

Small Business Regulatory Review Board

MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING September 17, 2020

I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:03 a.m., with a quorum present, which was open to the public.

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Garth Yamanaka, 2nd Vice Chair
- Harris Nakamoto
- Dr. Nancy Atmospera-Walsh
- William Lydgate
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

ABSENT MEMBERS:

- Jonathan Shick

STAFF: DBEDT

Dori Palcovich
Jet'aime Alcos

Office of the Attorney General

Jennifer Polk-Waihee

II. **APPROVAL OF August 20, 2020 MINUTES**

Mr. Ritchie made a motion to accept the August 20, 2020 meeting minutes, as amended. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS** - Before Public Hearing

- A. Re-discussion and Action on the Proposed Amendments to Title 12, Subtitle 8 Hawaii Occupational Safety and Health (HIOSH) Division, Part 11 Elevators and Related Systems, Chapter 229 General, Administrative, and Legal Provisions, promulgated by Department of Labor and Industrial Relations (DLIR)

Discussion leader and Vice Chair Ms. Albitz requested that DLIR's HIOSH Administrator Mr. Norman Ahu provide an update from last month's meeting of the recent stakeholder meeting. Mr. Ahu stated that HIOSH followed-up on the Board's recommendation and met with the major stakeholders where a list of suggestions and improvements were agreed upon.

On September 11th a list of the agreed upon suggestions and improvements was sent to the stakeholders who were anxious to know when the improvements were to take effect. As a result of the mutual agreement all resolutions of violations will now be affirmed by the businesses when they are fixed, and permits will be sent out faster so that an efficiency of time for both HIOSH and the business owners can be accomplished.

Mr. Ahu added that there are still concerns relating to COVID-19 involving HIOSH's limited resources and the current restrictions for neighbor island travel. Due to the resignation of three inspectors, extended timeframes for inspections on neighbor islands were implemented. In the meantime, HIOSH will attempt to continue the work schedule as usual while keeping staff morale up.

Chair Cundiff noted that it was difficult to determine what changes were made to the rules since the last stakeholder meeting. Mr. Ahu responded that most of the agreed upon changes as a result of the stakeholder meeting were operational in nature. These changes are expected to improve upon HIOSH's efficiencies, which were deemed worthy in relation to the amount of the fee increases; the fees will be the same as presented during last month's meeting.

Chair Cundiff commended Mr. Ahu for the great amount of information presented in the packets. He and Vice Chair Albitz also thanked him for understanding the purpose of partaking in stakeholder meetings, which appears to have been used very wisely and productively. Mr. Ahu thanked the Board for its suggestion to meet prior to submitting the rules for public hearing.

Vice Chair Albitz made a motion to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed New Chapters to HAR Title 17, as follows, promulgated by Department of Human Services (DHS)

1. Repeal of HAR Chapter 798.2 Child Care Services and Approval of New HAR Chapter 798.3 Child Care Payments

Discussion leader, Mr. Nakamoto, stated that he recently met with DHS representatives to go over the key areas of the rules and the purpose of the proposed changes; he introduced Ms. Dana Balansag, Child Care Program Administrator from DHS's Benefit, Employment & Support Service Division.

Ms. Balansag explained that although Chapter 798.3 is new, it is substantially based on Chapter 798.2, which is being repealed. The new rules will comply with the federal law, Child Care Development Block Grant Act of 2014 (CCDBG). CCDBG is expected to improve upon the provisions of protecting the health and safety of childcare. It was noted that the federal government has allocated approximately \$20 to \$29 million to Hawaii for this program.

CCDBG helps support Hawaii's statewide childcare licensing program by regulating 900 licensed and registered childcare facilities and homes. It also provides annual childcare subsidy programs to over 3,000 low-income, working families, and provides over 5,000 children access to quality childcare options. Overall, the federal funds provide support and services to promote and ensure healthy childcare for these families and their children.

The 2014 Act made significant changes to CCDGB in order to strengthen the protection of childcare nationwide for parents to make informative choices. The program further assists in child development, provides equal access and stable childcare for eligible children, and enhances the quality of childcare and early childhood workforce.

Chapter 798.3 will bring Hawaii into compliance with the federal requirements; Hawaii was notified that it is currently not in compliance. The new chapter will also implement the health care subsidy eligibility period to 12 months instead of the current six months and may continue up to 3 more months when parents provide information relating to eligible activities such as job training and school attendance.

Regarding the small business impact, Ms. Balansag stated that the unregulated childcare providers, totaling approximately 400, may be more impacted than the regulated providers. In terms of outreach, since 2015, DHS has had many sessions with the childcare community and offers quarterly advisory meetings to more than 100 childcare providers. In addition, DHS has created a health and safety manual guide along with ongoing training.

Chair Cundiff noted that these rules are a long time coming and commended DHS for its great job and hard work in implementing the proposed rules by allowing the stakeholders to work with DHS to help identify areas that were needed to be improved upon.

Mr. Nakamoto made a motion for the proposed new rules to proceed to public hearing. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

2. Approval of Proposed New HAR Chapter 800, Requirements for Listing of Exempt Center-Based Providers

Ms. Balansag explained that exempt centers include sites that offer childcare services such as school campuses and military bases. The proposed rules align with CCDBG, which provide protections to the health and safety of children in childcare centers. Exempt center-based providers who meet the rules' specific requirements are eligible to provide childcare for a child whose family receives a childcare subsidy from DHS.

Exempt providers have the option of choosing any type of training topics DHS has identified that issues a certificate and is appropriate to childcare and to the ages of children served. They may also complete annual health and safety training by signing on for no-cost training classes offered by DHS contract agencies.

Several informational sessions during 2018 and 2019 were held with childcare providers. Also, discussions were held at quarterly childcare advisory committee meetings from 2014 to 2019 to review and discuss the proposed new rules; noted was that no concerns were brought up by the stakeholders at these meetings.

Mr. Nakamoto made a motion to move the proposed new rules to public hearing. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

3. Approval of New HAR Chapter 801 Background Checks

Ms. Balansag explained that the proposed new chapter is based on requirements set forth by the CCDBG Act of 2014, which requires all individuals who work with children or who have unsupervised access to children to undergo comprehensive background checks to be cleared to work with children.

The proposed rule ensures the safety of children in DHS licensed and registered family childcare homes, preschools, infant and toddler centers, before and after school facilities, license exempt centers, and homes by verifying that individuals who work with children or who have unsupervised access to children do not have background history records that pose a risk to children in care.

Ms. Balansag added that individuals will be required to have comprehensive background checks and be cleared in order to be left unsupervised with children. Searches of national and local databases for criminal, sex offender, child abuse and neglect, and adult abuse records will be conducted using the individual's fingerprints and personal identifying information.

An assessment of the background checks may take some time to complete to clear an individual when there is a criminal record, sex offender history, child abuse and neglect record, or adult abuse record. Centers and homes must ensure that there are enough staff that are cleared to work with children so that the staff-to-child ratio requirements are met.

Individuals who have completed the national and state fingerprint checks and have been cleared may begin working or volunteering in DHS licensed and registered family childcare homes, preschools, infant and toddler centers, before-and-after school facilities and exempt centers on a provisional basis while under the supervision of an individual who has completed and cleared all of the comprehensive background checks.

Discussion sessions were held with licensed and license exempt childcare centers between 2016 through the current period in order to solicit feedback on the background check processes. Chair Cundiff thanked Ms. Balansag and her team for the concise and informative information and wished them best of luck in the upcoming public hearings.

Mr. Nakamoto made a motion to move the proposed new rules to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTATIVE MATTERS

A. Discussion and Action on Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS

Mr. Ritchie stated that in terms of outreach, during this time of the COVID pandemic, it is not easy for DBEDT to provide enough outreach services. However, materials on this Board are always included when outreach is performed when all the general programs are discussed by DBEDT. He asked that if any members have any "outside-the-box" ideas besides ZOOM meetings, to let him know.

V. NEXT MEETING - Thursday, October 15, 2020 at 10:00 a.m.

VI. ADJOURNMENT – Mr. Ritchie made a motion to adjourn the meeting and seconded by Second Vice Chair Yamanaka; the meeting adjourned at 10:52 a.m.