

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

MINUTES OF MEETING

Date: May 15, 2024

Time: 10:00 a.m.

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

Present: James Pleiss, D.C., D.A.B.C.O., Chair
Rachel M. Klein, N.D.D.C., Vice Chair
Alice H. Ogawa, D.C., Member
Rochelle Araki, Executive Officer (“EO”)
Andrew I. Kim, Deputy Attorney General (“DAG”)
Cortnie Tanaka, Secretary

Guests: None.

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

Call to Order: The meeting was called to order at 10:14 a.m., at which time quorum was established.
Chair Pleiss called the meeting to order with a roll call of the Board members. All Board members confirmed that they were present.

Approval of Meeting Minutes: Chair Pleiss asked if there was any questions or comments on the March 11, 2024, open session meeting minutes.

Vice Chair Klein stated that she had a question regarding page 10, second paragraph. She wanted to clarify her intention, that licensees should know about broader things outside of the chiropractic scope for continuing education. Her intent was doctors of chiropractic should still know about medicine, even if its outside of their scope.

DAG Kim asked if she would like that to be amended.

Vice Chair Klein responded, yes. If it could be amended to make the intention of what was stated clearer.

EO Araki added that on page 9, the last paragraph was regarding what Vice Chair Klein had stated.

Vice Chair Klein stated that her statement on page 10 paragraph 2

sounded like she was suggesting an expansion of their scope of practice, which was not the intent.

Vice Chair Klein asked for paragraph 2 on page 10 to be removed.

~~[Vice Chair Klein stated that medicine is medicine and as regulators for the state, the Board should not look at chiropractic as a narrow piece of medicine.]~~

EO Araki asked if there were any other questions or comments on the March 11, 2024, open session meeting minutes.

There was none.

It was moved by Vice Chair Klein, seconded by Chair Pleiss, and carried unanimously to approve the open meeting minutes of the March 11, 2024, meeting as amended.

Applications:

Ratification of issued License(s)

DC-1597-0 Lisa J Bell
DC-1598-0 Kathleen Denise Lobenberg
DC-1599-0 Gabriela Mori
DC-1600-0 Roberto Diaz
DC-1601-0 Ryan M Gloeckner

It was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to accept the above issued licenses.

Hawaii Administrative Draft Rule Amendments
Rules ("HAR")
Chapter 76:

Vice Chair Klein asked if a disaster section could be included in the rules. She added, during the pandemic it was up to the Governor to include chiropractors as part of the healthcare practitioners that was allowed to practice.

Chair Pleiss responded that this would be a statutory change.

Vice Chair Klein further added that the rule should also include allowing chiropractors from other states to come into Hawaii in response to a disaster as emergency relief.

EO Araki stated that this would be a statutory change to allow unlicensed chiropractors to practice in Hawaii.

Chair Pleiss added that the Board would not have any jurisdiction over them during that time.

Vice Chair Klein asked the other Board members if they would want chiropractors from other states to come and assist during a disaster.

Chair Pleiss and Dr. Ogawa both responded, no.

DAG Kim stated that the Governor issues an Emergency Proclamation granting emergency assistance during a disaster.

Vice Chair Klein asked, what if the Governor does not include chiropractors in the proclamation?

DAG Kim replied, then a statutory change would need to be made.

Chair Pleiss expressed his concern if an individual from another state comes into Hawaii and harms a patient, how does this get handled?

Vice Chair Klein responded, "they would go to the police."

Chair Pleiss asked, how can the Board protect the public from people that aren't licensed in this state?

Vice Chair Klein replied that they would only be assisting with basic first aid.

Dr. Ogawa responded, "it would not matter then, as they will not be needing a chiropractic license if they are not practicing as a chiropractor."

There was no further discussion by the Board.

Revised: **16-76-2** **Objective**
There was no further discussion by the Board.

Revised: **16-76-4** **Definitions**
DAG Kim explained that he and EO Araki added the definition for "credit hour" from *HAR section 16-76-8 Educational requirements*. This was added due to the Board's previous concerns on accepting quarter hours, and if one hour is 50 minutes, how many minutes were in a quarter hour.

Chair Pleiss and Vice Chair Klein both agreed to this addition.

There was no further discussion by the Board.

Revised: **16-76-8** **Educational requirements**

Vice Chair Klein stated that the representatives from the Council on Chiropractic Education ("CCE") recommended to have the education

requirements to simply state “graduated from an accredited school”.

Vice Chair Klein added that if CCE changes the requirements for accredited programs/institutions, it might not meet what is listed in their current rules.

DAG Kim asked if only graduates from an accredited schools or institutions are accepted?

Vice Chair Klein answered, yes.

DAG Kim clarified that if an applicant graduated from a non-accredited school, they would not be given a chiropractor license.

Vice Chair Klein answered, yes. She referred to “HAR section 16-76-8 “Each applicant for chiropractic licensure shall present evidence of having attended and graduated from a chiropractic college accredited by, or recognized as a candidate for accreditation by the Council of Chiropractic Education (CCE), or any chiropractic college accrediting agency recognized by the United States Department of Education (USDOE)....”

EO Araki asked what about applicants who graduated from another country.

Vice Chair Klein added that other states’ chiropractic laws and rules do not even accept Canadian graduates.

Dr. Ogawa asked if the school has US accreditation.

Vice Chair Klein answered no, they have Canadian accreditation.

DAG Kim asked the Board, if the USDOE recognizes a chiropractic college, no matter the country, the Board will accept the curriculum?

The Board responded, yes.

Vice Chair Klein added that the CCE representatives also suggested verbiage update from “chiropractic college” to “universities”.

DAG Kim asked for clarification on the verbiage to “chiropractic universities accrediting agency”.

Vice Chair Klein replied, it should state chiropractic program.

Chair Pleiss and Dr. Ogawa suggested “institutions”.

Vice Chair Klein stated that if the word institution was used it would

suggest that the entire institution only did chiropractic.

Chair Pleiss asked if this could be argued that there are separate colleges within the university.

Vice Chair Klein replied, it was the recommendation of the CCE representative based on what happened in Florida and how their rules were worded.

Chair Pleiss checked the rules and stated that they were all CCE requirements.

Vice Chair Klein responded, yes, but if CCE changes their requirements then what is written in the current rules would no longer be accurate.

DAG Kim asked the Board if they would like to remove HAR section 16-76-8(b) & (c) based on the recommendation by the CCE representatives?

Vice Chair Klein agreed and added that “college” will need to be changed to “program” as well. Once the changes have been made, she will ask the CCE representative(s) to review the draft.

DAG Kim asked if Vice Chair Klein would be able to facilitate this for the Board.

Vice Chair Klein agreed.

DAG Kim and EO Araki asked if the applicant presents evidence of having attended and graduated from a chiropractic program, would it be possible to graduate not as a Doctor of Chiropractic?

Vice Chair Klein replied, yes.

Dr. Ogawa added, yes, a chiropractic assistant.

Dr. Ogawa asked Vice Chair Klein what the suggested language at the FCLB conference was.

Vice Chair Klein referred to the model practice act from FCLB “...graduate has received a professional degree in chiropractic from a chiropractic education program that has been approved by the Board.”.

EO Araki stated that the Board will need to provide a list of the approved programs.

DAG Kim advised, this may be a lot of programs.

Vice Chair Klein added that verbiage could include “accredited school, otherwise approved by the Board” so that the Board may accept graduates with Canadian accreditation.

DAG Kim advised the Board, they will need a list of criteria of why the Board will be accepting some programs versus others.

Chair Pleiss asked if any other Board has the right language already written on their rules.

Dr. Ogawa agreed that the Board should check on that.

Vice Chair Klein stated that the model practice act says, “graduate from a professional degree in chiropractic from a chiropractic educational program that has been approved by the Board.”

DAG Kim asked if professional degree could include assistant chiropractic degree.

Vice Chair Klein clarified that professional degree meant terminal degree.

DAG Kim and Chair Pleiss asked if assistants were not professionals.

Vice Chair Klein answered, yes. She added, professional degree is another term for a terminal degree, which means doctoral.

DAG Kim asked if it would be possible for someone to think that the term professional degree is a master’s degree.

Vice Chair Klein answered, no. She added that there are master’s degrees that are terminal degrees. She used Physical Therapy as an example: PT program previously only had a master’s degree program.

Vice Chair Klein added the use of the word “professional degree” in the educational setting is defined as terminal.

DAG Kim suggested that “terminal degree” should be added to the definitions section.

Chair Pleiss asked if a caveat could be added “at the Boards discretion”.

DAG Kim responded that there needs to be a list of criteria of how the Board will approve or deny.

Vice Chair Klein asked if the Board could come up with the criteria once the Board is challenged by an applicant.

Chair Pleiss and DAG Kim responded, no; the list of criteria should be on the Board's rules beforehand.

Chair Pleiss asked if there were any states that use this specific language from the FCLB Model Practice Act.

Vice Chair Klein responded, yes. She will check with the CCE representative on how to properly word this section.

Vice Chair Klein will work with the CCE representatives and report to the Board.

There was no further discussion by the Board.

**New Section: 16-76-10 Chiropractic Information
Network/Board Action
Databank**

EO Araki stated that all state licensing and certification authorities are federally required to submit disciplinary actions taken against a licensee to the National Practitioner Data Bank (NPDB). The Chiropractic Information Network Board Action Databank (CINBAD) does not require all states to submit these reports. Currently, Hawaii does not report to CINBAD because they require the Board to share unique identifying confidential information on the licensee such as their social security number.

EO Araki asked if the Board would rather require an NPDB self-query report or a CINBAD report from applicants.

DAG Kim asked if the NPDB report would be easily accessible for applicants?

EO Araki responded, yes.

Chair Pleiss asked what kind of things get reported to NPDB.

EO Araki and Vice Chair Klein stated that all disciplinary actions taken against their license would be reported to NPDB.

Vice Chair Klein explained that CINBAD reports include criminal offenses and disciplinary actions against their license.

Chair Pleiss asked for Vice Chair Klein's opinion.

Vice Chair Klein suggested both should be required but the section will need to be revised to include both if available.

EO Araki stated that the Board will need to specify they are requiring NPDB or CINBAD or both.

DAG Kim asked if it would be costly to do both.

Vice Chair Klein stated that both reports were inexpensive.

Vice Chair Klein suggested that the title of this section be changed to "*background check*".

Vice Chair Klein added that she "understand requiring applicants to complete a criminal background check is a statutory change, but all the other states require a criminal background check."

DAG Kim asked what she meant by criminal background check and what exactly was being asked.

Vice Chair Klein responded, "why would the Board ask on the application "Have you ever been convicted of a crime?" if the Board does not check if the applicant's answer is true."

DAG Kim asked if the Board would like a United States background check. If so, he added that only the FBI provides that database. He suggested that the Board research to find out more information on how a person can get a background check and report back.

Vice Chair Klein stated that she will check with the FCLB.

There was no further discussion by the Board.

**Revised: 16-76-20 License required to
practice chiropractic**

There was no further discussion by the Board.

Revised: 16-76-21.01 Inactive license

There was no further discussion by the Board.

**Revised: 16-76-21.02 Reactivation of inactive
license**

There was no further discussion by the Board.

**Revised: 16-76-38 Basic requirements for
renewal**

Chair Pleiss stated that this section require each licensee to provide continuing education certificates to renew, but currently, the Board only require the certificates if they were being audited.

DAG Kim asked EO Araki if the verbiage for this section was supposed

to be changed? The Board has not been requiring each licensee to provide the certificate with each renewal.

EO Araki replied that she checked and had been advised that licensees attest to completing their continuing education at the time of their renewal.

Chair Pleiss stated that as written, every licensee is supposed to provide the Board with proof.

DAG Kim agreed and suggested that the section should be changed. He also suggested that it should read "...shall keep record of..."

Vice Chair Klein agreed and added "... shall keep record of and furnish to the Board if requested."

DAG Kim asked if Vice Chair Klein would be able to assist in revising this section and present it to the Board.

Vice Chair Klein agreed to revise HAR 16-76-38 (a).

Chair Pleiss also mentioned that section (c) needs to be revised as it reads the same as section (a).

Vice Chair Klein agreed and suggested verbiage to read "attests to completion... and furnish certificates of completion if requested by the Board."

DAG Kim asked the Board, how many years a licensee should hold onto their continuing education certificates?

Vice Chair Klein answered, seven years.

Vice Chair Klein asked if the Board can change the language on the rules for continuing education credits to state "a number of hours determined by the Board biannually" instead of "30 CE hours". This is so that the Board does not have to do a rule change with every change on the number of CE's required.

DAG Kim asked Vice Chair Klein if this would be a disservice to the public and that they would not know where to look for the Board's decision on this matter.

Vice Chair Klein replied, no, the information can be found on the Board's website.

Vice Chair Klein used the Naturopathic Board as an example. She added, "the Naturopathic Board has a naturopathic formulary which the

Vice Chair Klein said, yes.

DAG Kim asked if a chiropractor provided a letter from anywhere, will the Board accept the letter for CE credit.

Vice Chair Klein replied, no, it should be from the National Board of Chiropractic Examiners or the Federation of Chiropractic.

DAG Kim asked, if the Board received this letter from the chiropractor, the Board will accept it?

Chair Pleiss replied, yes.

EO Araki asked what is sent to the Board members who have assisted.

Vice Chair Klein and Chair Pleiss replied that a letter is emailed and provides the number of credit hours.

EO Araki asked if the credit provided was specific to Part IV testing assistance only.

Chair Pleiss stated that it wouldn't only be for the Part IV testing. It would be for anything related to the testing.

Vice Chair Klein added that credit could also be earned by providing assistance to the test committee.

Chair Pleiss clarified that "the exam has four parts, and each part has a test committee that goes over what each question should be. Part IV is the only section that needs cross examiners."

Vice Chair Klein added that EBAS, Ethics and Boundaries Assessment of Regulated Professionals, at times also requests for assistance on test questions.

EO Araki asked if a letter was provided each time they assist.

Chair Pleiss and Vice Chair Klein agreed.

Vice Chair Klein added that the letter will specify the number of credit hours.

DAG Kim stated that a specified list should be added and suggested HAR section 16-76-38 to be rewritten so they can submit these letters instead of a certificate of completion.

Chair Pleiss added, "the letter of completion is like a certificate of completion."

boards regarding automatic approved programs for continuing education. She had also reached out to PACE, and they had made recommendation to check Ohio's laws and rules on continuing education. Ohio uses PACE, but also allow individual program sponsors to apply for an approval.

Dr. Ogawa expressed her concern and felt that continuing education credits for renewal should be kept within their chiropractic scope of practice. She added that she understood the importance of having further knowledge outside of chiropractic, but it should not count towards their CE license renewal.

Vice Chair Klein responded that this allows more variety for someone who wants to study other things besides adjusting.

DAG Kim stated that HAR section 16-76-39 lists the criteria for approving CE's. The Board should not add things on the list for automatic approval that do not meet these criteria.

Vice Chair Klein responded that section needs to be revised. She added that the Board had previously defined the practice of chiropractic as, "things that are applicable to the practice of chiropractic as knowing about these other things in medicine, that we aren't necessarily doing."

Vice Chair Klein stated that she felt it was important to include the automatic approval because a licensee was unlikely to submit an AMA course for a CE course approval. The AMA courses provide information for chiropractors, but since they are not PACE approved, a chiropractor would not be able to use this credit for their CE renewal.

Chair Pleiss responded that each sponsor, including AMA, may apply for the Board's approval.

Dr. Ogawa asked Vice Chair Klein why should a licensed chiropractor earn continuing education credits towards renewal on courses taken outside of their chiropractic scope? As a licensed chiropractor, she has studied things outside of chiropractic but does not expect that these should be counted towards her CE license renewal requirement.

Vice Chair Klein replied, "why not? If a licensee has taken the course, why shouldn't they get credit for it."

Dr. Ogawa responded that it was not necessary for her practice within chiropractic. The course might provide great information but the CE requirement for renewal should be within their scope of practice.

Vice Chair Klein felt that if this was the case, then chiropractors should only take courses in adjusting and other courses such as nutrition

shouldn't count.

Chair Pleiss replied to Vice Chair Klein, "sure it should, because we're trained in it."

Dr. Ogawa expressed that the Board should keep the continuing education credits clear and simple to deter licensee from taking advantage.

Vice Chair Klein asked how could someone take advantage?

Dr. Ogawa replied that at a previous meeting, it was discussed that cosmetology courses would be outside of chiropractic practice.

Vice Chair Klein asked if those courses were offered by the sponsors listed on the blanket approval.

DAG Kim replied that the AMA offers courses on anti-aging and hair growth.

EO Araki added that the Board's draft rules blanket approval, specifically #12, provides an automatic approval for courses that have been approved by other states' healthcare licensing boards.

DAG Kim agreed.

DAG Kim asked if EO Araki has received complaints from licensees wanting to get credit from AMA courses.

Vice Chair Klein responded, probably not.

Vice Chair Klein added that she felt the Board was limiting licensees.

DAG Kim stated the Board was not limiting licensees. An application may be submitted to the Board for review and approval.

Vice Chair Klein stated that the point of the automatic approval was to reduce the administrative burden.

Dr. Ogawa stated that she felt it would create more burden.

EO Araki responded that majority of the CE applications that the Board receives were from the chiropractic college. She has not received any CE application from AMA.

Vice Chair Klein stated that this would make it easier, as a licensee may submit their 30 credit hours and include AMA courses.

Dr. Ogawa mentioned that in her research, other state boards do not provide an automatic CE approval outside of chiropractic practice.

Vice Chair Klein replied and agreed if the Board only wanted chiropractors to do manipulation and spine. But if the Board thought of chiropractors as being a primary care physician in this State, then needing to recognize when a patient's issue is not something that can be adjusted is critical so they can be referred to another physician. She added that this is their job as chiropractors and is in their scope of practice.

Dr Ogawa stated that PACE programs are very structured; they offer courses besides adjusting. They are very thorough; they check the program to make sure it's a legitimate educational program.

Vice Chair Klein asked if Dr. Ogawa didn't think that it wasn't the same for courses offered by the AMA.

Dr. Ogawa stated that AMA courses were not really meant for chiropractors.

Chair Pleiss added that PACE provided other courses that were not strictly chiropractic course(s) but still within the chiropractic practice.

Chair Pleiss explained that as Dr. Ogawa had already stated, licensees can still take AMA courses. He expressed his concern that the Board should not be providing an automatic approval for all AMA courses to count towards a chiropractic continuing education renewal requirement.

Vice Chair Klein stated that she does the approvals for the Naturopathic CE courses for the state and by having an approved list was very important as it reduces the administrative burden.

Chair Pleiss replied that there was no administrative burden. Admin has not received an AMA course for approval.

Vice Chair Klein stated that every time she wants to take an AMA CE course, she will need to submit an application.

DAG Kim stated that if she was the only one submitting an application then there really wouldn't be an administrative burden.

Vice Chair Klein asked the Board for clarification, the rules also allow the Board the authority to revoke an automatic approval at any time and be able to check on these courses.

DAG Kim advised the Board that this would create a problem for the licensee who has already taken the course.

Vice Chair Klein asked, shouldn't the Board's rules allow them to take away its approval of the AMA CE courses?

DAG Kim responded that the Board would need to do a rule change.

Vice Chair Klein asked for clarification regarding the Board's rule to revoke an approval of a CE course.

DAG Kim advised that the Board would need to withdraw acceptance of that course before it becomes available for a licensee to take.

Vice Chair Klein added that her interpretation of that section was that if the Board was worried about a particular course, research can be done, and approval of that course can be revoked.

Dr. Ogawa asked Vice Chair Klein how will the Board know which courses should be checked?

Vice Chair Klein replied that the Board could check the certificates that were submitted. If they found any that was questionable, the course can be revoked.

DAG Kim specified that the course would need to be accepted for that renewal period.

Vice Chair Klein stated that the Board should do this, see how it works and if they don't like it, then the Board could take it back.

Chair Pleiss stated that to change it back, it would have to be another rule change.

The Board discussed the possibility of an approved list that can be posted on the Board's website.

DAG Kim advised the Board that the language on 16-76-41(c) should be revised if the Board's intent was to allow licensees to submit an application for CE approval.

DAG Kim suggested the language "proof that it meets the criteria listed in HAR 16-76-39...."

Vice Chair Klein replied and suggested "the Board may approve at its discretion any continuing education credits that are not otherwise approved by this chapter and may request any necessary documentation to make that determination".

DAG Kim stated that it was too vague.

Chair Pleiss added that most seminars have a description or a pamphlet.

Vice Chair Klein stated that a licensee submitting a CE for approval may not have the requested documents such as CV's and agendas.

DAG Kim suggested "can provide proof that it meets the qualifications of 16-76-39. The Board may request additional information."

The Board agreed.

DAG Kim stated this section will need to be worked on.

There was no further discussion by the Board.

Revised: 16-76-44 Exceptions
There was no further discussion by the Board.

New Section: 16-76-45 Denial or revocation of program

DAG Kim stated that he had revised this section. He asked the Board if this section should include the approval or withdrawal of the approval of chiropractors providing assistance.

Vice Chair Klein responded, yes.

DAG Kim stated that it should be added.

There was no further discussion by the Board.

Continuing Education
("CE"):

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

It was moved by Vice Chair Klein, seconded by Chair Pleiss, and unanimously carried to ratify the approval of the attached CE course list.

Executive Officer's
Report:

Financial Disclosure

EO Araki reminded all Board members that financial disclosures deadline is May 31, 2024.

The Board members will check on their financial disclosures.

There was no further discussion by the Board.

Chairperson's
Report:

Chair Pleiss reported that Vice Chair Klein went to the FCLB

conference.

Vice Chair Klein reported that this was the second time she had attended the conference and stated that it was a very valuable conference to attend. As an FCLB member state, a delegate should be in attendance to the annual FCLB and NBCE meetings.

Vice Chair Klein stated that it was an educational regulatory conference with attorneys and other regulators. Each state would send a delegate and Hawaii was the only state which a delegate was not being consistently sent.

Vice Chair Klein asked who the Board can speak with regarding DCCA funding a trip to this conference annually.

EO Araki stated that there is no funding to send a board member to this conference and the Board member will need to utilize FCLB's scholarship.

Vice Chair Klein stated the State has the money; how can the Board get the funding for conferences like this.

EO Araki explained that DCCA is self-funded, the money that is generated from fees provides for the whole division to function.

Vice Chair Klein asked if the CE fees can be increased to include travel into the budget; who should this be brought to?

EO Araki stated that the fees collected are within a fee schedule under PVL's rules. To raise the fees, a rule change will need to be made for the division.

Vice Chair Klein reiterated that she felt it was important for a delegate to be sent to this conference annually. The scholarship for the conference is random and only covers up to a certain dollar limit.

Chair Pleiss and Dr. Ogawa agreed that it was important for someone to go to these annual conferences.

Chair Pleiss asked if there were any other Boards that send members to conferences.

EO Araki stated that within PVL, the Executive Officers and Board Members only attend conferences if they were fully funded by the organization.

Chair Pleiss and Vice Chair Klein both suggested raising licensing fees by \$5 and asked if there was a way to make sure that this added fee

can be applied for the conference.

EO Araki replied that raising licensing fees would require justification and a rule change.

Vice Chair Klein also reported that FCLB has a model practice act that the Board can look into adapting into their rules.

There was no further discussion by the Board.

Next Meeting: July 10, 2024
10:00 a.m.
King Kalakaua Conference Room

Adjournment: As there was no further business to discuss, the meeting adjourned at 12:34 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/Rochelle Araki
Rochelle Araki, Executive Officer

/s/ Cortnie Tanaka
Cortnie Tanaka, Secretary

RA:ct

6/13/24

() Minutes approved as is.
(X) Minutes approved with changes; see minutes of 9/10/2024