

MINUTES

**UTAH
ONLINE PRESCRIBING, DISPENSING
AND FACILITATION
LICENSING BOARD MEETING**

February 22, 2011

**Room 210 – 2nd Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:02 A.M.

ADJOURNED: 10:06 A.M.

Bureau Manager:
Board Secretary:

Noël Taxin
Karen McCall

Board Members Present:

Mark N. Bair, MD, Chairperson
Kathleen Littlefield, R. Ph.
Lt. Michael Ross
Jennifer R. Korb
Peter Ax, Telephonically
Roger Fitzpatrick, R. Ph.

Board Members Absent:

John W. Bachman, MD

Guests:

Kevin Marino, Attorney
Lisa Dimick
Chris Taylor

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the October 5, 2010 Board meeting were read.

Mr. Fitzpatrick made a motion to approve the minutes as read. Ms. Littlefield seconded the motion. **The board vote was unanimous.**

The minutes from the November 9, 2010 Board meeting were read.

Ms. Littlefield made a motion to approve the minutes

with minor amendments. Lt. Ross seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

9:30 am

Dr. Mark Taylor, Online Presentation

Dr. Taylor met for the Board to review his Online Prescribing information and to make recommendations prior to Dr. Taylor applying for licensure.

Dr. Taylor conducted a power point presentation. He stated he is a Board Certified Dermatologist, has been in practice 31 years, is the co-founder of SkinCareRx.com and is established at the Gateway Mall in Salt Lake City. Dr. Taylor stated he is exploring becoming licensed as an Online Prescribing company as he treats skin pigmentation, freckles, lentigenes (liver spots), acne and other pigmentations of the skin with Hydroquinone and Tretinoin. He requested the Board to consider approving Hydroquinone, up to 4%, and Tretinoin, up to 0.1%, for online medications. Dr. Taylor explained these are not compounded medications, they are not steroids and they are for topical use only. He explained that these are low risk products for simple skin conditions with no adverse reactions if patients discontinue their use. Dr. Taylor stated these products are available to the public through internet sites at this time and, if he applies and is approved, his patients would complete a simple medical history form which would be updated every two years. Dr. Taylor stated the branching questionnaire would ask if the patient has a rash and if they answer yes they would be referred to contact their primary physician. He stated if they answered no they would move to the order area and choose the products they want. He stated there would be an agreement to be signed regarding the patient agreeing to read the package insert to be familiar with any possible reactions. He stated SkinCareRx.com would be the facilitator and he already has staff in place to handle any complications.

Ms. Taxin stated Dr. Taylor had interchanged the words Physicians dispensing and Online Prescribing. She stated there is a proposed

Pharmacy Practice Act bill that addresses Physician dispensing in the 2011 Legislative session. Ms. Taxin stated the proposal considers expanding dispensing HCG and Latisse to APRN's and PA's who have prescriptive practice.

Mr. Fitzpatrick commented Optometrists are also included in the 2011 Bill. He asked if Dr. Taylor offers online prescription products at this time.

Dr. Taylor responded no, but stated he wants to offer online prescription products he mentioned.

Mr. Fitzpatrick asked how he can have RX in the title of his company.

Dr. Taylor responded it has been determined RX is a generic acronym.

Ms. Littlefield asked if Dr. Taylor makes the products.

Dr. Taylor responded no. He stated he orders the products from a company who makes them. He stated he is only prescribing the 2% Hydroquinone at this time and the Tretinoin is prescribed less frequently but it is available. He stated the simplest way would be for a Physician to directly dispense the products. Dr. Taylor stated all patient information is currently confidential to meet HIPPA requirements and that would not change. He stated he has reviewed the Online Prescribing Practice Act and if he does apply he would need to contact a Pharmacy but would prefer to have direct Physician dispensing of the products. Dr. Taylor asked if all three entities are required for licensing; i.e., the facilitator, Physician and Pharmacy.

Mr. Fitzpatrick responded yes. He stated Dr. Taylor would need to prepare and present a total completed package for online services for the Board to review and evaluate for licensing.

Ms. Taxin stated if Dr. Taylor wants to sell the prescription products online he would need the license. She stated the process and application

might be simpler for him as he would only be selling two products. Ms. Taxin stated Dr. Taylor met today to give his presentation and to request Board approval of Hydroquinone and Tretinoin to be added to the approved list of online drugs. She stated there are two issues Dr. Taylor's application and approval of two new drugs to add to the list. She stated Dr. Taylor does not yet meet online prescribing requirements and the Board would need to discuss and vote on approving Hydroquinone and Tretinoin. She stated there is no pressure to approve or deny the two drugs and the Board and Dr. Taylor may ask any questions they may have or the Board could discuss the two drugs and then defer a final decision until the next Board meeting to give them time to consider.

Dr. Taylor asked how the Division determined the application fee would be \$7,000.00 as that amount is not in the Law. He stated it seems to be a huge fee for a Utah application.

Ms. Taxin responded the Legislature figures in the cost involved in reviewing an application and to regulate the profession and then they determine what the fee will be.

Ms. Korb asked Dr. Taylor what would be the worst case scenario with a patient reaction to the drugs.

Dr. Taylor responded the patient would have a severe rash when taking Tretinoin but when they discontinue usage the rash usually goes away. He stated if the patient had pigment discoloration with a rash it would be appropriate to have a personal consultation.

Ms. Taxin asked if Dr. Taylor would have the ability to conduct the consultation with patients.

Dr. Taylor responded yes. He stated patients could consult with him or with their own Physician.

Mr. Fitzpatrick asked if a patient with no complications could receive the drug without going

through the questionnaire.

Dr. Taylor responded no. He stated he reviewed KwikMed's website. In his review he assessed that the branching questionnaire questions were not complex and were easy to complete. Dr. Taylor stated within his service if patients request a consultation one would be provided. He stated when reviewing KwikMed's website he noticed the medications they are prescribing may require consultation from the Physician more often than his service of providing topical cosmetic medications.

Mr. Marino asked if it will be the practice of the Board to consider the type of information Dr. Taylor has presented, render advice and also consider and act on medications to include on the approved list by listening to a presentation without an application.

Ms. Taxin responded these two drugs were initially on the list for consideration to be approved. She stated since there was not yet a Board formed she believed it was important for Dr. Taylor to meet with the Board to present his information and for the Board to consider his request to approve or deny the two drugs. Ms. Taxin stated the Division has not received a lot of applications for this profession and with all the confusion and questions surrounding the online prescribing she believes it is important for the Board to have discussion as a group. She stated if the profession becomes busy she may need to set different parameters but anyone has the right to meet with the Board to discuss their questions.

Dr. Bair commented the two drugs have come before the Board prior to this meeting. He stated he believes it is appropriate to review those drugs and Dr. Taylor's request. He stated when Dr. Taylor submits a complete application he would also need to meet to present his complete program which would include his branching questionnaire.

Mr. Marino commented he believes Dr. Taylor's

comments regarding thoroughness of the KwikMed branching questionnaire is inaccurate and that it is a very thorough and complete medical evaluation tool. He then stated the argument he hears from Dr. Taylor surrounding the justification for approval of his request is that it is possible to obtain the topical cosmetic drugs very easily through unsanctioned online sources. Mr. Marino stated the justification, since the medications are available illegally, should not be an acceptable argument.

Dr. Taylor responded topical drugs are in a different realm in their ability to be used safely. He stated both drugs are for topical application and not to be ingested.

Ms. Taxin commented Dr. Taylor would need to include additional questions on his branching questionnaire for the Board to review. She stated today's appointment is more about including the drugs on the approved list than critiquing the questions Dr. Taylor presented for the branching questionnaire. She stated it is not worth Dr. Taylor's time to apply for licensure if the drugs are not approved to be on the list.

Ms. Littlefield voiced being in favor of approving Hydroquinone and Tretinoin. She stated she is familiar with Hydroquinone as it may be obtained over the counter and she worked with a Pharmacy that combined Tretinoin with something else for dispensing.

Mr. Ax stated he did not know much about either drug but would not be opposed to approving the two drugs if there have not been negative reactions.

Dr. Bair commented he would not oppose including Hydroquinone and Tretinoin on the approved list.

Ms. Littlefield made a motion to approve Hydroquinone 4% and Tretinoin up to 0.1% for online medications to be used as topical medications only and no compounding of either medication.

Ms. Korb seconded the motion.

The Board vote was unanimous.

Dr. Taylor thanked the Board and asked Ms. Taxin to explain the next step for him to become licensed as an online prescriber.

Ms. Taxin explained Dr. Taylor will need to submit the application and fee to be reviewed for licensure. She stated the application process may take some time with needing additional information or changes in some areas to be sure it is complete for the Board to review.

Ms. Taxin stated she will file a new Rule to officially change the list to include Hydroquinone and Tretinoin. She stated it may take a couple of months to become an approved Rule.

DISCUSSION ITEMS:

Additional Drugs to Consider

This item was discussed in the above section.

Update on the Secure Medical Application

Ms. Taxin informed the Board that the application for Secure Medical is still in the process of being reviewed with the changes she has requested. She stated if everything is complete when she goes through it, then Secure Medical will meet March 29, 2011 unless the application is still incomplete then they will not meet in March.

2011 Board Meeting Schedule

The Board reviewed the calendar for a possible date in April or May and determined May 3, 2011 should be scheduled in case it is necessary for another meeting between March 29 and June 7, 2011.

The Board noted the following dates have been scheduled for 2011: March 29, May 3, June 7, September 20 and December 6, 2011.

NEXT MEETING SCHEDULED FOR:

March 29, 2011

ADJOURN:

The time is 10:06 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.

March 29, 2011
Date Approved

(ss) Mark N. Bair, MD
Chairperson, Utah Online Prescribing, Dispensing and
Facilitation Licensing Board

March 6, 2011
Date Approved

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