

MINUTES

UTAH PHYSICIAN ASSISTANT BOARD MEETING

March 12, 2009

Room 401 – 4th Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 8:34 A.M.

ADJOURNED: 11:05 A.M.

Bureau Manager:
Board Secretary:
Division Compliance Manager:

Noel Taxin
Karen McCall
Ronda Trujillo

Board Members Present:

Jeffrey Paul Clark, MD, Chairperson
Gordon L. Day, PA-C
Jeffrey M. Coursey, PA Education
Larry Reimer, MD
David Schmitz, MD

Board Members Absent:

D. Wain Allen, MD
Maria K. Skedros

Guests:

Bob Bunnell, Utah Academy of PA's
Darin Goff, Attorney

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the December 15, 2008 Board meeting were read.

Dr. Reimer made a motion to approve the minutes as read. Mr. Day seconded the motion. **The Board vote was unanimous.**

BUSINESS FROM PREVIOUS MEETING:

Re-review the September 2008 Minutes for Accuracy regarding Temporary Licensing.

Ms. Taxin explained the Board had mentioned the minutes were not clear regarding temporary licensing as a temporary license can be issued only until the next succeeding examination.

The Board stated a temporary license is no longer an issue as the examination is available at any time. However, there may be instances when someone is not quite ready to take the examination and it may be appropriate to issue a temporary.

APPOINTMENTS:

8:45 am

Review Karl Perry's (AG) Information
Regarding Board of Directors/PA Ownership

Ms. Taxin presented Mr. Perry's information to the Board. She stated the question was "Can a Physician Assistant (PA) own the clinic where he/she works and is to be supervised?".

Mr. Perry could not locate anything in the Utah State Laws or Rules that addresses the specific issue. However, 58-70a-102(4) and (6) defines the relationship between the PA and the supervising Physician. It defines a PA as an agent of the supervising Physician when acting in accordance with a delegation of services agreement. The supervising Physician is defined as the primary supervisor of a PA and takes responsibility for the professional practice and conduct of a PA and is not an employee of the PA he supervises. Mr. Perry's research summarized, there is no specific ban of PA's having some ownership interest in the clinic where the PA works. But, the supervising Physician must not be an employee in any respect of the PA. The relationship between the Physician and the PA should be such that the Physician has the final decision making authority on all treatment issues.

Ms. Taxin discussed the issue of whether a PA needs supervision at all times as some calls requesting clarification have been received. She stated Mr. Perry researched this question and determined R156-70a-501 sets forth the supervision required for the PA. Mr. Perry determined this Rule requires that the exact supervision shall be outlined in the Delegation of Services Agreement and outline the method of immediate consultation by electronic means whenever the PA is not under the direct supervision of the supervising Physician. He stated 58-70a-502 states it is unlawful conduct for a PA to practice while not

under the supervision of a supervising physician. Ms. Taxin stated she could include on-site supervision in Stipulations for probationers if appropriate.

Ms. Taxin stated Mr. Perry also researched the issue regarding can a Physician supervise more than two full-time employees. She stated Mr. Perry responded to the question that R156-70a-501(4) sets forth the limiting number of PA's that a supervising Physician can supervise. Mr. Perry stated the Rules states a supervising Physician shall not supervise more than two full-time equivalent (FTE) PA's without the prior approval of the Division and the Board, and if patient health, safety, and welfare will not be adversely compromised. Mr. Perry stated the Rule language appears to be clear there is an imposed limitation that the total FTE PA's is two and the total FTE hours is 80 hours per week.

Ms. Taxin concluded that changes for the above issues would require changes in the Law and Rules.

The Board thanked Ms. Taxin for the information. They stated it would be difficult to supervise eight to twelve PA's, to know if they are competent and to evaluate their work.

Mr. Bunnell stated the Association would probably support a change in the Law regarding supervising additional PA's based on how other States are allowing higher numbers of supervisees.

9:00 am

Ronda Trujillo, Compliance Update

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

Ms. Trujillo reported **David Dodd** is currently in compliance with his Stipulation and Order. She reminded the Board that Mr. Dodd is working full-time as a Radiology Technologist and works part-time as a PA. She stated the Order was amended to allow Mr. Dodd to work 10 hours a week as a PA.

The Board noted the prescription list is shorter than it has been. The Board asked if Mr. Dodd has received his DEA number yet.

Ms. Taxin and Ms. Trujillo responded they were not sure and to ask Mr. Dodd during his appointment.

Ms. Trujillo reported **Alan Bybee** is currently in compliance with his Stipulation and Order. She stated the Order was amended to lift the suspension off the controlled substance (CS) license and the Division would investigate the prescriptions Mr. Bybee has said he did not write and revealed the pharmacist was putting the prescriptions under the first name listed on the prescription instead of the person who actually wrote the prescription.

Ms. Trujillo reported **Elmer Sisneros** is currently out of compliance with his Stipulation and Order as there has been no therapist report since September 2008.

Ms. Trujillo reported **Jeffrey Pollock** is currently in compliance with his Stipulation and Order as this is his first meeting with the Board.

Ms. Taxin explained the mix-up regarding Mr. Pollock's December 15, 2008, first scheduled appointment.

9:15 am

David Dodd, Probationary Interview

Mr. Dodd met for his probationary interview.

Dr. Clark conducted the interview.

Mr. Dodd reported he is still working in the capacity of a Radiology Technologist and part-time as a PA. He stated the scope of practice is family and internal medicine. Mr. Dodd requested termination of his PA probation as it has been nearly 5 years for the PA and 2 years for the Radiology Technologist. He stated he will also be requesting the Radiology Board to terminate that probation as he has always been in compliance.

Ms. Taxin informed Mr. Dodd that he may formally request early termination but there are no

guarantees. She stated she has voiced her support for early termination of probation from the Radiology Board. Ms. Taxin recommended Mr. Dodd work as a PA for 6 months to a year with regular reports and then write a letter of request giving his rationale and what he has learned from the process and request his PA supervisor and Radiology Technology supervisor to also write letters of support.

Dr. Reimer made a motion recommending support for Mr. Dodd to be terminated from the Radiology probation and to submit an application for the PA controlled substance license. Mr. Coursey seconded the motion. The Board vote was unanimous.

The Board discussed the process for Mr. Dodd to apply for his DEA number. They also informed Mr. Dodd he may write any legend prescription without a DEA but cannot write any schedule 2-5 prescriptions.

Ms. Taxin recommended Mr. Dodd complete the following:

- 1. A prescribing course to familiarize himself with the categories of drugs as he cannot currently prescribe any CS. She stated the course could count toward the required CE. She referred him to the University of Nebraska course and the PACE course in San Diego, California.**
- 2. Read the book “Responsible Opioid Prescribing” and the FSMB Model Practice Policy for CS to assist him as he has been out of practice for awhile.**
- 3. Submit the Utah CS application after he has completed a course and read the book as he must have the Utah license prior to applying for the DEA license.**

Mr. Dodd thanked Ms. Taxin and the Board for the input.

Dr. Clark and the Board complimented Mr. Dodd on his progress and his positive reports.

The Board determined Mr. Dodd is in compliance with his Stipulation and Order.

An appointment was made for Mr. Dodd to meet again June 4, 2009 based on his working as a PA.

9:30 am

Alan Bybee, Probationary Interview

Mr. Bybee met for his probationary interview.

Dr. Reimer conducted appointment.

Mr. Bybee reported he is still working in Morgan and South Ogden.

The Board informed Mr. Bybee that an investigation was conducted which supports Mr. Bybee's information that he has not written prescriptions on his own. They recommended Mr. Bybee also talk with the pharmacy so there is not a mix-up in the future.

Ms. Taxin stated the pharmacy was held accountable for using Mr. Bybee's name and DEA number in the CS database incorrectly.

Mr. Bybee reported he has submitted the information for his DEA license.

Ms. Taxin recommended Mr. Bybee

- 1. Contact the DEA regarding faxing a copy of his Utah CS license.**
- 2. Request the database CS list again and notify the pharmacies by telephone or letter to correct the problem as it is unprofessional for them to continue to submit his name inaccurately.**

The Board reminded Mr. Bybee to submit the following:

- 1. Submit the triplicate prescriptions when he writes them;**
- 2. Submit the log if he administers any CS in the office;**
- 3. Continue to submit monthly reports based on the recent reinstatement of his CS**

license.

Mr. Day made a motion for the monthly reports to be submitted quarterly. Dr. Schmitz seconded the motion. The Board vote was unanimous.

The Board determined Mr. Bybee is currently in compliance with his Stipulation and Order.

Based on Mr. Bybee's notification of being out of town on June 4, 2009, an appointment was made for Mr. Bybee to meet again August 27, 2009.

9:45 am

Elmer Sisneros, Probationary Interview

Mr. Sisneros and his attorney, Darren Goff, met for Mr. Sisneros probationary interview.

Mr. Day conducted the interview.

Mr. Day notified Mr. Sisneros that he is currently out of compliance with his Stipulation and Order as his therapy reports have not been submitted since September 2, 2008. The Board agreed to consider termination of therapy if a report with a recommended for termination was received.

Mr. Goff responded he received a letter from Mr. Sisneros therapist, dated March 3, 2009, recommending termination of therapy. He submitted a copy for the Board to review.

Based on the therapist report stating therapy has been completed and the recommendation to discontinue therapy, Dr. Schmitz made a motion to discontinue therapy.

Dr. Reimer seconded the motion.

The Board vote was unanimous.

Mr. Sisneros was requested to share what he learned from therapy and if he has a plan regarding how he would handle any similar situation in the future.

Mr. Sisneros reported the course he completed was

very concentrated and enlightening regarding wrong decisions and where they can lead. He stated Dr. Teracina, the therapist, talked about his decisions. Mr. Sisneros stated there is more responsibility practicing in Heber as it is a small community where he is viewed as a health care provider and not a friend. He stated if a similar situation came up he would tell the person it is not appropriate as he is married and if they feel uncomfortable they should fine another provider.

The Board requested Mr. Sisneros to explain his business relationship and how the business is set up.

Mr. Goff explained the business is set up according to statute which requires a 2/3 vote of the partnership to bind a vote. He stated the LLC is set up so Mr. Sisneros will not have control of the company and cannot control Dr. Rashad Vacharothone.

Mr. Sisneros further explained Dr. Vacharothone supervises two days a week and is his primary supervisor.

Ms. Taxin asked if Mr. Sisneros has requested a review with the insurance board.

Mr. Sisneros responded he will wait until his probation is complete and then approach the insurance boards for reinstatement to be on their panels.

Mr. Day recommended Mr. Sisneros request a letter from the chairperson of the PA Board after probation is completed. He reminded Mr. Sisneros to have all information submitted by June 1, 2009.

The Board determined Mr. Sisneros is out of compliance with his Stipulation and Order based on paperwork not being submitted on time as required.

An appointment was made for Mr. Sisneros to meet again June 4, 2009.

10:00 am

Jeffrey Pollock, Initial Probationary Interview

Mr. Pollock met for his initial probationary interview.

Dr. Coursey conducted the interview.

Mr. Coursey made a motion to close the meeting to discuss Mr. Pollock's character, professional competence, or physical or mental health.

Dr. Schmitz seconded the motion.

The Board vote was unanimous.

Dr. Schmitz made a motion to reopen the meeting.

Dr. Reimer seconded the motion.

The Board vote was unanimous.

Mr. Pollock requested approval for him to take a prescribing course by Case Western University.

The Board approved the course and reminded Mr. Pollock to submit a copy of the certificate of completion when he receives it.

Mr. Pollock informed the Board that he has not followed the psychological report recommendation of therapy due to the expense. He stated he has tried to get off medications and does not want them again. Mr. Pollock stated he completed a year of random drug testing which were all negative.

Ms. Taxin and the Board recommended Mr. Pollock see a psychiatrist and request a report with a recommendation for the Board. They suggested the U of U or Valley Mental Health as options as they have a sliding scale fee program. The Board recommended the drug screening continue for at least 6 months.

Ms. Taxin recommended the evaluator address the drug screens and then the Board could discuss after the recommendation has been submitted for review. She stated Mr. Pollock may always request release from the drug screens and the Board may consider his request.

Mr. Pollock stated his supervisor submits monthly reports and he asked if the reports could be submitted quarterly.

Ms. Taxin responded Mr. Pollock's supervisor's reports need to be more detailed regarding the issues they have discussed and any recommendations before consideration for a change from monthly reports.

The Board determined Mr. Pollock is currently in compliance with his Stipulation and Order.

An appointment was made for Mr. Pollock to meet again June 4, 2009.

Ms. Taxin, Anesthesiology Assistants

Ms. Taxin stated there was a Bill before the Legislature regarding licensing of Anesthesiology Assistants. She stated Scott Smith, legal counsel, and Dr. Lu at the University of Utah contacted her regarding a presentation of their program to the Board. Ms. Taxin stated the Bill did not pass and Mr. Smith and Dr. Lu will not be meeting with this Board. Ms. Taxin stated if the Bill had passed she believed it would be more appropriate for them to meet plus they appear to meet the exemption from licensure statute at this time.

Ms. Taxin explained the proposed Bill and stated the AA Board would be combined with the PA's, which made the most sense at this time.

Board members voiced concern regarding:

- 1. Keeping a clear distinction that Anesthesiology Assistants are not PA's.**
- 2. Presenting AA education and training information for the PA Board to review is not necessary.**
- 3. Based on Anesthesiology Assistants having a different scope of practice than a PA, they should have their own Board.**

Ms. Taxin thanked the Board for their comments and for reviewing the information sent out. She stated she will keep them updated if the Bill is proposed or discussed again.

Mr. Day

Mr. Day asked for clarification regarding indirect supervision. He explained he has a substitute when he is out of the office and he has satellite contact with the office if necessary.

Ms. Taxin responded this question has come up several times and she has informed the supervisor's they need to have their procedures written down in their Delegation of Services regarding how they cover and make contact when they are away from the office, i.e.; vacations, etc.

Mr. Day requested the Delegation of Services include a statement requested the supervisor be specific regarding coverage and contact when they are away from the office.

Dr. Clark

Dr. Clark notified the Board and Division that John Allen, PA, recently passed away.

The Board thanked Dr. Clark for the information.

NEXT MEETING SCHEDULED FOR:

June 4, 2009

ADJOURN:

The time is 11:05 am 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.

June 4, 2009
Date Approved

(ss) David Schmitz, MD
Acting Chairperson, Utah Physician Assistant
Licensing Board

March 31, 2009
Date Approved

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