

MINUTES

UTAH Chiropractic Physician Licensing Board MEETING

July 10, 2008

Room 474 – 9:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 9:00 a.m.

ADJOURNED: 11:37 a.m.

Bureau Manager:

Sally A. Stewart

Board Secretary:

Penny Vogeler

Board Members Present:

Lew A. Wheelwright, DC
James D Knight, DC
Gordon M. McClean, Jr., DC
Ed Sperry, Public Member

Board Members Absent:

Guests:

Tim Apgood, Utah Chiropractic Association
Teri Ferguson, wife of Jace Ferguson
Jeffrey W. Hill, Attorney/ Dr. Birch

DOPL Staff Present:

F. David Stanley, Division Director
Sally Canavan, Licensing Technician
Debbie Harry, Compliance Specialist

Administrative Law Judge

Steve Eklund

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Mr. Stanley introduced Ms. Stewart as the new Bureau Manager. The Board welcomed Ms. Stewart to the Board.

Judge Eklund discussed with the Board scheduling a hearing. He asked the Board if October 22nd and 23rd would work or if they would like to have the hearing in question on the same day as the Board meeting. It was noted that at least one additional day would be required as well. It was suggested by Dr. McClean that we hold our regular scheduled meeting on October 9th and schedule October 22nd and 23rd for the hearing. It was agreed that the dates were acceptable.

MINUTES:

The minutes from the 04/10/2008 meeting were reviewed. A motion was made by Mr. Sperry and seconded by Dr. McClean to approve the minutes as written. Motion carried unanimously.

NOMINATION FOR CHAIRMAN OF THE BOARD

A new chairman was required for the Board. A nomination was made by Dr. Knight to elect Dr. Lew Wheelwright for the position. A vote was taken and it was unanimous. Dr. Wheelwright accepted the position as Chairman was congratulated by the Board.

PROBATION REPORT

Ms. Debbie Harry presented the probation report for all probationers being seen today.

BUSINESS FROM PREVIOUS MEETING:

Keith Hansen

Ms. Stewart stated she had spoken to Daniel T. Jones about this matter. She was informed that in Mr. Jones's discussion with Karl Parry of the Attorney General's Office it was stated, if Dr. Hansen's practice was diagnostic only it is not considered the practice of a chiropractic physician. The Board disagreed with this conclusion. Ms. Stewart will discuss this at a later date with Dr. Knight.

PROBATION INTERVIEWS:

Michael Wimmer

The Board questioned if Dr. Wimmer should have been brought before the Board today. It was determined that Dr. Wimmer will be seen by the Board at the next meeting in October.

Jace Ferguson

Dr. Ferguson was interviewed by Dr. James Knight. He stated his reasons for appearing before the Board. He has been placed on probation for three years. Dr. Wheelwright discussed that Dr. Ferguson seemed to have "a chip on his shoulder" and the Board suggested his attitude should improve and he should exhibit some remorse. He was reminded he agreed to and signed the stipulation.

It was the decision of the Board to have him next meet with them in April 2009 and July 2009. Mr. Ferguson is **in compliance** with the terms of his order. He asked the Board if he can request early release. It was explained that the Board is not always favorable but he must submit a written request for consideration. Mr. Ferguson discussed an issue of an expungement and was told to have this submitted along with his letter

for early release prior to the **April 2009** Meeting.

Gregory Futrell

Dr. Futrell was interviewed by Dr. McClean. Dr. McClean stated Dr. Futrell's paperwork was all in order. Ms. Harry discussed with Dr. Futrell his being self-employed and that he could have his receptionist submit his employer reports to the Board. He stated he has a very supportive wife and feels things are going quite well. It was suggested he find a mentoring group to meet with as a stress reliever. Dr. Futrell is **in compliance** with the terms of his order. His next meeting with the Board will be in **October**.

Derek Birch

The interview was conducted by Dr. Sperry. Dr. Birch discussed the reasons for his being before the Board which resulted in his probation. He stated he took a course on business ethics at Utah Valley College. He attended every week for 4 hours. He feels this was a remarkable course and would recommend it to others. He stated he has no current stressors and would like to become a better business man and make some changes in his practice.

He stated he has learned to never let his guard down and always be focused. He knows he cannot succeed in business if you do not have proper ethics. His biggest struggle is getting new patients in and building on his practice. It was suggested he take a few courses on self-esteem and prepare a written goal to work towards. He will be seen again at the **October** meeting. Ms. Harry asked for a certificate of his ethics course and also his extra 20 hours of CE. Dr. Birch is **not in compliance** with the terms of his order at this time.

Bruce Nielson

Dr. Knight conducted the interview. Dr. Nielson had submitted several charts to be reviewed by the Board. He is going to a PACE Course in New Jersey. He stated his chaperone issue is going well. He feels he has more security with this procedure. He is current with his CE. He is working with another doctor and also feels his wife is a great source of strength to him. He was reminded he needs to submit a review of the course. He was asked to review the logs with his chaperone. Dr. Nielson is **in compliance** with the terms of his order. He will be seen in **October**.

Dr. Wheelwright reviewed the stipulation with Dr. Garvert. Dr. Garvert stated this has been a very humbling experience. He discussed his reasons for being before the Board. He admitted to this being poor judgment. He has paid all his restitution. He had clerical errors with IHC. He stated there were about 8 to 10 visits that were improperly billed.

Dr. Wheelwright went over the stipulation in detail. It was recommended Dr. Garvert attend the UCSD PACE Course in San Diego. It was also suggested by the Board that Dr. Garvert have his charts reviewed by a Board recommended individual. The Board gave him the name of Carol Haggan. They felt she would do a good job for him. After some discussion the Board felt the cost of \$15.00 per hour plus expenses would be a fair amount for him to reimburse Ms. Haggan for her services. Dr. Garvert will be meeting with the Board on a quarterly basis. Dr. Wheelwright was very positive in his interview and encouraged Dr. Garvert to know that he will get through this stipulation.

DISCUSSION ITEMS:

The Board had some discussion with Mr. Stanley on the issue of retainers. Mr. Stanley would like to see this handled by Larry Gooch and suggested he be invited to the next meeting in October.

Dr. Knight discussed the passing rate for the NBCE Chiropractic Exam and asked if the Board wanted to change from the recommended score of 375. It was discussed and decided to remain with the national recommendations.

ADJOURN:11:37 A.M.

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.

10/09/2008
Date Approved

(ss) Lew A. Wheelwright, DC; Chairperson
Chiropractic Physicians Licensing Board

10/09/2008
Date Approved

(ss) Sally A. Stewart; Bureau Manager
Division of Occupational & Professional Licensing