

**Awaiting Formal Approval
MINUTES**

UTAH

**OSTEOPATHIC PHYSICIAN AND SURGION'S
LICENSING BOARD**

BOARD MEETING

October 8, 2009

**Room 402 – 4th Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:36 A.M.

ADJOURNED: 5:30 P.M.

Bureau Manager:
Board Secretary:
Compliance Specialist:

Noel Taxin
Karen McCall
Ronda Trujillo

Board Members Present:

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

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the July 2, 2009 Board meeting were read.

Dr. Peterson made a motion to approve the minutes as amended. Ms. Brown seconded the motion. **The Board vote was unanimous.**

BUSINESS FROM PREVIOUS MEETING

Report on State Requirements for Arizona, California and Michigan re: Re-entry into Licensure and Practice

This item was deferred to the January 7, 2010 Board meeting.

APPOINTMENTS:

8:40 am

Review Dr. Gary Child Letter Requesting Licensure with his Current SPEX Examination Score

Ms. Taxin read Dr. Child's letter requesting special consideration to waive the requirement of taking and passing the SPEX's examination based on his 21 years of licensed practice.

Upon careful review of Dr. Child's withdrawn application it was determined Dr. Child would not meet current requirements for Utah licensure based on failure to complete a 24 month residency, failure to take and pass any of the required National examinations. It was noted that Dr. Child completed a 12 month residency, took and passed the California State examination in March 1988.

The Board determined the Law and Rule do not allow for requirements to be waived. The Board recommended Utah continue to require the SPEX examination be passed with 75% or higher which is the recommended passing score by SPEX to establish competency. Board members requested Ms. Taxin contact Dr. Child regarding possible ADA accommodations to assist him with passing the examinations.

The Board requested further discussion at the January meeting regarding the SPEX examination.

8:45 am

Ronda Trujillo, Compliance Update

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

Ms. Trujillo reported **Dr. Larry G. Andrew** is currently in compliance with his Stipulation and Order. She stated notification has been received that Dr. Andrew is working some days with his brother in Moab. Ms. Trujillo stated there are some pharmacies who are continuing to use Dr. Andrew's expired DEA on prescriptions. She requested the Board to review an e-mail letter Ms. Taxin received from Suzanne Bailey.

Dr. Loomis asked if Dr. Andrew has completed the psychosexual evaluation as the Board requested.

Ms. Taxin requested Ms. Trujillo to give the prescription/DEA information to investigations to contact the pharmacies. Ms. Taxin responded Dr. Andrew has not yet completed the requested psychosexual evaluation. She stated Dr. Andrew is scheduled to complete his court restriction in December 2009 for doing fertility procedures. Ms. Taxin stated she believes Dr. Andrew should have the requested psychosexual evaluation and the evaluation will need to document low probability to reoffend for the restriction to be lifted from his probation with the Utah Board. She stated the Board should be clear with Dr. Andrew regarding the completion of the court ordered probation requirements do not automatically affect his Stipulation and Order requirements on his Utah license. Ms. Taxin stated the Board will need to explain that Dr. Andrew cannot just start doing fertility treatments again until this Board has amended his Order. Ms. Taxin stated condition need to be written for oversight if he is going to practice fertility so that the public is safe.

Dr. Peterson asked how the Board can establish some kind of oversight without requiring someone to be with him all the time for the protection of the public if the evaluation indicates Dr. Andrew is in the low risk category.

Ms. Brown recommended the Board conduct random customer service calls to Dr. Andrew's patients to inquire about their satisfaction, his professionalism and any other questions the Board determines appropriate. She stated a suggested dialog could be prepared for Board members to use. Ms. Brown stated Dr. Andrew would then know he is being checked on at any time.

Ms. Taxin stated Dr. Andrew's Stipulation and Order will need to be amended. She stated the amendment could require Dr. Andrew to submit a list of patients with their phone numbers for the Board to divide for calling. She stated this procedure would address the concerns of the patients. Ms. Taxin stated Dr. Andrew's patients are aware of his probation and he could inform them that they will receive a customer

service call. She stated if any patient has questions regarding Dr. Andrew's services they may contact her. She again stated the Board will need to be very clear with Dr. Andrew that the evaluation must be received and reviewed prior to consideration of lifting the restriction for him to proceed with fertility treatments again and then an amendment must be written and approved.

Dr. Peterson stated a disclosure statement should be given to each of Dr. Andrew's patients. He asked if Dr. Andrew's working with his brother precludes his doing fertility treatments at that clinic.

Ms. Taxin responded Dr. Andrew is restricted in any office from doing fertility treatments. She suggested maybe the Board should ask for Dr. Andrew's therapist to write a statement regarding if they believe he is safe to practice and what suggestions they may have to be sure the public stays safe. She stated an amended Order will need to have conditions to protect the public and Dr. Andrew needs to know there are patients and public who are concerned. Ms. Taxin recommended a disclosure form for Dr. Andrew which states his patients may be contacted for customer service reasons and satisfaction. She requested her name and phone number be included if patients have any questions, complaints or concerns regarding Dr. Andrew's services. She stated if the Division receives information by January 7, 2010 on the psychosexual evaluation stating Dr. Andrew is safe to practice and has recommendations for Dr. Andrew and documentation of the court lifting the restriction the Board would be able to review and consider an amendment at that meeting.

Ms. Trujillo reported **Dr. Douglas D. Callahan** is currently in compliance with his Stipulation and Order. She stated the Board requested Dr. Callahan's supervisor to be more specific in the reports regarding patient charts reviewed, issues discussed and areas for improvement. She stated the current report is as brief as the previous reports have been. Ms. Trujillo stated she questioned a few of Dr. Callahan's triplicate

prescriptions.

Ms. Taxin requested the Board to review the triplicate prescriptions, specifically where she has indicated. She stated there are some consecutive numbers missing and it appears he is still prescribing some large amounts. She stated Dr. Callahan is the expert in his field and recommended the Board not tell him what his patients need but should ask questions regarding the amounts. She stated she did not compare between the triplicate prescriptions Dr. Callahan provided and the database list but the database indicates he has written quite a number of prescriptions.

Dr. Peterson stated the Board has discussed this issue at each of Dr. Callahan's appointments and he always says he is reducing the number of pain patients by referring them to practitioners who work with chronic pain.

Ms. Trujillo stated there are a few prescriptions with the same numbers, one in yellow and one in pink, that have different patient names.

Ms. Trujillo reported **Dr. Vaughn T. Johnson** is currently in compliance with his Stipulation and Order. She requested the Board to review the practice plan developed by Dr. Johnson and his supervisor which addresses issues identified by the CPEP evaluation. She stated Dr. Johnson now has a probationary controlled substance (CS) license as the Order was amended June 27, 2009.

Ms. Taxin requested the Board to review the CPEP evaluation and the list of deficiencies to be sure Dr. Johnson has addressed them in his practice plan. She stated Dr. Johnson has a variety of prescriptions he has written and she is curious if he has used the database. Ms. Taxin reminded the Board that Dr. Johnson is also on probation for inappropriate prescribing.

9:00 am

Dr. Larry G. Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

Dr. Ramsey conducted the interview.

Dr. Ramsey stated Dr. Andrew's therapist report documents she has read the conditions of his Stipulation and Order, that Dr. Andrew has taken ownership for his actions and is making steady progress. He stated Dr. Andrew is in full compliance with his Stipulation and Order. Dr. Ramsey stated Ms. Taxin received an e-mail from a prior patient. He requested Ms. Taxin to explain.

Ms. Taxin stated the e-mail was from Suzanne Bailey. She stated Ms. Bailey continues to voice concerns regarding public safety with Dr. Andrew doing fertility treatments. Ms. Taxin suggested Dr. Andrew read the e-mail concerns for understanding and self growth.

Dr. Andrew read the e-mail. He stated he is really sorry for the pain he has caused and is committed to the process.

Ms. Taxin stated the Board requested Dr. Andrew have another psychosexual evaluation and that evaluation must be reviewed prior to considering amending the Order to lift the restriction for doing fertility treatments. She stated the Board discussed some safety practice items to be sure he is not in that circumstance again as follows:

- 1. Create a disclaimer form for all patients to read and sign stating patients may anticipate a customer service call.**
- 2. Submit a list of patients and their phone numbers for the Board to contact them regarding quality assurance for his services. She stated if there are any complaints or questions the patients may contact her. Ms. Taxin stated the purpose of the calls would not be for medical advice.**
- 3. Request the therapist submit a letter addressing what conditions they believe should be in place to protect the public, if they believe Dr. Andrew is at low risk to reoffend and is safe to practice fertility at this time.**
- 4. With the supervisor develop a practice plan**

on what Dr. Andrew believes should take place to protect his patients.

Ms. Taxin stated, once the information is received, the Board and Dr. Andrew could review it together as the restriction cannot be lifted if the evaluator documents he is at risk for reoffending.

Dr. Peterson stated the Board cannot be with Dr. Andrew while he is working. He stated maybe the practice plan should include a chaperone of an employee. He stated Dr. Andrew should include a workable clause to demonstrate to the public he is doing everything he can to protect them and ensure patients do not have their privacy violated.

Ms. Taxin suggested Dr. Andrew write down questions for the Board to ask the patients and then at his appointments the Board will review the feedback with Dr. Andrew.

Dr. Loomis stated that lifting the restriction on his probationary license is not an automatic just because the courts lift their restriction. He stated the Board does not meet again until January 7, 2010, and all information must be received to review prior to that date for review and evaluation at the meeting. He stated if Dr. Andrew can get the information in early Ms. Taxin will be able to review and possibly work on an amendment for the Board to review at the January meeting. Dr. Loomis stated any amendment depends on what the evaluation documents.

Dr. Andrew voiced understanding and stated his court restriction is due to be completed the end of November. He voiced disappointment as he believed the restriction on his license would automatically be lifted when the court restriction was completed.

Ms. Taxin reiterated the restriction on the license would not automatically be lifted. She stated a letter from the courts documenting completion of his probation and the restriction has been lifted would need to be submitted. She stated the Order on Dr. Andrew's license will need to be amended

and Dr. Andrew will have to review the amendment and agree to sign it before it goes into effect as the Board and Division are not comfortable with him resuming fertility procedures without some conditions.

Dr. Andrew voiced understanding and stated he had no questions.

Dr. Loomis stated if the evaluation is positive and therapist believes Dr. Andrew is ready and safe to return to fertility practice then the Board can move forward in January.

Ms. Taxin stated if she has all the information she will send it to the Board to review prior to the meeting for discussion at the meeting.

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

An appointment was made for Dr. Andrew to meet January 7, 2010.

9:15 am

Dr. Douglas D. Callahan, Probationary
Interview

Dr. Callahan met for his probationary interview.

Dr. Voss conducted interview.

Dr. Voss asked if Dr. Callahan had talked with his supervisor to be more specific on the reports regarding what they talked about and any suggestions given as the report was positive but still very brief.

Ms. Taxin stated the supervisor said they reviewed the charts and they all looked good. She stated the report should document information such as how many charts were reviewed, if they were well written or there were some areas needing improvement, what issues they may have discussed and what Dr. Callahan will be working on, if he found the diagnosis of patients supported specific prescriptions and/or some prescriptions appeared a little high and they discussed it.

Dr. Callahan responded he did talk with his supervisor but maybe was not as specific as he should have been. He stated he will work on being specific.

Dr. Voss stated the report also does not acknowledge what Dr. Callahan has done to improve and what he is doing to be a better practitioner. He stated the supervisor's report should document any issues related to prescribing appropriately and the reasons he may have made some changes.

Dr. Callahan thanked Ms. Taxin and Dr. Voss for the input. He stated he has been using the database report and noting why any patients are receiving the number of prescriptions he has given them. He stated he discusses his notes with his supervisor who have been giving input and making suggestions on ways he can do better. Dr. Callahan stated he makes notes on his supervisor's suggestions.

Dr. Voss stated that would indicate Dr. Callahan is tracking and helping his patients. He recommended Dr. Callahan attach a copy of his notes to the supervisor's report. Dr. Voss reviewed the concerns regarding the triplicate prescriptions. He reviewed the 2 prescriptions for the same patient on the same date. Dr. Voss stated it is ok for Dr. Callahan to write a letter to a patient and inform them that he no longer treats pain management and give them 30 days to transition to another practitioner.

Dr. Peterson commented the Board goes over the same issues every 3 months with Dr. Callahan and he gives the same responses. He recommended Dr. Callahan refer out his pain management patients so the Board can see he has been making changes in his practice.

Dr. Callahan responded he still has about 5 patients. He stated maybe he should just refer them out so the issue does not come up with the Board again. He stated these patients are older and have been taking the same prescriptions for a long time but he does not mind referring them out.

Dr. Peterson suggested Dr. Callahan at least refer these patients out to have the pain evaluated so he is not just facilitating their need for narcotics or controlling their pain but coordinating services at a pain specialist.

Dr. Callahan stated he will refer them out.

Dr. Voss stated narcotics should not have any refills as it is a high risk. He stated the Board has discussed reducing dosages of medications and if the patient(s) is not responded then Dr. Callahan should refer them out. He voiced concern about prescribing the same medication to 2 different members of the same family as there can be some risk of prescription sharing from one who does not need it to one who does and writing refills for Loritab.

Dr. Callahan stated the Board has said it is ok to write prescriptions with refills. He stated he does not understand.

Ms. Taxin responded Dr. Callahan can write refills for Loritab but Dr. Voss is saying Dr. Callahan's amounts of prescriptions are a lot without a follow-up check with the patient. She stated the Board is bringing these concerns to Dr. Callahan's attention so that he understands the risks involved with prescribing and he takes precautions.

Dr. Voss brought several other questionable prescriptions to Dr. Callahan's attention. He then stated the Board had talked with Dr. Callahan in January 2009 regarding reducing the number of prescriptions he is writing. He stated there were about 700 prescriptions written in the last quarter and there are about 1000 written in this quarter. Dr. Voss stated it does not indicate Dr. Callahan is trying to reduce the number of prescriptions he is writing. He stated he is using the assumption Dr. Callahan's patient base has stayed the same.

Dr. Callahan responded since the last quarter he has been getting his own printout and reviewing it. He

stated he believes he is reducing the number of prescriptions he is writing. He asked if the Board believes he should refer all his chronic pain patients out.

Dr. Voss responded if the patients do not want Dr. Callahan to pull back on the amount of medications then maybe he should refer them out. He stated Dr. Callahan should attach his database printout and notes to the supervisors report for the Board to review. He stated Dr. Callahan should know if his patients are progressing or not.

Ms. Taxin stated if Dr. Callahan does not want to refer the chronic pain patients out then he should be sure his documentation is detailed and he is comfortable with the medications and doses being prescribed.

Dr. Callahan stated he should probably review the information with his supervisor and ask for his recommendations.

Ms. Taxin stated the Board has given feedback regarding their concerns but if Dr. Callahan believes he has everything under control then he should be sure he has everything well documented.

The Board determined Dr. Callahan is in compliance.

An appointment was made for Dr. Callahan to meet January 7, 2010.

9:30 am

Dr. Vaughn T. Johnson, Probationary
Interview

Dr. Johnson met for his probationary interview.

Dr. Peterson conducted the interview.

Dr. Peterson commented he believes Dr. Johnson's current supervisor is much better for him. He stated the CPEP evaluation documented some concerns and has valuable feedback for Dr. Johnson. Dr. Peterson reviewed some of the issues that were identified. He then referred to the prescriptions Dr. Johnson has written and brought

to his attention a prescription for a mom, dad and 8 year old child which had another prescription written in 30 days. Dr. Peterson voiced concerns regarding possible prescription sharing and/or borrowing.

Dr. Johnson responded he is using the database primarily for screening patients to be sure he is the only prescribing physician. He stated in his clinical judgment this family is not sharing medications but he recently sent them to specialists. He stated he believes the specialist can evaluate this family to be sure they are receiving the medication they truly need. He stated if they are stabilized the specialist may refer them back to him but he has informed the family that he can no longer treat them until an evaluation is completed.

Dr. Johnson stated he remembered the feedback regarding issues with the CPEP evaluation. He stated he believes there was a lack of knowledge on the part of the evaluator and he believes the feedback was sometimes subjective. He stated their feedback listed a deficiency as his documentation was unreadable. Dr. Johnson stated he is going to EMR for his documentation and that should help as his writing is sometimes unreadable.

Ms. Taxin requested Dr. Johnson to bring a chart to the next appointment for the Board to review.

Dr. Peterson commented the Board had requested Dr. Johnson to bring a chart today to review. He requested Dr. Johnson to bring a chart that is not yet transitioned to the EMR program and a chart that is for the Board to review the difference.

Dr. Johnson agreed to bring 2 charts to his next appointment. He stated CPEP wanted him to brush up on some additional areas such as completing a medical history. He stated he does not usually do the complete medical history as his nurse has already completed it and if she has not then he will review the history with the patient. He stated he believed the patients in the CPEP program had already had their history completed.

Dr. Peterson stated Dr. Johnson should make sure his documentation is legible, clear and complete on each patient.

Ms. Taxin stated Dr. Johnson's practice plan was a start.

The Board determined Dr. Johnson is in compliance.

An appointment was made for Dr. Johnson to meet January 7, 2010.

Ms. Taxin asked if Dr. Johnson believes the process is working better than in the past.

Dr. Johnson responded yes. He stated he is much more affirmative now and is clearer with his patients.

10:10 Adjourn for the Hearing.

Hearing Break, Return to Board Items.

DISCUSSION ITEMS:

FYI – Gilead Company
H1N1/Tamaflu Program

Ms. Taxin explained that Gilead Company is offering a training program for the H1N1 and, if qualified, they will send the Tamaflu out to the Physicians clinic. She stated if Board members are interested to contact Dana Smedra at MDA, 303-694-5004 extension 650.

Dr. Voss stated the program is primarily for large corporations/companies for the continued functioning of the company. He stated no one can get to their Doctor fast enough when the flu symptoms hit. Dr. Voss asked Ms. Taxin if the State was applying for the program.

Ms. Taxin stated she brought up the issue with Administration and was requested to hold for now on follow up to see what will happen in the work place.

Dr. Voss asked if administrators saw any problem with trying to qualify for the program.

Ms. Taxin responded nothing was voiced to her. She stated the Health Departments Nationwide have said there is an emergency arising.

Dr. Voss stated he has been requested to facilitate the program in Utah. He stated they are suggesting a pre-prescription be on file for those who may have health issues. Dr. Voss stated there is a qualifying questionnaire of 6 to 8 questions and the program will be available for 6 months.

2010 Board Meeting Schedule

The Board noted the following dates for the 2010 Board meeting schedule: Thursdays, January 7, April 1, July 1 and October 7, 2010.

CORRESPONDENCE:

2008 National Board of Osteopathic Medical Examiners Annual Report

The Board reviewed the Report. **No Board action was taken.**

SAMHSA Announcement

The Board reviewed the SAMHSA announcement regarding New Tip on Incorporating Alcohol Pharmacotherapies into Medical Practice. **No Board action was taken.**

NEXT MEETING SCHEDULED FOR:

January 7, 2010

ADJOURN:

The time is 5:30 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.

Date Approved

Chairperson, Utah Osteopathic Physician & Surgeon
Licensing Board

October 22, 2009
Date Approved

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