

MINUTES

**UTAH
DENTIST AND
DENTAL HYGIENIST
BOARD MEETING**

February 26, 2009

**Room 474 – 4th Floor – 1:30 P.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 1:34 P.M.

ADJOURNED: 4:06 P.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Ronda Trujillo

Board Members Present:

Pamela L. Jolley, Public Member
James N. Ence, DDS
Brian L. Lundberg, DMD, Acting Chairperson
Rich S. Radmall, DDS
Greg T. Beyeler, DDS
Alexander B. Larsen, DDS
Karen S. Bateman, RDH

Board Members Absent:

Anna Policelli, RDH, Board Chairperson
Stephen S. Morgan, DDS

Guests:

Annalisa Rogers
Mindy Zaugg
Dr. Don Mantyla, Professional Insurance
Janell Lewis
Tiffany Malan
Jaclyn Olson
Chelse Baumgartner
Joleen VanBibber
Monte Thompson, UDA
Steven Steed, UDOH

DOPL Staff Present:

Kent Barnes, Sr. Business Analyst

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Acting Chairperson

Dr. Brian L. Lundberg DMD was requested to act as chairperson in Ms. Policelli's absence.

MINUTES:

The minutes from the January 8, 2009 Board meeting were read.

Dr. Ence made a motion to approve the minutes with minor revisions. Dr. Radmall seconded the motion.
The Board vote was unanimous.

Congratulations to Anna Policelli

Ms. Taxin stated Ms. Policelli received the David Low Award from WREB. She explained that David Low was the founder of WREB and a Utah licensee. She stated that award is given for being noteworthy, giving exceptional service for commitment, dedication and professionalism. Ms. Taxin stated it is the highest award WREB gives and will be presented to Ms. Policelli in July 2009. She stated Ms. Policelli is a positive role model and works hard for WREB and the profession.

The Board agreed with Ms. Taxin and will congratulate Ms. Policelli at the next Board meeting.

APPOINTMENTS:

2:00 pm

Ronda Trujillo, Compliance Update

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

Ms. Trujillo reported **Dr. Perry M. Fifield** is currently non-compliant with his Stipulation and Order. Ms. Trujillo stated Dr. Fifield has been in compliance one meeting out of thirteen meetings with the Board.

Dr. Larsen read the letter from Dr. Hibler regarding Dr. Fifield being requested to no longer use Dr. Hibler's office to treat patients.

Ms. Taxin reminded the Board of Dr. Hibler writing letters as Dr. Fifield's supervisor but he informed the investigator he was only supervising when Dr. Fifield was in his office. She stated the investigator is in the final stages of the investigation

before the Order to Show Cause goes through.

Dr. Radmall stated the Board gave Dr. Fifield the assignment of three things at the January meeting and Dr. Fifield agreed to complete the items. He recommended the Board focus only on those three items. He stated Dr. Fifield submitted a hand written prescription log with three patients listed.

Ms. Taxin clarified that the log is Dr. Fifield's response to the requested list of unaccounted for prescriptions at the last meeting. Ms. Taxin stated the Board needs to clarify if Dr. Fifield is or is not working.

Ms. Trujillo reported **Dr. John Israelsen** is currently in compliance. She stated he has been working with Marvin Sims on the database information. She requested the Board to remind Dr. Israelsen that his AA cards are due March 1, 2009 and to be sure to call in every day as he has missed a few days. She stated Dr. Israelsen is having a difficult time with the DEA in obtaining his DEA license back.

Ms. Taxin stated the Board had talked about terminating Dr. Israelsen. She voiced concern regarding his being out of town again and not calling in for drug tests as required. She stated the results from Dr. Israelsen's last test have not yet been received and she would not recommend termination prior to receiving those results.

Dr. Ence recommended Ms. Taxin terminate Dr. Israelsen's probation if the drug test is negative so he does not have to meet again with the Board in March.

2:30 pm

Dr. Perry M. Fifield, Probationary Interview

Dr. Fifield met for his probationary interview.

Dr. Larsen conducted the interview.

Dr. Fifield stated he reviewed the items the Board asked of him at the January meeting. He stated he submitted a copy of the prescriptions he has written in

the last 180 days and there were only two. Dr. Fifield explained the procedures he conducted and the type of CS prescriptions he prescribed.

Dr. Larsen thanked Dr. Fifield for the information. He asked Dr. Fifield to explain his employment situation and he informed Dr. Fifield that he needs to have a new supervisor.

Dr. Fifield responded he is unhappy with payment for services he provided to a patient at Dr. Hibler's office.

Dr. Larsen stated Dr. Hibler sent a letter to the Board regarding their situation. He stated it appears the relationship is no longer in effect. He asked Dr. Fifield to explain the situation.

Dr. Fifield responded he and Dr. Dave Chamberlain are looking for a place in Bountiful. He stated he should have the information available by the March 19, 2009 Board meeting. Dr. Fifield stated he is meeting with the Dental Society on March 6, 2009.

Ms. Bateman reminded Dr. Fifield to submit a new practice plan when the situation is finalized. She stated he should include who he is working with and the address and phone number of the practice.

Dr. Larsen reminded Dr. Fifield that he needs to be working 16 hours a week to work off his probation. He stated the Board hopes the Bountiful situation works out for Dr. Fifield. He then asked what else Dr. Fifield has been doing regarding finding employment.

Dr. Fifield responded that he has sent out several resumes, made phone calls, has had some interviews but no one has called him back for a second interview.

Ms. Bateman asked if Dr. Fifield's probation time is on hold until he is employed and working the required 16 hours or more a week.

Ms. Taxin responded Ms. Bateman is right. She stated the time stops and Dr. Fifield cannot pick up a case here and there on the side and he cannot

prescribe. She stated the DOPL database indicates no prescriptions have been written and that is appropriate. Ms. Taxin stated Dr. Fifield will still meet regularly with the Board. She stated Dr. Fifield will be required to complete the supervision report with a statement that he is not working or he may submit a letter which states he is not working to Ms. Trujillo. Ms. Taxin voiced appreciation that Dr. Fifield paid \$100.00 on his fine. She informed Dr. Fifield to be sure if the Bountiful situation works out to have Dr. Chamberlain submit a letter offering to supervise, stating support to assist Dr. Fifield to be successful in his probation and a resume. She stated he will also need to submit the reports as the supervisor.

Dr. Ence stated Dr. Fifield has the time right now to contact the pharmacies where the prescriptions that are in question have been filled to have them correct the situation.

Dr. Larsen stated Dr. Fifield's status is not in compliance and not out of compliance as he is not currently working. The Board concurred.

An appointment was made for Dr. Fifield to meet again March 19, 2009.

2:45 pm

Dr. John Israelsen, Probationary Interview

Dr. Israelsen met for his probationary interview.

Ms. Jolley conducted the interview.

Ms. Jolley asked Dr. Israelsen if he has been successful in getting his DEA number back.

Dr. Israelsen responded he paid the reinstatement fee, filled out the questionnaire with yes answers and an explanation with specific information and was informed the DEA accepted the application. He stated he wrote one prescription. He stated he contacted the DEA to ask if his number would change and was informed it would change. He stated the DEA person informed him not to write any more prescriptions until a DEA agent contacted him. Dr. Israelsen stated he did not hear from them so he called again and was told

they would contact him when they get to him. He stated he has not called again. Dr. Israelsen stated he has not written any other prescriptions. He stated he reviewed the database list and only one prescription is his. He stated the others under his name were not written by him.

Ms. Taxin cautioned Dr. Israelsen not to write any prescriptions with the DEA number as the DEA can charge him with a Federal offense.

Ms. Jolley recommended Dr. Israelsen contact the pharmacy and have them correct their errors.

Ms. Taxin recommended Dr. Israelsen also contact the DEA and make sure they know he wrote one and stopped until he receives a new DEA number. She stated Dr. Israelsen may also file a complaint to DOPL and let the DOPL investigators investigate the prescriptions he did not write.

Ms. Jolley asked if Dr. Israelsen had his physical.

Dr. Israelsen responded he did have the physical. He stated his blood pressure is up and he has weight he needs to lose.

Ms. Jolley stated Dr. Israelsen missed calling in on some days. She asked him to explain.

Dr. Israelsen responded he did miss calling on some days. He explained he contacted Ms. Trujillo regarding one call where he was at the airport and could not get a line to go through.

Ms. Jolley stated Dr. Israelsen's probation is scheduled to be terminated in March 2009. She stated his reports and AA cards are due by March 1, 2009 to be in compliance.

Dr. Israelsen voiced understanding. He stated he and his brother have purchased a ranch and will be rounding up the cattle. He stated he is not sure he can get through to call in while on the round-up.

Ms. Taxin stated Dr. Israelsen should make a great

effort to call in each day and to get the AA cards in by March 1, 2009 to be prepared for his March 19, 2009 appointment.

The Board determined Dr. Israelsen is in compliance with his Stipulation and Order as the required information has been received. The Board determined he is out of compliance with the commitment to call in each day for the UA testing.

An appointment was made for Dr. Israelsen to meet again March 19, 2009.

Dr. Israelsen commented regarding the point of his receiving his CS license was for the Board to monitor his practice for 3 months prior to termination of his probation. He stated the Board is unable to monitor without his being able to prescribe.

Ms. Taxin recommended Dr. Israelsen e-mail the DEA to let them know his probation is scheduled to terminate in March and ask if they can give him some guidance regarding getting the process completed quickly.

Dr. Ence recommended Dr. Israelsen also send a copy of his CS license to the DEA.

EDUCATION REVIEW:

Dental Assistant Radiology Education Review

Ms. Bateman reviewed the radiology education for the Dental Assistant program. She recommended the program be approved as it follows the guidelines of the Rules.

Dr. David Brizzee, Review WREB and Texas Examination Comparison for Licensure

Dr. Ence reviewed Dr. Brizzee's Texas examination content and the WREB content comparison for 1990. He recommended the license be issued as the Texas examination was equivalent to the WREB examination.

DISCUSSION ITEMS:

Board Meetings – Interviews, Recordings, Travel

Ms. Taxin requested the Board to be cognizant of the meeting being taped as side talk, pencil tapping and paper shuffling is also recorded which makes it

difficult sometimes to hear the conversations.

She reiterated the Executive Order regarding no travel approval at this time for State business. She stated Utah will not be represented at the WREB conference that is coming up as per the Order. Ms. Taxin stated when the Board volunteers to assist WREB it is not for State business and they may participate. She stated she has received a request to identify the person who will serve on the BOD Board as there was some confusion at the last meeting. Ms. Taxin stated it is usually a Dentist but could be a Dental Hygienist.

Dr. Lundberg suggested Dr. Morgan's name be listed.

The Board concurred.

FYI

Ms. Taxin informed the Board of Laura E. Frasier surrendering her Dental Hygienist License.

The Board thanked Ms. Taxin for the information.

Dr. Beyeler asked Ms. Taxin to explain the advantage of surrendering a license.

Ms. Taxin explained Ms. Frasier's surrender is a disciplinary surrender. She stated the advantage is there is no Board hearing, no attorney and Ms. Frasier admitted to certain facts of the case. She stated surrendering is an easier way to resolve some situations as moving forward and not surrendering the licensee takes the chance of the Board recommending the license be revoked.

Dr. Ence stated until the person reapplies and is granted a license they do not meet with the Board.

Ms. Taxin responded Dr. Ence is correct. She stated Ms. Frasier agreed not to reapply for two years with conditions that must be met if she reapplies. Ms. Taxin stated if Ms. Frasier reapplies and is granted licensure she will then be required to meet with the Board. She stated if the case is complicated she may have the person meet with the Board prior to reapplying for the license.

Dentists using IM Ketamine to Sedate Children

Ms. Taxin explained that she has received several phone calls asking if it is appropriate for a Dentist I, II, III or IV to use the drug Ketamine on their patients. She stated one person informed her of Monte Thompson's response to the question by saying a Class I Dentist could use Ketamine. She stated she contacted Dr. Beyeler who informed her that the use of Ketamine is common but should be used by a Class IV Dentist based on the level of sedation.

Dr. Beyeler stated he spoke with his anesthesiologist who informed him of the information given to Ms. Taxin. He explained the person is in deep sedation when Ketamine is used.

Ms. Taxin stated she asked an investigator to call several Dentists and ask the question and get back to her with the answers. Ms. Taxin stated the investigator called only Class II Dentists and they said it was okay, but Class III and IV level Dentists said no. She stated it is an issue if Class I or II Dentists are using Ketamine. Ms. Taxin stated the ADA categories do not match the Utah categories and she wondered if Utah should copy the ADA language in the Law and Rules. She stated the Utah Rules also refer to ADA 1993 guidelines and that version is outdated. She explained the Rule change process is that she would write the language and retain the current categories with better definitions which would parallel the ADA for the Board to review, then write the justification for the change, have the Division and AG review and, if there are no objections, schedule a Rules Hearing.

Dr. Larsen stated a person from Logan who was attending the convention brought the discrepancy to his attention.

Mr. Thompson commented that he did not tell anyone what category of license is required to use Ketamine. He stated he contacted Dr. Gary Crawford who suggested 2 or 3 surgeons to call regarding the use of Ketamine. Mr. Thompson stated Dr. Crawford had said anyone using Ketamine needs to be very careful.

Dr. Ence stated ADA defines sedation where the Utah Rules do not. He stated maybe classifying what the different levels of sedation are and what level of license is required in definitions might be enough. He recommended the update be kept simple.

Ms. Bateman recommended Ms. Taxin also look at the CE area.

Mr. Thompson asked Ms. Taxin to be careful adding hours to the Hygienist as courses for the Hygienists are difficult to locate.

Dr. Ence stated if the Hygienist is a part-time employee it might be better to leave the Hygienist CE hours at 30.

Ms. Taxin concluded she believed she was raising the Dentist and Dental Hygienist bar to be equivalent to other Physicians. She stated she will keep the language she prepared and include the categories for the Board to review.

ADA Anesthesia Definitions/Categories Have Changed and are in Conflict with Utah Rules

This item was discussed as part of the conflict with the Utah Rules discussion item.

Conflict with Utah Rules

This item was also discussed as part of the conflict with the Utah Rules discussion item.

UDA Convention Report

Ms. Taxin requested Monte Thompson to give a short report on the Utah Dental Association Conference as she was unable to attend.

Mr. Thompson reported most of the Board members were in attendance. He stated the feedback was all positive and there were about 6500 people in attendance. Mr. Thompson stated the Association thought the economy might affect attendance but that was not the case. He stated the vendors had positive comments.

WREB Update

Ms. Bateman asked about the new Dental Hygiene examination that has been developed. She stated WREB is changing the way they are going to administer the examination by charging an extra fee

and doing away with the examination fee. She stated there will also be a computerized portion included in the oral examination.

Board members asked if WREB is adding a crown section.

Dr. Lundberg responded there will be a crown section included.

CORRESPONDENCE:

ADA Resolutions Adopted

Ms. Taxin passed this information around for the Board to review.

No Board action was taken.

CRDTS Notification of Withdrawal from ADEX

Ms. Taxin read the letter regarding CRDTS pulling away from ADEX.

Dr. Ence responded he is not sure this applies to Utah. He stated Utah supports WREB. He stated if information is received from WREB then the Board needs to pay attention.

Board members concurred.

James Webb Letter regarding University of Florida providing Radiographic Interpretation Services to Dental Practitioners in Utah

Ms. Taxin read Mr. Webb's letter to the Board and explained he is requesting approval for the University of Florida to provide radiographic interpretation services to Dental practitioners. She explained the Law and Rules provide for consultation without being licensed but do not provide for ongoing consultation and recommendations. She stated if there were any problems and it went to litigation Utah would not have any jurisdiction as they would not be Utah licensees.

Following discussion Ms. Taxin stated she would research the information further.

Dr. Radmall Probationary Interviews

Dr. Radmall informed the Board and Division he was approached by a Dentist probationer who was offended to be interviewed by a Board member who does not hold the same level of license as he does.

Ms. Bateman suggested the Board be sensitive to

this particular probationer and have a Dentist conduct the interview. She recommended Dr. Radmall privately give the name to Ms. Taxin.

Dr. Ence commented the ladies who serve on the Board have the same authority and are as equal as the Dentists who serve.

Ms. Taxin stated the probationer has the right to voice their opinion. She stated the Board members are equal, qualified and able to conduct any interview. Ms. Taxin stated the Board interviews will continue to be conducted in the manner which they have been. She asked Dr. Radmall if he would be comfortable responding to the probationer regarding the discussion.

Dr. Radmall responded he would be comfortable speaking to the probationer.

Dr. Beyeler Probationary Question

Dr. Beyeler asked at what point a person comes before the Board for probation.

Ms. Taxin responded probation is not always based on Dental violations such as a person can be on probation for spousal abuse, child abuse, using and/or selling drugs and many other reasons. She stated if it is a criminal charge she does not like to place the license on probation until the criminal charge is resolved as the requirements of the probation may depend on the outcome.

Dr. Radmall asked what happens if the practitioner pleads out.

Ms. Taxin explained if they take a plea bargain it can be a violation of the Utah Code and DOPL can still put them on probation. She explained if a practitioner received a DUI or had a shoplifting issue but did not disclose it or lied on their renewal then there is a problem. She stated generally there is not concern for one DUI as there would be for numerous DUI's.

Dr. Lundberg asked if the information is in the newspaper does the practitioner have to be

convicted before DOPL takes action and should the Board discuss it.

Ms. Taxin responded there may be an open investigation that the Board may not be aware of and cannot discuss as they are the jury if it goes to a hearing and if they did discuss it they would have to recuse themselves from the hearing. She explained there could be a settlement prior to sentencing where the individual and the AG assigned to the case would stipulate with the Stipulation indicating the facts of what happened to date if the civil case had not yet been completed. Ms. Taxin stated the Division may also take immediate action with an emergency hearing if there is immanent danger or harm to the public. She stated the courts can sometimes take years to settle and the practitioner should not be working if there is immanent danger.

Dr. Beyeler asked if the practitioner retains their license through the whole process.

Ms. Taxin responded you are innocent until proven guilty and that a licensee is given due process. She stated the practitioner would be contacted to meet for discussion if the Division was aware of the violation.

Mr. Thompson commented the courts are harder on people than DOPL. He stated if the judge does not believe there is serious harm to the public they may not do anything to put the license in jeopardy.

Ms. Taxin stated the newspapers are not always accurate. She stated practitioners usually have

attorneys as they know how serious the situation is.

Dr. Beyeler thanked Ms. Taxin and the Board for educating him on the process.

FYI

Ms. Taxin informed the Board that she will be going to Weber State Hygienist school on Monday to lecture regarding the Laws, Rules, application and ethics of the profession.

No Board action was taken.

NEXT MEETING SCHEDULED FOR:

March 19, 2009

ADJOURN:

The time is 4:06 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.

March 19, 2009
Date Approved

(ss) Anna Policelli, RDH
Chairperson, Utah Dentist & Dental Hygienist
Licensing Board

March 10, 2009
Date Approved

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