

MINUTES

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

July 19, 2012

**Room 402 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:15 A.M.

ADJOURNED: 12:15 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Warren A. Peterson, DO, Chairperson
Keith P. Ramsey, DO
Noel C. Nye, DO
Layne A. Hermansen, DO

Board Members Absent:

Vacant Position

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the April 5, 2012 Board meeting were read.

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

Ms. Taxin's Comments

Ms. Taxin informed the Board that Dr. Peterson has filled his commitment as a Board member but may continue to serve for up to six months if no one has yet been appointed. She voiced appreciation to Dr. Peterson and stated he will be missed.

Dr. Peterson thanked Ms. Taxin for her comments and stated he will also miss serving.

Board members also voiced their appreciation to Dr. Peterson.

APPOINTMENTS:

9:15 am

Debra Troxel, Compliance Update

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

Ms. Troxel reported **Dr. Larry G. Andrew** is currently in compliance with his Stipulation and Order.

Ms. Taxin reminded the Board that Dr. Andrew is nearing the ending date of his probation which is December 7, 2012. She asked if the Board would like to review schedules and meet again closer to Dr. Andrew's completion date. She stated if the Board wants his supervisor to address something specific they need to let him know today. She stated there have not been any additional complaints and he has been in full compliance but she believes he should continue his probation until his time is completed. Ms. Taxin stated there were a couple of areas not filled in on the chaperone log which is very minor but should be brought to Dr. Andrew's attention. She suggested the next Board meeting be moved closer to Dr. Andrew's termination date for him to be able to meet just prior to termination.

The Board reviewed their schedules and determined November 29, 2012 would work for them.

The October 4, 2012 Board meeting date will be rescheduled on November 29, 2012.

Ms. Troxel reported **Dr. Bruce D. Latham** is currently in compliance with his Stipulation and Order as much as possible for a new probationer.

Ms. Taxin explained she issued a conditional

renewal in 2010 based on Dr. Latham's yes answers on the Qualifying Questionnaire. She stated she was waiting for additional information from New Hampshire as they had requested an evaluation which they did not accept as adequate and requested another. Ms. Taxin stated she contacted the New Hampshire representative regarding needing to know what they were going to do as disciplinary action in the Order was unclear. She explained to them that if he has engaged in unprofessional conduct Utah would take disciplinary action. She stated Dr. Latham entered into a settlement agreement with New Hampshire that was disciplinary but was entered as a public reprimand with conditions that looked like probation and she included those conditions in the Utah Order. Ms. Taxin stated New Hampshire was not very informative regarding a termination date and there is no date on the Order. She stated if Dr. Latham practices in Utah he will be on probation and monitored.

Dr. Hermansen commented he did some research and found Dr. Latham was to complete specific CME, which he did, and pass some Board examinations. He recommended the Board ask about the examinations.

Ms. Taxin stated the New Hampshire Order had to do with the quality of care to patients. She read the New Hampshire Order and stated Dr. Latham was required to obtain an assessment of his medical skills, an evaluation of appropriate interaction with patients and staff, be mentored and follow all recommendations of a psychological evaluation, but there were no recommendations and the Board would not accept the evaluation. She stated the Board then found someone else to do an evaluation who said Dr. Latham required monitoring to practice. She stated New Hampshire reported the action to the National Database which is discipline and when she talked with Dr. Latham he agreed to the Utah disciplinary action. Ms. Taxin stated the Board should ask Dr. Latham to address the competency issue.

9:45 am

Dr. Larry G. Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

Dr. Ramsey conducted the interview.

Dr. Ramsey informed Dr. Andrew of his compliance with his Stipulation and Order. He stated there had been chaperone log entries that were not complete.

Dr. Andrew responded he enters the information in the log but the medical assistant does not always sign the log.

Ms. Taxin stated whether Dr. Andrew maintains the log after probation or not he needs to be sure he charts everything. She also recommended he maintain the chaperone after probation for the protection of the patients and his own protection.

Dr. Ramsey stated Dr. Andrew's supervisor noted a staff member left. He asked if Dr. Andrew has hired a new person.

Dr. Andrew responded not yet. He explained the person who left was the office manager and since she left he has taken over managing the office himself.

Dr. Ramsey asked if Dr. Andrew is still in therapy.

Dr. Andrew responded yes. He stated he goes about every two months and it is always beneficial and he stated he is getting some of his children involved now.

Dr. Ramsey commented Dr. Andrew's probation will be completed December 7, 2012. He stated the Board has moved the October 4, 2012, meeting to November 29, 2012, accommodate Dr. Andrew to meet one more time with the Board just prior to termination of his probation.

Ms. Taxin requested Dr. Andrew to have his therapist write a letter of support for termination of probation and to include there are no concerns.

She requested he also ask Dr. Kronmiller to write a final report which includes a full assessment, that he took time to talk with Dr. Andrew's staff, spent some time observing Dr. Andrew and write a thorough report including his support for termination of probation. Ms. Taxin then requested Dr. Andrew to think about the whole experience, what has been positive, what insights he has gained and how he has changed his practice and write his notes for the Board.

Dr. Peterson asked if Dr. Andrew heard from Kosovo again.

Dr. Andrew responded he has had contact with the coordinator and they want him to go back but the group never received reimbursement for the experience and he cannot afford to do it again right now. He stated it was a wonderful experience for him.

Dr. Ramsey congratulated Dr. Andrew for being successful in his probation.

An appointment was made for Dr. Andrew to meet again November 29, 2012.

10:00 am

Dr. Bruce D. Latham, Telephonic Initial Probationary Interview

Dr. Latham met telephonically for his initial probationary interview.

Board members and Division staff were introduced.

Ms. Taxin explained the process for the appointment, informed Dr. Latham that the meetings are recorded but if personal information is discussed, such as mental competency, the meeting may be closed and the recorder turned off for that portion of the appointment.

Dr. Nye conducted the interview.

Dr. Nye requested Dr. Latham to briefly explain what brought him before the Board.

Dr. Latham explained he was working at a Federally

qualified health center in New Hampshire. He stated he resigned his position due to some activities he believes were illegal and for refusing to counsel for abortions due to his religious beliefs. He stated when he started at the clinic he was informed he would have to counsel for abortions as it was in their Federal contract. Dr. Latham stated he settled with the clinic when he resigned. He stated there were complaints from a few patients who he terminated as they were selling their medications. He stated he also filed his own complaint with FQHC. Dr. Latham stated he really did not do anything wrong. He also stated that one of the individuals that worked at the clinic is on the disciplinary Board for New Hampshire.

Dr. Nye asked what New Hampshire requires of Dr. Latham.

Dr. Latham responded the New Hampshire Board requested an evaluation for medical skills and a psychological evaluation which they said was routine. He stated he went through two days of evaluations and filmed practicing on six patients who were actors. He stated a Physician reviewed the films and reported he was doing what was appropriate for someone in practice for 20 years. Dr. Latham stated the second evaluation was at an allopathic facility which required a Board examination. He stated he was not informed ahead of time that there would be an examination so he did not have time to study for it. He stated the psychological interview was about 45 minutes, then he had the MMPI, part II and the evaluator stated he was too rigid in his beliefs. Dr. Latham stated the Board then sent him to a private evaluator who was a Forensic Psychologist, for a three hour evaluation and he reported favorable findings. He stated the Board rejected the evaluation and had him complete another one. Dr. Latham stated the evaluator disagreed with the first one and used another instrument that validated the MMPI. He stated this evaluator commented to give the evaluation justice he should be evaluated based on his religion. Dr. Latham stated the New Hampshire Board recommended he continue to obtain CME and he has done that for the last three years by completing about 50 CME hours per year

and he has found the Osteopathic Physician Conferences helpful. He stated the Board had said if the evaluations recommend therapy then he would need to go to therapy but the evaluations have said it is not necessary.

Dr. Ramsey asked if there are any Osteopathic Physicians on the New Hampshire Board.

Dr. Latham responded for many years there was no Osteopathic Physician on the Board but he believes there was one recently appointed to the Board.

Ms. Taxin asked Dr. Latham to be sure to send copies of all information or changes of his New Hampshire Order to the Utah Board for his file. She stated she will make sure the evaluations are included in his Utah file and will request a copy if all evaluations have not been received.

Dr. Nye asked what came of the complaint with FQHC.

Dr. Latham responded it was reported to the Board and the report was included in his personnel file. He stated he has a very strong contract with the patients he treats for dependency and if they sell or misuse the drugs he can turn them over to the Police. He stated the Police subpoena information from him and he is working very closely with the AG's.

Dr. Nye asked if Dr. Latham believes part of the New Hampshire issue is retribution for turning over evidence.

Dr. Latham responded yes.

Ms. Taxin asked why Dr. Latham signed the Order if he did not do anything wrong.

Dr. Latham responded his attorney advised him to sign as it would be cheaper for him but if he had it to do over he believes he would have taken the case to the Federal Courts to be tried. He stated he did not realize there would be such long term effects.

Dr. Nye asked why Dr. Latham obtained and maintained licensure in Utah.

Dr. Latham responded he comes to Utah once or twice a year and if there was an emergency disaster in Utah he could come out and help but he does not plan to ever practice in Utah.

Ms. Taxin stated Utah will need quarterly updates regarding his compliance with the New Hampshire Board Order and anything he receives or submits to New Hampshire should also be copied and provided to Utah.

Dr. Latham stated the New Hampshire Order is a reprimand and the Utah Order is probation. He requested Ms. Taxin to clarify for him.

Ms. Taxin stated that the New Hampshire public reprimand with conditions is equivalent to a probation in Utah.

Dr. Latham thanked Ms. Taxin for the explanation and stated he is licensed in New Hampshire, Vermont and Utah.

Dr. Hermansen asked if New Hampshire has given any indication when their reprimand will terminate.

Dr. Latham responded there is an indication it will termination in April 2013. He stated he is not sure if the Board accepted the last psychological evaluation and recommendation regarding therapy but the therapist reports are due to New Hampshire every other month.

Ms. Taxin requested Dr. Latham have copies of those reports sent to Utah as well. She also requested a copy of the second evaluation as she does not believe Utah has received that one.

Dr. Latham responded he will get the information to the Utah Board.

The Board determined Dr. Latham is in compliance as much as possible for his first appointment.

An appointment was made for Dr. Latham to meet again November 29, 2012.

The call was terminated.

Dr. Ramsey commented he believes the New Hampshire Board is harassing Dr. Latham.

Ms. Taxin responded that she and the Board have the responsibility to protect the Utah public and if Dr. Latham comes to Utah to work he would need to follow the Utah Order to be monitored and submit reports. She reminded the Board that Dr. Latham signed and agreed to the New Hampshire discipline.

Dr. Peterson asked what happens to the Utah Order if New Hampshire terminates him.

Ms. Taxin responded the Utah Order would also be terminated.

Dr. Ramsey asked if Dr. Latham could have surrendered his Utah license.

Ms. Taxin responded yes.

DISCUSSION ITEMS:

Dr. Nye's Report on FSMB Conference

Dr. Nye reported the FSMB conference was very informative. He stated the resolutions the Board discussed were passed or not passed they way the Board had recommended. Dr. Nye stated National licensure is being pushed by Congress and FSMB is not in favor of National licensure but do believe there needs to be a National minimum standard and then let the individual States decide the specifics for their State licensure.

Dr. Peterson questioned where the checks and

balances would be if there is National licensure.

Dr. Ramsey commented he believes National licensure is coming due to the Federal health care issues and for mobility.

Dr. Nye commented FSMB is looking at a platinum standard of certification for a fast track for licensure in multiple States.

Dr. Nye stated the resolution for FSMB to be a CME provider did not pass. He voiced better insight on what the Board really does and the licensing requirements.

Ms. Taxin informed the Board that yesterday she talked with Hank Chowdry as her group continues to have problems with the FCVS packets being verified in a timely and accurate manner. She stated the Division receives packets with wrong social security numbers, Universities calling us as FSMB has not contacted them for transcripts, etc. Ms. Taxin stated she has questioned if the Division should change the process to require the FCVS packet to be submitted prior to applicants submitting their applications. She stated the first step will be to require applicants to wait 90 days after requesting the FCVS packet before submitting their Utah application. She stated FSMB wants the States to do the uniform application through them and she has said no at this time.

Dr. Nye presented the FSMB Conference plaque to Ms. Taxin.

FYI

Ms. Taxin reviewed a SB 40 Summary for the Board. She stated the Division developed the summary to assist in the reading of the language. Ms. Taxin stated the summary is on the DOPL website for practitioners and the public to read.

Dr. Nye commented esthetic groups are popping up all over Utah right now. He stated he is aware of an engineer who is now doing laser treatments

which is somewhat a dangerous situation. Dr. Nye stated he knows there are also some Estheticians who are doing laser treatments without any supervision. He stated these companies come in with the machines and train the staff to use them and the public thinks they know how to use the machines so it ok. He stated the issue comes in knowing what to do if there is problem.

Dr. Peterson commented some non-medical providers believe they are skin care professionals after a few hours of training on the machines and patients are or could be harmed.

The Board noted the information and thanked Ms. Taxin for her explanation.

Proposed Rules for Naturopathic Physicians
Prescriptive Practice

Ms. Taxin stated the Physicians Board met and had some opinions regarding the Naturopathic Physician Formulary Committee recommendations. She stated the proposed rules were given to this Board and the Physicians Board as a courtesy to review so they are not opposed during a Rule hearing. Ms. Taxin stated Naturopathic Physicians already have the authority to prescribe but they want to amend the formulary to include additional drugs. She stated per comments she received if the Osteopathic Physicians have concerns they should contact the UOA and UMA to go before the Legislature to voice the concerns with Naturopathic Physicians overall prescriptive practice. Ms. Taxin stated there are two issues that have been brought up:

1. Naturopathic Physicians having prescriptive practice; and
2. Naturopathic Physicians expanding the formulary.

Ms. Taxin stated #1 has been in effect for years and is not up for debate/decision right now but Ms. Stewart is requesting feedback on the second issue of the proposal as it was decided years ago that prescriptive practice is in their scope.

Ms. Taxin also requested Board members to review the proposed amendments to be sure they reflect

appropriateness for what they are intended to be used for. She stated the Naturopathic Physicians have justified wanting to prescribe these medications to wean patients off the drugs they are taking as many do not want to return to their traditional Physician for further treatment.

Dr. Hermansen commented Naturopathic Physicians use natural medications. He asked why they are wanting to use the Physicians and Osteopathic Physicians formularies.

Dr. Peterson stated to give permission to use the specific drugs would also allow the Naturopathic Physicians to prescribe the drugs.

Following additional discussion, Dr. Ramsey commented he is not comfortable supporting the proposed Naturopathic Rules as he does not have the knowledge of their complete education.

Dr. Peterson commented the mid-level practitioner has oversight but the Naturopathic Physician does not. He stated he would not support expanding the Naturopathic Physicians formulary.

Dr. Ramsey questioned the safety of the public.

Ms. Taxin, Clarification of Board Member
Appointments

Ms. Taxin explained that letters are sent out to the Associations to submit names for potential Board members. She stated there was no response from the Osteopathic Physicians Association and she called and left a message for the President to contact her regarding names and then sent another letter. She stated she still had no response so she contacted the UMA after the deadline date and Michelle McOmber submitted some names. She stated last year Dr. Nye's name was also recommended by the UMA.

Dr. Peterson stated he wished Ms. Taxin had contacted him as he would have submitted some names as the UMA does not really have the full interest of the Osteopathic Physicians. Dr. Peterson did voice appreciation with the UMA for submitting names.

Dr. Ramsey suggested Ms. Taxin also contact the AOMA as they could recommend someone.

Following additional discussion, Ms. Taxin stated it would be beneficial to have UOA representation at this Board so that the UOA is informed of the Board business.

Dr. Peterson commented there will be a new UOA President in September.

Ms. Taxin suggested the new President come to the next scheduled meeting to meet the Board and Division staff.

CORRESPONDENCE:

NBOME 2011 Annual Report

The Board reviewed the NBOME 2011 Annual Report. **No Board action was taken.**

Lloyd B. Morgan Letter Regarding ABMS Board Certification and Maintenance of Certification Programs

Dr. Peterson briefly explained the information. He stated it is another Board Certification group. He asked if there has been any further discussion regarding accepting Board Certification.

Ms. Taxin responded no.

No Board action was taken.

NEXT MEETING SCHEDULED FOR:

The October meeting date was changed to November 29, 2012.

ADJOURN:

The time is 12:15 pm 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.

November 29, 2012
Date Approved

(ss) Keth P. Ramsey, DO
Chairperson, Utah Osteopathic Physician & Surgeon's
Licensing Board

August 14, 2012
Date Approved

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