

MINUTES

**UTAH
DENTIST/DENTAL HYGIENIST
LICENSING BOARD**

April 18, 2008

**Room 474 – 4th Floor – 8:15 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:20 a.m.

ADJOURNED: 1:35 p.m.

Bureau Manager:
Secretary:
Division Staff:

Laura Poe
Shirlene Kimball
F. David Stanley
Kent Barnes, Sr. Business Analyst
Connie Call, Compliance Specialist
Mitchell Jones, Assistant Attorney General
Charles Walton, MD UARP Manager (1:00 p.m.)

Conducting:

Anna Policelli, RDH, acting Chair

Board Members Present:

Brian Lundberg, DDS
Stephen Morgan, DDS
Alexander Larsen, DDS
Anna Policelli, RDH
Pamela Jolley, public member
Brent Larson, DDS
Rich Radmall, DDS

Board Members Excused:

James Ence, DDS
Karen Bateman, RDH

Guests:

Monte Thompson, UDA
Joleen VanBibber, DATC/UDAA
Dr. Donald G. Mantyla, PIE

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

January 18, 2008 Minutes:

Dr. Morgan made a Motion to approve the minutes as amended. Dr. Brent Larson seconded the Motion. All Board members in favor.

March 14, 2008 Minutes:

Dr. Lundberg made a Motion to approve the minutes with corrections. Dr. Radmall seconded the Motion.

All Board members in favor.

Clarification of the Roll of the Compliance Unit:

Dr. Morgan requested clarification regarding the new compliance format and forms. Ms. Poe indicated the changes are being made Division wide with the addition of a new Compliance Unit. Ms. Call will be monitoring the paperwork for the Dentist/Dental Hygienist probationers. Ms. Call explained the new procedures and indicated all reports will be due the 1st day of the month the probationer is scheduled to meet with the Board. Ms. Call reported therapists are submitting letters reporting attendance at therapy, but do not report progress or provide additional information. Ms. Poe stated the Division has a current therapist report that requests additional information and if the Board agrees more information is needed, a copy of this form will be mailed to the probationer. Board members agreed the existing form should be used. Ms. Poe also stated the Division feels it is necessary to have some communication with the practice associate. She questioned whether or not practice associate reports should be required on a quarterly basis when an Order requires an employer report and the probationer is self-employed. Ms. Poe indicated a form could be developed by the Compliance Unit staff, brought before the Board for approval, and then mailed to probationers notifying them the reports must be submitted on a quarterly basis (if the Order requires quarterly reports). Board members agreed there should be some sort of communication with the practice associate and will review the form once it has been drafted.

Connie Call, Compliance Assistant
Compliance Report:

John Myers. Ms. Call reported Dr. Myers has not submitted therapist reports on a quarterly basis and those that have been submitted address attendance, but do not address progress in treatment. Board members indicated therapy is open-ended and the Board relies on the therapist to determine if further treatment is necessary. Ms. Poe indicated that for formality, if termination of therapy is recommended by the therapist, an amendment to the Order needs to be written. Ms. Call indicated Dr. Myer's has not submitted copies of prescriptions written for him as required in the Order. Ms. Call indicated his Order requires he have a practice associate and the practice

associate document he/she has seen the Order. Board members stated Dr. Myers met the terms of this condition when Dr. Rasmussen, the supervising dentist, met with the Board.

Rod Gardner: Dr. Gardner appears to have submitted all required reports. Dr. Gardner was selected for a CE audited and still needs to submit his continuing education hours before he can renew his license.

Rochelle Rasmussen: Ms. Call reported she could not find documentation that Dr. Rasmussen had completed the continuing education requirements; however, the minutes reflect the Board discussed CE with Dr. Rasmussen. Dr. Rasmussen specifically needed to complete hours in Ethics. Dr. Larson indicated the Board had to be flexible for hours in Ethics because these hours are difficult to find. Board members reported Weber State now has a course on Ethics. Ms. Poe questioned whether or not we should accept the minutes regarding the continuing education, or will Dr. Rasmussen need to submit documentation from the beginning of probation? Board members indicated Dr. Rasmussen should have the documentation in her files and she will be asked to provide the CE documentation. If Dr. Rasmussen cannot provide the documentation, the Board will accept the minutes as documentation, however, from this point forward, documentation will need to be submitted for her file.

David Hendrickson: Ms. Call indicated the following documentation is missing from Dr. Hendrickson's file: 1). Completion of the PACE program. 2) Documentation of completion of the record keeping course. 3). Prescription logs. Ms. Call also expressed concern that the controlled substance data base report indicates he continues to write prescriptions for family members.

Dr. Larson stated the Board met with the program director of the Expert Interventions program and the Board accepted the program as meeting the PACE requirement. Ms. Poe indicated there needs to be written documentation from the director of the program to place in the file. This documentation

needs to include the date Dr. Hendrickson started the program, when he expects to complete the program and a statement regarding his progress in the program.

Troy Yates: Ms. Call reported there are no 12-step reports in the file since October 2006 and no PIR reports since October 2007. His Order has not been amended to stop attendance at 12-step meetings and he needs to document attendance. Board members indicated Dr. Yates expressed concern at one time that 12-step meetings were depressing and he was informed he should pick a 12 step group where he would be comfortable. Ms. Poe indicated since PIR is a 12-step program, the Order could be amended to allow for attendance at PIR meetings in lieu of 12-step but he would have to attend meetings at least once a week.

John Israelsen: Ms. Call reported there is no documentation in the file that Dr. Israelsen completed a chemical dependency evaluation, no documentation of attendance at PIR or 12-step meetings, and no therapy reports since 2004. He has missed calling into CVI and missed a urine screen.

Sage White: Dr. White has not provided continuing education documentation on dental recording keeping. Ms. Poe indicated past minutes reflected he has completed the hours, but there is no documentation in the file.

John Myers, DDS
Probation Interview:

Dr. Morgan conducted the interview. Dr. Myers stated he practices one day a week at Dr. Stark's office in Draper doing general dentistry and is paid as an associate. He stated he does not see pediatric patients. He stated he sees his therapist once a month; attends aftercare at UNI and attends AA meetings once a week. He stated he is gathering his continuing education documents and will submit them once he has them complete. Dr. Morgan indicated there are prescriptions written for him that appear on the controlled substance data base report; however, he has not submitted copies of the prescriptions for his file as required in his Order. Dr. Myer stated he had surgery April 2007 and received the prescriptions at that time. He indicated he will submit copies of the

prescriptions.

Dr. Morgan informed Dr. Myer of the new compliance procedures and indicated all reports must be submitted to the Division by the 1st day of the month he meets with the Board. Ms. Call provided Dr. Myer with a therapist report to have Dr. Burch fill out. Dr. Myer stated he does not attend PIR meetings, but does attend AA meetings. Ms. Poe indicated the Order could be amended to allow him to attend AA meetings in lieu of PIR meetings if Dr. Myers were to request the change. **Dr. Myers is out of compliance with the terms and conditions of his Order. He needs to attend PIR meetings and needs to submit copies of his prescriptions.** Dr. Myers will be seen again in July.

Rod Gardner,
Probation interview:

Ms. Policelli conducted the interview and explained the reorganization and new compliance process. Dr. Gardner was informed he will need to submit all paperwork by the first of the month on a quarterly basis (the month he meets with the board). Dr. Gardner stated he is gathering his continuing education to submit for the CE audit. He stated he understands he needs to submit the CE prior to being allowed to renew his license. Dr. Gardner informed the Board he bought a building in Tremonton and is hoping to open his practice at the end of the year. Dr. Gardner stated he feels he has the support of the community and his non-compete clause ends in July. He stated he will continue to work 5 days a week, 3 days in Layton and 2 days in Tremonton. He stated his goal is to work 3 days in Tremonton and 1 ½ days in Layton and have another dentist in the Tremonton office. He stated he only has 11 months left of probation and most likely will not reapply for the controlled substance license. He stated he would continue to have Dr. Hibbert prescribe for his patients. Dr. Larson suggested he develop a good relationship with others and have a good support system in place for the stressful times he will have in his new practice. Dr. Gardner questioned whether or not he could request early termination of probation. Board members indicated he could submit his request in writing, but there is concern with him entering into private practice and the additional stress it will place

on him. He stated he has been clean 5 years 3 days. **Dr. Gardner is in compliance with the terms and conditions of his Order.** He will be scheduled to meet with the Board in July.

Rochelle Rasmussen,
Probation interview:

Dr. Larsen conducted the interview. Dr. Rasmussen reported things are going well, her DEA is current and those issues have been resolved. Dr. Rasmussen reported no change in her practice. Dr. Rasmussen stated she took a business law class from Weber State to meet the ethics course requirement. She indicated she will provide the Board with a copy of the transcript. She stated she is keeping a log of prescriptions written, both on her computer and in patient charts. She stated she does not call in prescriptions; the patients have to be seen in the office and carry the prescription to the pharmacy. Ms. Call explained the new compliance process and that reports are due the 1st of the month she is to meet with the Board. **Dr. Rasmussen will be in compliance upon receipt of the transcripts from Weber State regarding her Ethics course.** She will be seen again in October.

David Hendrickson, DDS
Probation interview:

Dr. Larson conducted the interview. Dr. Hendrickson reported things are going well. He submitted documentation of seven hours of Ethics course work and a copy of his prescription logs. He stated he also completed the Expert Intervention Program; however, he will continue to meet with Mr. Hiner on a monthly basis as long as it is helpful for his family members. Dr. Hendrickson stated the Expert Intervention Program included a workshop on record keeping. Dr. Morgan made a Motion to accept the Expert Interventions program by Bret Hiner as acceptable to meeting the PACE program requirement and as meeting the requirement for the record keeping course. Dr. Larson seconded the Motion. All Board members in favor. Dr. Hendrickson will need to have Mr. Hiner provide documentation of dates of attendance and his progress for his file.

Board members stated it appears he is continuing to prescribe for family members. Dr. Hendrickson reviewed the controlled substance data base report and stated the prescriptions were written in conjunction

with Dr. Mohr. He reported Dr. Mohr is an internist practicing in the same building and who he utilizes to write prescriptions for family members. He stated he gets in touch with Dr. Mohr when a prescription is needed and Dr. Mohr calls in the prescription. He indicated that he did not actually write the prescription and the pharmacy made a mistake and put his name as the prescribing practitioner. Board members indicated he will need to go to the pharmacist, pull the record, and make sure the pharmacist understands the prescription needs to be recorded under the correct prescribing practitioner's name.

Ms. Policelli stated she is concerned with the high number of prescriptions written for patients. His Order does not allow him to write for chronic pain. He stated he only writes a prescription after a surgical procedure. Dr. Hendrickson stated he has developed a form for the patients indicating which over-the-counter medications work best for pain, and has indicated anti-inflammatory medications work almost as well as narcotics if taken correctly. Dr. Hendrickson indicated Dr. Tilt remains his supervising dentist. Dr. Larson stated Dr. Hendrickson is making great progress; he needs to clear up the issue of prescriptions appearing on the controlled substance data base and submit a document from the pharmacist indicating who actually prescribed the medications. This information needs to be submitted by June 1, 2008. **Dr. Hendrickson is out of compliance with the terms and conditions of his Order until he submits clarification from the pharmacy regarding prescriptions written under his name to family members.** His next meeting will be scheduled in July.

Break at 10:25 a.m.
Reconvened at 10:33 a.m.

Troy Yates, DDS
Probation interview:

Dr. Lundberg conducted the interview and explained the changes in the compliance process. Dr. Yates was reminded he will need to submit all required paperwork on the 1st day of the month on a quarterly basis. He is seen by the Board every six months, but the reports are due quarterly. Dr. Lundberg indicated Dr. Yates' Order requires that he attend PIR and 12-step meetings. Dr. Yates stated he has been attending

PIR meetings and aftercare meetings at Positive Adjustments once a week. He stated he has not been attending 12-Step meetings. He submitted documentation of CE attendance. He stated there have been no changes to his practice since he was last seen. He stated he prescribes non-narcotic medications and only an occasional scheduled medication is written by his father, who practices with him. **Dr. Yates is out of compliance with the terms and conditions of his Order. He needs to attend 12-step meetings and submit the documentation.** His next meeting will be scheduled for October.

Paul Martinez, DDS
Probation Interview:

Dr. Morgan conducted the interview. Dr. Martinez stated his practice is going well. He stated he has a total of three employees, including his wife, the other two employees work chair side and are dual trained for the front office. He indicated all employees are aware of his probation. He stated he meets with Dr. Brunson every other week. Dr. Morgan explained the new compliance process and that paperwork will be due the 1st day of the month on a quarterly basis.

Dr. Martinez requested termination of probation. He stated the probation is a cloud over his head, and being in a small community, people use it against him preventing him from being active in the community. He stated he would feel better if his license was returned to normal status. He stated he has been dropped from insurance panels and has lost patients because of the insurance. Dr. Larson stated that, as a general rule, being dropped from an insurance panel is not a valid reason to terminate probation early.

Dr. Martinez stated he has completed all required continuing education, he has had no further relationship problems with his staff and no further allegations have been made against him. He stated he feels ready to terminate probation. Board members indicated he began probation June 2006 which is less than two years. Dr. Martinez indicated he started meeting with Dr. Brunson before he was placed on probation and has been meeting with him from April 2005 until the present. Dr. Martinez stated in his mind, it has been 3 years. Mitchell Jones, Assistant Attorney General reported the ongoing investigation

took over a year. The Board requested Dr. Martinez be evaluated by Dr. Brunson in May 2005 and it took additional time for the investigation to be completed. Ms. Policelli commented that Dr. Martinez has come a long way, but it is still very early in the probation to consider termination. He has completed the requirements, but the Board needs to continue tracking his probation to make sure he remains in compliance. Mr. Jones stated that Dr. Martinez' case is a little different than other cases. His case was not a standard of care issue or a drug abuse issue. It involved sexual interactions with staff members and he is not sure Dr. Martinez needs as much oversight as other probationers. Dr. Martinez is aware that if a similar allegation is brought forth, then DOPL would seek to have the license revoked. Dr. Larson stated he agrees with Ms. Policelli, it is too early in the probation to request the termination. The Order has been amended twice to address his practice. Ms. Poe questioned whether or not he would continue to see Dr. Brunson if his probation is terminated? He stated he would benefit from therapy, but would not see Dr. Brunson. He indicated he would like to start seeing Heath Earl a psychologist in the area. Dr. Larsen stated he would support the termination of probation because if there are more allegations of inappropriate actions with staff, Dr. Martinez knows his license would be revoked. Dr. Larsen stated he does not see a benefit to continuing probation. Dr. Alex Larsen made a Motion to terminate the probation. No second was made and the Motion died. Dr. Larson stated the board could amend the Order and allow Dr. Martinez to switch therapists from Dr. Brunson to a Board approved therapist. Ms. Poe requested Dr. Martinez submit background information on Dr. Heath Earl so the Board can determine whether or not to approve the change in therapists. Board members indicated when the information is received Ms. Poe could speak with Ms. Policelli and make a decision whether or not to accept Dr. Earl as the therapist. Dr. Larson made a motion to deny the request for early termination and to revisit the discussion for termination of probation in six months. Dr. Morgan seconded the Motion. Dr. Larsen abstained. All other Board members in favor. Dr. Martinez stated he would like to go on record to state he will not see Dr. Brunson anymore. **Dr.**

Martinez is in compliance with the terms and conditions of his Order. He will be scheduled to meet with the Board again in October.

Sage White, DDS
Probation interview:

Dr. Larson conducted the interview. Dr. Larson informed Dr. White his file does not have the documentation of completion of a course on dental record keeping. Dr. White stated he had the documentation, passed it around for Board members to review but he did not make a copy for the Board. He stated he will make a copy of the document and submit it to the Board.

Dr. White reported he spoke with yellow page companies and they will make the changes in his ad in their next publication.

Dr. White submitted for the Boards' review two new orthodontic cases and 2 second molar extraction cases. Board members indicated his study models are much improved. Dr. White also submitted the requested information regarding questions Board members had on patients from his last meeting with the Board.

Patient RA: Dr. White reported he discussed with her the potential problems regarding her treatment. She indicated if she has additional problems associated with the treatment, she will contact him. Patient NS: This patient is currently living in Los Angeles and Dr. White indicated he explained the potential problems and offered follow-up care at no charge when he returns to Utah in the summer. Dr. Larson commented that Dr. White has provided good documentation this month. Dr. White stated he has added a new computer record keeping system that has good follow up. He stated he keeps patient documentation in the chart and on his computer. Ms. Policelli had a question regarding patient DM who had a second molar extraction July 2003 and asked Dr. White, in retrospect, if he would provide the same treatment? Dr. White stated yes he would. The only treatment was to extract the 2nd molar. He indicated this patient was a staff member's son and to get this type of result was a miracle. Dr. White stated he hasn't taken out any 2nd molars for two years. Board members indicated they are satisfied with the

resolution for patients RA and MS, but he needs to keep the Board informed of any other treatment. Dr. Larsen questioned whether or not the patient from Delta knows he is not an orthodontist? Dr. White stated yes, he has the patient sign a form that they understand he is a general dentist. Dr. White stated orthodontics is a very small part of his practice. Patient CE just started her treatment and the follow up will be to see if the retainers are ok. Board members would like to meet with Dr. White again in October, and if he is in compliance, his probation would be terminated in November. Dr. Morgan requested documentation that Dr. White has followed up with all the yellow page companies and the mistakes are being corrected. **Dr. White is out of compliance until the continuing education documentation has been received.**

John Israelsen,
Probation Interview:

Ms. Jolley conducted the interview and explained the changes in the compliance process. Dr. Israelsen reported things are going well. He stated he travels a lot on the weekends and informs the Division when he will be unavailable for drug testing. Ms. Call expressed concerned that he is consistently calling in to be excused from drug testing and does not call CVI everyday as required. Ms. Call indicated only a few of the missed calls into CVI were on weekends. The others were during the weekday. Ms. Call indicated he is not excused when traveling and needs to call CVI daily. Dr. Israelsen indicated he has only had to have Dr. Binns or Dr. Curtis write prescriptions for three or four patients in the last quarter. He stated he meets with Dr. Binns and Dr. Curtis every second Tuesday of the month. He stated he has not written any controlled substances and his name should not be appearing on the controlled substance data base. Board members indicated he will need to check with the pharmacist and submit clarification regarding who prescribed the prescriptions attributed to him. Dr. Israelsen stated he only knows one person on the list and will check with the pharmacy. He stated he does not attend PIR meetings. He stated he attends AA meetings twice a month and has a sponsor. He stated he uses his study group as a support group and discusses his issues with this group. Dr. Israelsen stated he thought he had received approval from the

Board to use the study group as support and would not have to attend the PIR meetings. Ms. Poe indicated he could request an amendment to the Order to be allowed to attend the study group in lieu of PIR meetings. Dr. Israelsen stated he sees Dr. Charles Heinz, the therapist once a month. Ms. Call indicated the chemical dependency evaluation has not been received and no therapist reports have been received. Ms. Call requested Dr. Heinz submit a letter indicating how long Dr. Israelsen has been in therapy, how often he attends, and his progress. Dr. Israelsen was reminded to call CVI everyday. A Motion was made to amend the Order to allow Dr. Israelsen to attend study group meeting in lieu of PIR. He must continue to attend 12-step meetings at least twice a month, and attend study group meetings twice a month. The Motion was seconded. All Board members in favor. Dr. Israelsen stated he will not be available to meet with the Board in October and will meet with them in September. **Dr. Israelsen is out of compliance with the terms and conditions of his probation.**

Break at 12:15 p.m.
Reconvened at 12:20 p.m.

John Poulter, DDS,
request for termination of suspension:

Dr. Poulter admitted to an addiction problem in 2001 and relapsed in 2003. He completed treatment, was placed on probation and was doing well. In August 2005 the DEA revoked his DEA license based on the 2003 action. He indicated he went into a depression and due to his poor health he surrendered both his Dental and controlled substance licenses. Dr. Poulter stated he has been clean since September 2003 (for 4 ½ years) and feels he is ready to return to general practice. He stated he last practiced general dentistry 2001. Between 2001 and 2005 his practice was in dental anesthesiology. He stated he has completed some continuing education from Baylor. He stated he does not want the controlled substance license. He indicated he would like to work at the free clinic before going into full practice. He stated he understands that if he were to be licensed, the license would be placed on probation in a supervised practice with conditions. He stated he is doing well in his recovery. He stated he goes online to the SMART site which is a site for people with addiction problems.

Board members indicated he would need to demonstrate skills competency. Dr. Larson suggested he could establish a relationship with a dentist to shadow and practice his skills, then take the WREB skill assessment test. He cannot practice, even community service hours, without a license. Board members questioned what he has done to address his narcotics addiction. He stated after he surrendered his license, he sought treatment at UNI, continued to see the counselor twice a week for six months, got a divorce and restructured his life. He stated he has not felt the desire to be intoxicated for a long time. He stated he has worked the last two years at a rehab center and taught a relapse prevention class. He stated he has been on random urine screens since July. Ms. Poe indicated in order to get his license back, he will need to submit an application with all appropriate licensure documentation, provide documentation of clean urine screens, document attendance at support group meetings, complete the WREB skills assessment evaluation, obtain continuing education hours and submit a current substance evaluation.

Paul Benson: request for termination of probation

Dr. Larsen made a Motion to deny the request for early termination of probation based on the fact Dr. Benson needs to be monitored for a longer period of time. Dr. Larson seconded the Motion. All Board members in favor.

Charles Walton, MD UARP Manager
Presentation regarding Licensee Interviews:

Mr. Stanley explained he felt a compliance unit was necessary for consistency throughout the Division. He requested Dr. Walton provide all Boards with a presentation regarding licensee interviews and to provide training to balance the protection of the public with support and encouragement in recovery.

Mr. Stanley introduced Dr. Walton, who is the Division's Recovery Assistance program manager. Dr. Walton gave the presentation. At the completion of the presentation Board members had several questions for Dr. Walton. Dr. Larsen asked why most of the probation terms are for 5 years. Dr. Walton stated each bureau manager reviews the documents before making a decision; however, in the case of substance abuse, there is very good data that shows an individual has a better chance to succeed in recovery if

he/she is monitored for at least 5 years. If the probation is terminated prior to the 5 year period, there are more relapses. Ms. Poe indicated that at one time the standard was a three year probation, but the individuals were coming back after relapsing. Ms. Poe also stated the Board can decrease the period of probation, but cannot increase the period. Mr. Thompson, UDA, stated he feels the presentation was excellent and is the way to proceed. He stated he didn't see the need for the longer period of time and once the professional is penalized, they are blacklisted, sometimes unfairly, and financially hurt. Ms. Policelli stated she feels this approach offers a balance to protect the public. Ms. Jolley stated the Dental Board already does an excellent job with probationers. Board members thanked Dr. Walton for his presentation.

Environmental scan:

Ms. Policelli made a Motion to nominate Barbara Dixon for Citizen of the Year. Dr. Larsen seconded the Motion. All Board members in favor.

Mr. Thompson stated there is a need to get the word out to dental offices regarding the prescribing of narcotics. It was suggested an article be written to encourage less use of controlled substances and more use of anti inflammatory medications and alternate methods of treating pain. This message could be posted on the Division's Dental web site. It could also be placed in the association bulletin. Dr. Brent Larson and Ms. Jolley will work on writing an article.

Discussion regarding rule revisions:

Discussion tabled.

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 16, 2008
Date Approved

(ss) Anna Policelli
Anna Policelli, Act Chair, Dental/Dental Hygienist Licensing Board

May 16, 2008
Date Approved

(ss) Laura Poe
Laura Poe, Bureau Manager, Division of Occupational & Professional Licensing