

MINUTES

**UTAH
PHYSICIAN ASSISTANT
LICENSING BOARD MEETING**

May 21, 2012

**Room 474 – 4th Floor – 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:33 A.M.

ADJOURNED: 10:25 A.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Jeffrey M. Coursey, Chairperson
Lori G. Buhler
J. Paul Clark, MD
Larry Reimer, MD
Shari Bloom, PA-C
David Schmitz, MD

Board Members Absent:

Kyle Harmer, PA-C

Guests:

Bob Bunnell

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the March 5, 2012 Board meeting were read.

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

APPOINTMENTS:

8:45 am

Debra Troxel, Compliance Update

Ms. Troxel updated the Board regarding the compliance or non-compliance of the probationer.

Ms. Troxel reported on **Mr. David Pontious**. She stated the Pharmacy was contacted regarding the two controlled substance prescriptions noted on the Controlled Substance Database (CSD) and it was determined they were Pharmacy error. She stated it was determined the third controlled substance prescription was an error within the practice as Dr. Barnett sent a letter stating the system had a glitch which has now been corrected. Ms. Troxel stated since that meeting the CSD had an additional prescription which was faxed with Mr. Pontious's name and the Division has not received a triplicate copy.

Ms. Taxin stated Mr. Pontious will need to explain the prescription that was faxed and why he has not submitted a triplicate copy to the Division. She stated the Board should stress to Mr. Pontious that he was given leeway at the last meeting but cannot have it happen again.

Ms. Buhler asked if Mr. Pontious could bring the triplicate copy today.

Ms. Troxel responded yes.

Ms. Bloom commented Ms. Troxel's tracking sheet says Dr. which indicates Mr. Pontious is a doctor. She requested clarification.

Ms. Troxel responded she wrote on tracking sheet what the Pharmacy stated to her. She stated Mr. Pontious is able to pull the CSD list for himself and if he had pulled the list he could have had the prescription issue resolved prior to meeting today.

Ms. Taxin stated the Board should also ask what medical conditions Mr. Pontious treats as he must abide by the weight loss guidelines to prescribe Phentermine.

Ms. Troxel stated Mr. Pontious was on a CE audit. She stated he submitted his documentation and it was approved but he has not yet completed the online CSD tutorial and examination to renew his license. She stated she marked him as compliant as his paperwork

was complete and submitted on time but the Board may decide if he is compliant or non-compliant.

Dr. Schmitz asked if it was ok to fax the prescription.

Ms. Taxin responded yes as it was a Schedule 4 controlled substance. She stated the faxed prescription is not an egregious issue but Mr. Pontious needs to be reminded of the triplicate prescription requirement for the Division if he is going to prescribe.

Dr. Reimer asked for an update on Mr. Pontious's case in investigations.

Ms. Taxin stated Mr. Pontious has been informed of an upcoming hearing. She stated the Board should hear all the evidence at the hearing and then make a recommendation, but these issues will not be discussed today.

Ms. Bloom asked how much primary care responsibility Mr. Pontious should take for diabetic medications and hypertension before referring patients to their own Primary Care Practitioner.

Ms. Taxin responded Dr. Barnett and Dr. Heiner had notified the Board/Division by letter that Mr. Pontious would not be prescribing in the future so Mr. Pontious should not be prescribing anything. She stated the last Delegation of Services Agreement states chart review of 50% and then later it will be 20%. She stated it also states 100% of charts requiring controlled substances will be reviewed and they will only be used for weight loss and there will be no narcotic prescriptions at this time. Ms. Taxin suggested the Board ask Mr. Pontious to submit an updated Delegation of Services Agreement to include how Mr. Pontious is practicing as he is in a contract with the Division and needs to follow that contract. She also suggested the Board ask Mr. Pontious if there is still a glitch in the EMR system.

Ms. Bloom asked if it would be helpful to review

some charts to be sure Mr. Pontious is charting appropriately for weight loss.

Ms. Taxin responded the Board could request he bring a couple of charts for review.

9:00 am

David E. Pontious, Probationary Interview

Mr. Pontious met for his probationary interview.

Ms. Bloom conducted the interview.

Ms. Bloom asked Mr. Pontious if he had a chance to review his DOPL CSD prescribing record as there was a controlled substance prescription faxed under his name this last quarter.

Mr. Pontious responded no. He stated he has not written any prescriptions this quarter. He stated there was a problem where the office manger clicked on his name but that issue has been corrected.

Ms. Taxin reminded Mr. Pontious of the issue last time he met and stated Dr. Barnett wrote a letter stating there was a glitch but it had been corrected.

Ms. Bloom showed Mr. Pontious the name of the patient and requested he respond.

Mr. Pontious responded it is his patient but no prescription should be in his name. He stated the Physicians at the clinic have made it clear to everyone that they are in control of what he is doing and only they may write prescriptions for the patients. He stated he believes the prescription was approved by one of the supervising Physicians and sent out.

Dr. Schmitz responded Mr. Pontious may believe it was but does not know for sure if it was approved and faxed or if it was just faxed. He stated Mr. Pontious should have checked the DOPL CSD so he would know what has been prescribed in his name.

Mr. Pontious responded Dr. Schmitz is correct.

Ms. Taxin commented Mr. Pontious should be checking the database frequently and if he does

prescribe he should be sure to submit the triplicate prescription for his file. She stated he has said he is not prescribing and now he says it was a staff member issue. Ms. Taxin stated if Mr. Pontious had checked the CSD he would have been able to resolve the issue prior to meeting with the Board. She stated if it happens again the supervising Physician should write a statement in his report.

Mr. Coursey asked Mr. Pontious to explain how he is separated from the supervising Physicians clinic.

Mr. Pontious responded he is downstairs and the supervising Physicians clinic is upstairs but they are immediately available at any time by email or a telephone call. He stated he meets weekly with Dr. Barnett but usually sees him during the week.

Mr. Coursey asked if patients are given the prescription when they leave the office.

Mr. Pontious responded no. He explained that he does an electronic prescription, he then contacts his supervising Physician for review and approval and then it is approved.

Ms. Taxin asked if Mr. Pontious is seeing any patients from the old practice.

Mr. Pontious responded he has seen one or two patients but the current practice is more of patient walk ins with the medical assistant taking the vital signs and fat content prior to the patient seeing him for their history, the family history, medical history and medication history before he recommends/prescribes a weight loss program.

Mr. Coursey asked about the Primary Care Practitioner (PCP) relationship.

Mr. Pontious responded he sends a letter to the PCP to notify them he is seeing their patient and will work together with the PCP to treat the patient.

Ms. Taxin asked Mr. Pontious to explain how he has grown in this new practice.

Mr. Pontious responded he believes he is now a practitioner and part of the medical community which is what he was trying to do at the previous practice. He stated he enjoys the training from his five supervising Physicians, loves the labs and understanding how important they are.

Mr. Coursey asked if Mr. Pontious is still prescribing and changing insulin and blood pressure medications and if he follows up with the PCP.

Mr. Pontious responded yes, and he does work closely with the PCP. He stated he does follow up with the PCP if medications are changed as they are the PCP's patients.

Mr. Coursey commented it sounds like Mr. Pontious is practicing as the PCP. He asked if Mr. Pontious can see what harm might come to a patient with him changing medications the PCP has prescribed.

Mr. Pontious responded he works for the supervising Physicians and is practicing according to their requirements and according to the protocols for the company. He stated they are the Physicians and should be qualified to manage diabetes patients.

Mr. Coursey stated any time Mr. Pontious manages medications and the PCP manages medications for the same patient there is a high chance of harm. He stated Mr. Pontious should communicate closely with the PCP.

Dr. Reimer asked who in the clinic makes the decision regarding changing medications; Mr. Pontious, the supervising Physicians, the PCP or the protocols. He also asked if patients are referred to their PCP prior to being treated.

Mr. Pontious responded he discusses patient treatment with his supervising Physicians, makes his recommendation, the supervising Physicians review the recommendation and approve the changes and

then Mr. Pontious sends out the letter to the PCP. Mr. Pontious stated there have been a few times when the supervising Physicians have recommended the patient sees the PCP prior to starting a weight loss program.

Ms. Bloom asked what percent of new patients are Type II Diabetic and what percent is Mr. Pontious treating with Phentermine for weight loss management.

Mr. Pontious responded about 20% are Type II Diabetic and very few are being treated with Phentermine for weight loss management. He stated the products they recommend are nutritious and fill up the patients so they are relying more on the diet than weight loss medications.

Mr. Pontious asked how he can get off probation as he will have completed one year probation in two more meetings.

Ms. Taxin responded Mr. Pontious's Order is for a three year probation. She stated his probation started over in January as he had not been working and that time did not count toward the three years. Ms. Taxin stated, with the outstanding issues, she does not believe the Board would consider termination after completing one year. She stated to get off probation Mr. Pontious would need to be consistently in compliance with everything in his Order, check the database frequently, keep on working as he has been and make sure there are no more glitches in his prescribing. Ms. Taxin reminded Mr. Pontious that his license will expire May 31, 2012 and the CSD tutorial and examination have not yet been completed. She stated he will not be able to renew online and will need to print out a hard copy of the renewal form, fill it out and submit it with the renewal fee. Ms. Taxin stated Mr. Pontious should plan to complete the renewal right away to ensure the Division has enough time to renew his license prior to June 1, 2012.

Ms. Taxin reminded Mr. Pontious to bring the chart of the patient discussed on the CSD with him

to his next appointment for the Board to review, be sure his reports are submitted on time and if he write a prescription to be sure to submit a triplicate copy or the Division will presume he is not prescribing as his Delegation of Services Agreement documents.

Ms. Bloom commented if Mr. Pontious makes any changes he will need to submit a new Notification of Change form and Delegation of Services form. She stated the Pharmacy Rules have guidelines regarding the prescribing of Phentermine and Mr. Pontious should take the time to read those Rules to be sure he is in compliance with them.

Mr. Coursey requested Mr. Pontious to also bring a copy of the letter he sends out to the PCP.

An appointment was made for Mr. Pontious to meet again October 29, 2012.

Dr. Reimer recommended the Board review the chart Mr. Pontious will be bringing in October before determining compliance today.

Board members concurred.

Ms. Bloom voiced concern regarding Mr. Pontious appearing not to be taking responsibility and wanting to know when he can get off probation.

Other Board members voiced concern regarding Mr. Pontious not following protocol for his practice and the lack of concern in changing medications for patients.

DISCUSSION ITEMS:

Legislative Update

Ms. Taxin stated there were no direct Physician Assistant Law changes this year but there were some that affect the Physician Assistant.

Ms. Taxin referred the Board to following:
HB 51 Medical Specialty Practice Act Amendments
HB 257 1 Sub Controlled Substance Database Amendments

HB 306 Disposal of Unused Prescription Drugs

Ms. Taxin stated the CSD tutorial talks about the disposal of medications and patients may dispose of unused medications by dropping them off a Police Department but the Law change includes dropping off unused medications at a Pharmacy for disposal. She stated at this time Pharmacies are unable to accept unused medications based on Federal Law.

She continued with:

HB 434 Pharmacy Practice Act Modifications

Ms. Taxin stated this Bill is regarding drug samples.

SB 88 Pharmacy Distribution Amendments

SB 161 6 Sub Pharmacy Practice Act Revisions

She stated this Bill is regarding dispensing of drugs.

SB 127 2 Sub Controlled Substances Prescriber Training

SB 40 5 Sub Cosmetic Medical Procedures

Ms. Taxin stated the Rules have not yet been finalized so she is not sure what the requirements will be.

Ms. Bloom suggested Mr. Bunnell include something in the next Association newsletter.

The Board thanked Ms. Taxin for the update.

FYI

Ms. Taxin acknowledged and thanked Dr. Clark and Dr. Reimer for serving on the Board for 8 years. She stated they have contributed to the Board and process with their comments. Ms. Taxin stated there is a law that passed saying Board members may continue to serve for up to 6 months if no one has been appointed.

She asked Dr. Clark and Dr. Reimer if they would be willing to continue to serve and to plan to attend the hearing for Mr. Pontious this summer for continuity. She stated she is hoping for the hearing to be held in July or August and will let Board members know as soon as it is scheduled.

Dr. Clark and Dr. Reimer stated if their schedules permit they will attend.

Board members also voiced their thanks to Dr. Clark and Dr. Reimer for serving on the Board.

CORRESPONDENCE:

Bryan Turner, MD, Letter Requesting
Additional PA's to Supervise

Ms. Taxin read Dr. Turner's letter requesting approval to supervise more than four fulltime Physician Assistants. She stated she believes this particular practice is not his only place of practice and he might be practicing in the cosmetic realm. Ms. Taxin stated she believes supervision should be the supervisors only position if there are more than four fulltime Physician Assistants being supervised.

Dr. Schmitz asked if the Physician Assistants are practicing medicine if they are not prescribing any medications and would approval be necessary.

Ms. Taxin responded she believes Dr. Turner has done cosmetic medicine in the past which would require a Physician supervisor for any Physician Assistants. She stated the machine which would be used in the addiction control clinic would require a Physician and a prescription for use. She stated Physician Assistants would be diagnosing which would require licensure. She voiced concern that Dr. Turner would be practicing at his own cosmetic clinic and then supervising six Physician Assistants at six different locations.

The Board voiced their concerns and recommended the request be denied.

Ms. Taxin thanked the Board and stated she would contact Dr. Turner.

NEXT MEETING SCHEDULED FOR:

October 29, 2012

ADJOURN:

The time is 10:25 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.

October 29, 2012
Date Approved

(ss) Jeffrey M. Coursey, P.Ac.
Chairperson, Utah Physician Assistant Licensing Board

June 6, 2012
Date Approved

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