

MINUTES

**UTAH
OSTEOPATHIC PHYSICIANS
BOARD MEETING**

January 22, 2009

**Room 475 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:08 A.M.

ADJOURNED: 12:45 P.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Kent Barnes, Sr. Business Analyst

Board Members Present:

J. Howard Loomis, DO, Chairperson
Keith P. Ramsey, DO
W. David Voss, DO
Warren A. Peterson, DO
Jane W. Brown, Public Member

DOPL Staff Present:

David Stanley, Division Director
Wayne Holman, Chief Investigator

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Jane Brown as a Board Member

Ms. Taxin conducted the swearing in of Ms. Brown.
Board members welcomed her.

MINUTES:

The minutes from the October 9, 2008 Board meeting were read.

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

APPOINTMENTS:

9:20 am
Kent Barnes, Compliance Update

Mr. Barnes updated the Board regarding the compliance or non-compliance of probationers.

Mr. Barnes reported that **Dr. Douglas Callahan** is currently in compliance with his Stipulation and Order.

Dr. Voss was assigned to conduct the interview.

Mr. Barnes stated the prescription list has been pulled from the CS database with one copy sorted by date and the other by patient names in alphabetical order. He requested Dr. Voss to review the list carefully.

Ms. Taxin explained she reviewed the prescriptions and the list. She stated the prescriptions are written in proper format. She stated there are a lot of prescriptions but she did notice that he has reduced the number from September 2008. She recommended Dr. Voss review the list by month. She stated the majority of the medications are for anxiety and sleep disorders.

Dr. Loomis reminded the Board that at Dr. Callahan's last meeting the Board had said the prescriptive practice should be about 10% of the daily patients he sees which would be about 200 patients per day. He stated Dr. Callahan was to refer the pain management patients out and it appears he has not done that.

Dr. Voss stated he believes Dr. Callahan has completed 2 of his required CE. He asked if Dr. Callahan was scheduled for one more CE training program.

Ms. Taxin responded that Dr. Callahan did complete CE courses through Case Western on Prescribing and Medical Records. She stated she believes he has the knowledge for prescribing but he has said he has a difficult time saying no to his patients.

Dr. Peterson asked if Dr. Callahan's supervisor submitted the requested resume

Ms. Taxin responded that a letter was received from Dr. Callahan's supervisor but no resume was submitted.

Ms. Taxin left the meeting momentarily.

Ms. Taxin returned and reported that Dr. Callahan is waiting for his appointment. She stated she asked him if he has a copy of his supervisor's resume and he is looking for it.

Mr. Barnes reported that **Dr. Larry Andrew** is currently out of compliance with his Stipulation and Order as the required employer report and chaperone log have not been submitted. He stated there is an attachment from Dr. Andrew requesting he be allowed to get back into his practice doing fertility work. Mr. Barnes stated that on page 20 of the court information there is a list of what Dr. Andrew may practice and he may not engage in fertility practice while on their probation. He stated there has been no information submitted regarding any change in the court probation.

Dr. Ramsey was assigned to conduct the interview.

Dr. Loomis stated at the last meeting Dr. Andrew informed the Board that he cannot do any fertility practice until after December 2009 when his court ordered probation is scheduled to terminate.

Dr. Ramsey read Dr. Andrew's last therapy report as it applies to Dr. Andrew's request. He stated the Utah Stipulation and Order requires Dr. Andrew to follow the court guidelines.

Dr. Peterson commented that Dr. Andrew could complete female or male physicals. He stated Dr. Andrew informed the Board at his last appointment that he prepares patients for fertility treatments which include family members.

Dr. Ramsey responded Dr. Andrew might prepare a patient for surgery but another Physician might do the surgery. He stated he believed Dr. Andrew was preparing menopausal and pre-menopausal patients for fertility treatments but not performing fertility treatment.

Dr. Loomis stated the issue is the inappropriate

contact with patients during gynecological examinations. He stated that he is not sure putting something under the skin is an issue but doing physicals which include a pelvic would be a concern to him.

Ms. Taxin stated Dr. Andrew is requesting the Division/Board to remove the restriction regarding his doing fertility treatments. She stated the restriction cannot be removed by the Division/Board as the courts have to remove their restriction since they placed it on him as the Stipulation and Order requires Dr. Andrew to follow the court ordered probation.

Dr. Ramsey stated the Stipulation and Order restrictions may be adjusted if the courts adjust their Order. He stated if Dr. Andrew does female examinations then he is required to have a chaperone and the chaperone is to note the examination in a log.

Dr. Peterson asked if there are any letters from a supervising physician.

Dr. Ramsey responded there is a report which documents Dr. Andrew sees one or two patients a day.

Ms. Taxin stated Dr. Andrew is required to work a minimum of 16 hours a week for the time to count toward his probation. She suggested Dr. Ramsey ask for a clarification of his work hours.

Mr. Barnes reported that Dr. Vaughn Johnson is meeting for the first time for this charge. He stated that the compliance unit likes to see the probationer prior to their meeting with the Board but have not yet met with Dr. Johnson to complete the intake or to review all the requirements of his probation. He recommended the Board ask Dr. Johnson to review what brought him before the Board this time and to inform him that he needs to meet with the compliance unit after his appointment.

Dr. Peterson was assigned to conduct the interview.

Dr. Peterson asked if it would be appropriate to bring up Dr. Johnson's prior probation.

Ms. Taxin responded he could ask Dr. Johnson questions but if Dr. Johnson states he does not want to discuss the prior probation the conversation should be discontinued.

Mr. Barnes reminded the Board that all information prepared by the compliance unit must be returned to him or the Board Secretary when they leave as it is considered to be a private record and cannot be taken as part of their Board file.

9:30 am

Dr. Douglas Callahan, Probationary Interview

Dr. Callahan met for his probationary interview.

Dr. Voss conducted the interview.

Dr. Voss suggested he review notes from Dr. Callahan's last probationary interview. He stated there are approximately 600 prescriptions on the database. He stated the Board made suggestions to reduce his prescribing practices to have a more favorable list on the CS database. Dr. Voss stated it was recommended that Dr. Callahan consult the database more frequently than he had been instead of waiting for something to be brought to his attention in his probationary interview. He stated the Board suggested Dr. Callahan refer his chronic pain patients out when appropriate and possible. He asked Dr. Callahan if he followed through with any of the recommendations.

Dr. Callahan responded that the recommendations helped. He stated he reviewed many of his patients who were receiving medications and referred several patients out. He stated he has reviewed patient charts that he had concerns about with his supervisor and they checked off that the patient met the criteria they have prepared. He stated if the patient meets the criteria he sees them but if they do not then he refers them out. He stated he has changed his practice and is

taking no new pain management patients. Dr. Callahan stated a few Physicians in his area have retired and he was the referred Physician. He stated he did take some patients but referred several to other Physicians. Dr. Callahan stated he tries to make sure the older patients are on long lasting pain medications and not on the short acting.

Dr. Voss stated the Board has reviewed the new CS database and there are about 943 CS prescriptions documented. He stated there are not as many CS narcotics as there was on the last report.

Dr. Callahan responded he has also been receiving the reports and has noticed some of the prescriptions listed are not his. He stated it first came to his attention when he received a letter from an insurance company and found some of the CS prescriptions listed under his name were his father's. Dr. Callahan stated he contacted the Pharmacy and informed them it was a real problem for them to use his name on a prescription that should have another Physicians name on it. He stated the Pharmacy apologized and said they would be more careful to be sure it does not happen again. He voiced his shock of the situation and stated that maybe some of his prescriptions are listed on his father's CS list.

Ms. Taxin stated the mix-up should not happen. She stated the Pharmacy is required to have the correct prescribing Physician listed. Ms. Taxin stated if there is a problem in the future for Dr. Callahan to contact her and she will refer it to investigations.

Dr. Voss stated it appears Dr. Callahan understands as rarely does the CS Database document anything less than 30 tablets and there are mostly 60 or 90 tablets being prescribed. He stated Dr. Callahan could prescribe 15 or 20 to curb patients from over using. Dr. Voss stated there are many prescriptions for sleep disorders. He stated patients can be educated on what to do to help them sleep. He suggested Dr. Callahan prepare a standard educational list to give his patients. He recommended Dr. Callahan take some

CME about sleep and non-prescriptive aides. Dr. Voss suggested Dr. Callahan give his patients options and then they will know he is their advocate and concerned about their sleep.

Ms. Taxin stated there is a sleep clinic at the University of Utah and Dr. Callahan may want to check with them for information to prepare handout for his patients but also to assist him in his practice.

Dr. Voss stated that the names on the CS database list that are concerns are multiple family members who are receiving significant quantities. He stated there may be a risk that the family members are sharing the medications.

Dr. Voss stated Dr. Callahan's supervisor documents issues they have discussed on one form but did not say they reviewed or discussed anything on the last form. He stated the supervisor needs to be more descriptive on what he is noticing about Dr. Callahan's medical practice and prescribing, etc. He stated leaving the form blank leaves the Board in the dark regarding supervision progress.

Dr. Callahan responded having his supervisor review his practice has been a good experience and has helped him change some things in his practice to be a better practitioner.

The Board determined Dr. Callahan is in compliance with his Stipulation and Order but voiced concerns again regarding his prescriptive practice.

An appointment was made for Dr. Callahan to meet again April 23, 2009.

9:45 am

Dr. Larry Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

Dr. Ramsey conducted the interview.

Dr. Ramsey stated the Board received Dr. Andrew's letter requesting the Board or Division

write a letter to the courts regarding changing his Stipulation and Order to lift the restriction on his license. He read the letter to the Board and then requested Dr. Andrew to respond.

Dr. Andrew responded it has been extremely difficult to maintain his practice as he is no longer on any insurance panels and has to have cash from all patients. He stated he was only on two panels prior to going to jail as insurance does not pay well or timely. He stated OIG sent him a letter informing him that he is off all insurance panels for 5 years and cannot work where there are any Federal programs. He stated a review of his case with the courts is scheduled for March 2009 and may or may not take place. Dr. Andrew stated he was hoping the Board/Division would write some letters regarding his Stipulation and Order requirements are only to follow what the courts require. He stated patients and others are writing letters for him.

Ms. Taxin suggested Dr. Andrew contact OIG. She suggested he ask OIG what he can do to get the restriction taken off as he cannot even do janitorial work at an agency that receives Federal funding. Ms. Taxin provided Dr. Andrew with an OIG contact.

Dr. Andrew thanked Ms. Taxin for the information.

Dr. Ramsey commented in regard to Dr. Andrew's letter stating the restriction not to practice fertility medicine was to satisfy the media and a frustrated patient appear to minimize his actions for which he served time in jail. He stated when he reviews the documentation of what brought Dr. Andrew before the Board and hears the letter it appears Dr. Andrew is not taking responsibility for his actions. He commented Dr. Andrew's therapist has reported that Dr. Andrew needs to take responsibility for his offenses without justifications or minimizing. Dr. Ramsey stated the Board wants Dr. Andrew to get back into practicing medicine and are here to help him be successful. He stated Dr. Andrew's statement does not appear that Dr. Andrew is going in the right direction.

Dr. Ramsey stated the restriction of doing fertility practice is not a restriction placed on Dr. Andrew by his Stipulation and Order with DOPL but is a restriction from the courts. He stated he does not understand where the Board has a duty to write any letters as they were not part of the courts decision. Dr. Ramsey stated the only jurisdiction the Board has over Dr. Andrew is to monitor him on the requirements of his Stipulation and Order.

Dr. Loomis commented that Dr. Ramsey has reviewed the concerns of the Board. He stated it would not be appropriate for the Board to write a letter as the Board has seen a possible disconnect of Dr. Andrew taking responsibility for his actions.

Ms. Taxin stated Dr. Andrew has only met once with the Board for his probation. She stated the DOPL Stipulation and Order supports the court order in that it requires Dr. Andrew to follow the court requirements.

Dr. Peterson stated Dr. Andrew had informed the Board that he was going to take an ethics course. He asked if the course has been completed.

He responded he is scheduled to take the ethics course in February.

Dr. Peterson stated the court order clearly states that Dr. Andrew is to do no fertility procedures for the period of his probation. He stated Dr. Andrew shared that he is preparing patients for fertility treatments. He asked Dr. Andrew to clarify the comment.

Dr. Andrew responded he is not doing any fertility treatments but is doing hormone therapy by using hormone pellets for thyroid problems and other things. He stated the hormone therapy is not fertility related.

Dr. Peterson reminded Dr. Andrew that he is required to work a minimum of 16 hours a week for the probation time to count. He asked Dr. Andrew how many hours a week he is working.

Dr. Andrew responded he is averaging about 8 hours of work a week at the most. He stated he is in his office all week and reads articles, etc.

Dr. Ramsey stated the Board is trying to find out how they can count Dr. Andrew's hours up to 16 hours a week.

Dr. Loomis asked Dr. Andrew to add up the patient visits, the paperwork that needs to be done, his filing and all other duties for a total.

Dr. Andrew again responded he does about 8 hours a week.

Ms. Taxin asked if Dr. Andrew is seeing patients as there was no chaperone log submitted.

Dr. Andrew responded he does see some patients and keeps the chaperone log as required. He stated he submitted the chaperone log to his supervisor to submit.

Ms. Taxin explained the supervisor submitted the log with his last report but did not send it with the current report. She stated the chaperone log and supervision report may be sent together but Dr. Andrew should be sure the log is sent. She asked Dr. Andrew to talk with his supervisor regarding completing the supervision form as the Board would like the supervisor to address the following:

- 1. how many charts were reviewed,**
- 2. if any concerns were noted,**
- 3. how the concerns were addressed,**
- 4. how he and Dr. Andrew are addressing the issues of his overall practice,**
- 5. if Dr. Andrew is setting appropriate boundaries,**
- 6. if Dr. Andrew is documenting in his charts appropriately; and**
- 7. the chaperone log is being maintained.**

Ms. Taxin stated it might be advantageous for the supervisor to give Dr. Andrew a copy of the reports and/or any information he submits to the Division. She reminded Dr. Andrew that all information is

due by the 28th of the month. She stated the supervisor could fax the information to Ms. Harry today or by Monday as there may have been some misunderstanding.

Dr. Andrew responded he will talk with his supervisor and be sure the information is faxed by Monday.

Dr. Ramsey stated Dr. Andrew mentioned he has family members coming to see him. He reminded Dr. Andrew that his Stipulation and Order requires he not treat any family members.

Dr. Andrew responded he does see cousins, uncles, aunts, etc.

Ms. Taxin commented he may see family members but must have a chart for each patient whether it is family member or not.

Dr. Loomis commented he believes the confusion was at the last appointment Dr. Andrew had disclosed he had a family member working for him and the Board had said he could not have a family member as an employee.

Dr. Ramsey clarified the Stipulation and Order requires he not treat staff. He then stated at the last appointment the Board had made some recommendations regarding employment and Dr. Andrew had mentioned the possibility of working with his brother. He asked if Dr. Andrew had followed up on the suggestions or with his brother.

Dr. Andrew responded his brother has Medicare and Medicaid patients and he and his brother will get into trouble if he works with his brother or anyone else as he is not on any insurance panels.

Ms. Taxin suggested the 5th Street Clinic. She stated she does not know how they are funded but Dr. Andrew might ask if they need any volunteer people. She again suggested Dr. Andrew contact OIG and let them know he is on probation but can work in the profession and see if they will lift the restriction. She recommended he write down his

questions prior to calling. Ms. Taxin stated it will not be an easy process. She suggested he send them a copy of his Stipulation and Order and the court order and ask for a review with a committee so he can talk with them.

Dr. Andrew responded he will contact OIG. Dr. Andrew explained he pled no contest to the accusations as he was guilty of some but not guilty of others. He stated the accusations could not be separated and everything listed is not factual. He stated he lost everything and is trying to accept responsibility for what he did. He stated he has made many errors but there are things that he is not accountable for.

Dr. Ramsey recommended Dr. Andrew increase his practice as best he can, work with the courts regarding the restrictions but follow the court probation and follow-up on the OIG letter he received.

The Board determined Dr. Andrew is out of compliance with his Stipulation and Order.

An appointment was made for Dr. Andrew to meet again April 23, 2009.

10:00 am

Dr. Vaughn Johnson, Initial Probationary Interview

Dr. Johnson met for his initial probationary interview.

Board members and Division staff were introduced.

Dr. Peterson conducted the interview.

Dr. Peterson requested Dr. Johnson to briefly explain what brought him before the Board.

Dr. Johnson explained he had a Physician Assistant (PA) working for him that he thought was licensed as she kept saying she was waiting for her license to arrive in the mail. He stated he pre-signed prescriptions for her not knowing he had to have a professionally established relationship with the patient for controlled substances (CS's) to be prescribed. Dr. Johnson stated he discontinued the pre-signed

prescriptions for the PA when she received her license but unfortunately a patient died.

Dr. Peterson asked if Dr. Johnson had a written contractual agreement with the weight loss clinic.

Dr. Johnson responded he did have a written contractual agreement prior to the incident. He stated he was listed as a consultant so the weight loss clinic could say they were under the direction of a Physician. He stated he also used very poor judgment when he accessed the CS database for a patient and gave the information to a family member of the patient based on a recommendation of an attorney.

Dr. Peterson asked how this probation relates to Dr. Johnson's previous probation.

Dr. Johnson responded he did not have an attorney for the previous probation and the rippling effects were huge. He stated he signed the document the investigator told him to sign. He stated he and his PA attended several courses regarding implementing protocols for chronic pain patients. Dr. Johnson stated he no longer treats any chronic pain patients. He stated he understands why the Board and Division would have concerns as he just got off probation and now he is back on probation.

Dr. Peterson asked what the focus was for the 2002 and 2003 courses Dr. Johnson completed.

Dr. Johnson responded the focus was on chronic pain and pain medications, controlled substances and documentation. He stated the next course was a PACE course which spent minimal time on CS information and the rest was on coding for documenting patient visits.

Dr. Peterson clarified both courses were on prescribing CS's to patients. He read section 7a of Dr. Johnson's Stipulation and Order which requires Dr. Johnson's supervising Physician to meet with the Board at the first appointment after signing the Stipulation and Order. He asked where Dr. Johnson's supervisor, Dr. Templeton, is today.

Dr. Johnson responded Dr. Templeton is not here today as he is out of the country frequently.

Dr. Peterson stated Dr. Templeton's letter notes his practice has shifted from clinical work to research and he is now primarily retired. He stated the letter does say he will be out of the country on a frequent basis and will be unable to meet with Dr. Johnson on a weekly basis. Dr. Peterson asked if Dr. Johnson still believes this proposed supervisor meets requirements as a supervisor. Dr. Peterson continued that Dr. Johnson was on probation and is now back and he took specific courses and now he has to take them again. He stated there are some areas of real concern to the Board and he wonders if Dr. Johnson is strong enough to withstand people preying on him.

Dr. Johnson responded he has changed since he was on probation before. He stated he had no restrictions on his CS license. He explained he had the weight loss clinic write triplicate prescriptions and turn them in for his review each time he met with them. He stated he did not know the PA had his own DEA number, a CS license and was prescribing. Dr. Johnson stated the patient was also using lethal amounts of alcohol with the medication. He stated these were all things over which he had no control.

Dr. Peterson stated he was glad to hear Dr. Johnson's remarks but is still disappointed that Dr. Johnson is on probation again in a short period of time.

Dr. Johnson explained he has gone out and educated other Physicians regarding the requirement of establishing a relationship with each patient. He stated this patient was not honest with him for over a year as he was giving her prescriptions and she was buying more off the internet. He stated he understands the concerns of the Board/Division but he believed he was helping. He stated Dr. Templeman is involved in a lot of research regarding alternative plants for medications. He stated Dr. Templeman does some volunteering at the Health Department and is probably not really qualified for the CS supervision but

prescribing CS's is something he is trying to eliminate now. Dr. Johnson stated he has informed his patients that when he is off probation he will no longer prescribe. He stated he has established a relationship with Dr. Templeman and that is why he asked him to supervise. Dr. Johnson explained Dr. Templeman is semi-retired and would have time to review charts and meet with him. He stated the plan was for Dr. Templeman to come to Dr. Johnson's place of business and review charts. He stated it would not be weekly supervision as Dr. Templeman goes to Southeast Asia for several weeks at a time.

Ms. Taxin stated Dr. Johnson's supervisor should be someone who is available and can support Dr. Johnson on a regular basis. She voiced a concern regarding Dr. Templeman not prescribing and supervising Dr. Johnson who is prescribing.

Dr. Loomis asked who Dr. Johnson's supervisor was the last time.

Dr. Johnson responded Dr. Ron Baird was his supervisor the last time. He stated Ms. Taxin recommended he select a different supervisor.

Ms. Taxin clarified she and the Board believes Dr. Johnson might benefit more from a supervisor who is not semi-retired. She stated it would be more effective if Dr. Johnson has a supervisor who is available to supervise weekly.

Dr. Johnson explained he has phased out of family practice and is now doing hormone replacement and managing. He stated he is primarily working in wellness now and is not sure he can find another Physician who can supervise as his partner has difficulty covering for him in testosterone replacement.

Dr. Peterson asked if Dr. Johnson needs assistance in locating an appropriate supervisor.

Dr. Johnson responded he would appreciate some assistance.

Ms. Taxin stated normally supervision reports are

due monthly and then move to quarterly and she found an error in that requirement in the final draft. She stated his Stipulation and Order only requires quarterly reports so she asked Dr. Johnson if he would agree to have monthly reports submitted for 3 months and then go to quarterly reports. She stated Dr. Johnson verbally agreed. Ms. Taxin then stated Dr. Johnson is working and needs a supervisor immediately. She asked if Dr. Johnson believes he could find another supervisor within a week.

Dr. Johnson responded he could ask Dr. Steve Berry. He stated he knows Dr. Berry and Dr. Berry works in his area. He asked if it would be inappropriate to ask a Board member to supervise.

Ms. Taxin responded it would be inappropriate for a Board member to be his supervisor as that would be a dual relationship and if there is any problem that needs to go to a hearing then that person cannot be involved.

Dr. Johnson stated he understands and he could ask his business partner as they share the same building and expenses.

Ms. Taxin stated a supervisor should be someone he does not have a relationship with. She suggested he try to locate someone and then call her with the name as she could approve someone prior to the next Board meeting. She stated the supervisor will need to meet with the Board at the next meeting but they could have a telephonic appointment if necessary. Ms. Taxin reminded Dr. Johnson that he signed the current Stipulation and Order on November 24, 2008 and should not be writing any prescriptions after that date.

Dr. Johnson responded the CS database list should only be refills as he has not prescribed anything since he signed the Stipulation and Order.

Ms. Taxin stated refills should eventually run out. She then asked how many refills Dr. Johnson normally gave.

Dr. Johnson responded Ms. Taxin is correct in that the refills will run out. He stated he usually wrote 3 or 4 refills.

Ms. Taxin stated the next CS database report should document if anything new has been written.

Dr. Johnson responded there are two PA's in his office. He stated sometimes the Pharmacist will make the mistake of putting his name on a prescription as all their names are on the prescription pads.

Ms. Taxin recommended Dr. Johnson call the Pharmacies and be very clear with them that he cannot write any prescriptions and they need to be careful to use the correct prescribing person's name.

Dr. Johnson responded has written a letter to the Pharmacies to notify them that they may refill any prescriptions prior to November 24, 2008 but cannot fill any prescriptions in his name after that date.

Ms. Taxin recommended he write another letter and then if the Board and Division find new prescriptions showing up on the CS database report Ms. Taxin can send an investigator out to the Pharmacy. She asked Dr. Johnson if he has registered for the CPEP course and if he has located a prescribing course.

Dr. Johnson responded he completed the intake interview over the phone and will be taking the course February 23 and 24, 2009. He stated he has not found a prescribing course. Dr. Johnson stated CPEP offers one but not frequently.

Ms. Taxin informed Dr. Johnson that she has gone through the CPEP program and believes it is a beneficial program. She stated he is not required to go through the CPEP prescribing course.

Dr. Johnson stated he is interested in taking the Vanderbilt course which was one of Ms. Taxin's recommendations.

Ms. Taxin responded the Vanderbilt course is a good one. She stated Dr. Johnson could also contact PACE and tell them he went through their course but missed some things and ask if he could retake the course and inquire if they believe it would be beneficial. She stated she will give him until June 2009 to complete the required CE as today is his first time meeting with the Board to review and discuss the Stipulation and Order requirements.

The Board concurred with Ms. Taxin to give Dr. Johnson until June to complete the CE requirements.

Dr. Johnson thanked the Board and stated he needs to hear the concerns as it brings validation to him to hear it from his peers.

Ms. Taxin commented the Board wants a supervisor that can help monitor and support Dr. Johnson in being successful in his probation.

Dr. Voss recommended Dr. Johnson contact Dr. Diane Farley-Jones regarding supervision.

Dr Johnson thanked him for the suggestion. He stated he would like to prescribe testosterone to patients whom he has known for years. He asked if it would be possible to have a CS license to prescribe testosterone only.

Ms. Taxin responded the CS license is for all prescribing and cannot be issued for a single type of prescribing. She suggested Dr. Johnson complete the CPEP evaluation and course before June and ask them to write a letter to the Board regarding him prescribing and practicing medicine.

Dr. Johnson voiced disappointment. He then stated he is thinking of leaving the practice where he is and opening a practice that is more prevention and wellness oriented. He stated he would like to supervise a specific experienced PA in that type of practice who has practiced as a PA for several years.

Dr. Johnson stated he has already established a relationship by working with the PA. He explained the practice would have a very strict prescribing relationship. Dr. Johnson stated it would be easier for patients to get an appointment with the PA as he, Dr. Johnson, is booked out for months in advance. He asked if this proposal is a possibility.

Ms. Taxin responded that Dr. Johnson can always ask questions. She recommended he get his supervisor in place, complete the CPEP evaluation and some other requirements and then ask the question again at a later date. She again reminded him that today is his first meeting with the Board and for the Board to agree to his proposal would require a restriction to be removed which is not appropriate at this time. Ms. Taxin stated the Board needs to be sure he is on track before he is allowed to supervise someone else. She recommended Dr. Johnson look around and contact several people as there might be a better matched mentor for him. She stated the probation process should be a learning experience.

Based on this being Dr. Johnson's first appointment, the Board determined Dr. Johnson is currently in compliance with his Stipulation and Order.

An appointment was made for Dr. Johnson to meet again April 23, 2009.

DISCUSSION ITEMS:

Board Member Training

Ms. Taxin conducted the annual Board member training and provided a handout.

Ms. Taxin reviewed the Open and Public Meetings Act guidelines with formal Board meetings for business and reminded the Board that all Board meetings are recorded with the recording being retained for a year. She reviewed the guidelines for Board meetings and explained that Board business must be conducted in the formal Board meeting with an agenda having been posted 24 hours in advance for any interested public people to be able to attend. She

explained a quorum of Board members is required to make decisions with motions and votes. She explained that agenda items cannot be added after the 24 hours prior to a Board meeting period and will have to wait for the next scheduled Board meeting. Ms. Taxin explained the purpose for closing a meeting and stated that with the Open Public Meetings Act there are very few reasons to close a meeting and have the public leave. Ms. Taxin reviewed electronic (telephonic) participation by Board members and for interviews. She stated Board members and public visitors may be requested to leave a Board meeting if they are being disruptive. Ms. Taxin covered the issue of requesting a probationer, an applicant or any individual to leave the meeting for Board discussion and stated that meetings are open and comments should be made to the individual in order for them to understand the issues. She stressed the importance of Board members being professional, remembering that they are here to protect the public, to be fair, attentive and balanced in their comments and decisions. She stated Board members should be respectful to each other as well as any visitors or people with appointments. She stated they should listen and consider other view points; sometimes being creative but clear and open in communication and hold judgment until after all the facts have been presented. Ms. Taxin recommended the Board review and be familiar with the Osteopathic Physicians Laws and Rules in order to make correct decisions. She stated they should be positive role models. Ms. Taxin also covered the Division's and her expectations regarding the fire alarms going off. She stated if the alarms go off the Board is to leave the building immediately and meet across the street. Ms. Taxin stated they should wait until everyone is accounted for and not re-enter the building until they are released to do so.

The Board thanked Ms. Taxin for the information.

FSMB Telemedicine Policy

Ms. Taxin stated this information was previously sent out for the Board to review. She asked if the Board was prepared to offer any feedback.

Dr. Peterson responded he is uncomfortable with the concept as the Physician may never see the

patient face-to-face or close enough to establish a relationship. He stated he would be more comfortable with the concept if there is a Physician with the patient describing the condition to a panel. He stated radiology is an example as someone in the U.S. takes the x-rays and someone in India reads them.

Ms. Taxin stated two other examples might be in Psychiatry if there is a phone or camera and someone commits suicide or there could be problems if a family member is listening in on the conversation.

Dr. Voss stated he believes the concept is too loose. He stated he believes there should be at least one in-person examination to establish a relationship. He stated much of family medicine needs to have the patient seen. Dr. Voss referred to page 4, line 165, which reads: “For instance, without a previously established relationship, a telephone consultation alone may be insufficient to meet the requirement of an adequate patient evaluation prior to diagnosis or treatment.” He recommended the sentence be changed to: “For instance, without a previously established relationship, a telephone consultation alone will be insufficient to meet the requirement of an adequate patient evaluation prior to diagnosis or treatment.”

Dr. Voss also referred to page 5, line 198, which reads: “The use of a questionnaire or only conversing with the patient over the telephone may not constitute a valid physician-patient relationship for prescribing.” He recommended the sentence read: “The use of a questionnaire or only conversing with the patient over the telephone will not constitute a valid physician-patient relationship for prescribing, unless there is at least one in-person meeting.”

Dr. Voss stated Physicians do have problems with accessibility and there may be other valid ways being accessible to treat patients. He stated he believes telemedicine is not about quality care.

Dr. Peterson stated PA’s and Nurse Practitioners

were primarily trained to serve the underserved population and areas. He stated he underserved will probably never have a need for many procedures where they are branching out. He stated this proposal is more economically pushed and not pushed for patient care.

Dr. Loomis commented he does not see a reason to make it easier to practice telemedicine.

Dr. Peterson commented that the FSMB does not understand the community and intervening. He stated telemedicine would minimize the responsibility of the Physician.

Dr. Peterson stated the intent is cost effectiveness. He stated when he attended one Federation meeting his understanding was they are trying to get everyone in one central governing body so if you practice in New York you can do the same in Utah or any other State. He stated, at present, if you needed to see a Physician in Utah within 6 hours you could see one from St. George to Logan. He stated the University of Utah does use some telemedicine on dermatology.

Ms. Brown commented she believes there should always be an in-person initial contact with a Physician and then follow-up as needed.

Ms. Taxin responded she will e-mail FSMB the Board's comments.

Executive Order

Ms. Taxin informed the Board that the Governor has issued an Executive Order that deals with acting ethically, accepting gifts, nepotism in hiring and contracting and prohibiting lobbying executive branch department or agency employees. She recommended the Board review and be familiar with the document.

2009 Board Meeting Schedule

The Board noted the following dates for the 2009 Board meetings: Thursday, April 23, Wednesday, July 1 and October 7, 2009.

NEXT MEETING SCHEDULED FOR:

April 23, 2009

ADJOURN:

The time is 12:45 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.

April 23, 2009
Date Approved

(ss) J. Howard Loomis, DO
Chairperson, Utah Osteopathic Physician Licensing Board

February 9, 2009
Date Approved

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