

MINUTES
UTAH
CHIROPRACTIC PHYSICIAN LICENSING BOARD
MEETING
January 10th, 2013
Room 402 (Fourth Floor) - 9:00 a.m.
Heber M. Wells Building
Salt Lake City, UT 84111

CONVENED: 9:05 a.m.

ADJOURNED: 12:05 p.m.

Bureau Manager:

Rich Oborn

Board Secretary:

Sally Canavan

Board Members Present:

Craig D. Campbell, DC; Chairman
Michael D. Smithers, DC
Carlyle Bret Whittaker, DC
Jay D. Anderson, DC
Richard Engar, DDS

Board Member Absent:

None

Guests:

Tim Apgood, UCPA
Lew Wheelwright, UCPA
Jim Knight, UCPA
Kristina Stitcher, UCPA

DOPL Staff Present:

Debra Troxel, Compliance Specialist

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Minutes:

The minutes from the October 16th, 2012 meeting were reviewed by the Board. Dr. Whittaker made a motion, seconded by Dr Anderson, to approve the minutes as written. The voting was unanimous.

APPOINTMENTS:

Debra Troxel, Compliance Unit Specialist

Ms. Troxel presented the compliance reports on the probationers being interviewed today.

Bruce Van Gundersen

Dr. Campbell interviewed Dr. Gundersen. He stated time continues to fly as things are going well. He stated he needs direction on the next course the Board requested him to take. He stated he had discussed a course with Ms. Stewart. He will email it to Ms. Troxel for Board approval. He stated he has moved his mother into care facility that seems to have taken a lot of stress off him and she seems to be doing better. The editor of the Academy Journal is very ill, he is not sure what will happen there yet. He stated he is working on understanding the Affordable Care Act

Bruce Van Gundersen (continued)

and how to navigate through it. He stated Dr. Conger had met with him about a week before Christmas. The Board noted they had not received an employer report. He stated he got confirmation on the fax. He had a copy of what he had faxed and gave it to the Board. The Board stated it is very good to be so prepared. He stated he is emotionally comfortable in his marriage. His wife has been given lots of extra opportunities for work. He stated he is off the sex offender registry; it had been ten years. He stated he is still helping other sex offenders, he stated he volunteers every Saturday morning. The Board compared his first meeting with today and stated he is doing very well. The Board requested to see him at the April 11th, 2013 meeting.

Compliant

Derek Birch

Dr. Whittaker interviewed Dr. Birch. The Board noted he is doing well. He stated he went to the Continuing Education convention and he has 12 credits from there. He stated he is planning on going to the spring convention for another eight credit hours and several other seminars. He stated he will have 48 CE hours by his May deadline. The Board noted he is taking getting the required CE very seriously. The Walmart company he works for has opened a store near to his home. He feels like he is climbing the ladder there. He stated his wife has not had another episode so that's good, although her symptoms are sporadic. The Board stated he would be an asset to the profession. . Dr. Birch stated it has been so long he is nervous about how well he would do. Dr. Wheelwright suggested Dr. Birch contact Ted Conger who has an office where Dr. Conger may be able to work a bit with him to get his feet wet and get back into Chiropractic work; working just a few hours per week for a while. The Board noted Dr. Birch is doing great. He noticed he is not as confident at practice as he used to be. The Board requested to see him at the April 11th, 2013 meeting. **Compliant**

John Paul Dudley (Telephone interview)

Dr. Anderson called Dr. Dudley for his interview. He stated things are going good, his wife is working, the kids are enjoying their school, his professional practice is struggling, which generally happens, this time of year. He stated he is moving forward as much as he can and personally he is involved in church pretty

John Paul Dudley (Telephone interview continued)

heavily. He stated he is trying to be active, alert and focused. He stated he has had no contact with lady from the hearing. He stated he has noticed she, someone or maybe him is very active on the website. When one of them posts erroneously information on the web he can contact the website and have it removed. This targeting him has been going on for about four years. It has been a challenge for him. He stated no thoughts of relapse.

He stated his North Carolina (NC) license is renewed. The Board requested to fax to Ms. Troxel a copy of the renewal form from NC. The Board would like to see the questions on it.

The Board stated they need to approve his supervisor. They requested a resume, short work history, and his associates for the last 10 years and get that to the Board ASAP. The supervisor is their eyes and ears in NC. The Utah Board here is relying on his supervisor in NC to help the Board feel comfortable. If the Board is not comfortable they may deny his supervisor. The Board stated this is for Dr. Dudley's protection. His supervisor is his landlord only in as much as he rents office space from him.

The Board told him it is required the Board meet with him physically one time per year and yearly thereafter. Dr Dudley stated physically appearing was not part of the settlement agreement. Mr. Oborn read part of his MOU to him. He stated it was a financial hardship and such short notice, he would like to wait for the next meeting after April to have to physically appear, in June or October. He stated the cost will be almost \$1,000.00. The Board stated they are here to support him but he needs to find a way to get here. The Board also asked the question "what is your license worth to you". He stated he thinks this is unfair, but certainly he will comply. He stated he has completed thirty-six hours of CE's so far. They reminded him to get the information on his supervisor to the Board for review within in one week from today.

The Board noted he is doing much better at communicating today. Sometimes people take on a victim attitude. The Board cautioned him no to do

John Paul Dudley (Telephone interview continued)

that. They told him to look at this as working through a situation in his life and his doing it. The Board requested to physically see him at the April 11th, 2013 meeting. **Compliant**

**NEW STIPULATIONS:
Mark Lee Baker**

Dr. Engar interviewed Dr. Baker. This is his initial interview with the Board. The Board stated its job is to protect the public. The Board is not punitive in any way; we (the Board) want the Licensee to look at this as rehabilitative. We (the Board) want to help get you move forward through the process and the best way to do that is being compliant with your Memorandum of Understanding and Order (MOU).

The Board stated he was supposed to have taken a class and written a three to five page essay on what he learned and was able to put to use. The essay was due December 11th, 2012; it was not received. He stated he took the class, he forgot about the essay part. He stated his divorce was final December 22nd, 2012. He stated he is working on truck driving. He does chiropractic work when he gets home from truck driving.

He stated he felt like he had to sign the MOU or would not have a license. The Board went over the things he needs to do. The Board requested documentation of completing his course and any criminal sanctions he has from the courts. The Board reminded him to be sure and reread his MOU. The Board suggested he write things if he forgets.

He has a friend who said he could use his office for a price. He had planned to get a business license, had to save some money for it. He got a citation before he could get it. The Board told him he needed a supervisor to work as a chiropractor. He stated he had a friend who could be a supervisor and do the supervisory/employer reports. He stated he had talked to Dr. Conva right next door a little bit. He requested the Board to approve Dr. Conva saying he is willing. Ms. Troxel stated she would get him the forms.

The Board suggested he get a hold of Tim Apgood, get in with the association, get a hold of Dr. Conva, get

Mark Lee Baker (continued)

into an office and get CE's. He stated he loves chiropractic. The Board suggested he get things done as quickly as possible. The Board noted they can see he is overwhelmed and slapped around by the things that can happen.

The Board suggested that when he gets back to work he will get back his self-respect, his confidence. He stated he intends to be compliant. The Board stated "when we meet again, if you are non-compliant it would be an alarming pattern, so make sure you are on-track, and get some mentoring going." He would like to join the association but it is a financial hardship at \$40.00 a month right now. He is welcome to contact Ms. Troxel with any questions. The Board requested to see him at the April 11th, 2013 meeting.

Compliant

DISCUSSION ITEMS:

Re-licensure Application – David Ziegler

Dr Ziegler met with the Board stating, he had let his license expire and had not practiced for the last six years. He went over his education and certifications. He stated he left his practice, not because he doesn't love the profession, he wants to be there. He stated he was a cyclist and was hit by a car. A lot of damage was done to his body; he stated it took two years before he could stand without pain. He also noted in January of 2006 he had a skiing accident with significant damage. He stated he needed two surgeries. At this point he feels physically great.

He stated he is at a point where he can totally dedicate himself to a practice. The Board discussed what was required to prove competency. He stated he has 67 hours of continuing education. The Board stated too many hours were done online. The Board discussed if the SPEC test really proves competency. Dr. Ziegler noted the provision in the application for supervision. He stated Dr. Tom Grant has a practice and is looking towards retirement. Dr. Grant is offering Dr. Ziegler a chance to prove himself and if he does, then turn the office over to him.

The Board discussed that they don't have any reason to do an MOU; he hasn't done anything that requires a probationary status or testing. The Board discussed the possibility of an Order that was not to be

Re-licensure Application – David Ziegler disciplinary.
(continued)

The applicant agreed to submit a practice plan that will include information about the supervisory arrangement that will also include a plan to attend the Board meetings in an educational capacity in April and July; that is the frequency of the meetings and also will be relatively reflective of the standards that are in a preceptorship currently provided for the chiropractic students. The practice plan is to be e-mailed to Ms. Stewart within two weeks of today's meeting. Dr. Smithers wanted to note the reports from Dr. Grant should be specifically oriented to clinical techniques to be included. It will also include at least a six month period of supervisory relationship. Dr. Whittaker made a motion on what Mr. Oborn stated, seconded by Dr. Engar. The voting was unanimous. The Board noted it was looking forward to an association with Dr. Ziegler.

Quality Control and Professional Standards Committee Report

Dr. Wheelwright, as the Chairman of the Quality Control and Professional Standards Committee addressed the Board. Dr. Wheelwright stated he has been on many committees. He stated Ms. Stewart was the most "in tune person" he has ever worked with. She can dig up and turn to stuff (laws and rules) quicker than anyone he has ever seen. The Board asked for a definition of Energy-based Equipment.

Committee Report Topic: "Free" Continuing Education

Dr. Wheelwright stated someone is somehow paying for a "free" CE Conference. They are promoting a real estate deal for Chiropractors. He is afraid that there will be some Doctors who are going to get burned. Dr. Wheelwright does not like people to proselitize at a CE conference. He also stated the Chiropractic Physicians have a great statute and rule as it is. The Board discussed a concern that if the profession tightened CE down in the rule, how do they keep it fair. If the CE is "free" then figure out why. It is a "buyers beware" market. He stated he thinks it will leave Utah soon.

Committee Report Topic: Energy Based Equipment

The Board discussed with the passage of Senate Bill 40 in 2012 and how the Chiropractic profession had been tucked into the medical act on some procedures. Dr. Wheelwright would like to extract the Chiropractic

Committee Report Topic: Energy Based Equipment (continued)

profession out of the medical act, so that the profession may become more self-regulating. He stated Candace Daly was very much involved with writing their guidelines. The Board stated SB40 was complicated. The Board discussed the cosmetic medical procedures changes and the level of regulation of ultra-sounds doing nothing more than mobilizing fat tissue. The Board discussed that their Practice Act is going to be opened at the next Legislative session and their concerns with the act being opened.

FCLB District Meeting

Dr. Anderson and Dr. Campbell attended the quarterly FCLB meeting. It was actually held here in Salt Lake City. Dr. Anderson stated the FCLB is a great tool for the profession here in the State of Utah. It talked about getting Chiropractic Assistants certified so all doctors are all the same page. It is a great resource. The Board discussed the need to make arrangements if you want to participate, there is reimbursement. If you want to participate in the next FCLB meeting let Dr. Campbell know and he will get back to you.

Paper Reviews

The Board discussed how if a Chiropractic Physician who is licensed in the State of Utah and practicing in the state of Utah could be making a “medical necessity” determination without ever having seen the patient, (does a paper review for someone outside the State of Utah). It is not in statute, it’s not in rule, but it is listed in the ethical standards as an unethical position to have. A person could file a complaint with the State against the person doing that.

Next Scheduled Meeting:

Thursday, April 11th, 2013

ADJOURN: 12:05 p.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 necessary shown in the chronological order they occurred.

April 11, 2013
Date Approved

(ss) Craig D. Campbell
Chairman
Chiropractic Physician Licensing Board

April 11, 2013
Date Approved

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