

MINUTES

UTAH

PHYSICIAN ASSISTANT LICENSING BOARD

BOARD MEETING

August 27, 2009

**Room 210 – 2nd Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:35 A.M.

ADJOURNED: 10:35 A.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Ronda Trujillo

Board Members Present:

Larry Reimer, MD
Jeffrey M. Coursey
Gordon L. Day, PA-C
Maria K. Skedros
D. Wain Allen, MD

Board Members Absent:

Jeffrey P. Clark, MD, Chairperson
David Schmitz, MD

Guests:

Bob Bunnell, U of U Physician Assistant Program

DOPL Staff Present:

Mark Steinagel, Division Director

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Acting Board Chairperson

Gordon L. Day, PA-C, volunteered to act as chairperson today in the absence of Dr. Clark.

MINUTES:

The minutes from the June 4, 2009 Board meeting were read.

Dr. Reimer made a motion to approve the minutes with minor revisions. Mr. Coursey seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

8:50 am

Ronda Trujillo, Compliance Update

Ms. Trujillo updated the Board regarding the compliance or non-compliance of probationers.

Ms. Trujillo reported **Jeffrey M. Pollock** is currently in compliance with his Stipulation and Order. She reminded the Board that they had requested Mr. Pollock discuss with Dr. Moore, his supervisor, to include additional information on the report form.

Ms. Taxin stated Dr. Moore should include information regarding if Mr. Pollock is being professional, documenting properly, working well with patients, etc.

Ms. Trujillo reported **Elmer G. Sisneros** is currently in compliance with his Stipulation and Order and that at the last meeting the Board had discussed early termination.

Ms. Taxin stated if the Board believes a probationer is safe to practice without additional supervision they should recommend termination of probation. She stated motions for termination of probation should be clear regarding the reason for recommending early termination. Ms. Taxin reminded the Board that Mr. Sisneros therapist has recommended early termination based on his belief Mr. Sisneros is safe to practice. She stated the supervisor has stated Mr. Sisneros is appropriate with patients and there have been no complaints.

Mr. Day asked Ms. Taxin to explain the procedure for early termination of probation.

Ms. Taxin responded she believes a probationer should complete a minimum of half the probation, have all requirements completed except the timeframe and be consistently in compliance for early termination to be considered. She stated some probationers request early termination based on being dropped from insurance panels but that is

not a good reason for the Board to consider their request. Ms. Taxin reminded the Board they are to protect the public and must be sure the practitioner is safe to practice.

Ms. Trujillo reported **Alan N. Bybee** is currently in compliance with his Stipulation and Order. She stated there are 2 prescription copies with the same number but one is with Ogden Clinic and one from the Morgan Clinic. Ms. Trujillo stated there are also 2 prescriptions for the same location with the same numbers. She stated there were several prescriptions listed on the database printout that have no triplicate copy. Ms. Trujillo stated she contacted Mr. Bybee and gave him the name of the pharmacies to contact for clarification as one pharmacy was using an expired DEA number and Mr. Bybee stated he had not written prescriptions for the medications. She stated one pharmacy had stated if they do not put in a DEA number then their system will automatically default to any number that has previously been entered.

Ms. Taxin stated Mr. Bybee might have had prescription pad printed for each location with the same numbers. She reminded the Board that she flags the prescriptions she questions for their review and maybe they have no problems.

Dr. Allen asked if the DOPL program automatically downloads from the pharmacies to the database.

Ms. Taxin responded she is not sure but the information must be manually entered originally.

Ms. Trujillo reported **David N. Dodd** is currently in compliance with his Stipulation and Order. She stated he has submitted a letter requesting early termination of his probation and the supervisor, Dr. Nelson, has submitted a letter supporting early termination.

Ms. Taxin reminded the Board that they gave Mr. Dodd some assignments to complete before the Board would consider early termination of

probation. She also reminded the Board that Mr. Dodd is currently employed as a Radiology Technologist. She stated he was successful in his probation and the Radiology Board terminated his probation April 6, 2009, as they believed he was safe to practice. She stated Dr. Nelson has reported Mr. Dodd is getting better with his Physician Assistant (PA) skills. Ms. Taxin stated it is important for Mr. Dodd to be competent as a PA so there will be no complaints if he decided to practice as a PA. She clarified Mr. Dodd is working full time as a Radiologist and part time as a PA. Ms. Taxin stated she would rather continue his PA probation if the Board wants to monitor Mr. Dodd's prescribing. She stated the Board should explain to Mr. Dodd their expectations regarding prescribing practices.

9:00 am

Jeffrey M. Pollock, Probationary Interview

Mr. Pollock met for his probationary interview.

Mr. Coursey conducted the interview.

Mr. Pollock stated the copy of his psychiatric report was sent and should address the Board's concerns. He stated the addiction was addressed with a statement that it is hard to determine recidivism.

Ms. Taxin asked if Mr. Pollock believes he is at risk.

Mr. Pollock responded he does not believe he is at risk. He stated he does not have any urges to use drugs. He stated he knows how much it has ruined his life and he does not want that again.

Mr. Coursey stated there were some conflicts with the copies of prescriptions Mr. Pollock submitted.

Mr. Pollock responded he is aware of some pharmacy errors as Ms. Taxin contacted him. He stated one error was a transfer prescription from a Dentist with the last name of Pollock and the pharmacy picked up the wrong name. He stated another was for a patient in the clinic where he works. He stated Dr. Moore had written and signed the prescription but did not circle

his name at the top. He stated he had a copy faxed over to Ms. Taxin. Mr. Pollock stated he is now ready to talk with the DEA regarding reinstatement of his DEA license. He explained the he does not need it for the clinic where he is employed but would like the DEA number in case he does need it.

Mr. Coursey asked if Mr. Pollock reviews Dr. Moore's reports as the Board had requested Mr. Pollock to talk with Dr. Moore regarding being more detailed in how Mr. Pollock communicates, works with patients and staff, if he is documenting properly, etc.

Mr. Pollock responded he reviews the reports most of the time but did not review the last report. He asked if someone could call Dr. Moore to explain in more detail what should be included in the reports.

Ms. Taxin requested Ms. Trujillo to call Dr. Moore. She complimented Mr. Pollock for doing well in his probation, communicating with the Division/Board and for being on top of the prescriptions that were in question. She asked if he had any questions for the Board.

Mr. Pollock asked if the Board would consider terminating the requirement of drug testing. He explained it is quite an expense and trying to arrange his patients if he is to test and his travel plans so he can still call is difficult at times. He stated he did not miss any drug court tests for the year he was testing and has not missed any DOPL tests. He stated he was taking a drug he had been taking for a long time which was his issue not illegal drugs/alcohol or other controlled substances and if he finds he is having problems focusing he will now go to his therapist first. He stated he has continued to exercise to keep healthy so he does not have to take any medications.

Ms. Taxin stated Dr. John Helfer's, the Psychologist, letter, dated May 22, 2009, stated no one could address Mr. Pollock's risk. Ms. Taxin stated if the Board has any hesitation maybe they should continue the drug testing for another year and then evaluate again.

Dr. Reimer stated he believes the Board talked about terminating the drug testing requirement at Mr. Pollock's last appointment.

Mr. Coursey made a motion to terminate Mr. Pollock's drug testing requirement based on Mr. Pollock never missing a test and all tests being negative.

Dr. Allen seconded the motion.

The Board vote was unanimous.

Ms. Trujillo asked if therapy was recommended.

Ms. Taxin responded therapy was not recommended. She stated Mr. Pollock had a psychological evaluation and psychiatric evaluation. Ms. Taxin stated the evaluations did not really mesh. She suggested Mr. Pollock get therapy if he believes he needs it based on the evaluations.

Mr. Pollock responded he understands there may be times that will be tough and he may need some help. He stated he will go to a therapist for the help. He thanked the Board for terminating the drug testing and stated he has learned if he does not take anything then he will not become addicted.

The Board determined Mr. Pollock is in compliance with his Stipulation and Order.

An appointment was made for Mr. Pollock meet again December 3, 2009.

9:15 am

Elmer G. Sisneros, Probationary Interview

Mr. Sisneros met for his probationary interview.

Dr. Reimer conducted interview.

Mr. Sisneros stated his Heber clinic now offers x-rays of extremities and chest to his patients. He stated the business is slowly becoming busier each month. Mr. Sisneros stated when kids go back to school the

business usually slows down but has sustained itself this year. He stated he still goes to West Valley City once or twice a week now.

Dr. Reimer thanked Mr. Sisneros for the update and stated the supervisor, Dr. Rachot Vacharothone, wrote a very positive report. Dr. Reimer stated Mr. Sisneros and the Board discussed early termination at the last appointment. He asked Mr. Sisneros if he would like the Board to consider the request today.

Mr. Sisneros responded he thinks about being on probation every day. He stated he was reluctant at first but now realizes the requirements he had to complete were for a reason and to assist him in avoiding going down the same path again. He stated a person goes to work every day and does not realize they are in a position of trust in the community. He believes he forgot that. Mr. Sisneros stated the probation requirements and experience will help him to always remember. He stated his marriage is a good one. He stated coming to the appointments with the Board are now a good time to reflect what he has done the last 3 months, 6 months and 9 months and to review his professional ethics. Mr. Sisneros stated being self employed makes him realize he has to be vigilant to the Code of Ethics as he depends on the clinic to support his family which is a big motivator to stick to the high standard of the Code of Ethics in and out of the clinic.

Dr. Allen asked if the clinic has mostly non-insurance patients.

Mr. Sisneros responded Dr. Allen is correct. He stated with the shift in insurance and employment, people are coming in and paying. He stated he is unable to accept Blue Cross, Blue Shield, Aetna and some others while he has a probationary license.

Dr. Reimer made a motion to terminate Mr. Sisneros probation based on Mr. Sisneros being consistently in compliance and having completed all the requirements of his Stipulation and Order except the timeframe.

Mr. Coursey seconded the motion.

The Board vote was unanimous.

Ms. Taxin requested Mr. Sisneros write a letter requesting early termination to complete the documentation in his file.

Mr. Day amended the previous motion to require a letter from Mr. Sisneros requesting termination before Ms. Taxin completes the paperwork.

Dr. Reimer seconded the motion.

The Board vote was unanimous.

Ms. Taxin explained the process for Mr. Sisneros. She stated if the insurance companies request a letter prior to reinstating Mr. Sisneros on the insurance panels to contact her and she will write a letter.

Mr. Sisneros thanked the Board.

9:30 am

Alan N. Bybee, Probationary Interview

Mr. Bybee met for his probationary interview.

Dr. Reimer conducted interview.

Mr. Bybee stated Ms. Trujillo contacted him regarding some errors in his triplicate prescription copies. He stated he checked with the pharmacies and had them change the DEA number to his current and correct DEA number. Mr. Bybee stated there were some prescriptions that were not his but were faxed or called in from the clinic where he is employed. He stated he advised the pharmacies to be certain of who the PA and/or Physician is so they don't make those errors. Mr. Bybee stated there is one prescription that he was unable to reach the Pharmacist but will make contact, get clarification and get the information corrected.

Ms. Taxin recommended Mr. Bybee call the Division investigations if he is unable to resolve the issue. She stated if the prescription was filled at 2

different pharmacies then that is a problem or if the patient had the prescription fill twice.

Dr. Reimer asked Mr. Bybee if he had the prescription pad numbers at both clinics start with the number 1 and to explain why there are 2 number 63 prescriptions for Morgan Clinic.

Mr. Bybee responded there was an error in the printing and number 63 was printed twice. He stated he did have the prescription pads at both clinics start with number 1 so he does not have to carry a prescription pad with him. Mr. Bybee stated the different pads also have the different clinic and Physician names at the top.

Mr. Day asked if Mr. Bybee brought his log with him today.

Mr. Bybee responded he sent the log in with his other information.

Dr. Reimer stated Mr. Bybee's supervisor report is very brief. He asked Mr. Bybee to talk with his supervisor regarding including discussion items, etc.

Ms. Taxin expanded the request to include documentation of prescriptions being appropriate, and his professionalism with staff and patients.

Ms. Taxin thanked Mr. Bybee for researching the issues with his prescriptions. She stated it is helpful for him to know the issues and how to get them resolved.

The Board determined Mr. Bybee is in compliance with his Stipulation and Order.

An appointment was made for Mr. Bybee to meet again December 3, 2009.

9:45 am
David N. Dodd, Probationary Interview

Mr. Dodd met for his probationary interview.

Mr. Day conducted interview.

Mr. Day asked if Mr. Dodd has obtained his DEA number.

Mr. Dodd responded he has not yet as the fee is over \$400.00. He stated he completed the CE for last year and has started the CE for this year.

Mr. Day stated Mr. Dodd's probation is scheduled to be completed in approximately 1 year. He stated the Board discussed early termination of his probation.

Ms. Taxin commented Mr. Dodd has been volunteering as a PA. She asked if he plans to continue the volunteer position.

Mr. Dodd responded the volunteer PA position is very rewarding for him and it helps the clinic. He stated he has a good rapport where is employed and until he seeks a full time position as a PA he is comfortable working in radiology and will volunteer.

Ms. Taxin stated Mr. Dodd's supervisor has reported Mr. Dodd has gotten better in his PA skills. She stated if Mr. Dodd does obtain employment as a PA he should be sure he has the skills so he does not get into trouble again. She recommended he be more aware and speak up if he has questions. Ms. Taxin stated there are some environments that are not the healthiest and he should be careful and ask questions. She stated it appears a structured environment with peers vs. private practice would be better for Mr. Dodd.

Mr. Day summarized by saying Mr. Dodd has been in compliance for the last 4 years and completed all requirements except the time frame. He stated further probation would not add anything nor protect the public further.

Dr. Allen made a motion to terminate probation based on continued compliance and completing all requirements of the Stipulation and Order except the timeframe.

Dr. Reimer seconded the motion.

The Board vote was unanimous.

Mr. Dodd thanked the Board and stated he has learned a lot through the process and if he has any questions he will address them. He asked if he can now write prescriptions for non-controlled substances without the probationary license.

Ms. Taxin responded there is paperwork to complete and as soon as he receives full licensure he may write prescriptions. She then explained the process to Mr. Dodd.

The Board recommended Mr. Dodd contact the DEA regarding the process to again obtain a DEA license.

DISCUSSION ITEMS:

Board Chairperson

Ms. Taxin explained this item will be on the agenda after July 1 each year to give the current Chairperson and the Board the option to retain the current Board chairperson or vote for someone else as chairperson.

Board members requested this item be deferred to the next scheduled meeting in order to have Dr. Clark in attendance when the decision is made.

Item for the December 3, 2009 Board Meeting

Ms. Taxin explained that Bob Bunnell from the U of U is in attendance today. She stated the Association would like to open the Law to make some changes and Mr. Bunnell would like to quickly review the changes for the Board to consider. She stated he has also made some recommendations for the Rules but those will not be reviewed until after the Law has passed as the Board makes the Rule changes. She stated they may consider the Association recommendations.

Mr. Bunnell referred the Board to 58-70a-302 (4), Qualifications for licensure, section (4) regarding updating the credentialing names as the accreditation organization has changed over time.

Ms. McCall pointed out in 58-70a-306(2) the

temporary license is open-ended forever.

Mr. Bunnell responded the intent is for the temporary license to be issued for a maximum of 120 days only.

Ms. Taxin referred the Board to the recommendation by the Association in the Rules, R156-70a-501. Working Relationship and Delegation of Duties, (4) to change the number of FTE's being supervised from 2 to 4.

Ms. Taxin then referred the Board and Mr. Bunnell to the number of Board members in the Law, 58-70a-201. Board. She stated if one PA is added then another person would also need to be added to make an odd number of Board members. Ms. Taxin stated adding to the Board will also require a fiscal note which probably will not be accepted with the economy the way it is right now. She stated this Board is not set up like all the other Board she has and has had as there are more Physicians on the Board than Physician Assistants. Ms. Taxin compared the PA Board to the Physicians Board of 11 members of which 9 are Physicians and 2 are public members, the Osteopathic Physicians and Podiatric Physicians Boards have 4 Osteopathic Physicians or Podiatric Physicians and 1 public member each. Ms. Taxin suggested the Board consist of 5 Board members: 1 to 2 Physicians, 2 to 3 PA's and 1 public member.

Dr. Reimer commented he believes the Board does not need as many Physicians as are currently required. Dr. Allen concurred. They recommended the Board be made up primarily of PA's as it is their Board.

Ms. Taxin stated the use of lasers has become an issue and the PA Law does not address the use of lasers. Ms. Taxin stated the Estheticians now have the Statutory authority to do laser treatments and the Basic Estheticians may do laser treatments with direct and immediate supervision. She suggested the Association include clarification in the PA Law.

Ms. Taxin also suggested the Law have clarification regarding if a PA be the medical director for a facility.

She requested clarification regarding a PA owning a business and still having the Physician supervision.

Mr. Bunnell stated 58-70a-305. Exemptions from licensure. (1)(b) clarifies the medical assistant student.

Ms. Taxin requested the Board to review the Law with the proposed changes and with any additional changes so she can get the information to Mr. Bunnell. She stated she and Mr. Bunnell will co-ordinate and get a draft ready for the Board to review. Ms. Taxin stated the Board could confirm their support for the changes at the December 3, 2009 Board meeting.

Ms. Taxin requested Mr. Bunnell to get her a clean copy to be sent to the Board for review and comments.

Mr. Day asked if Ms. Taxin could do an hour presentation to the Association on ethics.

Ms. Taxin responded she has a lecture on ethics, supervision, boundaries and licensing issues that she gives when requested. She stated if the Association will tell her what they want in the lecture she can then add or take out.

Mr. Coursey stated he has been requested to write an article for the newsletter.

Mr. Bunnell stated there is a meeting April 21 through 24 in Mesquite, Nevada and one in August at Snowbird, Utah. He stated he could give Ms. Taxin the exact dates.

Ms. Taxin requested a letter requesting her to be a presenter as there is still no travel being authorized.

Annual Board Training

Board members requested this item be deferred to the December 3, 2009 meeting and hopefully Dr. Schmitz will be in attendance as he is a newer Board member.

Tentative 2010 Board Meeting Schedule

Ms. Taxin requested the Board to review the tentative 2010 Board meeting schedule and let her know at the December 3, 2009 meeting if changes need to be made.

The Board noted the following tentative dates for the 2010 Board meeting schedule: Thursdays, March 4, June 3, September 23 and December 2, 2010.

NEXT MEETING SCHEDULED FOR:

December 3, 2009

ADJOURN:

The time is 10:35 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.

December 3, 2009
Date Approved

(ss) Jeffrey P. Clark, MD
Chairperson, Utah Physician Assistant Licensing
Board

September 30, 2009
Date Approved

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