

Hawaii Medical Board
Minutes of the Meeting of February 13, 2025

HAWAII MEDICAL BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

<u>Date</u>	February 13, 2025
<u>Time</u>	1:00 p.m.
<u>In-Person Meeting Location</u>	Queen Liliuokalani Conference Room HRH King Kalakaua Building 335 Merchant Street, First Floor Honolulu, Hawaii 96813
<u>Virtual Participation</u>	Virtual Videoconference Meeting – Zoom Meeting https://dcca-hawaii-gov.zoom.us/j/89946447930?pwd=swaHXHjQvQEYnaUFODYS1jpSCvI5C1.1
<u>Recording Link</u>	https://youtu.be/ev9HBZflmYI
<u>Present</u>	Danny M. Takanishi, Jr., M.D., Chairperson, Honolulu Member Gary Belcher, Public, Vice Chairperson, Public Member Andrew “Rick” Fong, M.D., Hawaii Member William Brian Hatten, D.O., Osteopathic Member Elizabeth “Lisa Ann” Ignacio, M.D, Maui Member Michael Jaffe, D.O, Osteopathic/Honolulu Member Angela Pratt, M.D., Honolulu Member Rebecca Sawai, M.D., Honolulu Member Geri Young, M.D., Kauai Member Shari J. Wong, Deputy Attorney General (“DAG”) Chelsea Fukunaga, Executive Officer Dawn Lee, Administrative Assistant Johnny Li (Technical Support)
<u>Excused:</u>	Wesley Mun, Public Member
<u>In-Person Guest(s):</u>	No in-person guests.
<u>Zoom Guests:</u>	Anna Bowling Amy Ellingson Candace

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James Teet
Michael Maurska

Agenda:

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

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Call to Order

The meeting was called to order at 1:07 p.m. at which time quorum was established.

Chair Takanishi welcomed everyone to the meeting and proceeded with a roll call of the Board members. All Board members confirmed that they were present and alone.

Chair Takanishi asked if anyone from the public would like to provide oral testimony on this agenda item. There was none.

**Approval of the
December 12,
2024, Executive
Session Minutes:**

Chair Takanishi stated that they currently do not have the minutes from the Executive session held in January 2025. He requested a motion to approve the previous minutes, excluding the January executive session. He will then present a motion to approve the executive session minutes from December 12, 2024, and the open meeting session minutes from January 16, 2025.

Dr. Fong stated that he would be abstaining from the vote on the January meeting minutes since he was not present.

Chair Takanishi noted that he would address the items separately, as he intends to recuse himself from the December minutes since he was not present at that meeting and will abstain from the vote. He requested a separate motion, directed to Mr. Belcher, and he believes it is Dr. Young. Therefore, we will discuss the minutes from the executive session on December 12, 2024, separately. It was moved by Mr Belcher, seconded by Dr. Young, and carried by a majority, with the exception of Chair Takanishi, who abstained from the discussion and vote on this matter, to approve the executive session minutes of the December 12, 2024, meeting are as follows:

Ayes: Mr. Belcher, Dr. Fong Dr. Hatten, Dr. Ignacio, Dr. Jaffee, Dr. Pratt, Dr. Sawai, M.D., Dr. Young, M.D.

Abstentions: Chair Takanishi

Chair Takanishi stated that he saw a hand up.

Mr. Belcher stated it looked like one of the applicants.

Dr. Anna Bowling apologized, explained it took her a moment to raise her hand. She is present and wants to be granted an opportunity in the executive.

Chair Takanishi thanked Dr. Bowling, stating that they are still on agenda item two, the approval of the minutes.

Dr. Jaffe stated that it looks like there is a second applicant also at the current meeting.

Chair Takanishi reemphasizes that those whose applications are being considered at this meeting will be invited into our executive session to provide their testimony. Therefore, they may choose to do so then or opt to do it in open session. For new, we will continue to complete agenda item number two.

**Approval of the
January 16, 2025,
Open Session
Minutes:**

It was moved by Dr. Pratt, seconded by Dr. Ignacio, and carried by a majority, with the exception of Dr. Fong, who abstained from the discussion and vote on this matter, to approve the open session minutes of the January 16, 2025, meeting are as follows:

Ayes: Chair Takanishi, Mr. Belcher, Dr. Hatten, Dr. Ignacio,
Dr. Jaffe, Dr. Pratt, Dr. Sawai, M.D., Dr. Young, M.D

Abstentions: Dr. Fong

**Applications for
License/
Certification**

A. Applications

It was moved by Dr. Jaffe, seconded by Dr. Hatten, and unanimously carried into executive session at 1:13 p.m., pursuant to HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licenses cited in HRS §26-9 and, pursuant to HRS §92-5 (a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. (Note: Board members and staff entered the Zoom Breakout Room).

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Chair Takanishi proceeded with a roll call of the Board members in the Zoom Breakout Room. All members confirmed that they were present and alone.

(i) Physician (Permanent/Endorsement):

a. Anna Bowling, M.D.

Anna Bowling, M.D. entered the Zoom Breakout Room at 1:28 p.m.

Anna Bowling, M.D. exited the Zoom Breakout Room at 1:43 p.m.

(ii) Physician (Permanent/Non-Endorsement):

a. Amy Ellingson, M.D.

Amy Ellingson, M.D. entered the Zoom Breakout Room at 2:04 p.m.

Nathan Valin, M.D. exited the Zoom Breakout Room at 2:13 p.m.

b. Michael Maruska, D.O.

Michael Maruska, D.O. entered the Zoom Breakout Room at 2:24 p.m.

Michael Maruska, D.O. exited the Zoom Breakout Room at 2:32 p.m.

c. James John Teet, D.O.

James John Teet, D.O. entered the Zoom Breakout Room at 2:57 p.m.

James John Teet D.O. exited the Zoom Breakout Room at 3:01 p.m.

It was moved by Dr. Hatten, seconded by Dr. Young, and unanimously carried to return to the open session meeting at 3:54 p.m. Board members and staff returned to the main Zoom meeting. All Board members confirmed that they were present and alone.

Dr. Sawai's Video and audio are not working 3:54 p.m.

(i) Physician (Permanent/Endorsement):

a. Anna Bowling, M.D.

After due consideration of the information received, it was moved by Chair Takanishi, seconded by Dr. Pratt, and unanimously carried to defer the application until additional information can be obtained from the applicant by the executive officer.

b. Amy Ellingson, M.D.

After due consideration of the information received, it was moved by Dr. Ignacio, seconded by Dr. Young, and unanimously carried to approve Dr. Ellingson's application for licensure.

c. Michael Maruska, D.O.

After due consideration of the information received, it was moved by Dr. Jaffe, seconded by Dr. Hatten, and unanimously carried to approve Dr. Maruska's application for licensure.

d. James John Teet, D.O.

After due consideration of the information received, it was moved by Dr. Hatten, seconded by Dr. Jaffe, and unanimously carried to approve Dr. Teet's application for licensure.

B. Ratification List (see attached List)

(i) February 13, 2025, Ratification List

It was moved Dr. Ignacio, seconded by Dr. Young, and unanimously carried to ratify the attached lists of individuals for licensure or certification from February 13, 2025.

Dr. Sawai's Video and audio are now working 3:59 p.m.

**2025 Legislative
Session:**

A. Legislation

Chair Takanishi stated that there are only two bills from which he would like to solicit input from the Board Members. One of the bills pertains to SB1243, relating to foreign medical graduates along with the companion bill for that HB1379. In light of the recent press release and guidance from the National Advisory Commission on Alternative Licensing Models, we now have additional direction as

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we consider licensure pathways for international medical graduates across the United States. Chair Takanishi requests a motion from the Board regarding their position on the two bills, including the companion bill, which pertains to the licensure of foreign or international medical graduates. Requesting to know if the Board supports these bills, opposes them, or chooses to defer consideration for the current session. At this time, he is open to entertaining a motion.

It was moved by Mr. Belcher, seconded by Dr. Young, and unanimously carried to defer these bills based on information the Board received from the Federation of State Medical Boards (FSMB) Support Advisory Commission, releasing recommendations to inform legislators on licensing internationally trained physicians.

Chair Takanishi noted that several current bills await the Board's consideration for the 2025 legislative session. He remarked that while Board Members may offer public testimony as private citizens, none of these bills, apart from those already discussed and the sex offender bill, which has received testimony as well as the informed consent bills, fall within the board's statutory authority. Therefore, Chair Takanishi will present this information solely for informational purposes.

Chair Takanishi asked if anyone from the public would like to provide oral testimony on this Legislation agenda item. There was none.

**Board Member
Orientation:**

A. Hawaii State Ethics Code – A Quick Guide for New Employees and Board/Commission Members.

The Board will review the Hawaii State Ethics document, “A Quick Guide for New Employees and Board/Commission Members”.

DAG Wong stated that the Board Members have some materials included in their packet. The first page contains information from the Hawaii State Ethics Commission. This applies to you, as Board members are treated similarly to state employees, She the requested to know if any of the Board Members had any questions about the first three pages. There was none.

B. Hawaii State Ethics Code – A Quick Guide on Gifts

The Board will review the Hawaii State Ethics document, "A Quick Guide on Gifts"

C. Administrative Board Process

The Board will review the Administrative Boards Process. DAG Wong refers the Board Members to the flowchart titled "Disciplinary Process for Administrative Boards." This pertains to existing licensees. For new members, it is complaint-driven. If there is a complaint against a licensee, it is handled by the Regulated Industries Complaints Office (RICO). They file a complaint on the left-hand side. It is investigated by RICO. If it has any merit, it is referred to the legal section. The legal section can close it if they find no jurisdiction or insufficient evidence, issue a technical violation resulting in a letter of education, or advise the complainant that a civil remedy may be more appropriate.

They can reach a settlement agreement with the doctor or the licensee. Sometimes this appears as a pre-petition settlement agreement, where the doctor or licensee prefers to keep the allegations out of the public domain. All these documents are considered public if they are accepted and approved by the board. Thus, the advantage for the doctor regarding a pre-petition is that less information in the public domain is better. Of course, this also gives the board, when reviewing the petition or the settlement agreement, less information as well. This may frustrate the board at times because they want to know more facts and details.

Occasionally, a post-petition settlement agreement includes more information than the pre-petition. The post-petition documents actually contain a petition where RICO outlines the allegations and charges against the doctor or licensee. However, since it is a settlement agreement, it is a negotiated document between RICO and the doctor and may not contain all the information the board seeks. In cases of settlement agreements, the board can only choose to accept or reject the settlement. If they do not accept, RICO may decide not to pursue the doctor and can drop the case. They might opt to try an amended settlement agreement, or they may proceed to a hearing if they believe the case still warrants discipline.

Contested case hearings are conducted by hearings officers at the DCCA, who are administrative judges. They hear evidence, testimony from live witnesses, pleadings, and arguments, including

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opening and closing statements. They issue a recommended order with findings of fact, conclusions of law, and recommendations. These documents can be modified. If there is more information, you may seek to modify the conclusions of law, which requires reviewing all evidence presented during the hearing. You can also modify the sanctions. After that, the hearings office receives post-petition pleadings from either party. They can file exceptions where they disagree with aspects of the recommended order, or they can provide statements of support in which one party endorses the recommended sanction and its adoption by the board. Either party can also request oral arguments; the Board had such cases a few times where the doctor and their attorneys appeared before the Board. An order can then be issued to either adopt the recommended order or modify and issue a proposed final order instead. If we reach the Board's final order or proposed final order, exceptions, statements in support, or oral arguments can be made on that proposed final order. After all due process, the board issues its final order, after which the doctor or RICO may appeal to the circuit court. That outlines the entire disciplinary process for existing licensees. DAG Wong then requested to know if any of the Board Members had any questions about the process. There was none.

DAG Wong stated that the last page is titled "Board of Commission," and it contains three ovals and essentially three columns. The board functions similarly to a government, having an executive branch, legislative branch, and judicial branch. The executive branch, which encompasses the majority of your agenda, is subject to the Sunshine Law, Chapter 92 of the Hawaii Revised Statutes. It is open to the public, which includes voting and open session minutes. There are five exceptions, primarily two, under §HRS 92-5 for entering into executive sessions. These exceptions allow for consultation with an attorney or the evaluation of personal information related to applications. The two criteria for considering convictions are whether the convictions are rationally or directly related to the profession and whether there is sufficient or satisfactory evidence of rehabilitation. These are the two main factors to consider when evaluating applications, all of which fall under your executive branch responsibilities. The middle oval represents rulemaking, where legislation is carried out through administrative rules. The third column pertains to the judicial aspect, where disciplinary actions against existing licensees are taken, as explained in the flow chart on the previous page. This process is not subject to Sunshine Law since it is strictly

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adjudicatory; minutes do not need to be taken, and deliberations like those of a judge or jury are not open to the public. DAG Wong asked if the Board Members had any questions regarding this civics lesson 101.

DAG Wong also pointed out that Ms. Fukunaga included in their packet the Sunshine Law options for handling special projects or legislative issues. These options allow permitted interactions among members under §HRS 92-2.5. Two members of a board can talk to each other about board business as long as they do not make or seek any commitment to a vote. Since the two board members do not constitute a quorum, this would not apply in their situation. Alternatively, they can form a permitted interaction group, where two or more board members are assigned to investigate a board matter, return to report their findings, and then, in a subsequent meeting, the board can act on that subject. There are additional exceptions under HRS 92-2.5 for permitted interactions, but these are the two primary ones. If they have a special project or prefer not to investigate a matter, these provisions can be utilized. DAG Wong inquired if the Board Members had any questions about permitted interactions pertaining to the Sunshine Law, to which there were none. DAG Wong then asked Ms. Fukunaga if she missed anything or needed to cover anything else.

Ms. Fukunaga stated that if individuals are presenting testimony, and it is personal rather than on behalf of the board, it is important to understand those roles.

DAG Wong noted that this distinction should be made clear in both written and oral testimony. As Chair Takanishi mentioned at the beginning of the meeting, if the testimony is presented on personal letterhead or on behalf of the Hawaii Medical Association (HMA) or any other advocacy group they represent in a personal capacity, the distinction is clear. Therefore, it does not overlap with the responsibilities of being a Board Member.

While one may be a Board Member, they are speaking and testifying in their personal capacity. Caution should be taken in testimony that references private or confidential information considered by the Board, as such details should not be included in public testimony. Until an application is approved—or in cases where it is not approved or has been deferred—individuals have their privacy interests to consider. Therefore, even if names are not

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identified, specific details should not be included in public testimony from the Board's deliberations at the legislature.

Dr. Jaffe asked if individuals testifying can mention their Board positions, even if they are not representing the Board.

DAG Wong, this should not be the first sentence. It should be clear that this is on your letterhead, on your time, and not in reference to the Medical Board's deliberations or considerations of applications.

Chair Takanishi, a key point is that much of this is influenced by public perception, which is tied to the law and its thresholds. He believes we need to be aware of this, as technically this board is designed to serve the public. From that perspective, we must remain mindful of it. Additionally, it's interesting to note that he has reviewed this document several times in different iterations. It provides opportunities for attending meetings and discussions, so long as those meetings are informal among members themselves. However, the key point is that there should be no commitment to voting on the matter. He considers these aspects important. He thinks this is a good guidance document, but acknowledges that there's a legal aspect as well, and it's essential to be aware of public perception at the same time.

DAG Wong stated to Ms. Fukunaga that she found another document on the Hawaii Peace website and did not want to overwhelm Ms. Fukunaga and the Board by adding yet another document. However, there is a Sunshine Law Options to Address State Legislative Issues and Measures document dated August 2022. This document thoroughly detailed, over six pages, the permitted interactions allowed under 92-2.5, particularly in relation to the legislative session. It outlined seven different options for how boards can handle the legislative session. DAG Wong believes, as Chair Takanishi mentioned at the meeting's start, that the primary option is to either delegate to the hearing, to the executive officer, or to form a permitted interaction group. She thinks that processing it through the executive officer works well. Nonetheless, the August 2022 document is accessible because other boards face challenges related to the Sunshine Law during the legislative session.

Chair Takanishi mentioned that it was a nice overview and inquired whether any Board Members had questions. He noted that they could contact Ms. Fukunaga, who could consult with the Deputy Attorney General. Chair Takanishi is also willing to answer any

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questions regarding the process. He believes the document on Sunshine Law is quite helpful, as it outlines permitted interactions. Additionally, he feels the document referred to by the Deputy Attorney General serves as another useful template. Like many of us, he pointed out, we wear multiple hats. We also take care of patients. Patients will have queries, and it's particularly important that when we communicate with them, even while wearing multiple hats, we present ourselves primarily as physicians. He acknowledges that he's not sharing anything we didn't already know, but it's the challenge of juggling these multiple roles while volunteering. This commitment to public safety requires time and effort, considering all the materials we review and the activities we are involved in. Every time we engage, we take that oath, as they hold us to a different or perhaps higher standard. Chair Takanishi wanted to know if any Board members had any questions.

Dr. Ignacio mentioned that she is reviewing the documents on how to stay updated with the legislative session during board meetings. She is uncertain whether she is allowed to ask about this, but she plans to inquire. She has questions regarding perspectives on board-related legislation and whether she is permitted to contact Chair Takanishi from the Board. As an example specifically, topics related to licensure, particularly concerning surgeons or OB-GYNs. Additionally, she is also wondering if it's appropriate to reach out to other Board members for their opinions on this matter. Chair Takanishi wanted to know from Dr. Ignacio if she is suggesting something similar to the straw poll concept. Dr. Ignacio stated that this is exactly the point. It's not about requesting to know how they would vote on it but rather having a discussion about their perspectives. This conversation would take place outside of the meeting. This would be permitted.

Chair Takanishi stated that it is a two-member concept for the Board. They can discuss board meetings and board business outside of a meeting, so long as no commitment to vote is made or sought. He believes that, as was raised with the Deputy Attorney General, two members do not constitute a quorum for the Board. Otherwise, because the conjunction is "or," that would be prohibited. But since two members do not constitute a quorum for this Board, they may discuss business outside of a meeting. Again, the key is that there is no commitment to a vote. The important point is that serial communication, involving multiple one-on-one meetings, is frowned upon.

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DAG Wong confirmed that Chair Takanishi was correct. She mentioned that it involved the city council, where two or more members met and discussed matters. Then, one of those two individuals had a two-person conversation with another city council member. The Office of Information Practices (OIP) indicated that this undermined the purpose and spirit of the Sunshine Law by having a series of two-person conversations. Therefore, as Chair Takanishi stated, this practice is discouraged. Board Members should run discussions through the Executive Officer, and the matters will be placed on the agenda, allowing all members to participate. This can be educational, informative, and robust.

Chair Takanishi noted that he reviewed the documents Ms. Fukunaga provided in our folders. The exact language is much clearer than he could convey. It states that it would, nonetheless, be considered serial communication, contrary to the Sunshine Law, for a Board Member to discuss the same board business with more than one other Board Member through a series of one-on-one meetings.

Dr. Ignacio stated that she is not trying to cause any issues; she just wants to ensure that she does not.

Chair Takanishi remarked that Dr. Ignacio is an information gatherer, which is a positive attribute.

Dr. Ignacio expressed her understanding that approaching each person in this manner seems motivated and goal-oriented, similar to lobbying. In that context, she believes this approach would not be acceptable. She believes that if it is allowed, in the future, if she needs perspective, she would CC Chair Takanishi and Ms. Fukunaga in her communications. This way, if she is asking something, they can intervene if they feel it is overly solicitous and undermines the purpose of the discussion. Sometimes, she is just seeking clarity on an issue, but she also values Chair Takanishi's perspective. She certainly hopes she is not trying to impose a specific idea on anyone. Perhaps, the safest way for her to interact is to proceed in this manner. Initially, she thought about just calling, but she realizes that may not be effective since it's better for it to be a witnessed interaction.

Chair Takanishi stated that he respected this because managing potential real or hypothetical concepts of interest is essentially the same process you described. Dr. Ignacio's concern is that she has

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questions, but she understands that she fulfills multiple roles. Therefore, she is simply seeking clarity in the process of gathering information. Chair Takanishi believes that it's always wise to go directly to the Executive Officer, as he knows that the Executive Officer and the Deputy Attorney General communicate several times a week, if not at least daily. This is simply how governmental information and board work function.

Dr. Ignacio thanked Chair Takanishi.

Chair Takanishi acknowledged the great questions and asked if the Board Members had any final inquiries for DAG Wong. He reminded Board Members to be mindful that in four minutes, the sun will set, according to Sunshine Law. Since there were no further questions, he asked Ms. Fukunaga if they had addressed all the business on the agenda.

Ms. Fukunaga confirmed that they did.

Chair Takanishi would like to thank DAG Wong for providing a comprehensive overview. He recommends keeping those documents on hand, as they are useful for reference and can help address any questions that may arise. He then asks the Board Members if they have any final comments before adjourning the meeting. There were none.

Next Meeting

Thursday March 13, 2025

Virtual Videoconference Meeting – Zoom Webinar

In-Person Meeting Location: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, HI 96813

Adjournment

The meeting adjourned at 4:27 p.m.

Reviewed and Approved By:

/s/ Chelsea Fukunaga
Ms. Chelsea Fukunaga
Executive Officer

/s/ Dawn Lee
Ms. Dawn Lee
Administrative Assistant

- () Minutes approved as is.
- (x) Minutes approved with changes