

MINUTES

UTAH

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

BOARD MEETING

April 1, 2010

**Room 402 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:10 A.M.

ADJOURNED: 11:03 A.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Kent Barnes

Board Members Present:

Layne A. Hermansen, DO

Keith P. Ramsey, DO

Board Members Absent:

J. Howard Loomis, DO, Chairperson

Warren A. Peterson, DO

Jane W. Brown

DOPL Staff Present:

Mark B. Steinagel, Division Director

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the January 7, 2010, Board meeting were deferred to the July 1, 2010, Board meeting due to the lack of a quorum.

APPOINTMENTS:

9:20 am

Kent Barnes, Compliance Update

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

Mr. Barnes reported **Dr. Larry G. Andrew** is currently in compliance with his Stipulation and

Order. He stated the supervisor and therapist submitted very positive reports.

Ms. Taxin stated she has talked with Dr. Kronmiller, Dr. Andrew's supervisor, who reports he regularly walks into the office unannounced to talk with staff in addition to his meetings with Dr. Andrew. She stated Dr. Kronmiller has stated it appears the staff have no concerns and everything is running smoothly in the office and he is satisfied with Dr. Andrew's services.

Ms. Taxin referred the Board to Dr. Andrew's patient survey. She stated the surveys have been positive and she has received several but cannot contact patients as there is no name, phone number or date of procedure. She stated the person who interviews Dr. Andrew might suggest he include spaces for that optional information.

Mr. Barnes reported **Douglas D. Callahan** is currently in compliance with his Stipulation and Order as all reports were submitted in a timely fashion. Mr. Barnes stated he reviewed the triplicate prescriptions and compared them to the database list which appears to have more prescriptions written than triplicate copies submitted. He stated he will review more closely during the next quarter to sort out the issues.

Ms. Taxin suggested the Board request Dr. Callahan's supervisor to meet telephonically for Dr. Callahan's next appointment. She stated she is not sure if his supervisor is reviewing the prescriptions. She stated usually there are some problems when the database indicates so many more prescriptions than what has been submitted. She stated the Board needs to make Dr. Callahan aware of the concern. Ms. Taxin stated Dr. Callahan is asking for the list from the controlled substance database and should be able to match them up.

Mr. Barnes reported **Vaughn T. Johnson** is currently

in compliance with his Stipulation and Order.

9:30 am

Dr. Larry G. Andrew, Probationary Interview

Dr. Andrew met for his probationary interview.

Dr. Ramsey conducted the interview.

Ms. Taxin informed Dr. Andrew that the old DEA number is still appearing on the database. She asked if he or his staff has time to call the pharmacies to explain and have them correct their records and send him a letter of confirmation. She stated he or his staff should ask for the pharmacist in charge and give them the correct number. Ms. Taxin asked if Dr. Andrew has used the database and, if not, Mr. Barnes will take him down to get a copy of the list.

Dr. Andrew responded he has not yet used the database. He stated he should only need the list of pharmacies he needs to contact.

Dr. Ramsey stated Dr. Kronmiller's reports were all positive. He stated the Board reviewed the patient surveys and they also were positive with the exception of one who mentioned full garbage cans and another who mentioned the procedure was uncomfortable. He suggested Dr. Andrew include an optional area for the patient's name, telephone number and the date of the procedure so there would be a way to make contact if the patient had concerns.

Ms. Taxin stated she believes it is important for Dr. Andrew to have copies of the surveys as the goal is for him to do better and having a copy would help him. She asked if Dr. Andrew could explain how he has benefitted from Dr. Kronmiller's supervision.

Dr. Andrew responded he has enjoyed the relationship and to have Dr. Kronmiller there to discuss any issues either of them may have. He explained Dr. Kronmiller is an urologist. Dr. Andrew voiced appreciation for Dr. Kronmiller's knowledge, support and supervision.

Ms. Taxin asked if the process has been supportive to Dr. Andrew and if it has helped him correct deficiencies he had.

Dr. Andrew responded the process has helped him. He stated he needs to find someone he can work with in his area.

Ms. Taxin asked if the Board or Dr. Andrew is aware of any grand rounds down in Utah County area.

Dr. Hermansen responded Dr. Andrew should contact the hospitals as they have department meetings about every three or four months and he could attend those meetings as they are open meetings for discussion. He suggest Dr. Andrew attend an OB meeting.

Dr. Ramsey responded IHC has a department meeting once a month to review prescriptions and any questions the doctors may have.

Ms. Taxin stated Dr. Andrew could count attendance at the grand rounds meetings toward his CE. She asked if Dr. Andrew is Board certified.

Dr. Andrew responded he is Board certified in family practice. He thanked Ms. Taxin and the Board for their suggestions. He stated it is good to be back in practice without the stress he had. He stated he is healthier than he was.

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

An appointment was made for Dr. Andrew to meet again July 1, 2010.

9:45 am

Dr. Douglas D. Callahan, Probationary
Interview

Dr. Callahan met for a telephonic probationary
interview due to weather conditions.

Dr. Ramsey conducted the interview.

Dr. Ramsey asked if Dr. Callahan has been pulling the CS database report and reviewing it.

Dr. Callahan responded he has had the database reports sent to him. He stated he needs to get on-line so he can get the reports immediately as he currently has to write a letter requesting the report each month.

Ms. Taxin asked if he is registered on-line to pull specific patient information.

Dr. Callahan responded he is. He stated he can obtain individual reports easy but to obtain the whole report he then has to write a letter. He stated he has not yet received the report for March but has received previous months.

Dr. Ramsey stated the volume of prescriptions is much less this quarter. He stated there was a problem with the envelope of one batch of triplicate copies being ripped in the mailing and the Board is not sure if all prescriptions were received. He stated the February triplicate prescriptions were small compared to those written in January. Dr. Ramsey stated when the triplicate copies were compared to the database list there are a lot on the list with no triplicate copy to match. He asked if Dr. Callahan could explain.

Dr. Callahan responded he does not know why there would be a lot listed but no prescription copies to match. He stated he knows when he has compared the prescriptions with the database list there are some which were written by his father.

Mr. Barnes stated part of the list would be refills.

Ms. Taxin asked if Dr. Callahan or the office staff call in any prescriptions that Dr. Callahan does not write out a triplicate for.

Dr. Callahan responded he and the staff do call in some prescriptions but he always tries to write out a prescription for those called in as he needs to submit a triplicate copy to the Division and needs a copy for the

patient file.

Mr. Barnes confirmed there are some triplicate copies that document they were called in.

Ms. Taxin suggested Dr. Callahan have one of his staff compare the written prescriptions to the database list to be sure all on the list have a prescription triplicate and to determine what is going on with all those that don't have a triplicate copy.

Dr. Ramsey stated at his last appointment the Board talked about Dr. Callahan reducing the number of chronic pain patients and it appears he is doing that but the numbers are still a concern. He stated the Board needs to see improvement. Dr. Ramsey suggested Dr. Callahan talk with his father to be sure the prescriptions are identified clearly as to the prescriber and then maybe they will need to contact the pharmacies to be sure they understand they need to attach the prescriptions to the correct prescriber. Dr. Ramsey stated the supervisor report is positive and Dr. Callahan is in compliance with his Stipulation and Order.

Ms. Taxin reminded Dr. Callahan he is on probation due to the amounts he was prescribing. She stated it appears he is still having some difficulty. She stated it will be a frustrating task to compare the controlled substance database list and the prescription copies written but it will be good for him to see the inconsistencies. She stated if he can not find the written prescription when he reviews the list then he should try to figure out what is happening. She suggested he bring his marked list with him to the next appointment. She stated the comparison will give Dr. Callahan a lot of information which will also help him when he is off probation.

Dr. Callahan responded he will review the list and compare it with prescriptions written.

Dr. Ramsey suggested the comparison be

completed prior to submitting the triplicate copies.

Mr. Barnes requested Dr. Callahan note on the triplicate copy if the prescription is to be filled by mail order as it will make it easier to match up with the database list.

Dr. Callahan responded he started making the notation and will continue.

Dr. Ramsey asked if Dr. Callahan will arrange for a telephonic appointment with his supervisor for Dr. Callahan's next appointment so the Board can discuss the issues and concerns.

Dr. Callahan responded he will talk with his supervisor.

Ms. Taxin suggested he review the issues with his supervisor prior to the appointment.

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

An appointment was made for Dr. Callahan to meet again July 1, 2010.

10:00 am

Dr. Vaughn T. Johnson

Dr. Johnson met for his probationary interview.

Dr. Hermansen conducted the interview.

Dr. Hermansen informed Dr. Johnson that he is in compliance with his Stipulation and Order. He stated he would be reviewing some things from Dr. Johnson's last appointment. He asked if Dr. Johnson was still seeing the patient from overseas who was coming in for headaches.

Dr. Johnson responded he and the patient decided he would see her until she obtains her own pain specialist physician to manage her medications. He stated he has referred her to a pain management physician in Provo. Dr. Johnson stated he treats this patient every 3 months with medications and she is doing well, has

not expressed any type of adherent behavior other than taking a lot of medications. He stated he has given her a calendar date when he will no longer be prescribing for her.

Dr. Hermansen asked how the electronic prescriptions and documentation is working out for Dr. Johnson.

Dr. Johnson responded with the electronic documentation he needs to be sure he documents only the procedures he does.

Dr. Hermansen stated Dr. Johnson should take a moment to input his own documentation of what he is prescribing or not prescribing when he is going down the EMR and list problem sets. He stated he asked Dr. Johnson to bring a file on a chronic pain patient today for the Board to review. He asked if Dr. Johnson brought a file.

Dr. Johnson responded he documents if the patient is on medications he is not prescribing and who is prescribing. He stated his office has not done any medical record scanning and there are still a lot of records at the old clinic. Dr. Johnson stated he did not remember to bring a file for the Board to review today. He made a note to bring one to his next appointment.

Dr. Hermansen asked where Dr. Johnson is with the recommendation from CPEP to obtain additional education.

Dr. Johnson responded he will be taking a course in June that is on managing cancer patients, treatments and survivors. He stated he has not yet scheduled the other two courses.

Ms. Taxin asked Dr. Johnson to submit the information to her for his file.

Dr. Hermansen asked Dr. Johnson to bring two charts to his next appointment which document medications received from another physician with the name of the physician in the chart. He then

asked where Dr. Johnson is in the process of having his misdemeanor expunged.

Dr. Johnson responded the misdemeanor was handled over a year ago and he has not checked on the expungement.

Ms. Taxin explained he will have to check on the process as there are forms to be completed and a fee to file. She stated CPEP mentioned a specific area of deficiency and asked how Dr. Johnson is going to handle that deficiency.

Dr. Johnson responded the CPEP recommendation was the expectation of the practitioner being able to handle in-care, acute situations on their own. He stated he is capable of handling most cases and can refer other cases out.

Dr. Hermansen stated it appears Dr. Johnson has moved his practice more toward patient wellness. He stated if someone with acute pain and is moving to chronic pain what would be his procedure/goal to move the chronic pain patients out.

Dr. Johnson responded if a patient has had pain for more than 12 weeks he refers them to another practitioner. He stated he informs his patients at their first visit that he does not treat chronic pain. Dr. Johnson stated he believes he only has one patient at this time that is considered to have acute pain.

Dr. Hermansen asked if Dr. Johnson pulls the CS database and reviews it.

Dr. Johnson responded he does pull individual patient reports. He stated if he calls the database with a request on a patient they will fax the report to him.

Dr. Hermansen stated Dr. Johnson requested approval to have a Physician Assistant (PA). He asked where Dr. Johnson is in that process.

Dr. Johnson responded he has decided not to have a PA at this time as there is not a high demand for

services. He stated when he is ready he will put together a delegation of services for the Board to review.

Dr. Hermansen asked Dr. Johnson about EMR reports.

Dr. Johnson responded he has one chronic back pain patient who signed an agreement to receive Opiates from him only and then he discovered the patient was also receiving medications from the PA at his old clinic. He stated he discussed the situation with the patient and told him he could have one strike but not two. Dr. Johnson stated the patient denied he was drug seeking and stated he was more physically active now and has more pain. He stated if he does not believe a patient is being honest with him then he will no longer see that patient and will refer them out.

Dr. Hermansen reminded Dr. Johnson he is the Physician and not the friend to his patients.

Ms. Taxin stated if the files have the documentation of the discussion and treatment if anything happens then Dr. Johnson has done his due diligence. Ms. Taxin gave Dr. Johnson the "Prescribing Opioids" book to read and report on. She stated he can receive CME credit if he goes on-line and takes their examination.

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

An appointment was made for Dr. Johnson to meet again July 1, 2010.

DISCUSSION ITEMS:

SB274, On-line Pharmacy

Mr. Steinagel reviewed SB274 with the Board. He stated the bill creates 3 new license types with a new Board; on-line prescriber, on-line pharmacy and on-line facilitator. Mr. Steinagel stated most requirements are in the Statute but the Division and Board will need to determine the drug list to be prescribed on-line. He stated he is planning to use the

drug list the Board discussed and approved last year which is erectile dysfunction drugs, hair loss drugs and hormonal contraceptives. He asked for the Board's approval to use the list.

Dr. Ramsey responded the vote was nearly unanimous and he believes the entire Board would agree to use the list.

Dr. Ramsey asked who will be on the Board.

Mr. Steinagel responded the Board will consist of two doctors who are Physicians or Osteopathic Physicians of which one is required to be involved with the on-line prescribing, two Pharmacists of which one is required to be involved with the on-line prescribing and two public members not associated with on-line prescribing and one member who is an internet Facilitator.

SB88, Pharmacy Practice Act Amendment

Mr. Steinagel reviewed SB88 with the Board. He explained the amendments will allow Physicians and Osteopathic Physicians to dispense specific cosmetic medications in their offices, such as: Latisse and HCG.

Dr. Hermansen stated he believes some Chiropractors have joined in for dispensing in their offices.

Mr. Steinagel responded the Chiropractors are not included in the amendments.

Ms. Taxin responded the amendments will only allow the Osteopathic Physicians and the Physicians to dispense in their offices. She stated other practitioners were not included.

Mr. Steinagel stated the weight loss drugs are injections only and would not include the drops. He stated no one will obtain an exemption for the drops. Mr. Steinagel stated this Bill came about due to the Division enforcing the Law on dispensing. He stated there are still some issues to resolve. He stated the Division will need input from the Osteopathic

Physicians Board, the Pharmacy Board and the Physicians Board to define the drugs that are to be dispensed and to define the standards for the compound drugs. He stated Utah is one of the only States with such tight regulations on dispensing.

Ms. Taxin suggested the Board consider including some additional classification drugs as after the Rules are written individuals will need to apply to the respective Board for any additional drugs to be approved and included. The Boards will then review and approve or deny the requests. She stated if a Physician or Osteopathic Physician compound drugs they will be required to abide by the Laws on compounding. Ms. Taxin inquired if the Board believes the following should be included in the new Rule:

- **Hydroquinone (a skin lightener)**
- **Retinoids**
- **Benzoperoxide**
- **Lactic, Glycolic and Salicylic acid products.**

Mr. Steinagel stated Latisse and HCG will be on the approved list.

Dr. Hermansen asked if the PA's who work with Osteopathic Physicians and Physicians will be allowed to dispense also.

Mr. Steinagel responded PA's are granted the authority to practice all duties an Osteopathic Physician or Physician does under those practice acts but this is under the Pharmacy Act and PA's will not be allowed to have the authority to dispense and/or have it delegated to them. He stated the Division is still in discussion with attorneys who do not believe this can be delegated to PA's or Nurse Practitioners but it may change at the next legislative.

Dr. Ramsey commented he would be interested in what Dr. Peterson would say regarding including PA's and Nurse Practitioners as Dr. Peterson is a dermatologist.

Mr. Steinagel requested the Board to notify Ms. Taxin

if there are other drugs they believe should be on the list.

Recommendation for Board Member Opening
on New Controlled Substances Advisory
Committee

This item was deferred.

Osteopathic Physician Licensure Requirements

Ms. Taxin stated there have been issues come up with doctors applying for licensure who have been out of practice for several years or have been in continuous residencies. She explained if applicants apply by endorsement and are not Board certified the Statute requires them to pass the SPEX examination. She stated if the applicant applies by regular route and meets requirements she has not required them to pass the SPEX examination as the Statute does not have the same requirement. Ms. Taxin stated there have a number of applicants who have had to take the SPEX examination. She stated the Osteopathic Law needs to be updated. She suggested the Board review the Osteopathic Law and the Physicians Law as their language is clearer. She stated there is a new SPEX examination coming out that is more specialty oriented and not so general.

Dr. Ramsey asked if a change could be made by Rule to give the Board/Division the authority to determine when the SPEX should or should not be required.

Ms. Taxin responded at this point the requirement is written in the Law and cannot be addressed by Rule.

Dr. Hermansen asked if the Physicians Board should meet with the Osteopathic Physicians Board to review both Laws regarding changes.

Ms. Taxin responded she believes the Physicians Law does not need changes in that area as the Physicians do not take the SPEX if they are in a residency program and Board certification is not required.

Dr. Ramsey stated the SPEX is only required if it has been a specific number of years beyond the Osteopathic Physician's residency.

Ms. Taxin stated that is the issue. She stated the Law requires the SPEX if the practitioner has been out of the residency program for 5 years and if they are not Board certified. She stated some applicants are still in the residency program and planning to take their Boards. Ms. Taxin suggested those who have not practiced should be required to take the SPEX but those who are practicing should not be required to. She stated if the Law refers to the SPEX "as defined by Rule" then a Rule can be written. Ms. Taxin stated she has not talked with the Osteopathic Physicians Association as she does not have a contact person and they have not attended any of our Board meetings.

Dr. Ramsey responded he would like to discuss the issue with Dr. Peterson first.

Dr. Hermansen recommended Dr. Ramsey and Ms. Taxin also talk with Halley Robins.

Ms. Taxin requested Dr. Hermansen to contact Ms. Robins, update her on the issues and request her to come to a meeting for discussion with the Board.

Dr. Hermansen asked if the Board could give language suggestions to the Association.

Ms. Taxin responded they could give suggestions.

Dr. Ramsey stated he believes the Board should have the authority to decide if the SPEX should be required or waived.

Ms. Taxin stated if the Law said "as defined by Rule" the Board/Division could make some decisions.

FSMB Conference

Ms. Taxin stated she has not received any voting information to date regarding the FSMB conference that will be held in April. She reminded Dr. Ramsey that those who attend must be at the voting meetings of resolutions or the conference fees will not be reimbursed. She stated Dr. Bennion will be attending from the Physicians Board. Ms. Taxin recommended the three of them meet prior to the conference to review the resolution issues to be sure they understand

the items and vote appropriately.

CORRESPONDENCE:

FSMB Correspondence

The Board reviewed the following FSMB correspondence:

1. Report on FSMB Maintenance of Licensure Initiative. **Board members will review the information.**

Ms. Taxin stated FSMB has made some recommendations regarding Physicians competence. She stated these are recommendations only. She stated she believes the recommendations are a general start and requested the Board to review the information.

2. FSMB and NBME Enhancements to the SPEX Examination. **Board members will review the information.**

NEXT MEETING SCHEDULED FOR:

July 1, 2010

ADJOURN:

The time is 11:03 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.

July 1, 2010
Date Approved

(ss) Keith P. Ramsey, DO
Acting Chairperson, Utah Osteopathic Physician &
Surgeon's Licensing Board

April 28, 2010
Date Approved

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