

MINUTES

UTAH PHYSICIAN ASSISTANT LICENSING BOARD MEETING

September 13, 2010

Room 475 – 4th Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 8:30 A.M.

ADJOURNED: 11:23 A.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Susan Higgs

Board Members Present:

J. Paul Clark, MD, Chairperson

Maria K. Skedros

Gordon L. Day, PA-C

Shari Bloom, PA-C

Jeffrey M. Coursey

Larry Reimer, MD

J. David Schmitz, MD

Guests:

Dave Keahey

Jared Spackman

Bob Bunnell, U of U

Paul Harrison, MD

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Shari Bloom, PA-C, as a Board Member

Ms. Taxin conducted the swearing in of Ms. Bloom as a Board member. The Board welcomed her.

Board Chairperson

Dr. Schmitz nominated Gordon Day for chairperson. Dr. Reimer seconded the motion. **The Board vote was unanimous.**

Dr. Clark was requested to conduct today's meeting.

MINUTES:

The minutes from the June 3, 2010 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.**

APPOINTMENTS:

8:45 am to 9:45 am

Review Proposed Filed Rule and Feedback Received to make a Final Approval

Ms. Taxin explained she sent a copy of the proposed Rule and a packet of information regarding supervision requirements of Physician Assistants (PA's) Physicians in other States. She stated Dr. Paul Harrison submitted a comment of opposition and a request additional discussion regarding the proposal of increasing the number of PA's a Utah Physician may supervise from 2 full time employee (FTE's) PA's to 4 FTE PA's. Ms. Taxin stated the Board's decision should be based on what is best for Utah and the safety of the public. She stated she has not received feedback or had issues with the requirement of 2 FTE PA's as it has worked well. She explained she requires the supervising Physician to submit an explanation regarding justification on how they will supervise and maintain patient care and safety. Ms. Taxin stated she has approved more than 2 FTE PA's for the 4th Street clinic as they submitted a reasonable justification. She stated she also approved for the Summit Pain Clinic to have more than 2 FTE PA's as one Physician left the clinic and the supervision was short term until a new Physician was hired. Ms. Taxin stated the biggest problem with PA's is getting them to submit a new Notification of Change for when they change locations or primary supervision Physicians. She stated the proposed Rule was written as Mr. Bunell believed it would be helpful to the profession and those in rural areas to be allowed to supervise more than 2 FTE PA's.

Dr. Schmitz asked if the Division has a complete list of how many Physicians are currently supervising 2 or more PA's and if the Division retains a copy of the Delegation of Services Agreement.

Ms. Taxin responded not more than 10 approvals for over 2 FTE PA's has occurred and the Delegation of

Services Agreement is retained at the location of services but if there is an issue she does sometimes request the agreement to be submitted for review.

The Board discussed the impact and if the higher number would affect the quality of care of the patient. They also discussed the higher number of medical malpractice suits and PA's being named with the supervising Physician in the malpractice suits.

Ms. Taxin stated the Board may want to review the Delegation of Services Agreement and develop a specific criterion that needs to be met.

Dr. Schmitz commented there is a declining number of MD's and an increase in patients requiring primary care. He stated the goal is to be sure the mid-level practitioners are adequately supervised to maintain the quality of care.

Mr. Spackman commented the recommendation to increase the number of FTE PA's from 2 to 4 is not coming from a position on how to increase revenue for Physicians. He stated there has to be trust that Physicians will set up supervision that is appropriate and be a team with the PA's by reviewing cases together, asking questions and seeking assistance when appropriate and necessary.

Mr. Bunnell commented the trend is moving toward Nurse Practitioners becoming the primary care providers for the country. He stated the Rule could stay as it current is written as Physicians may request approval to supervise more than 2 FTE PA's but they are not aware the Rule provides for them to make a request.

Ms. Taxin reminded the Board and guests they have a responsibility to review and understand the Laws and Rules of their profession.

Dr. Harrison stated he is in private practice and has supervised a Nurse Practitioner and a PA at one time. He stated he no longer supervises anyone. He stated he does not represent the UMA

but does have a statement from the UMA. He stated the UMA believes there is an increased number of malpractice cases but do not have statistics regarding if it is due to more PA's or lack of care by the Physician as both are listed in the case and the Physician and PA probably saw the patient at some point. He stated almost every Physician dermatologist has midlevel providers. Dr. Harrison stated there is a large medical group who have no midlevel providers and when he inquired the response was why should they oversee someone when it adds to their liability. He stated he spoke to a private practitioner and practitioners at Granger Medical and was informed they are seeing more patients who have already been seen by PA's and their issues were ignored so the patients want to see a Physician only. He stated he believes supervising 2 FTE PA's is adequate for any Physician to supervise and requested the Board leave the Rule as it is currently written.

Dr. Clark commented he does believe PA's over prescribing is common.

Ms. Bloom responded many Physicians also over prescribe. She stated the issues are how is the public protected, the PA receive adequate supervision and the financial portion. She stated requests should be reviewed on a case by case basis and she does not believe moving from 2 FTE PA's to 4 makes a difference as there are many who are supervising well.

Mr. Keahey commented Physicians and PA's make mistakes. He stated the Board should expect the Physician or PA to know when and what they don't know and be wise enough to ask when the need assistance. He stated over the next years many people will have health insurance and there will be a need for more providers which means more PA's will be needed. He stated the Association recommended the proposed Rule be approved and all requests for an increase from 4 to be reviewed by the Board. He stated the PA Association met with the UMA prior to recommending the change in the Rule and the UMA has been on board for the

change. He stated the Association is concerned about patient safety above all but believe adequate supervision can occur.

Ms. Taxin stated language could be included under unprofessional conduct regarding not providing adequate supervision would be unprofessional.

Dr. Reimer voiced support for the change as long as there are consequences in place to protect the public if not supervising adequately.

Dr. Harrison commented the minutes of the UMA do not support or endorse the change from 2 to 4 FTE PA's. He stated Ms. McOmber stated the UMA would not oppose the change.

Dr. Reimer made a motion to approve the proposed Rules as written by increasing the number of FTE PA's from 2 to 4.

Mr. Coursey seconded the motion.

Following additional discussion Dr. Schmitz made a motion to postpone the vote until the Board has statistical data to review to ensure public safety.

This motion died for lack of a second.

The motion was restated by Dr. Reimer to approve the proposed Rules as written by increasing the number of FTE PA's from 2 to 4.

Ms. Skedros, Dr. Reimer, Mr. Coursey and Mr. Day voted in favor of the motion.

Ms. Bloom abstained from voting. Dr. Clark and Dr. Schmitz voted against the motion.

The motion passed with a simple majority of 4 votes in favor, 2 against and 1 abstaining.

Ms. Taxin stated she will put the Rule through. She stated Board members and guests have brought up issues that needed to be discussed and considered. She suggested a Board member attend the Physicians

Board meeting to discuss the issues with that Board and possibly develop language in unprofessional conduct.

Dr. Schmitz responded he would be glad to attend as the representative of the PA Board.

Mr. Spackman stated the Association has a newsletter that could include the Rule information and they sponsor CME every year.

Ms. Taxin suggested the Association include information to let the members know they will still need to submit a request with a justification on why and how they can supervise more than 4 FTE PA's if they request more than 4. She suggested Board members review the Law and Rule and if there are other areas they believe should be discussed or amended to make a note for further discussion at the December meeting.

9:45 am

Susan Higgs, Compliance Update

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

Ms. Higgs reported **Alan N. Bybee** is currently in compliance with his Stipulation and Order.

Ms. Taxin stated Mr. Bybee has requested early termination of his probation. She stated his probation is scheduled to terminate in May 2011 and the Board suggested an audit prior to considering early termination. Ms. Taxin stated Dr. Allen volunteered to conduct an audit of Mr. Bybee's practice to be sure everything is documented properly in his charts. She stated Dr. Allen conducted the audit and stated the documentation was in order.

Ms. Higgs reported **Jeffrey M. Pollock** is currently in compliance with his Stipulation and Order. She stated a Pharmacy has again given the old DEA number so the Database indicates an invalid DEA number. Ms. Higgs reminded the Board Mr. Pollock's CS was reissued the end of December.

Mr. Coursey asked how early is too early for termination of probation.

Ms. Taxin responded Bureau Managers have different opinions but if the Board believes a probationer is safe to practice then they could consider early termination. She stated she usually recommends the probationer be approximately half through the probation period. Ms. Taxin stated Mr. Pollock's issues were several years prior to his being put on probation but he wanted to be relicensed so a probationary license was offered to ensure he was safe to practice. She stated if the probationer has learned their lesson(s) and is doing well the Board could consider termination. She stated Mr. Pollock has been on probation for two years.

Dr. Clark recommended the Board consider early termination if Mr. Pollock brings it up.

Ms. Taxin responded Mr. Pollock might not know he can ask for early termination but he would need to make a justification regarding what he has learned, changed and what is now in place so he does not get back into the same type of situation.

10:00 am

Alan N. Bybee, Probationary Interview

Mr. Bybee met for his probationary interview.

Dr. Schmitz conducted the interview.

Dr. Schmitz stated Mr. Bybee has requested early termination. He stated Dr. Allen volunteered to conduct an audit of Mr. Bybee's charts and the report indicates the charts were documented appropriately and supervision is appropriate. He stated it appears the prescriptions from June, July and August are appropriate for quantity. Dr. Schmitz asked Mr. Bybee to share what he has learned by going through the probationary process.

Mr. Bybee responded this has been a humbling experience. He stated when a practitioner has to document each prescription they write they sometimes

realize they are writing for more than they thought they were. He stated he has also learned to try other methods first and to document everything as he is responsible for his patients. Mr. Bybee stated he has had some very good opportunities through this process which has helped him be much more aware of what is going on in his practice.

Dr. Schmitz asked if Mr. Bybee believes his supervisors have placed him in a position that puts him at risk by not supervising appropriately at the beginning of his probation.

Mr. Bybee responded he believes the supervision could have been tighter but it is much tighter than it was. He stated he has a good relationship with his patients and his supervisor and they are more on top of patient issues. He stated Morgan, Utah, is a small, tight community so both he and his supervisor see the patients. Mr. Bybee stated he is very comfortable with his supervisor signing each chart. He stated they are going to the computerized chart.

Ms. Taxin cautioned him to be sure he does not get caught in only what the computer offers but adds categories as needed to clearly and completely document patient charts. She voiced appreciate for the efforts Mr. Bybee has put forth. She stated she believes he was a little angry and frustrated at first but has taken responsibility and done well while on probation.

Dr. Schmitz made a motion to terminate probation early based on Mr. Bybee completing all the requirements of his Order except the timeframe.

Ms. Bloom seconded the motion.

The Board vote was unanimous.

Ms. Taxin explained the paperwork process of termination.

10:15 am

Jeffrey M. Pollock, Probationary Interview

Mr. Pollock met for his probationary interview.

Mr. Coursey conducted the interview.

Mr. Coursey asked Mr. Pollock when he received his DEA registration as the CS database indicates Mr. Pollock has been prescribing since May 2010.

Mr. Pollock responded he did not remember the exact date but it has been several months but May sounds about right.

Ms. Taxin stated Mr. Pollock had mentioned in the meeting today he was required to give the DEA information. She asked if he was on probation with them.

Mr. Pollock responded he is not sure if he is on probation with the DEA but they did give him a Memorandum Order to sign.

Ms. Taxin stated the Order is probably based off his probation with the Division. Mr. Pollock provided a copy of the DEA Memorandum of Understanding Order which Ms. Taxin reviewed and stated on March 31, 2010 the DEA had Mr. Pollock sign a Stipulation for two years. Ms. Taxin stated Mr. Pollock is allowed to write prescriptions for testosterone only for the two years and cannot write any for himself, family members, staff or co-workers. She stated he cannot prescribe by fax or telephone for the two years and must have a log if he administers at the office. She stated the requirements are best practice. She requested a copy for his file.

Mr. Pollock responded he does keep a log and sends it to the DEA quarterly. He stated he will make Ms. Taxin a copy for his file.

Mr. Coursey asked if Mr. Pollock has signed up for the CS database.

Mr. Pollock responded he believed he did as he printed

out all his notes as he went through the computer process.

Ms. McCall suggested he contact Tom Harper as the Division records do not indicate he has registered.

Mr. Coursey asked how many hours Mr. Pollock is now working.

Mr. Pollock responded he works about 30 hours a week at one location and about ½ day at another location.

Mr. Coursey asked how Mr. Pollock is handling his stress now.

Mr. Pollock responded he is doing well in dealing with his stress.

Mr. Coursey asked Mr. Pollock to explain his argument regarding early termination from probation.

Mr. Pollock responded he has learned from his mistakes. He stated he has learned his life does not go well when he makes bad choices but does go well when he makes good choices. He stated it has been liberating not to have any secrets or hidden agendas and he likes that life style. He stated some people call it painfully honest and he likes that. Mr. Pollock stated he does want to come into contact with any law enforcement again in a negative way and he believes he has become the PA he wanted to be originally. He stated he believes his supervising Physician would agree with him.

Mr. Coursey asked how Mr. Pollock would feel about early termination of his probation.

Mr. Pollock responded he was going to ask the Board today if they would consider early termination. He clarified he will still be required to submit his documentation to the DEA.

Mr. Coursey made a motion for early termination

based on Mr. Pollock having completed all the requirements of his Stipulation and Order except the timeframe.

Mr. Day seconded the motion.

The Board vote was unanimous.

Dr. Clark asked what type of relationship Mr. Pollock has with Dr. Moore.

Mr. Pollock responded they have a good relationship. He stated in the past Dr. Moore was involved with selling some hormone products which brought some questions up but he is not providing that service any longer.

Ms. Taxin informed Mr. Pollock of a Law that passed which allows a Physician to dispense HCG out of their office but the PA cannot dispense. She stated the Physician must abide by all Pharmacy requirements and cannot delegate the dispensing to the PA as at this time it is for the Physician and Osteopathic Physician only. She suggested Mr. Pollock inform Dr. Moore of the Law.

Mr. Pollock thanked the Board and asked if he has to turn in any more paperwork for the Board.

Ms. Taxin responded no but the DEA requirements are good practice. She stated he should give the patient a prescription and put one in the patient file. Ms. Taxin stated Mr. Pollock's supervisor will no longer need to write and submit reports. She suggested he be careful and not let his stressors push him back into another situation.

Mr. Pollock stated a few weeks ago a patient researched him and read about his situation. He stated he explained the situation to the patient and the patient was very understanding. He asked if that information will always be available to patients and the public.

Ms. Taxin responded yes. She stated disciplinary action is never expunged. Ms. Taxin stated Mr. Pollock can be a roll model to others as he worked

out his situation and can help others understand the importance of dealing with their issues.

Ms. Taxin explained the paperwork process of termination.

DISCUSSION ITEMS:

Tentative 2011 Board Meeting Schedule

Ms. Taxin stated the next meeting is schedule for December 2, 2010 with meetings scheduled for March 14, June 27, September 26 and December 19, 2011. She stated if there are no issues to discuss and no probationers the meeting may be cancelled. Ms. Taxin stated the only thing she has heard about is a Rule change which includes PA's as practitioners who may perform laser.

Dr. Schmitz voiced confusion regarding not meeting to discuss issues in the Law.

Ms. Taxin stated the Board could meet to discuss issues in the Law. She again requested Board members to review the Law and Rule and if something does not make sense to make a note for discussion. She stated if the Board cannot understand the language then maybe parts should be removed. Ms. Taxin explained that the Board cannot expand the Law but can expand the Rule. She suggested the Board write on their copy and send it to her to prepare for the Board meeting.

Dr. Schmitz stated he has been reviewing the Law and Rule and what is entailed in supervision is not specific.

Dr. Reimer stated there are new requirements for supervision of students and maybe some of that can be incorporated into the Rule. He stated supervision has become more relaxed. He stated there is no standard to follow and every Delegation of Services agreement is different as there is no expectation or consistency.

Mr. Bunnell stated several years ago supervision of the PA was defined in too much detail.

Ms. Taxin suggested Board members pick out issues and propose language to clarify them. She stated the Board could make recommendations to be posted on the website but would not be found in Law or Rule.

Dr. Schmitz asked if the Division audits Delegation of Services Agreements.

Ms. Taxin responded no. She stated the Division could do a random audit at renewal time. She stated if an audit is done the word gets out and people get into compliance very quickly.

Mr. Day commented he wrote a paper regarding appropriate Physician Assistant supervision. He stated he could send a copy to the Board for review.

Board members requested Mr. Day send a copy of the paper to them.

Ms. Taxin suggested language be included in the Rule under unprofessional conduct regarding a Physician cannot hire a PA just to provide for monetary gain with no supervision.

Ms. Bloom responded PA's are trained from the beginning to be an extender of the Physician.

Mr. Coursey commented if a PA is in a situation where they are not being supervised they should speak up.

The Board reviewed the following tentative Board meeting schedule for 2011: March 14, June 27, September 26 and December 19, 2011.

NEXT MEETING SCHEDULED FOR: December 2, 2010

ADJOURN:

The time is 11:23 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.

January 10, 2011
Date Approved

(ss) Gordon L. Day, PA-C
Chairperson, Utah Physician Assistant Licensing Board

September 30, 2010
Date Approved

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