through

the CSG Compact, do they still have to obtain a license through the Hawaii board.

Mr. Shafer stated that if Hawaii joins the CSG Compact, if an individual wants to practice dentistry in Hawaii, they would only need a license in another state and compact privilege to practice. They would not need to additionally apply for a Hawaii license through the Hawaii Board.

EO Choy asked for confirmation that if Hawaii joins the CSG Compact, there would essentially be two “pathways” to practice in Hawaii: 1) by obtaining a compact privilege, or 2) by applying for a Hawaii license through the Board.

Mr. Shafer confirmed that nothing in the CSG Compact would prevent an individual from applying for a license in the traditional route through the Board.

EO Choy stated that in Hawaii, dental hygienist and dentist licensees can apply for additional privileges to administer anesthesia. She asked how such additional privileges would work under the CSG Compact.

Mr. Shafer stated that individuals would need to satisfy all state-specific requirements for anything beyond the general license, including application for anesthesia administration.

EO Choy asked if Mr. Shafer knows if any of the states that already joined the CSG Compact have such additional privileges for licensees.

Mr. Shafer replied that he doesn’t know off the top of his head.

The Vice Chair asked if there were any further Board questions or comments.

Seeing none, the Vice Chair thanked Mr. Shafer for his presentation and announced the next agenda item.

Mr. Shafer was moved back to “attendee” on Zoom.

Formation of a Rules Permitted Interaction Group (“PIG”)

The Vice Chair stated that the Board will decide whether to form a Rules Permitted Interaction Group (“PIG”), pursuant to HRS §92-2.5.

Boards subject to the Sunshine Law, Part I of Chapter 92, HRS, are generally required to conduct all business in open meetings that have been properly noticed to allow for public participation. Permitted Interaction Groups are an exception to the open meeting requirements and are outlined in HRS §92-2.5. Two or more members of a board, but less than the number of members which would constitute a quorum, may

be assigned to investigate a matter relating to the official business of their board. The PIG meetings may be held in-person or virtually.

In order for a board to take action on a matter investigated by a PIG, three meetings must occur. At the first meeting of the full board, the scope of the investigation and the scope of each member's authority are defined. The PIG may then conduct its investigation. At a second meeting of the full board, findings and recommendations of the PIG are presented to the board, but the board cannot discuss or act on the report at this meeting. If the board would like to discuss, deliberate, or make any decisions regarding the PIG's report, it must do so only at a third meeting held separately and after the meeting at which the findings and recommendations of the investigation were presented by the PIG. The public is allowed to testify on any agenda items concerning PIGs and reports by PIGs. More information on PIGs can be found online on the Office of Information Practices' ("OIP") Sunshine Law training webpage at <https://oip.hawaii.gov/>.

The Vice Chair asked if there was any public testimony on this agenda item.

Dr. Joseph Mayer raised his hand in-person and was invited to share his public testimony.

Dr. Mayer requested that more information regarding PIGs be included in future meeting minutes.

The Vice Chair asked if there was any further public testimony. Seeing none, the Vice Chair asked if there was any Board discussion.

EO Choy stated that there have been several topics before the Board that warrant consideration of forming a Rules PIG to investigate if rules revisions to Hawaii Administrative Rules ("HAR") §16-79 are needed.

The purpose(s) of establishing this PIG are to:

- 1) Evaluate the existing HAR 16-79 and provide recommendations to the Board for rules revisions

EO Choy recommended that at least one member from each profession be represented on the Rules PIG.

EO Choy reiterated that the PIG will present their recommendations at a future, duly noticed Board meeting. Public comment and Board deliberation will be available at the meeting following the final PIG report.

The Vice Chair stated that he believes the last rules revision was in 2016, so there is a lot that needs to be updated.

Having established the scope of the PIG, the Board appointed the following as PIG members:

- 1) Andrew Tseu
- 2) Jonathan Lau
- 3) Joyce Yamada
- 4) Joy Shimabuku

Seeing no further Board discussion, the Vice Chair asked for a motion.

Upon a motion by the Chair, seconded by Ms. Fukushima, it was voted on and unanimously carried to establish the proposed Rules PIG.

The Vice Chair announced the next agenda item.

Consideration of an extension until December 31, 2025 for a previous blanket waiver allowing for the accepting of all continuing education (“CE”) courses complete through virtual means.

The Vice Chair reminded the Board that on November 21, 2022, the Board voted and unanimously carried to extend a blanket waiver until December 31, 2023 for the acceptance of all CE courses completed through virtual means. This waiver has since expired.

It was requested that the Board consider an extension of their previous waiver through the current licensing biennium – January 1, 2024 to December 31, 2025.

The Vice Chair asked if there were any public comments.

Dr. Joseph Mayer raised his hand in-person and was invited to share his testimony.

Dr. Mayer asked the Board to confirm whether the Board’s November 21, 2022 vote to extend a blanket waiver until December 31, 2023 for the acceptance of all CE courses completed through virtual means was done in compliance with the HRS §91 requirement for public notices and hearings to be filed with the Office of the Lieutenant Governor. Additionally, Dr. Mayer asked for confirmation if the Board’s previous CE waiver of the Rules for the 2020-2021 licensure renewal period was granted in compliance with HRS §91 requirements.

DAG Yee stated that the Board’s approval to grant a blanket waiver to the CE requirements was not a change to the Board’s administrative rules. Rather, it was a decision pursuant to the existing HAR §16-79-147(b)(5):

§16-79-147 Waiver or modification of requirements. (b) The board may grant a waiver or modification of the CE requirements based on:

- (5) Undue hardship or any other extenuating

circumstances.

Therefore, the Board did not undergo a Rules revision process since they did not change the rules, but rather acted pursuant to existing rules.

EO Choy stated that the Board cannot indefinitely extend the CE waiver and further reminded the Board that the original waiver was granted pursuant to HAR §16-79-147(b)(5) for, “undue hardship or other extenuating circumstances.” When the waiver was originally granted, this was due to the COVID-19 pandemic; subsequent waiver extensions took into account the continued disruption of COVID-19 and its aftermath.

EO Choy stated that the Board would have to discuss if “undue hardship or other extenuating circumstances” are still relevant to warrant an extension of the waiver. Otherwise, if the Board wishes to allow for the completion of virtual CEs generally, they can pursue a Rules revision.

The Vice Chair asked if there were any further public comments.

Danny Cup Choy raised his hand on Zoom and was promoted to panelist.

Mr. Cup Choy stated that he is representing the Hawaii Dental Association (“HDA”). Mr. Cup Choy stated that HDA strongly supports and appreciates the consideration of an extension of the existing waiver. He noted that HDA membership has made good use of the virtual CE option and hopes that a permanent virtual option will be made available in the future.

Danny Cup Choy was moved back to “attendee” on Zoom.

Seeing no further public comments, the Vice Chair asked if there was any Board discussion.

The Chair suggested that consideration of modifying the Board’s CE requirements to include a permanent virtual option should be referred to the newly formed Rules PIG.

Dr. Fujimoto stated that he does not believe that the upcoming 2024 and 2025 HDA conventions offer enough CE credits to cover the Board’s CE requirements. He stated that it seems there is an undue hardship to Hawaii licensees if they have to travel to the mainland to fulfill in-person CE requirements because there are not enough CE courses available in-person locally.

The Vice Chair agreed with Dr. Fujimoto’s comments, noting further financial and time-based hardship for licensees on the neighbor islands. He also added that Hawaii licensees are afforded greater quality and variety of CEs when there is a virtual option, which also benefits the health, safety, and welfare of consumers.

The Chair stated that many dentists and dental hygienists are still recovering from the financial hardships of COVID-19; it is going to be a long-term recovery.

Dr. Choy stated that he agrees with the comments regarding long-term financial hardship due to COVID-19. Additionally, he stated that even though COVID-19 is not featured in the news anymore, it is still present and affecting our communities. It seems unfair for licensees to potentially have to travel to other islands or the mainland just for continuing education when COVID-19 is still present.

At 11:23 a.m., upon a motion by Ms. Shimabuku, seconded by Chair Guevara, it was voted on and unanimously carried to move into Executive Session in accordance with 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 11:51 a.m., upon a motion by Ms. Shimabuku, seconded by Dr. Choy, it was voted on and unanimously carried to move out of Executive Session.

The Vice Chair summarized that in Executive Session, the Board consulted with its attorney regarding Board authority to determine undue hardship and extenuating circumstances as outlined in HAR §16-79-147.

Dr. Don Sand raised his hand on Zoom and was promoted to panelist.

Dr. Don Sand stated that he is commenting as a community service dentist in Hawaii. He agreed with previous comments that requiring in-person CEs creates an undue financial burden for licensees, especially since many would have to travel outside of Hawaii to meet the CE requirements. Dr. Sand stated that HAR §16-79-141(d) currently allows only eight (8) CEs to be completed by virtual means, but this was a rule created before the prevalence and efficacy of virtual learning was available. He supports an extension of the waiver to allow for virtual CEs.

Dr. Sand was returned to "attendee" on Zoom.

The Vice Chair asked if there were any other public comments. Seeing none, the Vice Chair asked if there was any Board discussion.

Upon a motion by Dr. Yamamoto, seconded by Ms. Shimabuku, it was voted upon and unanimously carried to grant an extension of the blanket waiver accepting virtual CEs, except for the skills portion of Basic Life Support ("BLS"), Pediatric Advanced Life Support ("PALS"), and Advanced Cardiac Life Support ("ACLS") courses, and further that the virtual CEs must be conducted in real-time. The waiver extension was granted pursuant to HAR §16-79-147(b)(5), recognizing undue hardship and extenuating circumstances due to the continued risk of COVID-19

exposure for in-person events and the long-term financial and logistical impacts of the COVID-19 pandemic on licensees.

The Vice Chair announced the next agenda item.

Continuing Education (“CE”) Audit for the 2022-2023 renewal period

The Vice Chair stated that pursuant to HAR §16-79-146(b), “the board may audit and shall require any licensee to submit copies of the original documents or evidence of attendance to be attached to the summary form provided by the board.” The Board therefore determines the percentage of licensees to be randomly audited for CEs after each renewal period. Licensees who are audited will be contacted directly by the Board with more information.

EO Choy stated that for the previous renewal period (January 1, 2021 to December 31, 2022), the Board authorized a .05% audit of dentist (DT) and dental hygienist (DH) licensees, respectively – 64 dental hygienist and 88 dentist licenses were audited.

EO Choy recommended the Board maintain the past precedent of .05% of DT and .05% of DH licenses audited for the CE audit for the January 1, 2022 to December 31, 2023 licensing biennium.

The Vice Chair asked if there were any public testimony. Seeing none, the Vice Chair asked if there was any board discussion.

Upon a motion by the Chair, seconded by Ms. Fukushima, it was voted upon and unanimously carried to audit .05% of dentist (DT) licensees and .05% of dental hygienist (DH) licensees for the January 1, 2022 to December 31, 2023 licensing biennium.

The Vice Chair announced the next agenda item.

Permitted Interaction Group (PIG) Report: Resources List of Approved Courses for Dental Hygienist Certification for the Administration of Intra-oral Block Anesthesia

The Vice Chair reminded the Board that at its November 20, 2023 meeting, Ms. Yamada gave the final report that the PIG drafted an unofficial checklist with FAQs for individuals looking to obtain the Hawaii dental hygiene certification in the administration of intra-oral block anesthesia.

EO Choy reminded the Board of the process for investigative PIGs – at the first meeting, the Board votes to establish the PIG and the scope of investigation; at a second meeting, the PIG presents findings and recommendations and the public can provide testimony, but no discussion or action is taken; at a third and final meeting, the Board may discuss recommendations or action and the public is again afforded the

opportunity to testify. Today is the third and final meeting.

The Vice Chair asked if there was any public testimony or public comments. There was none.

The Vice Chair asked if there was any Board discussion.

Ms. Yamada stated that, as shared at the last Board meeting, the PIG recommended that this would be the best resource for applicants as opposed to a list of programs as programs may change their curriculum year to year and each state has different laws and rules regarding anesthesia administration.

Seeing no further Board discussion, the Vice Chair asked for a motion.

Upon a motion by Dr. Lau, seconded by the Chair, it was voted upon and unanimously carried to accept the unofficial checklist drafted by the PIG as a resource for applicant's reference regarding approved courses for dental hygienist certification for the administration of intra-oral block anesthesia.

The Vice Chair announced the next agenda item and stated that he will be recusing himself from the discussion since he is a member of the Hawaii Oral Health Coalition. The Chair will lead the discussion on this agenda item.

Old Business:

Hawaii Oral Health Coalition ("HOHC"): Proposed 2024 bill regarding dental hygienists and dental sealant application in school-based oral health programs

EO Choy reminded the Board that the Patrick Donnelly and Mai Hall presented to the Board on behalf of the Hawaii Oral Health Coalition ("HOHC") at the November 20, 2023 meeting.

As an update, the proposed legislation was introduced during the 2024 legislative session as S.B. 2476 and H.B. 1777. The bills propose the following amendments to HRS §447-3.5:

HB1777

(e) Notwithstanding section 447-1(f), a licensed dental hygienist under the general supervision of a licensed dentist may perform preventive dental sealant screenings and apply preventive dental sealants in a school-based oral health program on individuals who:

- (1) May or may not be a patient of record;
- (2) Have not been previously examined by a licensed dentist; or
- (3) Do not have a treatment plan prescribed by a licensed dentist.

SB 2476

(e) Notwithstanding section 447-1(f), a license dental hygienist may perform preventative dental sealant screening and apply preventive

dental sealants on individuals who may or may not yet be patients of record, have not been previously examined by a licensed dentist, or do not have a treatment plan prescribed by a licensed dentists, when under the general supervision of a license dentist in a school-based oral health program.

The Chair asked if there were any public comments regarding this agenda item.

Dr. Joseph Mayer raised his hand in-person and was invited to share his testimony.

Dr. Mayer stated that Hawaii has an access to oral healthcare issue, particularly amongst the Med-QUEST population. Dr. Mayer noted that in past Board discussion of other community programs, the Board seemed to focus on the ethical dilemmas regarding patient care. Dr. Mayer commented that while consideration of non-maleficence is an important concern, he requests that the Board consider all aspects of the American Dental Association's ("ADA") Code of Ethics in assessing the HOHC legislation – patient autonomy, beneficence, justice, and veracity, in addition to non-maleficence. Dr. Mayer requested that the Board support S.B. 2476, H.B. 1777, in addition to the oral health taskforce bill, so Hawaii can increase oral health care to the less fortunate.

Patrick Donnelly raised his hand on Zoom and was promoted to panelist.

Mr. Donnelly thanked the Board for their consideration of the two HOHC bills and stated that he is available for any further questions.

Dr. Lau asked if it was possible to amend the language of the bills to include a provision for the dental hygienists to apply silver diamine fluoride ("SDF") to arrest any cavities before applying the dental sealant. He stated that he is still concerned about sealants being applied over cavities. Dr. Lau also asked for clarification if the language would apply to dental hygienists coming from the mainland.

Mr. Donnelly replied that currently the Hawaii Keiki program utilizes glass ionomer, not SDF. While HOHC cannot necessarily amend the bill language to include SDF at this time, he stated that the coalition is always open to feedback on clinical recommendations and best practices. Regarding the second question, Mr. Donnelly clarified that this legislation is only intended for Hawaii licensed dental hygienists.

EO Choy stated that at the November 20, 2023 meeting, several board members, including the dental hygiene members, expressed concerns that the bill did not require patients to have a dental exam. EO Choy asked if Mr. Donnelly could explain the process of the Hawaii Keiki program in more detail, including justification as to why they felt a dental exam was not required.

Mr. Donnelly replied that HOHC took the Board's questions back to the Hawaii Keiki team. The conclusion was that best practices did not require the need for a comprehensive dental exam when applying dental sealants. The Hawaii Keiki program looks to see which students are good candidates for dental sealants and apply sealants accordingly. If there are any additional needs, anything unusual, or anything that requires immediate care, the Hawaii Keiki program refers the student to another provider. One of the main purposes of the Hawaii Keiki program is to ensure that every child has access to a dental provider. The program also follows up with students to see if a relationship with a dental home has been established.

EO Choy stated that the literature previously provided to the Board from HOHC emphasized that the benefits of sealants are received when the sealant is retained. EO Choy asked for more information on what happens if the sealant is not retained or is improperly applied.

Mr. Donnelly replied that even if there is a small amount of decay, a dental sealant can arrest the caries. HOHC is not aware of any significant risks to applying sealants. Hawaii Keiki currently works with a dental director who provides annual calibration, so the hygienists are well trained to identify who is a good candidate for dental sealants. If the hygienist finds that there is extensive decay, the student would be referred out to a dental provider.

Mai Hall and Gerraine Hignite raised their hands on Zoom and were promoted to panelist.

Ms. Hall stated she is commenting on behalf of HOHC along with Mr. Donnelly. She stated that the dental providers who work with Hawaii Keiki commented that the risk of applying a sealant in a school-based oral health program is no different than the risk of applying a sealant in a private dental setting. There is no data to suggest that the risk of applying dental sealants would inappropriately harm students who participate in the program. Furthermore, the supervising licensed dentist remains responsible for the calibration and direction of the licensed dental hygienists.

Dr. Yamamoto exited the Zoom meeting at 12:30 p.m.

Ms. Hignite stated she is a licensed dental hygienist who participates with the Hawaii Keiki program. Ms. Hignite stated that while licensed dental hygienists are allowed to apply SDF under general supervision, the hygienists in the Hawaii Keiki program currently only use glass ionomer. Additionally, the program screens to see if students are good dental sealant candidates. The program collects data on the students' oral health, and if they have urgent care needs, Hawaii Keiki refers to a dental home. If the student does not have a dental home, Hawaii Keiki will refer them to a federally qualified health center and other Medicaid community resources. The Hawaii Keiki team currently has an adequate number of

licensed hygienists, but the program lacks licensed dentist participants. This lack would hopefully be addressed through the bills proposed by HOHC.

Mr. Donnelly, Ms. Hall, and Ms. Hignite were returned to "attendee" on Zoom.

The Chair asked if there were any other public comments. Seeing none, the Chair asked if there was any Board discussion.

EO Choy stated that since the language has been formally introduced as H.B. 1777 and S.B. 2476, the Board will need to opine on the bill if it goes to hearing.

Upon a motion by the Chair, seconded by Dr. Lau, with the Chair, Dr. Chong, Dr. Choy, Dr. Fujimoto, Ms. Fukushima, Dr. Lau, and Ms. Yamada voting aye, Ms. Shimabuku voting to appreciate the intent of the bill with comments, and Dr. Tseu recusing himself, it was voted on and carried to support H.B. 1777 and S.B. 2476.

The Vice Chair announced the next agenda item.

Applications:

Ratification Lists

After reading the license numbers on the ratification lists, the Vice Chair asked if there was any public testimony.

Seeing no public testimony, public testimony was closed.

The Vice Chair asked for a motion to approve the ratification lists.

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

Approved Dentists

DT-3147 PARK, JASON
DT-3148 SHAFIEE, ROXANNA
DT-3149 OTSUBO, YUKO
DT-3150 KLOSTERMAN, LISA K
DT-3151 CHONG, ANDREW PHILLIP

Approved Dental Hygienists

DH-2456 SCOVEL, TAELYNN ARIEL
DH-2457 GRAHL PRICE, MARY K
DH-2458 BELOW, MADISON RAE
DH-2459 ARII, CHLOE K.Y.
DH-2460 MAY, EMILY

Approved DH Certification in the Administration of

Intra-Oral Block Anesthesia
DH-2456 SCOVEL, TAELYNN ARIEL
DH-2460 MAY, EMILY

Approved Continuing Education Sponsoring Organizations
24-001

Sponsor Name: Dental Educational Solutions & Training
Program Title: OSHA 2024 Updates & Training
CE Hours: 4.0
Course Dates: Various throughout 2024
Course Location: Oahu & Maui
Approval Valid Thru: 12/31/24

Applications

At 12:43 p.m., upon a motion by the Chair, seconded by Ms. Shimabuku, 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 12:47 p.m., upon a motion by the Ms. Shimabuku, seconded by Dr. Choy, it was voted on and unanimously carried to move out of Executive Session.

The Vice Chair summarized that in Executive Session, the Board consulted with its attorney regarding confidential matters related to the application for Dr. Arlyn Levy.

Dentist

Arlyn Levy

The Vice Chair asked if there was public testimony.

Seeing none, the Vice Chair deferred this agenda item.

Approved Sponsoring Organizations

Lloyd T. Narimatsu, Safety Training

The Vice Chair asked if there was any public testimony.

EO Choy reminded the Board that CE sponsoring organizations who are not listed in HAR §16-79-142 must submit an application to the Board for approval. Applicants for approved CE sponsoring organization must meet the requirements outlined in HAR §16-79-143.

§16-79-143 Requirements for approval by the board. (a)

Sponsoring organizations who are not listed in section 16-79-142, shall be required to apply to the board on a form prescribed by the board prior to the course event. The sponsoring organization shall comply with all requirements, policies, and standards set forth by the board.

(b) Courses shall comply with the provisions in section 16-79-141. Sponsoring organizations shall submit the following:

(1) A detailed outline which provides course content, total hours of the course, and clearly breaks down the amount of time spent on each portion of the course and the direct relation to patient care; and

(2) A curriculum vitae of each instructor of the course.

(c) A certificate of attendance shall be issued to each attendee and include the following:

(1) Name of sponsoring organization;

(2) Course or program title and date;

(3) Course or program approval number;

(4) Number of CE hours; and

(5) Name of attendee.

EO Choy stated that the applicant appears to be submitting for approval for four different CE courses.

Ms. Yamada asked whether the course is all in-person or if there is a virtual component. She reminded the Board that they just approved the blanket waiver accepting virtual CEs, with the exception of the skills portion for BLS/ACLS/PALS. She wants to make sure that this does not make the applicant's course invalid.

EO Choy stated that it is not clear if the course has any virtual components.

The Chair stated that it is not clear whether the BLS/AED Certification course is three or four hours.

The Vice Chair noted that there seems to be additional information required before the Board can reach a decision on this application. The Vice Chair asked if there was any further discussion on this agenda item.

Seeing none, the Vice Chair deferred this agenda item.

Executive Officer's
Report:

Completion of renewal facility inspections for dentist licensees with the special permit to administer deep sedation and/or general sedation

EO Choy reported that pursuant to HAR §16-79-78, renewal facility inspections were required for dentist licensees with the special permit to administer deep sedation and/or general sedation, to be completed before the renewal deadline of December 31, 2023.

EO Choy stated that the Board would like to appreciate the volunteer consultants who assisted with the inspections, under the direction of the Board's Anesthesia PIG members Dr. Earl Hasegawa and Dr. Craig Yamamoto. Together, the team inspected over 50 facilities across the State:

- Dr. Earl Hasegawa
- Dr. Craig Yamamoto
- Dr. Staphe Fujimoto
- Dr. David Hiranaka
- Dr. Jeremy Hannon
- Dr. David Haynes
- Dr. Blake Kitamura

CDCA-WREB-CITA Annual Meeting – Update

EO Choy reported that she attended the CDCA-WREB-CITA (“CWC”) virtual Annual Meeting. The CWC General Assembly meeting was on January 12, 2024.

EO Choy reported the highlights as follows:

1. Compacts were a big point of discussion, with a special presentation on the AADB Compact. CWC is endorsing the AADB Compact and encourages state boards to closely follow the development of the AADB and CSG Compacts as it is anticipated to remain a hot topic nationwide.
2. General exam updates were provided. Of note: as of January 1, 2025, all CWC/ADEX exams will be simulated patient exams; for 2024 they anticipate zero patient-based exams.
3. The Hawaii CWC Steering Committee met during the State Caucus portion of the meeting, and Dr. Andrew Tseu, Kathy Fukushima, Dr. Candace Wada, and Marianne Timmerman were reappointed.

ADEX Exam: International Update from CDCA-WREB-CITA

EO Choy reported that CWC will soon administer the first international ADEX Exam in Saudi Arabia by June 2024. King Abdulaziz University (KAU), located in Jedda, is currently the only CODA (Commission on Dental Accreditation) approved facility outside of United States jurisdictions.

2024 Legislative Session: Session started on January 17, 2024

EO Choy stated that the 2024 Legislative Session officially opened on January 17, 2024. Bills will be introduced through January 24, 2024. This is also a “carry-over” year, so bills that were not passed last year will carry-over into this legislative session.

EO Choy stated that she will be tracking the bills that come out and

reporting to the Board accordingly. If more bills are introduced after today that require the Board's discussion, the Board will meet on Monday, February 5, 2024 for the scheduled special legislative meeting. Otherwise, the special legislative meeting will be cancelled, and the meeting schedule will be updated on the Board's website.

Next Meeting: Monday, February 5, 2024
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

Adjournment: The meeting adjourned at 1:00 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Sheena Choy
Sheena Choy
Executive Officer

/s/ Marc Yoshimura
Marc Yoshimura
Secretary

SC:my

03/04/24

[X] Minutes approved as is.

[] Minutes approved with changes; see minutes of