

MINUTES

UTAH CHIROPRACTIC PHYSICIAN LICENSING BOARD MEETING January 13th, 2011

Room 402 (Fourth Floor) - 9:00 a.m.
Heber M. Wells Building
Salt Lake City, UT 84111

CONVENED: 9:06 a.m.

ADJOURNED: 11:50 a.m.

Bureau Manager:

Sally A. Stewart

Board Secretary:

Sally Canavan

Board Members Present:

James D. Knight, DC, Chairman
Edmund Sperry, Public Member
Craig D. Campbell, DC
Carlyle Bret Whittaker, DC arrived at 9:30
Michael D. Smithers, DC

Board Member Absent

None

Guests:

Tim Appgood, Utah Chiropractic Physicians Assoc.
Brent Hadlin, Constitutional Concepts
Neil Erickson, Utah Chiropractic Association
Jennifer Gundersen, wife of Bruce Van Gundersen

DOPL Staff Present:

Kent Barnes, Compliance Unit Manager
Debbie Harry, Compliance Specialist

TOPICS FOR DISCUSSION **ADMINISTRATIVE BUSINESS:**

DECISIONS AND RECOMMENDATIONS

The April 2011 Chiropractic Board Meeting was rescheduled from April 14th, 2011 to April 7th, 2011.

Minutes:

The minutes from the October 14th, 2010 were reviewed. A motion was made by Mr. Sperry, seconded by Dr. Campbell, to approve the minutes as written. The motion passed unanimously.

APPOINTMENTS:

Debbie Harry, Compliance Unit Specialist

Ms. Harry presented the status reports on the probationers being interviewed today.

Policy Recommendation:

Mr. Sperry made a recommendation of policy to the Division, seconded by Dr. Campbell. The recommendation was that anybody placed on probation not be allowed to be in independent practice; or that if they are in independent practice that there be

a very complete and thorough supervisory process. The Board vote for the recommendation was four in favor, with one opposed (Dr. Whitaker).

Keith Sterling Hansen

Dr. Campbell interviewed Dr. Hansen. Dr. Hansen submitted a letter requesting early release from his probation. Dr Campbell asked Dr. Hansen to read his early release request letter. The Board discussed probation periods. They denied Dr. Hansen early release at this time. The Board would like to see him get his full license on June 1st, 2011, in accordance with completion of the duration of his order. If he remains compliant through the April meeting the Board could consider amend his stipulation. Dr. Hansen stated he had safeguards in place for his practice. He stated he will have someone there during all exams. He is only seeing approximately three patients as he is doing mostly ultrasound interpretations. The Board noted they would hold his letter until his next meeting. The Board requested to see him at the April 7th, 2011 meeting. **Compliant**

Bruce Van Gundersen

Dr. Gunderson began his interview by stating he wanted to make a Point of Order to have the record reflect no one has a personal vendetta against him.

Mr. Sperry interviewed Dr. Gundersen. Mr. Sperry went over his Stipulation and Order to make sure he understood all the conditions. The Board noted in the past his license had been revoked, suspended, and put back on probation. It was noted that the individual who audited his records was Dr. Jay D. Anderson of the Quality Control and Professional Standards Committee. Dr. Anderson went to Dr. Gundersen's office, a trip requiring one hour travel, to audit his records. He charged Dr. Gundersen his hourly rate of \$350.00 per hour for his travel time. Dr Gundersen felt the amount was unreasonable. He requested a different person audit his records. The Board agreed to review the addresses of the Committee to see if anyone is closer to Dr Gundersen, but will have Dr. Anderson continue for the time being. Dr. Gundersen stated he had submitted five names, none of whom was approved by the Board. He wants one of them approved as his auditor and he wants to know why they were not considered before. It was explained to Dr. Gundersen that the auditor of his records would be a member of the Quality Control and Professional

Bruce Van Gundersen (continued)

Standards Committee rather than a selection of his choice.

Dr. Gundersen was asked and stated that he is in private practice so he does not have a partner or employer. He has an Office Manager who is reporting as his “supervisor” for reporting purposes. He then asked about the Ethics course required by his Stipulation and Order. It was explained that the approved Ethics course the Board usually suggests people take is the Pace course in California. Dr. Gundersen suggested an Ethics course that is closer to home making the suggestion of a four hour course he had looked into. He stated his Stipulation and Order says the Board will pre-approve the course, not determine the course. The Board clarified that a specifically named course is almost never included in a Stipulation and Order in the event that another course becomes available that is believed to be better suited to the situation. Dr Gundersen will provide the names of some other ethics courses to be considered by the Board and Division. He was asked to fax the information to Ms. Harry and Ms. Stewart, to review and provide to the Board.

The Board reminded him if he has non-compliance issues there will be consequences for his actions; and the Board will follow the terms and conditions of the Stipulation and Order closely. The Board will see that he is in compliance or he may not have even a restricted license. Dr Gundersen apologized for anything he said that seemed aggressive or unkind.

The Board noted that at the last Board meeting Dr Gundersen attended he stated he had a problem but he was working on it and seemed to have it together. The Board noted how, based upon his admissions in the current Stipulation and Order, even then he was treating patients 18 years of age and younger, even though it was a violation of the Stipulation and Order in effect at that time. Dr. Gundersen stated he had an Associate in his office who had set up the appointments with minors and then would not come in to see to his appointments. He stated he thought his Associate had “set him up”. The Board noted Dr. Gundersen violated his Stipulation and Order eleven times based upon the admission in the current

Bruce Van Gundersen (continued)

Stipulation and Order. The Board's concern now is, what assurances does the Board have Dr Gundersen would not violate again. The Board requested he bring his Office Manager to the next meeting. The Board would like to talk with her about the terms and conditions Dr. Gundersen must meet. She needs to call Ms. Harry and set up an appointment to meet with the Board.

Dr. Gundersen requested Mr. Sperry act as his advisor/mentor. Dr. Whittaker made a motion, seconded by Dr. Smithers, to amend this Stipulation and Order with reference to condition 8(1)(f) to permit the period of time for completion of the required additional continuing professional education focusing on professional ethics to be completed within nine months, rather than six months, from the date of the Stipulation and Order was signed to allow time for an alternative ethics course to be considered or evaluated. The motion passed unanimously.

Mr. Sperry wanted it reflected in the record that in the last Board meeting 100% of the Board was against Dr. Gundersen's being allowed another opportunity at probation. The Board did not have input into the Stipulation and Order negotiated with the Division with the assistance of the Assistant Attorney General in this matter. The Board recommends quarterly meetings and stated they would next see him at the April 7th, 2011 meeting. **Compliant**

Michael K. Lindstrom

Dr. Smithers interviewed Dr. Lindstrom. He was supposed to meet with Ms. Harry prior meeting with the Board. The Board stated when he signed his Memorandum of Understanding and Order he was informed that meeting was needed. The Board agreed to interview him even though he had not met with Ms. Harry. They told him to take ownership and comply with his Memorandum of Understanding and Order. Dr. Smithers made a motion, seconded by Mr. Sperry, to terminate the interview and have him come back for the April 7th, 2011, meeting after he has reviewed his Memorandum of Understanding and Order and discussed what is required to be in compliance. The motion passed unanimously. The Board requested to see him at the April 7th, 2011 meeting.

Non compliant

DISCUSSION:

Federation of Chiropractic Licensing Boards (FCLB) – Informational Handout

The Board discussed that as licensed Chiropractic Physicians they all need to become involved with the Federation of Chiropractic Licensing Boards (FCLB). It is rarely, particularly in these economic times, for DOPL to be able to fund attendance at the FCLB conference. This year it will be at Marco Island, Florida. Dr. Campbell stated when he attends the conferences he leaves them feeling better for having been there. Dr. Knight wanted to know who might be interested in going. The first time attending might seem intimidating, but the individual who goes will learn a lot. He asked that anyone interested in attending e-mail him. The Board noted that this year Dr. Knight will rotate off the Board, and that when he leaves there will be a huge void. It was stated that the rest of the Board will need pick up the slack. The National Board of Chiropractic Examiners and the FCLB are both good resources.

General Chiropractic Physicians Disciplinary Information

In addition to complaints to the Investigative Unit and possible disciplinary concerns, there are other sources watched by the Division. DOPL is aware of articles posted in the newspapers and broadcast with reference to individuals who are in this profession. There have been two specific situations where DOPL was made aware of information even though there were no current actions through investigations. There have been articles in various papers reporting on situations that could be detrimental to the profession. The FCLB also monitors broadcasts and publications; and they picked up on one of the situations as well. They forwarded the information to us and provide a great service to this profession.

National Provider Identifier Information for Renewal

Although listed in the Agenda, this topic was not discussed at this meeting.

Decompression Advertising

The Board and Mr. Apgood discussed Decompression Treatments being misrepresented. The Board noted one of the concerns is possible insurance fraud issues surrounding billing. The members of the Board previously reviewed the video (slides from a PowerPoint presentation) from the FCLB. The Board noted some Board members are receiving complaints regarding decompression treatments and treatment providers. It was stated to the Board that when a complaint is received it must be given to the Investigations Unit of DOPL for follow-up. Mr.

Apgood and several members of the Board noted there is absolutely nothing in decompression treatments proven to have any validity for removing pain. Decompression treatments are often being advertised for free. The doctors will charge \$4,000 - \$15,000 on a credit card and say Medicare will pay any differences. Medicare most frequently won't pay. Mr. Apgood also suggested when a patient is paying for services; the money should go into an escrow account not the Doctor's personal account or general account. The Board discussed the correct billing code for Decompression treatment is S9090 and should be billed per session or a 97012 code for motorized traction. This information is being shared for educational purposes only. The Investigative Unit looks at licensing or advertising issues while consumer fraud complaints or concerns should be referred to Consumer Protection or the Insurance Department. They could give access to a larger pool of investigators. DOPL would like to be informed of issues in any event. The doctors are spending \$100,000 - \$150,000 for equipment and are trying to recoup the money spent for their machines. The Board noted patients have 30 days to reverse charges on credit cards if they are aware of that process.

NBCE Delegate designation

As the Chairperson of the Board Dr. Knight is required to designate the delegate and alternate delegate for the FCLB conference. The Board was asked to let Dr. Knight know if they would be interested in going to the conference.

Next Scheduled Meeting:

Thursday, April 7th, 2011

ADJOURN:

11:50 a.m. (no motion required)

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 7th, 2011
Date Approved

(ss) James D. Knight, Chairman
Chiropractic Physician Licensing Board

April 7th, 2011
Date Approved

(ss) Sally A. Stewart, Bureau Manager
Division of Occupational & Professional Licensing