

MINUTES

UTAH PHYSICIAN ASSISTANT LICENSING BOARD MEETING

March 1, 2010

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

CONVENED: 8:40 A.M.

ADJOURNED: 10:35 A.M.

Bureau Manager:
Board Secretary:
Compliance Specialist:

Noel Taxin
Karen McCall
Susan Higgs

Board Members Present:

Maria K. Skedros
Gordon L. Day, PA-C
Jeffrey M. Coursey, PA Education
J. David Schmitz, MD

Board Members Absent:

J. Paul Clark, MD, Chairperson
D. Wain Allen, MD
Larry Reimer, MD

Guests:

Bob Bunnell, UAPA

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

MINUTES:

The minutes from the December 3, 2009 Board meeting were read.

Dr. Schmitz made a motion to approve the minutes as read. Mr. Coursey seconded the motion. The Board vote was unanimous.

APPOINTMENTS:

8:40 am

Susan Higgs, Compliance Update

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

Ms. Higgs reported **Alan N. Bybee** is currently in compliance with his Stipulation and Order.

Ms. Taxin reminded the Board that Mr. Bybee requested early termination of his probation when he met in December but the Board wanted to continue monitoring for a time due to the high doses of prescriptions. She stated the Board should address his request but could grant it or wait until his next appointment to give another quarter of monitoring.

Mr. Day asked why Kristin Summers is submitting reports and not Dr. McClellan and Dr. Bruce.

Ms. Taxin responded Ms. Summers is the office manager and provides the employer reports regarding how Mr. Bybee interacts with office staff and patients.

Dr. Schmitz commented the reports are basically check off reports with no additional comments.

Ms. Taxin responded the Board could request a letter from the office manager and his supervisor documenting their reasoning regarding why Mr. Bybee's probation should be terminated early and request more explanation on the reports.

Ms. Higgs reported **Jeffrey M. Pollock** is currently in compliance with his Stipulation and Order.

Mr. Coursey reminded the Board of their discussion at the December meeting to possibly move Mr. Pollock's appointments to 6 months. He asked if a motion to that effect should be made today.

Ms. Taxin responded if the Board believes it appropriate they could make the motion at the end of Mr. Pollock's appointment.

8:50 am

Alan N. Bybee, Probationary Interview

Mr. Bybee met for his probationary interview.

Dr. Schmitz conducted the interview.

Dr. Schmitz informed Mr. Bybee a letter was received regarding the number of chronic pain, ADD and ADHD patients he is treating. He asked if Mr. Bybee brought the two requested charts today.

Mr. Bybee responded he did bring the two charts.

Dr. Schmitz, Mr. Coursey and Mr. Day reviewed the charts.

Dr. Schmitz asked Mr. Bybee to explain the patient with the diagnosis of narcolepsy.

Mr. Bybee explained the patient cannot afford the testing required to verify the diagnosis and he is treating the patient based on the symptoms.

Dr. Schmitz clarified Mr. Bybee is treating the patient for narcolepsy based on symptoms but Mr. Bybee has not completed the required testing to be sure of the diagnosis and cannot document the fact the patient has narcolepsy as he has not completed the appropriate studies. He asked if the practice of making assumptions about patient's diagnosis is common based on history and data when there are economic issues.

Mr. Bybee responded the practice is not common but you do the best you can based on symptoms and finances.

Dr. Schmitz asked if Mr. Bybee believes it is best practice to provide patients with specific medications at their request. Dr. Schmitz clarified, Mr. Bybee is in a small community and he believes patients might come to Mr. Bybee and request medications their previous Physician has given them. Dr. Schmitz stated if Mr. Bybee does give in to the pressure from patients and gives them specific medication he needs to document his reasons. He stated the documentation should include how the patient is responding to medications, other avenues of treatment that have been tried and any reactions to specific medication for patients with chronic pain.

Mr. Bybee responded he has had patients ask for specific medications but not frequently. He explained he has helped a patient with diabetes medication that has lost his insurance.

Dr. Schmitz asked if the one patient in the chart is being seen for follow-up appointments every 6 months.

Mr. Bybee responded the patient is been seen every 6 months as the patient is responding well on the medication and has been stable for about 6 years. He stated he also sees the patient periodically for other medical issues. He stated the patient has chronic pain, anxiety and is seeing a therapist.

Mr. Day asked Mr. Bybee to give some background on the patient whose chart he reviewed.

Mr. Bybee responded the patient has tried different medications for a long time.

Dr. Schmitz stated he noted one patient fill prescriptions in Brigham City and another fills prescriptions in Logan. He stated it is quite a distance from Brigham City and Logan to Morgan where Mr. Bybee practices.

Mr. Bybee responded one patient has Lupus and anxiety, lives in Willard and fills her prescriptions in Brigham City. He stated the patient is also seeing a rheumatologist. Mr. Bybee further explained he other patient has been coming to him since he was 18 and now lives in Logan.

Dr. Schmitz stated it appears the Logan patient has an addiction to codeine as he has frequent refills for his medications. He stated the patient has access to several practitioners in Logan but chooses to travel to Morgan to see Mr. Bybee. Dr. Schmitz asked if it is appropriate as maybe Mr. Bybee is just giving the patient the medications.

Mr. Bybee again stated he has seen this patient since he was 18 due to head and knee trauma. He stated the

patient was on stronger medications but did not want to take them anymore and is now on decreased and manageable medications.

Ms. Taxin commented she has noticed Mr. Bybee knows his patients better then when he first started his probation.

Mr. Bybee responded none of the patients discussed today are new patients. He stated he has treated these patients for years.

Mr. Day asked what percent of Mr. Bybee's patients are on chronic pain medications.

Mr. Bybee responded the patient base is about 4,000 and he treats about 13 patients for chronic pain. He stated it would be about 2% of the patient base.

Mr. Day asked if Mr. Bybee has read the book on Responsible Opioid Prescribing.

Mr. Bybee responded he has read the book several times and attend a course where they also reviewed the book.

Mr. Coursey stated it appears Mr. Bybee has less history with the patient in the chart he reviewed.

Mr. Bybee responded Mr. Coursey is correct. He stated he inherited the patient who works in a production position using her arms all day and is now having back spasms. He stated they have tried several types of medications and the current medication works better for the patient.

Mr. Coursey asked if there had been a CT and if the patient attends Physical Therapy.

Mr. Bybee responded there was a CT which is in the file and the patient is going to Physical Therapy.

Dr. Schmitz stated Mr. Bybee has to look at what is best for his patients. He stated anything the patient takes to overcome their symptoms is what they want to continue taking but might not be medically

the best for them. He stated Mr. Bybee's responsibility is to notify patients of any concerns regarding specific medications and recommend changing the medications so patients are not taking something that can be harmful to them.

Mr. Coursey stated the chart he reviewed has documentation of several discussions regarding long term concerns of the patient's medication. He stated he saw little documentation of trying other options.

Ms. Taxin stated she hoped the feedback is helpful to Mr. Bybee. She stated the documentation is for his protection as well as the patient's protection if anything should happen to the patient.

Dr. Schmitz asked how frequently Mr. Bybee and his supervisor review the chronic pain patient charts.

Mr. Bybee responded he and Dr. McMillan reviewed all the chronic pain patient charts prior to Dr. McMillan writing his report for the Division. He stated Dr. Bruce would review the charts about once every 6 months.

Dr. Schmitz asked if the review is documented in the patient charts. He stated he has his PA's document the reviewed in the charts as a protection for him, the PA's and the patients in case there is a problem.

Mr. Bybee responded they did not document the charts. He stated he and Dr. McMillan decided to have Dr. McMillan co-sign all his charts as he can then see everything Mr. Bybee does each day. He stated that practice will continue after probation.

Mr. Coursey recommended Mr. Bybee document his discussion with Dr. McMillan and document their agreement with the practice plan.

Ms. Taxin stated Mr. Bybee requested early termination of probation. She asked the Board for their conclusion.

Dr. Schmitz responded he believes there are still too many concerns for the Board to consider early termination at this time. He stated he would like to see documentation in place that precludes Mr. Bybee from being at risk. He stated the Board cannot be sure Mr. Bybee is receiving appropriate supervision and the charts are being reviewed as necessary. He stated the reports indicate Mr. Bybee is doing well in his employment as there are no comments regarding any concerns or positives.

Ms. Taxin suggested Mr. Bybee have his supervisor write on the reports that they have discussed specific issues and list what will be incorporated into the practice plan for now and the future. She suggested he inform his supervisor he is trying to have his probation terminated early and ask for his performance, plans and items to work on issues to be addressed. She stated it appears Dr. McMillan relies on Mr. Bybee and has put the responsibility of the Morgan clinic on him but the Board/Division need to be sure Dr. McMillan is supporting Mr. Bybee as a supervisor should.

Dr. Schmitz requested Dr. McMillan specifically address the chronic pain patients and acknowledge the fact he and Mr. Bybee will continue to monitor those patients.

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

An appointment was made for Mr. Bybee to meet again June 3, 2010.

9:10 am
Jeffrey M. Pollock, Probationary Interview

Mr. Pollock met for his probationary interview.

Mr. Coursey conducted the interview.

Mr. Coursey commented on how difficult the holidays can be and asked if Mr. Pollock had worried about slipping up and using drugs during that time.

Mr. Pollock responded the holidays were great and he has had not thought of slipping.

Mr. Coursey asked if Mr. Pollock is working any additional hours with Dr. Moore.

Mr. Pollock responded he has increased his hours to about 30 hours a week. He stated he does not need any additional hours right now but would like to look at other opportunities after his probation is completed.

Mr. Coursey asked Mr. Pollock to update the Board regarding his DEA number.

Mr. Pollock voiced appreciation to the Board/Division for receiving his controlled substance license. He stated he has submitted all information to the DEA and they have now assigned an investigator to his case who should be checking into his situation within the next few weeks. Mr. Pollock voiced understanding that he will need triplicate prescriptions and asked where he might have triplicates printed as their office generates the duplicate prescriptions.

Ms. Taxin stated the Division will contact him after the Board meeting with some information.

Mr. Coursey asked how often Dr. Moore is in the office with Mr. Pollock.

Mr. Pollock responded Dr. Moore is there quite frequently.

Mr. Coursey stated the letter from Dr. Moore is very complimentary and states Mr. Pollock is well received by patients.

Mr. Day stated the Board discussed moving Mr. Pollock's appointments to every 6 months if he was in compliance for this meeting.

Mr. Coursey made a motion for Mr. Pollock to meet again September 23, 2010 based on his consistent compliance with his Stipulation and Order.

Dr. Schmitz seconded the motion.

The Board vote was unanimous.

Ms. Taxin reminded Mr. Pollock to be sure his reports are still submitted quarterly and request his supervisor and the office manager to be detailed regarding the frequency of their meetings and his performance. She stated it would be helpful if Mr. Pollock's supervisor submitted an extra report since he will be meeting in September and that will be one month into the next quarter.

Ms. Higgs stated reports are due May 20 and August 20, 2010.

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

An appointment was made for Mr. Pollock to meet again September 23, 2010.

DISCUSSION ITEMS:

Legislative Update

Ms. Taxin updated the Board regarding the changes in the Law that is before the Legislature at this session. She stated the Board would stay at 7 members with 3 Physician Assistants (PA's), 3 MD's and one public member. Ms. Taxin stated if the proposed Law passes she will review the termination dates of the MD's and try to rotate out the one who will terminate this year for the additional PA. Ms. Taxin stated the public member's, Ms. Skedros, term expires June 30, 2010. She asked if Ms. Skedros would like to serve another 4 year term as she has been a viable public member.

Ms. Skedros responded she is considering requesting to be reappointed and will let Ms. Taxin know.

Mr. Bunnell, UAPA, stated the proposed Law has passed the Senate and should be read in the House tomorrow, Tuesday, March 2, 2010.

Mr. Day asked when the Law would go into effect if it passes.

Ms. Taxin responded the Law would go into effect in May when the Governor signs it. She asked Mr. Bunnell to submit about 3 names of PA's and resumes listing the strengths of each PA for her to review and submit for consideration. Ms. Taxin stated she would recommend all current Board members remain on the Board until the Law does pass.

Mr. Coursey asked Ms. Taxin to review the process of appointing Board members.

Ms. Taxin explained the Association is contacted to submit names and resumes and, sometimes individuals contact her personally and submit their name, resume and a letter of interest to serve. She stated she reviews all and forwards a list to the Division Director to review and send to the Department Executive Director. Ms. Taxin stated the Division and/or Department Executive Director may also have names to include on the list before it is sent to the Governor's office and the Governor may also have someone who they want to serve on specific Boards. She stated the Governor is the final approval and appoints Board members.

Ms. Taxin then continued to review the remaining changes in the sections of the proposed Law. She stated if the Law passes the Division/Board will need to write a Rule to define Temporary Basis of supervision. She stated possibly the supervision could be defined in the Delegation of Services Agreement but would have to be very clearly defined. Ms. Taxin asked how many hours students are required to observe.

Mr. Coursey responded students observe their entire second year on rotations of 3 or 4 months. He stated the goal is for students to be trained in patient care.

Dr. Schmitz responded his students are never left on their own as they are learning to provide patient care.

Ms. Taxin asked if never leaving a student alone should be mentioned in the Delegation of Services

Agreement or would the University be liable.

Dr. Schmitz responded he always has a contract with each student.

Mr. Day asked how all PA licensees would be notified if it should be in their Delegation of Services Agreement.

Mr. Bunnell responded the Association or Division could send notices to all licensees.

Ms. Taxin explained the last section under Unprofessional Conduct may open the door for more PA's to own the practice. She stated the Rule would need to be very clear regarding a legal agreement between all parties and defining the relationship between the Physician and the PA. Ms. Taxin stated there have been a lot of letters and phone calls regarding PA's owning the practice and what is acceptable as people believe the PA is more in control than the Physician.

Ms. Taxin stated the UAPA has requested changing the Rule to allow Physicians to supervise 3 or 4 PA's. She stated one justification is the underserved population need more PA's to give the services. She stated if a Physician is requesting more than two full-time PA's she requests a letter regarding how the public is safe with them supervising additional PA's.

Dr. Schmitz voiced concern of diluting the patient care so the patient is not receiving appropriate care. He stated Physicians also are hiring Nurse Practitioners in place of PA's as the Nurse Practitioner does not require a Physician to supervise.

Mr. Coursey asked if anyone has collected data from other States.

Mr. Bunnell responded he has collected data from all States and some States allow for 2, some 4, some 6 and some do not define how many PA's a Physician may supervise.

Ms. Taxin stated she believes the Law will pass. She requested Board members to e-mail her any recommended language for the new Rules plus suggestions regarding an appropriate number of PA's a Physician may supervise so she can review the responses as she writes proposed Rules for their review and approval.

Ms. Taxin informed the Board that there is an Anesthesiology Bill before the Legislature again this year. She stated if it passes the compilation of the PA Board may change to include an Anesthesiologist and 1 assistant. Ms. Taxin stated she will notify the Board if the Bill passes.

2010 Board Meeting Schedule

The Board noted the following dates for the 2010 Board meeting schedule: June 3, September 23 and December 2, 2010

NEXT MEETING SCHEDULED FOR:

June 3, 2010

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.

May 3, 2010
Date Approved

(ss) J. Paul Clark, MD
Chairperson, Utah Physician Assistant Licensing Board

March 9, 2010
Date Approved

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