

MINUTES

**UTAH
OSTEOPATHIC PHYSICIAN
AND SURGEON'S LICENSING
BOARD MEETING**

October 9, 2008

**Room 2-B – 2nd Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:11 A.M.

ADJOURNED: 10:50 A.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Kent Barnes

Board Members Present:

J. Howard Loomis, DO, Chairperson
Warren A. Peterson, DO
Keith P. Ramsey, DO
William D. Voss, DO

Board Members Absent:

Jane W. Brown, Public Member

DOPL Staff Present:

David Stanley, Division Director

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the July 16, 2008 Board meeting were read.

Dr. Peterson made a motion to approve the minutes with minor revisions. Dr. Voss seconded the motion. **The Board vote was unanimous.**

The minutes from the September 24, 2008 Opt-Out meeting were read.

Dr. Voss made a motion to approve the minutes as read. Dr. Ramsey seconded the motion. **The Board vote was unanimous.**

Ms. Taxin informed the Board that the Opt-Out

Minutes will be posted with the Nursing minutes on the Websites for Physicians, DO's and Nursing.

APPOINTMENTS:

9:20 am

Kent Barnes , Compliance Update

Mr. Barnes explained the Ms. Harry is attending another meeting today and he will conduct the compliance update for the Board. Mr. Barnes explained that he is the manager for the compliance unit. He explained that an updated list of probationers will be distributed at each meeting. Mr. Barnes reviewed the new form that the interviewer will complete during or after the probationary interview. He requested the Board to be sure to document if the probationer is in compliance or out of compliance.

Mr. Barnes updated the Board regarding the compliance or non-compliance of probationers.

Mr. Barnes reported that **Dr. Douglas Callahan** is currently in compliance with his Stipulation and Order.

He stated that Dr. Callahan was also compliant at his last appointment. Mr. Barnes stated that Dr. Callahan is still working on completing the required extra 4 hours of CE.

Ms. Taxin informed the Board that Dr. Callahan's prescription list documents large amounts of prescribing. She recommended the Board review the list. Ms. Taxin stated that it appears that he is prescribing for members of the same families as he has written the same prescriptions on the same days for people with the same last names. She stated that she contacted the database manager and he also stated that it appears to be a lot of prescribing for the time period as controlled substance prescribing should be about 10% to 12% of the practice. She stated that the report is for August and September only.

Dr. Loomis commented that Dr. Callahan had informed the Board that he was using a pain management physician for those patients and the

prescriptions.

Dr. Ramsey stated that if controlled substance prescriptions should be about 10% of the practice then Dr. Callahan would need to see 100 patients a day.

Dr. Voss commented that if the medications are necessary then the patients should be referred to a pain specialist.

The Board agreed.

Mr. Barnes informed the Board that Dr. Callahan's supervising MD did submit his report. He stated that the supervisor documents reviewing 25 charts.

Dr. Peterson stated that he believes the supervisor is to review 10% of Dr. Callahan's charts that the supervisor chooses.

Dr. Voss will conduct the interview.

Mr. Barnes reported that **Dr. Larry Andrew** is currently in compliance with his Stipulation and Order.

Mr. Barnes stated that Dr. Andrew has worked hard to get everything possible turned in for the Board to review. He voiced concerns regarding Dr. Andrew's practice plan as the Stipulation and Order states Dr. Andrew will choose the files to be reviewed.

Ms. Taxin responded that Dr. Andrew will need to update his practice plan as the old one also refers to what he has done the last year.

Dr. Peterson commented that the practice plan also says Dr. Andrew will not do any fertility practice for 2 years and he was incarcerated for the last year.

Dr. Ramsey reminded the Board that there is probably a difference between the criminal requirements and the Division Stipulation and

Order requirements.

Ms. Taxin stated that the Board needs to ask questions of Dr. Andrew to determine what areas of the practice plan need to be updated.

Dr. Ramsey commented that the civil or criminal restrictions was that Dr. Andrew would do no fertility practice where the Division Stipulation and Order does not have that as a requirement. He asked if the Board can require a new practice plan.

Ms. Taxin responded that a new practice plan is appropriate as it needs to be relevant to his current practice. She suggested that Board inform Dr. Andrew that they appreciate his diligence in submitting information but he is now starting fresh with his probation and will need to submit a new and updated practice plan.

Ms. Taxin voiced concern regarding Dr. Andrew selecting random charts for the supervisor to review. She stated that the supervisor should make the random selection. She stated that the supervisor will need to document on the report the system he is using for the random selection. Ms. Taxin reminded the Board that they had approved a course for Dr. Andrew. She stated that she re-approved the course and the information is now in his file.

Mr. Barnes stated that the psychological evaluation does not have the year documented when the evaluation was conducted. He stated that after the Board interview he will take Dr. Andrew to complete the probationary intake information.

9:30 am

Dr. Douglas Callahan, Probationary Interview

Dr. Callahan met for his probationary interview.

Dr. Voss conducted the interview.

Dr. Voss requested Dr. Callahan to update the Board regarding his own perspective on how his practice is going.

Dr. Callahan responded that his practice is doing well. He stated that he is learning some things from his supervisor that he needs to know to be a better practitioner. Dr. Callahan stated that he met with his supervisor on Monday and the supervisor mentioned some more things Dr. Callahan needs to do differently.

Ms. Taxin asked if Dr. Callahan and his supervisor have discussed the issue of prescribing.

Dr. Callahan responded that they have discussed everything about certain patients. He stated that he needs to be sure what is going on with each patient. Dr. Callahan stated that the hard patients to treat are those with no insurance, no money and cannot afford the tests needed. He stated that the supervisor has suggested that if the patient can not afford the tests and treatments then don't treat them as a patient.

Dr. Voss asked if Dr. Callahan's plan was to start treatment and/or testing prior to payments.

Dr. Callahan responded that Dr. Voss is correct and the supervisor has encouraged him to stick to his plan as patients will either come up with the money or go elsewhere for treatment.

Dr. Peterson reminded Dr. Callahan that the last time he met with the Board he had said that pain management was a very small part of his practice but he has continued to prescribe for pain management.

Dr. Callahan responded that Dr. Peterson is correct. He stated that he does not want to treat pain management patients but it is difficult to turn them away as many do not have insurance and cannot afford to go somewhere else.

Dr. Peterson commented that it appears treating chronic pain patients is an issue for Dr. Callahan. He asked Dr. Callahan what he would tell patients if it came down to losing his license or treating for pain management.

Dr. Callahan responded that he would have to say no

to treating the patient.

Ms. Taxin stated that giving patients medications does not necessarily mean that Dr. Callahan is helping his patients.

Dr. Callahan commented that he made a wise choice in his supervisor as he tells him it is his license on the line and he needs to maintain a certain standard.

Dr. Peterson asked if Dr. Callahan's ethics courses have stressed some of these issues.

Dr. Callahan responded that they have stressed some of these issues and he has changed many things in his practice based on his supervisor's recommendations and what he learned in his courses.

Ms. Taxin asked Dr. Callahan if he pulls up his prescriptions on the database.

Dr. Callahan responded that he uses the database only when it appears that there may be a problem with a prescription.

Dr. Peterson asked what problems trigger using the database.

Dr. Callahan responded that he uses it if someone loses their prescription and for ER reports.

Dr. Voss asked how many patients Dr. Callahan sees in a day.

Dr. Callahan responded that he sees 20 to 30 patients a day. He stated that it is closer to 20 patients a day.

Ms. Taxin informed Dr. Callahan that there are 79 pages of prescriptions he has written in the last 6 months with about 22 listed on each page. She stated that Dr. Callahan submitted his triplicate copies. She stated that since July 2008, Dr. Callahan has written approximately 780 prescriptions. Ms. Taxin informed Dr. Callahan that she and the Board review the triplicate copies and the database list of names and amounts to be

sure he is prescribing appropriately. She stated that 2 prescriptions for the same medications and for the same person are concerns that she and the Board have.

Dr. Callahan reviewed the database prescription list. He pointed out one patient and explained that there was one he reviewed with his supervisor. He stated that this patient is on a pain contract and is doing well. He stated that the supervisor has recommended this patient be transferred to a pain management program.

Dr. Loomis commented that patients who take pain medications for a long period of time become physically dependant addicted to the chronic narcotics. He stated that the Physician then has to treat the patient for withdrawal. He asked if Dr. Callahan has considered using Suboxone as there is a good likelihood that the patient can be withdrawn from the drug where the longer a patient is on narcotics the less likely they will ever get off them.

Dr. Callahan responded that he has considered Suboxone as one of the other practitioners in his office prescribed it.

Dr. Peterson asked how the charts are randomly selected for review.

Dr. Callahan responded he tries to have the pain management charts reviewed at each appointment and the other charts are pulled at random by the office staff. He stated that the clinic is moving to electronic files and the supervisor will then be able to go to the computer and look at any of the files.

Ms. Taxin recommended Dr. Callahan provide a list of all his patients and let the supervisor select the files to review or he may continue with the office staff making the selection if the supervisor is comfortable with that system.

The Board determined Dr. Callahan is currently in compliance with his Stipulation and Order. They recommended Dr. Callahan pull the database prescription list and review it carefully for the next

3 months to determine if he is within the normal standard practice in writing prescriptions.

An appointment was made for Dr. Callahan to meet again January 22, 2009.

9:50 am

Dr. Larry Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

The new Board member and Division staff were introduced.

Dr. Ramsey conducted the interview.

Dr. Ramsey stated that it has been about a year since Dr. Andrew met with the Board as Dr. Andrew's trial changed some things for Dr. Andrew. He stated that the Board has Dr. Andrew's original practice plan but the Board needs some clarification on some areas of the plan. Dr. Ramsey referred Dr. Andrew to the area that says he will complete the terms of a criminal sentence. He stated that the criminal sentence requirements are different from the Stipulation and Order requirements. He asked Dr. Andrew to explain the criminal requirements.

Dr. Andrew responded that the criminal requirement is that he cannot practice fertility family practice until after December 4, 2009.

Ms. Taxin commented that it would be helpful to the Board if Dr. Andrew could update his practice plan.

Dr. Ramsey stated that one change in the practice plan would be that he cannot practice any family fertility until December 4, 2009.

Ms. Taxin asked if Dr. Andrew brought the court probation agreement to be included in his file.

Dr. Andrew responded that he did not bring the court probation agreement for his DOPL probationary file. He stated that the legal document also requires that he have no contact with any of the patients or any other

people involved in the case.

Ms. Taxin asked if the no involvement requirement is until next year or indefinitely.

Dr. Andrew responded that he did not know.

Dr. Ramsey asked if the no involvement requirement was for only those people involved in the trial.

Dr. Andrew responded that Dr. Ramsey is correct.

Dr. Loomis stated that there were 8 counts against Dr. Andrew.

Dr. Andrew corrected Dr. Loomis and stated that the no involvement was for all those involved in the no contest trial.

Dr. Ramsey asked if Dr. Andrew was required to pay any fine, be on probation or work with supervision.

Dr. Andrew responded that there was a fine and he paid it. He stated that he is on probation with the courts until December 4, 2009 but there is no supervision requirement as the courts went with the Board's Stipulation and Order for monitoring.

Ms. Taxin suggested Dr. Andrew create a new practice plan and make it reflect his current practice.

Dr. Peterson asked Dr. Andrew who developed the original practice plan.

Dr. Andrew responded the he and his attorney developed the original practice plan.

Ms. Taxin requested Dr. Andrew to include that he will not treat his staff, including treatments for fertility. She stated that he should also include the method by which his charts will be selected for random review by his supervisor. She asked if Dr. Patrick Kronmiller is still going to supervise Dr.

Andrew.

Dr. Andrew responded that Dr. Kronmiller has agreed to be his supervisor.

Dr. Ramsey stated that Dr. Kronmiller should select the charts to be reviewed.

Ms. Taxin stated that Dr. Kronmiller should notify the Board in his next report how the charts were selected and how many were reviewed.

Dr. Peterson commented that Ms. Taxin approved an ethics course. He asked if Dr. Andrew has registered for the course or completed the course.

Dr. Andrew responded that he has registered for the course.

Dr. Ramsey asked Dr. Andrew what year his evaluation was completed as the date is not on the document.

Dr. Andrew responded that his evaluation was completed in 2007.

Dr. Andrew informed the Board that he is currently doing some hormone replacement as he is not on any insurance panels.

Dr. Peterson then disclosed that he is the primary Physician for Dr. Andrew's aging parents. He stated that his discussion with Dr. Andrew's parents regarding Dr. Andrew's situation has been very limited. He informed Dr. Andrew that he received his telephone call and did not respond as it is unethical for him, as a Board member, to discuss Dr. Andrew's situation in private. He stated that all discussion must be here in the formal Board meetings. Dr. Peterson stated that if Dr. Andrew is uncomfortable with him being part of the meeting and discussion for Dr. Andrew's appointments then he will leave during the appointments.

Dr. Andrew responded that he understood Dr. Peterson's position and would not be uncomfortable

with Dr. Peterson participating during his probationary interviews.

Ms. Taxin stated that Dr. Andrew may contact Dr. Peterson in regarding his parents but anything personal regarding his probation must be discussed at the Board meetings.

Dr. Peterson asked Dr. Andrew if he has considered going into some residency programs as it is difficult to open a practice with no insurance payments.

Dr. Andrew responded that he has been unable to locate a residency program that will get him where he wants to be when his probation is completed.

Dr. Peterson asked if Dr. Andrew would be interested in family practice.

Dr. Andrew responded that he is still Board Certified in Family Practice.

Ms. Taxin asked if Dr. Andrew had any questions for the Board.

Dr. Andrew responded that his sister-in-law and her daughter, his niece, have worked for him for a long time. He stated that they want to know if they can come back to work for him in his office or come back to him as their fertility Doctor when he is again allowed to practice fertility. He stated that his previous lab technician comes in and assists when he has patients but he is in a position where he needs family assistants as he cannot afford to pay others.

Ms. Taxin asked Dr. Andrew what he thought he should do.

Dr. Andrew responded that he believes there is a trust relationship with his sister-in-law and his niece as they are family. He stated that he treats them both with the hormone pellet treatment as there are only 2 clinics in Utah who do the hormone pellet treatments.

Dr. Ramsey requested Dr. Andrew to clarify what

the hormone pellet treatments are.

Dr. Andrew explained that hormone pellets are inserted under the skin. He stated that this treatment helps prepare the patient for fertility treatments.

Dr. Loomis referred Dr. Andrew to his practice plan number 6 that says he will not treat any family members. He stated that based on the situation Dr. Andrew should treat the family members or have them work for him but not both.

Ms. Taxin stated that she has seen cases where family members report family members to investigations. She stated that it confuses the role as they are looking to Dr. Andrew as the physician and if the work for him then he is the employer. She stated that the role is confused for him and for them.

Dr. Voss commented that there is also the liability of treating family members.

Dr. Loomis commented that it blurs the boundaries if family members are employers.

The Board recommended Dr. Andrew not treat family members and not have family members as employees.

Dr. Ramsey asked if Dr. Andrew submitted a patient log.

Dr. Andrew responded that Dr. Kronmiller submitted the patient log on Monday.

Mr. Barnes and Ms. Taxin informed Dr. Andrew that the log was not received.

Ms. Taxin asked Dr. Andrew to obtain a copy and send it to the Division for his file. She stated that the letter from Dr. Kronmiller was received confirming that he has read Dr. Andrew's Stipulation and Order and is willing to supervise, submit the reports and assist Dr. Andrew is being successful in his probation. Ms. Taxin stated that

the therapist report has also been received. She stated that Dr. Andrew should get his new practice plan and a copy of criminal probation agreement submitted next week. Ms. Taxin stated that Dr. Andrew is welcome to call if her if he has any questions.

Dr. Peterson again informed Dr. Andrew that the probation is starting over now.

Dr. Ramsey welcomed Dr. Andrew back to the profession and stated that the Board hopes things get better for him.

Ms. Taxin asked if Dr. Andrew has considered working for someone else.

Dr. Andrew responded that he has considered working for his brother in Moab.

Ms. Taxin informed Dr. Andrew that the AMA has a listing of employment position in the back of their newsletter.

Dr. Loomis commented that it might be advantageous for Dr. Andrew to join his brother's practice as insurance panels look at where a person is working.

Dr. Peterson informed Dr. Andrew that he may have to go through an approval process that may take some time. He stated that positions on the Wasatch front might be easier to obtain.

Ms. Taxin informed Dr. Andrew that the Indian community Center near the Franklin Covey Ballpark may have information regarding employment on the reservation.

Dr. Andrew thanked the Board for their suggestions. He stated that he received a letter from the Federal agency saying that he could not work in any Federal facility. Dr. Andrew stated that he believes the reservation clinic is a Federal facility.

Ms. Taxin stated that the only way for Dr. Andrew

to get off the Federal list is to work. She recommended Dr. Andrew contact her later and she will give him a phone number to call regarding reservation work. Ms. Taxin stated that wherever he works he must notify the Division. She stated that there are many probationers going to other areas to complete their probations. She stated that any employer will need to write a letter that they have read the Stipulation and Order and are willing to work with Dr. Andrew.

Dr. Ramsey suggest the Vernal area as they have coal fields and are always in need for someone to treat their employees.

Dr. Andrew responded that he now has some ideas and will check into them.

The Board determined Dr. Andrew is currently in compliance with his Stipulation and Order.

An appointment was made for Dr. Andrew to meet again January 22, 2009.

DISCUSSION ITEMS:

Board Member Training

Ms. Taxin requested this item be deferred until the new Board member, Ms. Brown, is in attendance.

The Board concurred.

2009 Tentative Board Meeting Schedule

The Board noted the following 2009 Board meeting schedule: Thursday, January 22, April 23, Wednesday, July 1 and October 7, 2009.

The Board will review their schedules and confirm the dates at the January 22, 2009 meeting.

NEXT MEETING SCHEDULED FOR:

January 22, 2009

ADJOURN:

The time is 10:50 am and the Board meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

January 22, 2009
Date Approved

(ss) Dr. J. Howard Loomis
Chairperson, Utah Osteopathic Physician and
Surgeon's Licensing Board

October 23, 2008
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational &
Professional Licensing